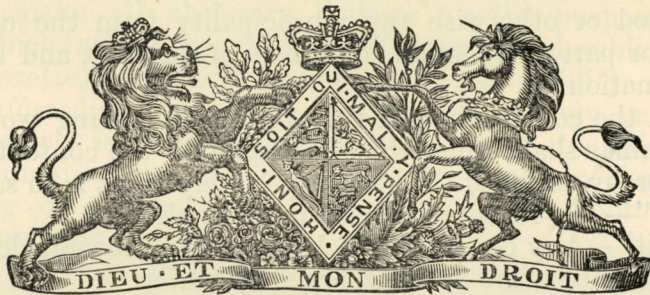


New South Wales.



ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. XXIV. (A.D. 1897.)

An Act to consolidate the Laws relating to the prevention of certain Nuisances in Municipalities. [Assented to, 6th December, 1897.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

1. This Act may be cited as the "Nuisances Prevention Act 1897," and is divided into Parts and Divisions as follows:—

PART I.—Preliminary.—ss. 1-5.

PART II.—Administrative authorities.—ss. 6-10.

PART III.—Regulation of closets, cesspits, &c.

DIVISION 1.—Powers of municipal councils.—ss. 11-16.

DIVISION 2.—Emptying of closets and cesspits.—ss. 17-20.

DIVISION 3.—Removal of nuisances.—ss. 21-24.

DIVISION 4.—Miscellaneous provisions.—ss. 25-33.

PART IV.—Legal proceedings.—ss. 34-39.

Nuisances Prevention.

Commencement of Act.
Second Schedule.
39 Vic. No. 14, s. 2.

2. This Act shall come into operation—
(I) in every municipality mentioned in the Second Schedule hereto, on the date of the passing of this Act; and
(II) in all other municipalities on such dates respectively as the Governor from time to time appoints by proclamations published in the Gazette.

Repeals and savings.

3. The Acts mentioned in the First Schedule hereto are hereby repealed.

All by-laws and regulations made under the authority of any Act hereby repealed, and being in force at the date of the passing of this Act shall be and continue in force hereunder, and shall be deemed to have been made under the authority of this Act.

Exemption from operation of specified sections.
Ibid. s. 3.

4. The Governor may at any time by proclamation exempt for a stated period or otherwise any municipality from the operation of any section or part of a section contained in this Act, and specified in such proclamation.

Interpretation of terms.
Ibid. s. 4.

5. In the construction of this Act the following words within inverted commas shall, unless inconsistent with the context, have the meanings hereby assigned to them respectively (that is to say):—

“Boxes”—The receptacles used in earth-closets.

“Cesspit”—Any cesspit, tank, box, or other receptacle for faecal matter or urine not discharged by water.

“Closet”—Any privy, water-closet, earth-closet, or place used for the reception of faecal matter or urine or earth mixed therewith.

“Council”—The municipal council of any municipality or the board of councillors of any combined municipalities.

“Earth-closet”—Any mechanical contrivance by which faecal matter may be received and deodorized by the agency of dry earth or ashes without being discharged by water.

“Inspector of nuisances”—The inspector of nuisances of any municipality or other officer who may be appointed by the municipal council to execute any powers or duties vested in or imposed upon the said council or inspector of nuisances by this Act.

“Municipality”—A borough or municipal district.

“Night-soil”—Faecal matter or urine.

“Night-soil depôt”—The place appointed for the deposit of night-soil removed from cesspits.

“Occupant”—The tenant or other person occupying the premises except a *bonâ fide* servant of the owner.

“Owner”—The proprietor, landlord, or person at the time receiving the rent of the premises in question whether on his own account or otherwise or who claims to be the owner.

“Premises”—Any land whether any building is erected thereon or not.

Nuisances Prevention.

PART II.

Administrative authorities.

6. The council of each municipality shall, within the boundaries of such municipality, exercise and execute the several powers, authorities, and duties requisite for carrying into effect the intentions of this Act.

Municipal council to execute the several powers, &c., of this Act.

39 Vic. No. 14, s. 5.

7. Whenever two or more municipalities adjoin or are adjacent to each other, and the several councils thereof deem it expedient to combine for the purpose of carrying into effect the objects and intentions of this Act, it shall be lawful for each of them to nominate an alderman who shall, together with the several mayors, jointly form a board of councillors who shall thereupon be authorised—

Adjoining municipalities may combine for the purpose of carrying out this Act.

Ibid. s. 6.

(I) to make all necessary by-laws for the purposes aforesaid which, after approval by the Governor and publication in the Gazette, shall have the same effect and validity and may be enforced as if the same had been separately made by each council as hereinafter provided. And the said board of councillors shall alone have the power at any time of repealing or altering such by-laws with the approval of the Governor ;

And thereupon may make by-laws.

(II) to contract upon such terms and conditions as they may see fit with any persons for doing any work, matter, or thing authorised to be done by any council under this Act ;

And also make any contracts.

(III) to appoint an inspector of nuisances or other officers to act for any such combined municipalities in the performance of any of the duties imposed upon the inspector of nuisances or other officers by this Act or by any by-laws which may be made by the said board of councillors ; and

And also make any appointments.

(IV) generally to control and manage all matters and things which the councils or the said officers respectively are by this Act required or empowered to do and perform.

And also manage all matters.

8. The council of any municipality may contract from time to time with the council of any other municipality for the performance of any duty or work imposed by this Act upon any such last-mentioned council or its officers.

One council may contract with any other council to carry this Act into effect.

Ibid. s. 7.

9. If the council of any municipality for a period of two months after this Act has come into operation in such municipality under the provisions of subsection (II) of section two—

If any council neglects to make by-laws ;

Ibid. s. 8.

(I) neglects to make proper and sufficient by-laws for carrying into effect such duties as are by this Act imposed upon it ; or

or to appoint an inspector of nuisances, &c.

