

VICTORIA.



ANNO DECIMO SEXTO

# VICTORIÆ REGINÆ.

*By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.*

No. XXXVIII.

An Act to amend in certain respects An Act intituled, "*An Act to incorporate the inhabitants of the Town of Melbourne,*" and to make further provision for the cleansing and improvement of the City of Melbourne. [Assented to 7th February, 1853.]

**B**E it enacted by His Excellency the Lieutenant Governor of the Colony of Victoria by and with the advice and consent of the Legislative Council thereof as follows.

I. After the passing of this Act the eighty-sixth Section of an Act of the Governor and Legislative Council of the Colony of New South Wales passed in the sixth year of the Reign of Her Majesty Queen Victoria intituled "*An Act to incorporate the inhabitants of the Town of Melbourne*" shall be and the same is hereby repealed.

Repeal of 6 Vic., No. 7, sec. 86.

II. It shall be lawful for the Council of the City of Melbourne to cause so many drains and watercourses as may be necessary for carrying off storm water to be constructed and made or continued in through along or across any street within the said City and also to cause so many sewers drains and watercourses from any streets courts or alleys on private property within the said City as may be necessary for the purpose aforesaid to be constructed completed and continued in through under along or across any houses lands and premises into any street of the said City and for that purpose to enter upon and lay open any such street house land and premises as often as shall be necessary making recompense to the owner of any such house land and premises for any injury thereby occasioned Provided that notice shall be given to the owner of any such house land or premises fourteen days previous to entering thereon for any of the purposes aforesaid Provided also that if the owner of any house land or premises in through under along or across which any sewer drain or watercourse shall be made altered completed or continued as aforesaid shall refuse to treat or cannot agree with the said Council as to the recompense to be paid for such injury such owner may apply to the next Court of General Sessions of the Peace holden at Melbourne giving notice

Council of City of Melbourne may make sewers, &c., through private property.

notice thereof to the said Council and the said Court shall have power to summon and empanel a jury to assess the recompense which ought to be paid to such owner or occupier for such injury as aforesaid and thereupon the said Court shall order the sum assessed by such jury to be paid to such owner accordingly and such judgment shall be final to all intents and purposes and the said Court may award costs to either party at their discretion Provided further that every such sewer drain or water course if carried in through or under any house or other building in the said City shall be a tube constructed of cast iron and kept constantly air-tight and in good order by and at the expense of the said Council.

Council of the said City may order owner or occupier to raise surface of yard or land.

III. Whenever it shall be made to appear to the Council of the said City upon the statement or complaint in writing of the Surveyor thereof that the surface of any yard or land situated in the said City and not being a street therein is lower than the level of the nearest street or of the street sewer or drain into which the water off the said yard or land should in the opinion of the said Surveyor flow or be made to flow it shall be lawful for the said Council at any time by writing under the hand of the Mayor and the Town Clerk of the said City to order that the surface of such yard or land or any part thereof shall be raised to such height in such manner and within such time as to the said Council may appear expedient and thereupon the occupier or owner of the said yard or land shall in such manner and within such time as shall be expressed in such order raise the surface thereof to the satisfaction of the said Surveyor.

Neglect of owners provided for.

IV. If any such owner shall omit to raise the surface of such yard or land as aforesaid in such manner and within such time as shall be expressed in the said order it shall be lawful for the said Council to raise the surface of the same or such parts thereof as shall not have been so raised in pursuance of the said order and to ascertain and charge such owner with the costs and expenses thereof.

As to recovery of expenses, &c.

V. If any such owner shall not pay all such costs charges and expenses as aforesaid the same shall and may be recovered by the said Council from the owner or from the occupier or any one of several occupiers of such yard or land in all respects in the same manner and by the same remedies as are provided by an Act of the Governor and Council of New South Wales passed in the fourteenth year of the Reign of Her Majesty Queen Victoria intituled "*An Act for regulating the formation drainage and repair of streets courts and alleys on private property within the City of Melbourne,*" with reference to the recovery of costs charges and expenses incurred in paving flagging macadamizing levelling draining and sewerage or otherwise completing and repairing streets courts and alleys on private property in the said City.

Interpretation Clause.

VI. In the interpretation of this Act the term "owner" shall be taken to mean every person who is in possession or in receipt of the rents or profits of such land The term "land" shall be taken to mean any space or place in the said City upon which no building has been erected whether enclosed or unenclosed. The term "street" shall mean public street market place square crescent highway roadway lane passage or other public place.