

## No. XI.

An Act for the more easy and effectual recovery  
of Rates in the City of Sydney. [8th December,  
1843.] SYDNEY RATES.

**W**HEREAS an Act was passed in the sixth year of the reign of Preamble.  
Her present Majesty by His Excellency the Governor of New  
South Wales with the advice of the Legislative Council thereof intituled  
“ *An Act to declare the Town of Sydney to be a City and to incor-* 6 Victoria No. 3  
“ *porate the Inhabitants thereof*” and whereas it is expedient to make recited.  
more effectual provision than by the said Act is done for the collection  
of the rates thereby authorized to be assessed and levied Be it therefore  
enacted by His Excellency the Governor of New South Wales with the  
advice and consent of the Legislative Council thereof That if any per-  
son shall neglect or refuse to pay the amount of any rate to which he  
may be liable as the occupier or owner of any building tenement or  
other

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Power to Collectors  
to distrain and sell  
on non-payment of  
rates.

other property under the provisions of the said Act for the space of seven days after a personal demand thereof shall have been made on him by the Collector duly appointed to receive the same or after a demand in writing signed by such Collector shall have been left at the building tenement or other property in respect of which such rate shall have been made or at the usual place of abode of the person so liable as aforesaid then and in such case it shall be lawful for such Collector and such assistants able to read and write as he may take with him on being authorized by warrant under the hand of the Mayor of the said City and under the common seal of the Mayor Aldermen Councillors and Citizens thereof (which said warrant the said Mayor is hereby authorized and required to grant whenever the Council of the said City at any meeting thereof shall by a vote in that behalf direct the same to issue) to enter into any part of the building tenement or other property in respect of which such rate 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 and one of the clock at noon on the next day thereafter be lawful for such Collector 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 Collector 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 A 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.

What persons pri-  
marily liable to rates.

2. And be it enacted That except as herein provided the person primarily liable to the payment of rates under the said recited Act in respect of any house 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 in such possession in the mean time) 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 Provided that in all cases where any tenant shall be called on to pay and shall accordingly pay either a greater amount of assessment than he shall in fact owe for rent or an amount of assessment 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 of future rent or to recover the same (after demand) by an action as for money paid in an ordinary case in any Court of competent jurisdiction.

Form of warrant  
prescribed.

3. And be it enacted That every warrant of distress for levying any rate made or to be made by virtue of the said recited Act shall be in the words or to the effect of the form set out in the Schedule to this Act annexed marked B.

Rate books to be  
made by Town Clerk  
and filed.

4. And be it enacted That the Town Clerk of the said City shall cause to be made for each ward two books containing a full and true account of each property assessed the name of the person rated and the amount of each rate for which he may be so rated as well as the name of the Collector appointed to collect the same which books shall be respectively signed by such Town Clerk and shall be known as the rate

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rate books of the said City and one of such books shall within one calendar month after the passing of this Act be filed by the said Town Clerk in the office of the Treasurer of the said City and shall be altered or a new one filed instead thereof within one calendar month after the time that any alteration in the assessment or rating shall render the same necessary 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 said Town Clerk shall neglect to file such books or alter the same when necessary within the time aforesaid or if the said 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 as the case may be shall forfeit and pay for every such offence on conviction the sum of five pounds to be recovered and applied as is hereinafter directed.

Penalty on Town Clerk or Treasurer for neglect.

5. And be it enacted That if it shall at any time appear to the Council of the said City that the name of any person who ought to be included in such books as aforesaid hath been omitted therefrom or that the name of any person hath been inserted therein as the owner or occupier of any building tenement or other property in respect of which some other person ought to have been rated or that any other alteration or amendment may be necessary in such books then and in every such case it shall be lawful for the said Council to cause to be added or inserted therein the name of the person so omitted together with the sum for which he ought to be assessed and the amount of rate payable in respect thereof and also to cause to be inserted and substituted the name of such person as may be the occupier or owner of any building tenement or other property instead of and for the name of the person incorrectly inserted in such books and also to alter the amount of the sum at which any house shall be assessed or otherwise from time to time to alter and amend the said books as the said Council may deem just and reasonable and that every such addition insertion alteration or amendment to or in such books shall be valid and effectual in law to all intents and purposes and the money charged to any person in consequence thereof shall and may be demanded received and recovered in the same manner as if the name of such person or other alteration or amendment had been inserted or made in such books when the same were originally made.

Council to have power to cause alterations and amendments to be made in rate books.

6. And be it enacted That the rate books so filed with the Treasurer as aforesaid 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 evidence.

7. And be it enacted That 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 the said Act 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.

8. And be it enacted That the Council of the said City shall between the first and the thirty-first day of December in every year order and appoint such number of Collectors as they shall judge necessary and proper for each of the several wards of the said City for one whole year commencing from the first day of January next ensuing the said order and shall direct what wages and allowances shall be given to them for their services.

Power to Council to appoint Collectors.

9. And be it enacted That the Council of the said City shall in every year within fourteen days after the number of Collectors of Rates shall have been appointed as aforesaid make such orders and regulations concerning the Collectors as the nature of the service shall appear to them to require and such further orders and regulations for the better government and direction of the said Collectors as the said Council

Council to make orders for conduct of the Collectors.

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Council shall think proper and shall also fix the amount of securities to be found by such Collectors for the due execution and performance of the duties of their office.

Duties of Collectors.