(II) neglects to appoint an inspector of nuisances or other necessary officers ; or

(III) has, in the opinion of the Governor, wilfully failed to comply with such provisions of this Act as the said council has not been exempted from as hereinbefore provided for,

or wilfully fails to comply with the provisions of this Act ;

it shall be lawful for the Governor thereupon—

(I) to make regulations for carrying into effect the aforesaid provisions which, after publication in the Gazette, shall within the said municipality have the same force and validity as any by-law made under the authority of this Act ; and

the Governor may make regulations which shall have the validity of by-laws ;

(II) to appoint an inspector of nuisances and other officers for performing the aforesaid duties, and thereupon such inspector and other officers shall be entitled to demand and recover from the said council such reasonable salary or wages as the Governor may have assigned to each officer respectively on making the appointment, and such inspector and other officers shall or may severally exercise all the powers and authorities

and may appoint an inspector of nuisances, &c.

vested

Nuisances Prevention.

vested in such officers respectively by this Act, in the same manner and to the same extent in all respects as if such inspector or other officers had been appointed by any council under the authority of this Act.

Application of section 9 to certain municipalities.
39 Vic. No. 14, s. 8.

10. The provisions of the next preceding section shall apply in respect of every municipality referred to in subsection (I) of section two, the council of which has neglected or failed to do the things in the next preceding section mentioned for a period of two months after the Acts hereby repealed had come into operation in such municipality.

PART III.

*Regulation of closets, cesspits, &c.*DIVISION 1.—*Powers of municipal councils.*

Municipal council to make by-laws.
Ibid. s. 18.

11. As soon as this Act comes into operation in any municipality, the council thereof is hereby required and authorised to make all such by-laws as may be necessary for carrying into effect the several provisions of this Act:

Provided that a copy of all such by-laws sealed with the seal of the said council shall be sent to the Governor for confirmation, and when so confirmed shall be published in the Gazette:

Provided also that copies of all such by-laws after confirmation and publication, as aforesaid, shall be laid before both Houses of Parliament forthwith, if Parliament be then sitting, and if not, then within one month after the commencement of the next ensuing session.

By-laws to have the force of law and Gazette to be evidence.
Ibid. s. 19.

12. All by-laws, when so confirmed and published, but not before, shall have the same force and effect (when made in accordance with the provisions of this Act) until repealed or altered as if each respectively had formed a part of this Act, and the production of the Gazette containing them shall be sufficient evidence upon any trial or proceeding in any court of every such by-law having been duly made, confirmed, and published.

The subjects of by-laws.
Ibid. 20.

13. Every council may make by-laws for all or any of the subjects following (that is to say):—

- (I) Regulating the construction in all respects, the dimensions, and situation of cesspits and closets to be made after such by-laws have come into force.
- (II) Prescribing the degree of closet accommodation to be supplied for dwelling-houses, factories, or any other places of business.
- (III) Providing for such alterations as may, in the opinion of the inspector of nuisances or any officer appointed by any council in that behalf, be requisite for preserving public health or decency in the case of cesspits and closets existing at the time when such by-laws come into force.
- (IV) Appointing a place, with the approval of the Governor, either within or without the municipality as a general depôt for the deposit of night-soil.
- (V) Prescribing the method to be employed in the removal of night-soil from cesspits, and also whether by contract or otherwise.

(VI)

Nuisances Prevention.

- (VI) Prescribing the manner of its disposal whether by burying in the earth, or casting it into the sea, or otherwise.
- (VII) Making all necessary conditions and stipulations for the proper transit and ultimate disposition of night-soil which has been sold or given away,
- (VIII) Regulating the height above the surface of the ground and the depth beneath of every cesspit intended to be constructed varying or not according to the nature of the ground, and the probable number of persons for whom it is intended. 39 Vic. No. 14.
- (IX) Appointing the days and hours for the inspection of premises or for doing any work authorised by this Act therein.
- (X) And generally for carrying into effect the intentions and objects of this Act.

14. Every by-law made in accordance with the provisions of this Act may state some maximum and minimum penalty for any neglect or breach thereof: By-laws may state maximum and minimum penalties. *Ibid.* s. 21.

Provided that no penalty shall exceed twenty pounds.

15. Every council is hereby authorised to purchase or rent for any term of years or otherwise so much land as may be deemed sufficient for the purpose of forming a depôt for the reception of night-soil, whether the situation of the said land is within the boundaries of the municipality or otherwise. Council may purchase or rent land for night-soil depôts. *Ibid.* s. 22.

16. Every council on determining either to dispose of the night-soil by casting it into the sea or to provide a depôt as hereinbefore authorised is hereby empowered to incur all needful expenditure in enclosing or otherwise preparing such depôt, and providing all proper plant and appliances for dealing with the night-soil therein, whether by burying the same in the ground or otherwise, and also for making and repairing any roads leading either to the salt-water or to the depôt as the case may be. Councils may incur expenditure for preparing depôt, &c. *Ibid.* s. 24.

DIVISION 2.—*Emptying of closets and cesspits.*

17. From and after the time when this Act has come into operation in any municipality the owner or occupant of any premises within the same shall not empty, or cause to be emptied, any cesspit, earth-closet, or other closet pan, which may be included in his premises without the sanction in writing of the council or inspector of nuisances: Owners or occupants of premises not permitted to empty their own cesspits. 39 Vic. No. 14, s. 9. 55 Vic. No. 20, ss. 1 and 2.

Provided, however, that such sanction shall not be given unless the officers of the said council are by accident or unforeseen circumstances at the time unable to empty such cesspit, earth-closet, or other closet pan with the proper night-carts and appliances appointed to be used by them, whether supplied by a contractor or by the council, and any such owner or occupant so offending shall be liable to a penalty not exceeding ten pounds:

Provided further that any council may suspend the provisions of this section so far as applicable to earth-closets in the case of any premises as to which the council is satisfied that the owner or occupier has made suitable provision for the disposal of night-soil.

18. Every council shall cause its own servants or contractors, under the direction of the inspector of nuisances or other officers appointed in that behalf, to empty all cesspits within the municipality once at least every six months if necessary in the opinion of the inspector of nuisances, and such council shall cause to be used such implements and appliances, and shall take all such other measures in the performance of the work as may be deemed best adapted for the suppression of offensive smells or the suppression of other nuisances. Municipal councils to cause cesspits to be emptied. 39 Vic. No. 14, s. 10.

