

## No. XVIII.

An Act to provide for Paving certain Streets in the City of Sydney. [12th October, 1855.]

SYDNEY FOOTWAYS  
PAVING.  
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**W**HEREAS it is expedient to make provisions for paving certain streets of the City of Sydney Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows :—

Preamble.

1. It shall be the duty of the Commissioners for the City of Sydney to cause a notice in the form or to the effect in the Schedule hereto annexed marked A signed by their Secretary and dated the day of its service to be left at each house in the streets of the said City described in the Schedule hereto annexed marked C along the footway adjoining which the kerbing is now permanently laid requiring such footway to be paved with such materials and in such manner as may be therein mentioned in every case where such footway shall not be so paved and to cause the like notice to be left at each house in the said streets along the footway adjoining which the kerbing shall hereafter be permanently laid in every case where such footway shall not be so paved after such kerbing shall be so laid and such notices shall in the case of every occupied house be left with some inmate thereof and in the case of every unoccupied house be nailed or posted up on some conspicuous part thereof and copies of all such notices shall be kept in the Office of the said Commissioners and be open to the inspection of every citizen of the said City free of charge at all times after service thereof as aforesaid.

Notice to be served  
by City Commissioners  
requiring foot-  
ways to be paved by  
owners of houses.

*Sydney Footways Paving.*

If paving not done by owners Commissioners to do it and keep an account of the expense.

2. If the owner of any house at which such notice as aforesaid shall have been duly and lawfully left shall not within three calendar months thereafter comply with such notice by paving the footway adjoining the said house as hereinbefore mentioned according to some uniform plan and specification to be previously prepared by the City Surveyor and kept in his office open to the inspection of any citizen of the said City free of charge it shall be the duty of the said Commissioners forthwith to cause such paving to be done and to keep an exact account of the expense thereof in a book to be open also to the inspection of every citizen of the said City free of charge.

Account of expense of paving to be kept.

3. It shall be the duty of the said Commissioners within thirty days after any such paving shall have been completed by them adjoining any house to cause an account of the cost thereof to be left at such house in the same manner as the said notices are hereinbefore directed to be left and if the owner of such house shall not within fourteen days after such account shall have been so left pay to the City Treasurer at his office the amount of such account it shall be lawful for such Commissioners by warrant under the hands of the Commissioners sealed with their common seal and in the form or to the effect in the Schedule hereto annexed marked B to distrain upon the goods found in such house for the said amount and dispose of the same in like manner as is now prescribed by law with respect to rates distrained for by order of the said Commissioners and if such goods shall belong to any tenant and not to the owner of any such house 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 be paid to his immediate landlord or be at liberty to sue his immediate landlord or the owner of such house for any damage he may sustain by non-payment by such owner of the cost of making such payment as aforesaid and the like right of deduction and suit is hereby given to every intermediate tenant against his immediate landlord or the said owner Provided that no such tenant shall be entitled to commence any action against his immediate landlord or the said owner unless he shall as soon as practicable after the receipt of the same hand over to such landlord or owner respectively the notice and account hereinbefore mentioned.

If amount thereof be not paid distress warrant to issue.

Footway not paved according to plan to be deemed unpaved.

4. Every footway that shall not hereafter be paved according to the uniform plan and specification to be prepared as aforesaid by the City Surveyor shall be deemed and held to be unpaved for the purposes of this Act.

Same steps to be taken with respect to repairing pavement as to paving in the first instance.

5. When and so often as any pavement of any footway shall require any repairs it shall be the duty of the Commissioners for the said City forthwith to take the like steps and they shall exercise the same powers and use the same form of notice and warrant as are hereinbefore directed and given to them with respect to paving in the first instance and the tenants shall have the like remedy against their immediate landlord or owner aforesaid.

Interpretation clause.

6. In the construction of this Act the word "owner" shall be held to mean any one having the immediate beneficial interest in any house land or hereditaments.

Persons making distress irregularly not to be deemed trespassers *ab initio*.

7. When any distress shall be made for any sum or sums of money to be levied under the authority of this Act the distress itself shall not be deemed unlawful nor shall the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in the warrant or distress or any other proceeding relating thereto nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio* on account of any subsequent irregularity which shall be afterwards done by the party or parties distraining

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*Sydney Footways Paving.*

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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.

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SCHEDULES REFERRED TO.

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A.

*Notice.*

To the owner of the house at which this notice has been left being No.        in  
street and [*if occupied*] now occupied by

You are hereby required within three calendar months from the date hereof to pave the footway adjoining the above-mentioned house according to the plan and specification now in the Office of the City Surveyor and with the material herein mentioned that is to say with and open to your inspection and you are further to take notice that unless you cause the said paving to be laid down within the time above specified the same will be executed by the Commissioners for the City of Sydney and the cost thereof will be levied in pursuance of the provisions of the Paving Act of 1855.

Dated this                      day of                      A.D. 185 .

(Signed)        A. B.

*Secretary to the Commissioners  
for the City of Sydney.*

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B.

*Warrant to Distrain.*

To

WHEREAS on the        day of        last a notice  
was duly left at the house No.        in        street in the City of Sydney [*and if occupied*]  
then in the occupation of        requiring the owner thereof within three  
calendar months from the date of the said notice to pave the footway adjoining the said  
house according to the plan then in the Office of the City Surveyor And whereas the said  
owner did not comply with the said notice and the Commissioners for the said City caused  
the said paving to be done And whereas the expense of the said paving amounts to

And whereas an account of the said expense was duly left at the said house on  
the        day of        and the amount thereof has not yet been paid  
into the hands of the City Treasurer These are therefore to require and authorize you forth-  
with 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 house and you are commanded to  
certify to me on the        day of        what you shall do by virtue of this  
warrant.

Given under our hand and the Common Seal of the Commissioners  
for the City of Sydney at Sydney this        day of  
A.D. 185 .

(Signed)

A. B. }  
C. D. } Commissioners.  
E. F. }

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C.

All that portion of the City of Sydney known as George and Pitt streets together with the respective streets connecting the same from the western boundary of George-street to the eastern boundary of Pitt-street both inclusive.

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