10. And be it enacted That the Collectors of the several wards in the said City shall respectively as the said Council shall from time to time direct and appoint collect the said rates half-yearly at the commencement of each half year such half year to commence on the first day of January and the first day of July in each year and shall severally enter in some book to be by them respectively kept for that purpose the several sums which they shall from time to time receive on account of the said rate and likewise the names of the persons from whom and the particular times when they received the same which book they shall at all times produce upon demand and shew to the Town Clerk or Treasurer of the said City and they shall pay the money by them respectively received on account of the said rate into the hands of the Treasurer of the said City as they shall receive the same and in such manner as that no such Collector shall ever have a sum exceeding twenty pounds so collected at one time in his hand for the space of three days and if any such Collector shall neglect to make such entries or shall refuse to produce and shew to the Town Clerk or Treasurer of the said City the book hereby directed to be kept for the purposes aforesaid or shall keep or retain in his hands more than the said sum of twenty pounds longer than three days in every such case the person so offending shall forfeit the sum of five pounds for such offence to be recovered and applied as hereinafter mentioned and every such Collector shall give a bond to the Corporation of the said City in such penalty and with such surety or sureties as the Council thereof shall think proper for payment of the monies to be received by him and for the due performance of the duties of his office.

Collectors to give bond.

Recovery of penalties.

11. And be it enacted That every penalty or forfeiture hereby imposed shall and may be sued for and recovered by any person by information before any Justice and it shall and may be lawful for such Justice to summon the party informed against before him or any other Justice and on such summons it shall be lawful for any Justice to hear and determine the matter of such complaint and on proof of the offence to convict the offender and to adjudge him to pay the penalty or forfeiture incurred with costs and to proceed to recover the same by distress and sale of the offender's goods and chattels and in default of there being sufficient goods and chattels to satisfy the distress it shall be lawful for the convicting Justice to commit the offender to the common gaol for any term not exceeding three calendar months.

Appeal against rates assessments and convictions.

12. And be it enacted That it shall be lawful for any person who shall think himself aggrieved by any rate or assessment made in pursuance of this Act and also for any person who shall be convicted before any Justice of the Peace of any offence against this Act to appeal to the Court of Quarter Sessions to be holden in the said City next after such cause of complaint shall arise unless the same shall arise within fourteen days preceding such Sessions in which case such appeal may be brought at the second Sessions after such cause shall arise and the said Justices are hereby authorized and required to take cognizance thereof and to hear and determine such complaint and shall and may if they see cause amend the said rate or vacate or set aside the conviction and set the parties at liberty or otherwise may ratify or confirm the same respectively with such costs as to them in their discretion shall seem reasonable and shall and may levy by their order or warrant such costs so awarded by distress and sale of the goods and chattels of the person who shall refuse to pay the same and for want of sufficient distress shall and may commit such person to the common gaol of the said City for any time not exceeding three calendar months

or

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or until payment of such costs but such party may be liberated on entering into such recognizance as any such Justice shall direct Provided always that the person so appealing as aforesaid shall give notice in writing to the convicting Justice of such his intention of bringing or prosecuting such appeal (and in case of the appeal being against a rate or assessment the said notice shall be given to the Town Clerk of the said City) fourteen days from the said General or Quarter Sessions and shall before such notice given enter into a recognizance before some Justice of the Peace in the sum of fifty pounds with two sufficient sureties in the sum of twenty-five pounds each with condition to prosecute such appeal and to pay all costs in case such appeal shall be determined against the party so appealing.

Party appealing to give notice and enter into a recognizance.

13. And be it enacted That no conviction order warrant or other matter made or purporting to be made by virtue of this or the said recited Act shall be quashed for want of form and no warrant of commitment shall be held void by reason of any defect therein provided that it be therein alleged that the party has been convicted and there be a good and valid conviction to sustain the same and where any distress shall be made for levying any money by virtue of this Act the distress itself shall not be deemed unlawful nor the party making the same be deemed a trespasser on account of any defect or want of form in the summons conviction or warrant of distress nor shall the party distraining be deemed a trespasser on account of any irregularity afterwards committed by him but the party aggrieved by such irregularity may recover full satisfaction for the special damage (if any) in an action upon the case.

Conviction not to be quashed for want of form.

14. And be it enacted That where in this Act any word shall be used importing the singular number or the masculine gender only the same shall be understood to include several matters as well as one matter several persons as well as one person and females as well as males unless there be something in the context repugnant thereto.

Interpretation clause.

RIDER.

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 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 the said Act passed in the sixth year of the reign of Her present Majesty contained to the contrary in anywise notwithstanding.

Exempting Members and officers of Legislative Council from serving in Municipal Corporations.

SCHEDULES REFERRED TO.

A.

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

B.

*Harbours.*

B.

To Collector of Rates for Ward in the City  
of Sydney and his assistants.

WHEREAS of the City of Sydney in the Colony of New South  
Wales has been rated at the sum of per annum for the  
rate of the said City as the occupant (*or owner*) of a certain building (*or  
tenement or property*) situate in street in the said City and now occupied by  
and whereas the sum of being due and payable on  
account of the said rate on the day of was duly demanded  
of the on the day of of the said  
who has not yet paid the same These are therefore to require and  
authorize you forthwith to levy the said sum of together with the costs  
of these presents by distress and sale of the goods found by you in the said building (*or  
tenement or property*) according to law and that you certify to me on the  
day of what you shall do by virtue of this warrant.

Given under my hand and the common seal of the Mayor Aldermen and Coun-  
cillors of the City of Sydney at Sydney this day of  
A.D.

(Signed) A. B. Mayor. (L.S.)