19. Every council may, unless otherwise provided for to the satisfaction of the council, cause its own servants or contractors, under the direction of the inspector of nuisances, or other officers appointed Municipal council to cause earth-closets to be emptied. 55 Vic. No. 20, s. 2.

in

Nuisances Prevention.

in that behalf, to empty all earth-closets and other closet pans within the same municipality once at least every week, and to use implements and appliances, and take such other measures in the performance of the work as may be deemed best adapted for the suppression of offensive smells, or the suppression of other nuisances.

Public or charitable institutions may be withdrawn from the operation of this Act.
55 Vic. No. 20, s. 3

20. In all cases in which the Governor is satisfied that adequate provision for the disposal of nightsoil, without danger to the public health, is made in or on behalf of any institution or establishment supported wholly or partly by grants from the Consolidated Revenue, and being the property of Her Majesty, or being vested in trustees or other persons on behalf of Her Majesty, or for public or charitable purposes, he may, by proclamation in the Gazette, withdraw such institution from the operation of section nineteen, and so much of sections seventeen and twenty-one as apply to earth-closets and other closet pans, and may at any time, if he thinks fit, rescind such proclamation.

DIVISION 3.—*Removal of nuisances.*

Notice to be given of any nuisance occurring in connection with the cesspit, &c.
39 Vic. No. 14, s. 11.

21. If at any time the cesspit, earth-closets, or other closet pans in any premises overflow or burst, or cease to be water-tight, or if from any other cause the contents thereof are liable to escape, or the effluvium arising therefrom becomes excessive, or any other nuisance in connection therewith occurs, the occupant or the owner (in case the premises are not occupied by any other person than the owner's *bona fide* servant) of the premises shall, within twenty-four hours, give notice thereof to the inspector of nuisances, otherwise such occupant or owner, as the case may be, shall be liable to a penalty not exceeding ten pounds.

Power of entry on premises for inspector of nuisances, &c.
Ibid. s. 25.

22. Whenever the inspector of nuisances has reasonable grounds for believing that there exists on any premises in the municipality a foul closet, whether occasioned by the blocking up of water-closet pans or of their discharge pipes, or the surcharge of cesspits or of earth-closet boxes, or insufficient closet accommodation, or any concealed drain connected with the closet, or any other nuisance in connection with the closet, cesspit, or well, such inspector may demand admission on the premises from the owner or occupant to inspect the same at any time between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, except on Sundays.

Inspector of nuisances may give notice to owner or occupier to remove any nuisance.
Ibid. s. 26.

23. Such inspector, on discovering the existence of any such nuisance as abovementioned, or any other of a like kind, may thereupon give a notice in writing to the owner or occupant to remove the same forthwith, or within a time to be therein stated according to the exigency of the case, and to purify the locality by cleansing, and the application of disinfectants, or otherwise; and if the owner or occupant has not complied with such notice before the expiration of the time limited, he shall be liable to a penalty not exceeding twenty pounds nor less than two pounds, and also to pay any reasonable expenses incurred by the council in removing the said nuisance (which the council is hereby empowered to do), which expenses may be sued for and recovered in a summary way as hereinafter provided.

If admission be refused, inspector of nuisances may obtain an order from any justice.
Ibid. s. 27.

24. If the owner or occupant refuses permission for the inspector of nuisances to enter as beforementioned, or prevents his entry upon the premises, any justice, on an affidavit made before him of the said inspector's belief in the existence of any nuisance, to be expressly stated in such affidavit, may by order under his hand require the owner or occupant to admit the said inspector upon the premises, who may thereafter enter and examine and remove such nuisance, and take all such measures as are authorised by section twenty-eight.

DIVISION

*Nuisances Prevention.*DIVISION 4.—*Miscellaneous provisions.*

25. It shall not be lawful for any person to construct in any manner a gutter or drain, whether above or below the surface of the ground, on premises in any municipality which communicate with a street, sewer, or gutter, in any manner so that the contents of any cess-pit, whether in the case of an overflow or otherwise, may be discharged into such street sewer without the express written sanction of the council first obtained. And whosoever offends against this enactment shall be liable to a penalty not exceeding twenty pounds and not less than one pound, and a further penalty not exceeding two pounds for every day during which the offence is continued after notice in writing has been given to the owner or occupant or other person, as the case may be, by the inspector of nuisances in that behalf.

No sewer or drain to be allowed to connect with cesspits, &c.
39 Vic. No. 14, s. 12.

Penalty.

26. The council may fill up, remove, alter, or otherwise deal with any existing gutter, drain, closet, cesspit, or well, or any such respectively which may be hereafter made or constructed, and which, in the opinion of the said council—

Any drain, &c., now or hereafter constructed contrary to this Act may be filled up, &c.

Ibid. s. 13.

(I) is injurious to the health; or

(II) is opposed to decency by exposure or otherwise; or

(III) presents obstacles to the emptying or cleansing of cesspits;

or

(IV) affords insufficient closet accommodation; or

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

27. All reasonable expenses incurred by any council in carrying into effect any of the provisions of this Act upon or in respect of any premises shall be repaid to the council by the owner or occupant within one week after a written demand of the amount made by the council or inspector of nuisances has been served upon him, otherwise the same may be recovered by the council after the service of the notice next mentioned by summary proceedings in the manner hereinafter set forth.

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

Ibid. s. 14.

28. Before commencing any such works or operations, the council or inspector of nuisances shall give at least one week's notice in writing to the owner or occupant of the premises (unless delay is considered by the council or inspector of nuisances to be injurious to the public or in other respects inexpedient, in which case three days' notice shall be sufficient) requiring him to perform the work therein specified, and notifying that, in default of his compliance therewith during the time which may be allowed by any by-law made for the purpose of dealing with such cases, the council will cause such specified work to be done at his expense.

One week's written notice to be first served on the owner or occupant.

Ibid. s. 15.

29. If the occupant of the premises is not also the owner, and has not himself caused the subject matter complained of and specified in the notice mentioned in the next preceding section, and forthwith after the delivery of such notice serves the same on the owner of the premises; and if such owner does not within the time mentioned in the next preceding section perform the work as before-mentioned, such occupant may thereupon comply with the terms of the said notice, and after defraying the necessary expense occasioned thereby, he may deduct the amount from any rent then due by him or accruing, or at his option sue for and recover the same with costs of suit from the owner as for money paid to his use in an action brought in any court of competent jurisdiction.

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

Ibid. s. 16.

30. No person shall hereafter place any closet, or make or place any cesspit in any unauthorised spot upon his premises, or construct any cesspit of any unauthorised materials or dimensions. And any person so offending shall be liable to a penalty not exceeding twenty pounds nor less than two pounds. And if the closet is removed, or

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

Ibid. s. 23.

the

Nuisances Prevention.

39 Vic. No. 14.

the cesspit filled up as the case may be, by the inspector of nuisances (which he is hereby authorised to do), the person offending as above-mentioned shall also be liable to pay all the expenses incurred thereby, and such expenses may be recovered by summary proceedings in the manner hereinafter provided.

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

Ibid., s. 17.

31. Whoever refuses to obey an order of a justice, as hereinbefore provided, for the admission of the inspector of nuisances or other officer or persons authorised to carry into effect any operations or measures under the authority of this Act, or their respective workmen or labourers upon any premises, or who wilfully obstructs any person acting under the authority, or employed in the execution of this Act, shall be liable for every such offence to a penalty not exceeding ten pounds nor less than one pound.

Occupant of premises obstructing owner liable to a penalty.

Ibid., s. 28.

32. If the occupant of any premises prevents the owner thereof from obeying or carrying into effect the provisions of this Act, any justice to whom application is made on affidavit made before him in that behalf, shall, by order in writing, require such occupant to desist from such prevention, or to permit the execution of the work required to be executed, provided that such work appears to such justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act; and if within three days after the service of such order the occupant against whom it is made does not comply therewith, he shall be liable to a penalty not exceeding five pounds for every day afterwards during the continuance of such non-compliance.

This Act not to affect the provisions of the *Municipalities Act of 1867*, &c.

Ibid., s. 31.

33. Nothing in this Act shall be construed to affect any of the provisions of the *Municipalities Act of 1867*, other than such as relate to the class of nuisances for which this Act is intended to provide, or of any other Act as to matters included in this Act, nor to impair any power of abating nuisances at common law; and all municipal officers, or other persons, may respectively proceed for the abatement of nuisances within any municipality, or in respect of any other matter or thing hereinbefore provided for, referred to under the before-mentioned Act, or any other Act conferring jurisdiction in respect of the several nuisances, matters, and things referred to in this Act, or any by-laws framed under any such Act as they may think fit.

PART IV.

Legal proceedings.

All penalties imposed, &c., to be paid to the council fund for purposes of this Act.

Ibid., s. 29.

34. All penalties imposed by this Act, or by any by-law made under its authority, for offences committed, and all sums of money ordered to be paid thereby may be recovered, and all complaints heard in a summary way before any two justices according to the provisions of the Act *fourteenth Victoria number forty-three*, and the *Imperial statutes thereby adopted*, and shall, when recovered, be paid over to the council interested, to be applied in aid of its expenses under this Act.

Service of notices, &c.

Ibid., s. 30.

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

Nuisances Prevention.

36. All complaints, or other legal proceedings, for any non-compliance with, or any breach of this Act, or of any by-laws made under its authority, may be laid and taken by the inspector of nuisances or any other officer appointed by the council in that behalf.

All legal proceedings may be taken in the name of the inspector of nuisances. 39 Vic. No. 14, s. 32.

37. Any person feeling himself aggrieved by any conviction, penalty, or charge imposed under the authority of this Act, where the penalty or sum exceeds five pounds, may appeal against the same to the next Court of Quarter Sessions holden in the district where the subject matter thereof arose, unless such Quarter Sessions are held within fourteen days from the date of such conviction or judgment, and in that case to the Court of Quarter Sessions then next following; and such Court shall have power to hear and determine the matter in a summary way, and shall have and exercise all other powers vested in them by the *third* section of the Act *Fifth William the Fourth number twenty-two*, and the decision of such Court shall be final and conclusive in respect to the subject matter of such appeal:

Appeal allowed to Quarter Sessions. *Ibid.* s. 33.

Provided always that the person so appealing shall have given written notice seven days at the least before the hearing of such appeal of his intention to appeal, and stating the grounds thereof to any one of the convicting justices, and to the inspector of nuisances, or other officer duly appointed by the council, and who prosecuted the matter before the justices in petty sessions:

Provided also that such person (in case a penalty has been awarded against him) shall pay into the hands of the convicting justices the full amount thereof, together with the costs awarded, within one week next after conviction, and shall within the same period enter into a bond, with two sureties approved by such justices, conditioned to prosecute such appeal with effect, and to abide the event of such appeal, and to pay the full amount of all such costs as may on such appeal be awarded against him.

38. The forms contained in the Second Schedule to this Act annexed, or any other forms to the like effect, but varied as circumstances may require, may be used for legal instruments under this Act, and shall be sufficient for the purposes intended.

Forms in Third Schedule may be used. *Ibid.* s. 34.

39. No order nor any other proceeding, matter, or thing done or transacted in relation to the execution of this Act shall be vacated, quashed, or set aside for want of form, nor be removable by *certiorari* or otherwise into the Supreme Court.

Proceedings not to be quashed or set aside for want of form. *Ibid.* s. 35.

SCHEDULES.

FIRST SCHEDULE.

Section 3.

Reference to Act.	Title of Act.	Extent of Repeal.
39 Vic. No. 14 ...	An Act for preventing certain nuisances in the city of Sydney and other municipalities.	The whole Act.
55 Vic. No. 20 ...	An Act to amend the Nuisances Prevention Act thirty-nine Victoria, number fourteen, in certain respects.	The whole Act.

B

SECOND

Nuisances Prevention.

Section 2.

SECOND SCHEDULE.

Municipalities.

Aberdeen	Grafton	Parramatta
Adamstown	Granville	Peak Hill
Albury	Grenfell	Penrith
Alexandria	Greta	Petersham
Annandale	Gulgong	Picton
Armidale	Gunnedah	Plattsburg
Ashfield	Hamilton	Port Macquarie
Auburn	Hay	Prospect and Sherwood
Ballina	Hilston	Queanbeyan
Balmain	Hunter's Hill	Quirindi
Balranald	Hurstville	Randwick
Bankstown	Inverell	Raymond Terrace
Bathurst	Jamberoo	Redfern
Bega	Jerilderie	Rockdale
Berry	June	Rookwood
Blayney	Katoomba	Ryde
Bombala	Kempsey	Scone
Botany	Kiama	Silverton
Bourke	Kogarah	Singleton
Bowral	Lane Cove	Stockton
Braidwood	Leichhardt	Strathfield
Broken Hill	Lismore	St. Peter's
Burwood	Lithgow	Tamworth
Camden	Liverpool	Taree
Camperdown	Macleay	Temora
Canterbury	Manly	Tumut
Carrington	Marrickville	Ulladulla
Casino	Merewether	Uralla
Central Illawarra	Mittagong	Vaucluse
Concord	Moama	Wagga Wagga
Cobar	Molong	Walcha
Condobolin	Moree	Wallsend
Cooma	Morpeth	Waratah
Coonamble	Moruya	Warren
Cootamundra	Moss Vale	Waterloo
Coraki	Mudgee	Waverley
Cowra	Murrumburrah	Wellington
Darlington	Narrandera	Wentworth
Deniliquin	Narrabri	West Maitland
Drummoyne	Newcastle	West Narrabri
Dubbo	Newtown	Wickham
Dungog	North Botany	Wilcanna
East Orange	North Sydney	Willoughby
Enfield	Nowra	Wingham
Erskineville	Nyngan	Wollongong
Five Dock	Orange	Woollahra
Forbes	Paddington	Yass
Gerrington	Parkes	Young
Glebe		
Glen Innes		
Goulburn		

Section 38.

39 Vic. No. 14.

Schedules.

THIRD SCHEDULE.

FORM A.

Order of justice for admission of inspector of nuisances or other officer to inspect premises.

To Mr. G. H., or the owner or occupant of the premises [*here describe the same as in the body of the order*].

WHEREAS A. B., the inspector of nuisances for the municipality of [*if acting for any combined municipalities add and other combined municipalities*], has made oath before me, E. F., Esquire, one of Her Majesty's justices of the peace, of his belief

Nuisances Prevention.

belief that a nuisance, within the meaning of the Nuisances Prevention Act, 189 , exists on premises situated in street, [describe the number or name and situation of the premises so as to identify them], of which premises you are said to be either the owner or occupant, and that demand of admission to such premises, for the inspection thereof, has been duly made and refused. Now therefore I, the said E. F., do hereby require you to admit the said A. B., with or without his workmen or assistants, for the purpose of inspecting and examining the said premises, under the provisions of the said Act.

Given under my hand this day of , 18 .

E. F.,
J.P.

FORM B.

Summons for a nuisance.

To Mr. G. H., or the owner or occupant of the premises [here describe the same as in the body of the summons].

[state name of police district], to wit.

You are hereby summoned to appear before two of Her Majesty's justices of the peace, at the petty session holden at the police office, [insert place], on the day of next, at the hour of in the forenoon, to answer the complaint this day made to me by A. B., the inspector of nuisances for the municipality of [if acting for any combined municipalities add and other combined municipalities]. that in or upon certain premises situate in street, [describe the number or name and the situation of the premises so as to identify them], the following nuisance exists [describe it, as the case may be, as nearly as convenient in the words of the Act or by-law], and that the said nuisance is caused by the act or default of the owner or occupier of the premises, or by yourself, G. H.

Given under the hand of me, E. F., Esquire, one of Her Majesty's justices of the peace, this day of , 18 .

E. F.,
J.P.

FORM C.

Order to permit execution of works by owner or by the inspector of nuisances.

[state name of police district], to wit.

To Mr. G. H., or the owner or occupant of the premises [describing them as in Form B].

WHEREAS C. D., the owner of the said premises within the meaning of the Nuisances Prevention Act, 189 [or Mr. A. B., the inspector of nuisances for the municipal council of], having appeared before me, E. F., Esquire, one of Her Majesty's justices of the peace [or police magistrate], and having made oath to me of his belief that a nuisance, within the meaning of the aforesaid Act, existed on the premises above-mentioned, of which you are said to be the occupant, and that you, the said G. H., being such occupant, have prevented the said C. D. [or the said A. B.] from obeying and carrying into effect the provisions of the said Act, that is to say, that you, the said G. H., prevented [here describe the act of prevention generally, for instance, thus ; prevented the said C. D. from repairing a cesspit, or removing a closet, or digging up a drain connected with the cesspit, which is a nuisance and injurious to health]. And whereas you, the said G. H., having been summoned this day to answer the said complaint, and not having shown sufficient cause against the same [or having failed to attend, as the case may be], and it appearing to me that it is necessary that [here describe the act or work to be done, for instance, thus : that the said cesspit should be repaired, or that the said closet should be removed, or that the said drain should be dug up] for the purpose of enabling the said C. D. [or the said A. B.] to obey and carry into effect the provisions of the said Act, I do hereby order you, the said G. H., to permit the said C. D. [or the said A. B.] to do and perform the aforesaid duty and works, according to the provisions of the said Act and by-laws.

Given under my hand and seal, at Sydney, this day of , 18 .

E. F.,
J.P.

OTHER FORMS.

Any other legal instrument requisite may readily be adapted from the forms annexed to the Act *fourteenth Victoria, number forty-three*, and the *Imperial statutes thereby adopted*.

Warrant for a nuisance

Belief that a nuisance within the meaning of the Nuisance Prevention Act 1891 exists... on premises situated in... of the premises as to the... of which premises you are said to be... either the owner or occupant and that... inspection thereof has been duly made and... to hereby require you to admit the said A. B. with or without his workmen or... assistants for the purpose of inspecting and examining the said premises, under the... provisions of the said Act.

Given under my hand this... day of... 18...

John B. [Signature]

Warrant for a nuisance

To Mr. G. H. or the owner or occupant of the premises (here describe the same as in the... body of the warrant)

[State name of police district] to wit

You are hereby summoned to appear before two of Her Majesty's justices of the peace... at the petty session held at the police office... on the... day of... in the forenoon to answer the complaint this day...

made to me by A. B. the inspector of nuisances for the municipality of... [V]erify by my complaint... and other complaint... in or upon certain premises situate in... street... [describe the premises as to its situation... the following nuisance... exists [describe it as to its nature and extent in the words of the Act or... and that the said nuisance is caused by the act or default of the owner or... occupant of the premises or by yourself G. H.]

Given under the hand of me R. F. Justice, one of Her Majesty's justices of the peace, this... day of...

R. F. [Signature]

Form C...

Order in private premises of rights by owner or by the inspector of nuisances

[State name of police district] to wit

To Mr. G. H. or the owner or occupant of the premises (hereby describe the same as in the... body of the warrant)

Whereas C. D. the owner of the said premises within the meaning of the Nuisance Prevention Act 1891... the inspector of nuisances for the municipality of... [V]erify by my complaint... and other complaint... in or upon certain premises situate in... street... [describe the premises as to its situation... the following nuisance... exists [describe it as to its nature and extent in the words of the Act or... and that the said nuisance is caused by the act or default of the owner or... occupant of the premises or by yourself G. H.]

Given under my hand and seal, at Sydney, this... day of... 18...

R. F. [Signature]

Other forms

Any other legal instrument... may readily be adapted from the forms... annexed to the Act...

Given under my hand and seal, at Sydney, this... day of... 18...

R. F. [Signature]

Other forms

Any other legal instrument... may readily be adapted from the forms... annexed to the Act...

Given under my hand and seal, at Sydney, this... day of... 18...

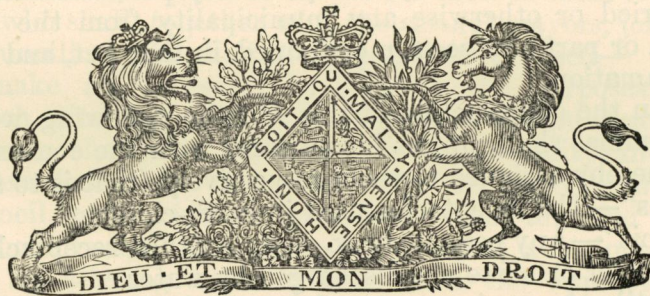
R. F. [Signature]

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council Chamber,
Sydney, 30th November, 1897. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. XXIV. (A.D. 1897.)

An Act to consolidate the Laws relating to the prevention of certain Nuisances in Municipalities. [Assented to, 6th December, 1897.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

1. This Act may be cited as the "Nuisances Prevention Act 1897," and is divided into Parts and Divisions as follows:—

PART I.—*Preliminary.*—ss. 1-5.

PART II.—*Administrative authorities.*—ss. 6-10.

PART III.—*Regulation of closets, cesspits, &c.*

DIVISION 1.—*Powers of municipal councils.*—ss. 11-16.

DIVISION 2.—*Emptying of closets and cesspits.*—ss. 17-20.

DIVISION 3.—*Removal of nuisances.*—ss. 21-24.

DIVISION 4.—*Miscellaneous provisions.*—ss. 25-33.

PART IV.—*Legal proceedings.*—ss. 34-39,

Nuisances Prevention.

Commencement of Act.
Second Schedule.
39 Vic. No. 14, s. 2.

2. This Act shall come into operation—
(I) in every municipality mentioned in the Second Schedule hereto, on the date of the passing of this Act; and
(II) in all other municipalities on such dates respectively as the Governor from time to time appoints by proclamations published in the Gazette.

Repeals and savings.

3. The Acts mentioned in the First Schedule hereto are hereby repealed.

All by-laws and regulations made under the authority of any Act hereby repealed, and being in force at the date of the passing of this Act shall be and continue in force hereunder, and shall be deemed to have been made under the authority of this Act.

Exemption from operation of specified sections.

Ibid. s. 3.

4. The Governor may at any time by proclamation exempt for a stated period or otherwise any municipality from the operation of any section or part of a section contained in this Act, and specified in such proclamation.

Interpretation of terms.

Ibid. s. 4.

5. In the construction of this Act the following words within inverted commas shall, unless inconsistent with the context, have the meanings hereby assigned to them respectively (that is to say):—

“Boxes”—The receptacles used in earth-closets.

“Cesspit”—Any cesspit, tank, box, or other receptacle for fæcal matter or urine not discharged by water.

“Closet”—Any privy, water-closet, earth-closet, or place used for the reception of fæcal matter or urine or earth mixed therewith.

“Council”—The municipal council of any municipality or the board of councillors of any combined municipalities.

“Earth-closet”—Any mechanical contrivance by which fæcal matter may be received and deodorized by the agency of dry earth or ashes without being discharged by water.

“Inspector of nuisances”—The inspector of nuisances of any municipality or other officer who may be appointed by the municipal council to execute any powers or duties vested in or imposed upon the said council or inspector of nuisances by this Act.

“Municipality”—A borough or municipal district.

“Night-soil”—Fæcal matter or urine.

“Night-soil depôt”—The place appointed for the deposit of night-soil removed from cesspits.

“Occupant”—The tenant or other person occupying the premises except a *bonâ fide* servant of the owner.

“Owner”—The proprietor, landlord, or person at the time receiving the rent of the premises in question whether on his own account or otherwise or who claims to be the owner.

“Premises”—Any land whether any building is erected thereon or not.

Nuisances Prevention.

PART II.

Administrative authorities.

6. The council of each municipality shall, within the boundaries of such municipality, exercise and execute the several powers, authorities, and duties requisite for carrying into effect the intentions of this Act.

Municipal council to execute the several powers, &c., of this Act.

39 Vic. No. 14, s. 5.

7. Whenever two or more municipalities adjoin or are adjacent to each other, and the several councils thereof deem it expedient to combine for the purpose of carrying into effect the objects and intentions of this Act, it shall be lawful for each of them to nominate an alderman who shall, together with the several mayors, jointly form a board of councillors who shall thereupon be authorised—

Adjoining municipalities may combine for the purpose of carrying out this Act.

Ibid. s. 6.

(I) to make all necessary by-laws for the purposes aforesaid which, after approval by the Governor and publication in the Gazette, shall have the same effect and validity and may be enforced as if the same had been separately made by each council as hereinafter provided. And the said board of councillors shall alone have the power at any time of repealing or altering such by-laws with the approval of the Governor ;

And thereupon may make by-laws.

(II) to contract upon such terms and conditions as they may see fit with any persons for doing any work, matter, or thing authorised to be done by any council under this Act ;

And also make any contracts.

(III) to appoint an inspector of nuisances or other officers to act for any such combined municipalities in the performance of any of the duties imposed upon the inspector of nuisances or other officers by this Act or by any by-laws which may be made by the said board of councillors ; and

And also make any appointments.

(IV) generally to control and manage all matters and things which the councils or the said officers respectively are by this Act required or empowered to do and perform.

And also manage all matters.

8. The council of any municipality may contract from time to time with the council of any other municipality for the performance of any duty or work imposed by this Act upon any such last-mentioned council or its officers.

One council may contract with any other council to carry this Act into effect.

Ibid. s. 7.

9. If the council of any municipality for a period of two months after this Act has come into operation in such municipality under the provisions of subsection (II) of section two—

If any council neglects to make by-laws ;

Ibid. s. 8.

(I) neglects to make proper and sufficient by-laws for carrying into effect such duties as are by this Act imposed upon it ; or

or to appoint an inspector of nuisances, &c.

(II) neglects to appoint an inspector of nuisances or other necessary officers ; or

(III) has, in the opinion of the Governor, wilfully failed to comply with such provisions of this Act as the said council has not been exempted from as hereinbefore provided for,

or wilfully fails to comply with the provisions of this Act ;

it shall be lawful for the Governor thereupon—

(I) to make regulations for carrying into effect the aforesaid provisions which, after publication in the Gazette, shall within the said municipality have the same force and validity as any by-law made under the authority of this Act ; and

the Governor may make regulations which shall have the validity of by-laws ;

(II) to appoint an inspector of nuisances and other officers for performing the aforesaid duties, and thereupon such inspector and other officers shall be entitled to demand and recover from the said council such reasonable salary or wages as the Governor may have assigned to each officer respectively on making the appointment, and such inspector and other officers shall or may severally exercise all the powers and authorities

and may appoint an inspector of nuisances, &c.

vested

Nuisances Prevention.

vested in such officers respectively by this Act, in the same manner and to the same extent in all respects as if such inspector or other officers had been appointed by any council under the authority of this Act.

Application of section 9 to certain municipalities.
39 Vic. No. 14, s. 8.

10. The provisions of the next preceding section shall apply in respect of every municipality referred to in subsection (1) of section two, the council of which has neglected or failed to do the things in the next preceding section mentioned for a period of two months after the Acts hereby repealed had come into operation in such municipality.

PART III.

*Regulation of closets, cesspits, &c.*DIVISION 1.—*Powers of municipal councils.*

Municipal council to make by-laws.
Ibid. s. 18.

11. As soon as this Act comes into operation in any municipality, the council thereof is hereby required and authorised to make all such by-laws as may be necessary for carrying into effect the several provisions of this Act :

Provided that a copy of all such by-laws sealed with the seal of the said council shall be sent to the Governor for confirmation, and when so confirmed shall be published in the Gazette :

Provided also that copies of all such by-laws after confirmation and publication, as aforesaid, shall be laid before both Houses of Parliament forthwith, if Parliament be then sitting, and if not, then within one month after the commencement of the next ensuing session.

By-laws to have the force of law and Gazette to be evidence.
Ibid. s. 19.

12. All by-laws, when so confirmed and published, but not before, shall have the same force and effect (when made in accordance with the provisions of this Act) until repealed or altered as if each respectively had formed a part of this Act, and the production of the Gazette containing them shall be sufficient evidence upon any trial or proceeding in any court of every such by-law having been duly made, confirmed, and published.

The subjects of by-laws.
Ibid. s. 20.

13. Every council may make by-laws for all or any of the subjects following (that is to say) :—

- (I) Regulating the construction in all respects, the dimensions, and situation of cesspits and closets to be made after such by-laws have come into force.
- (II) Prescribing the degree of closet accommodation to be supplied for dwelling-houses, factories, or any other places of business.
- (III) Providing for such alterations as may, in the opinion of the inspector of nuisances or any officer appointed by any council in that behalf, be requisite for preserving public health or decency in the case of cesspits and closets existing at the time when such by-laws come into force.
- (IV) Appointing a place, with the approval of the Governor, either within or without the municipality as a general depôt for the deposit of night-soil.
- (V) Prescribing the method to be employed in the removal of night-soil from cesspits, and also whether by contract or otherwise.

(VI)

Nuisances Prevention.

- (vi) Prescribing the manner of its disposal whether by burying in the earth, or casting it into the sea, or otherwise.
- (vii) Making all necessary conditions and stipulations for the proper transit and ultimate disposition of night-soil which has been sold or given away,
- (viii) Regulating the height above the surface of the ground and the depth beneath of every cesspit intended to be constructed varying or not according to the nature of the ground, and the probable number of persons for whom it is intended. 39 Vic. No. 14.
- (ix) Appointing the days and hours for the inspection of premises or for doing any work authorised by this Act therein.
- (x) And generally for carrying into effect the intentions and objects of this Act.

14. Every by-law made in accordance with the provisions of this Act may state some maximum and minimum penalty for any neglect or breach thereof: By-laws may state maximum and minimum penalties. *Ibid.* s. 21.

Provided that no penalty shall exceed twenty pounds.

15. Every council is hereby authorised to purchase or rent for any term of years or otherwise so much land as may be deemed sufficient for the purpose of forming a depôt for the reception of night-soil, whether the situation of the said land is within the boundaries of the municipality or otherwise. Council may purchase or rent land for night-soil depôts. *Ibid.* s. 22.

16. Every council on determining either to dispose of the night-soil by casting it into the sea or to provide a depôt as hereinbefore authorised is hereby empowered to incur all needful expenditure in enclosing or otherwise preparing such depôt, and providing all proper plant and appliances for dealing with the night-soil therein, whether by burying the same in the ground or otherwise, and also for making and repairing any roads leading either to the salt-water or to the depôt as the case may be. Councils may incur expenditure for preparing depôt, &c. *Ibid.* s. 24.

DIVISION 2.—Emptying of closets and cesspits.

17. From and after the time when this Act has come into operation in any municipality the owner or occupant of any premises within the same shall not empty, or cause to be emptied, any cesspit, earth-closet, or other closet pan, which may be included in his premises without the sanction in writing of the council or inspector of nuisances: Owners or occupants of premises not permitted to empty their own cesspits. 39 Vic. No. 14, s. 9. 55 Vic. No. 20, ss. 1 and 2.

Provided, however, that such sanction shall not be given unless the officers of the said council are by accident or unforeseen circumstances at the time unable to empty such cesspit, earth-closet, or other closet pan with the proper night-carts and appliances appointed to be used by them, whether supplied by a contractor or by the council, and any such owner or occupant so offending shall be liable to a penalty not exceeding ten pounds:

Provided further that any council may suspend the provisions of this section so far as applicable to earth-closets in the case of any premises as to which the council is satisfied that the owner or occupier has made suitable provision for the disposal of night-soil.

18. Every council shall cause its own servants or contractors, under the direction of the inspector of nuisances or other officers appointed in that behalf, to empty all cesspits within the municipality once at least every six months if necessary in the opinion of the inspector of nuisances, and such council shall cause to be used such implements and appliances, and shall take all such other measures in the performance of the work as may be deemed best adapted for the suppression of offensive smells or the suppression of other nuisances. Municipal councils to cause cesspits to be emptied. 39 Vic. No. 14, s. 10.

19. Every council may, unless otherwise provided for to the satisfaction of the council, cause its own servants or contractors, under the direction of the inspector of nuisances, or other officers appointed in Municipal council to cause earth-closets to be emptied. 55 Vic. No. 20, s. 2.

Nuisances Prevention.

in that behalf, to empty all earth-closets and other closet pans within the same municipality once at least every week, and to use implements and appliances, and take such other measures in the performance of the work as may be deemed best adapted for the suppression of offensive smells, or the suppression of other nuisances.

20. In all cases in which the Governor is satisfied that adequate provision for the disposal of nightsoil, without danger to the public health, is made in or on behalf of any institution or establishment supported wholly or partly by grants from the Consolidated Revenue, and being the property of Her Majesty, or being vested in trustees or other persons on behalf of Her Majesty, or for public or charitable purposes, he may, by proclamation in the Gazette, withdraw such institution from the operation of section nineteen, and so much of sections seventeen and twenty-one as apply to earth-closets and other closet pans, and may at any time, if he thinks fit, rescind such proclamation.

DIVISION 3.—*Removal of nuisances.*

Public or charitable institutions may be withdrawn from the operation of this Act.

55 Vic. No. 20, s. 3

Notice to be given of any nuisance occurring in connection with the cesspit, &c.

39 Vic. No. 14, s. 11.

21. If at any time the cesspit, earth-closets, or other closet pans in any premises overflow or burst, or cease to be water-tight, or if from any other cause the contents thereof are liable to escape, or the effluvium arising therefrom becomes excessive, or any other nuisance in connection therewith occurs, the occupant or the owner (in case the premises are not occupied by any other person than the owner's *bona fide* servant) of the premises shall, within twenty-four hours, give notice thereof to the inspector of nuisances, otherwise such occupant or owner, as the case may be, shall be liable to a penalty not exceeding ten pounds.

Power of entry on premises for inspector of nuisances, &c.

Ibid. s. 25.

22. Whenever the inspector of nuisances has reasonable grounds for believing that there exists on any premises in the municipality a foul closet, whether occasioned by the blocking up of water-closet pans or of their discharge pipes, or the surcharge of cesspits or of earth-closet boxes, or insufficient closet accommodation, or any concealed drain connected with the closet, or any other nuisance in connection with the closet, cesspit, or well, such inspector may demand admission on the premises from the owner or occupant to inspect the same at any time between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, except on Sundays.

Inspector of nuisances may give notice to owner or occupier to remove any nuisance.

Ibid. s. 26.

23. Such inspector, on discovering the existence of any such nuisance as abovementioned, or any other of a like kind, may thereupon give a notice in writing to the owner or occupant to remove the same forthwith, or within a time to be therein stated according to the exigency of the case, and to purify the locality by cleansing, and the application of disinfectants, or otherwise; and if the owner or occupant has not complied with such notice before the expiration of the time limited, he shall be liable to a penalty not exceeding twenty pounds nor less than two pounds, and also to pay any reasonable expenses incurred by the council in removing the said nuisance (which the council is hereby empowered to do), which expenses may be sued for and recovered in a summary way as hereinafter provided.

If admission be refused, inspector of nuisances may obtain an order from any justice.

Ibid. s. 27.

24. If the owner or occupant refuses permission for the inspector of nuisances to enter as beforementioned, or prevents his entry upon the premises, any justice, on an affidavit made before him of the said inspector's belief in the existence of any nuisance, to be expressly stated in such affidavit, may by order under his hand require the owner or occupant to admit the said inspector upon the premises, who may thereafter enter and examine and remove such nuisance, and take all such measures as are authorised by section twenty-eight.

DIVISION

*Nuisances Prevention.*DIVISION 4.—*Miscellaneous provisions.*

25. It shall not be lawful for any person to construct in any manner a gutter or drain, whether above or below the surface of the ground, on premises in any municipality which communicate with a street, sewer, or gutter, in any manner so that the contents of any cess-pit, whether in the case of an overflow or otherwise, may be discharged into such street sewer without the express written sanction of the council first obtained. And whosoever offends against this enactment shall be liable to a penalty not exceeding twenty pounds and not less than one pound, and a further penalty not exceeding two pounds for every day during which the offence is continued after notice in writing has been given to the owner or occupant or other person, as the case may be, by the inspector of nuisances in that behalf.

No sewer or drain to be allowed to connect with cesspits, &c.
39 Vic. No. 14, s. 12.

Penalty.

26. The council may fill up, remove, alter, or otherwise deal with any existing gutter, drain, closet, cesspit, or well, or any such respectively which may be hereafter made or constructed, and which, in the opinion of the said council—

Any drain, &c., now or hereafter constructed contrary to this Act may be filled up, &c.
Ibid. s. 13.

- (I) is injurious to the health; or
- (II) is opposed to decency by exposure or otherwise; or
- (III) presents obstacles to the emptying or cleansing of cesspits; or
- (IV) affords insufficient closet accommodation; or
- (V) is made or constructed or placed contrary to the provisions of this Act or of any by-laws made under its authority.

27. All reasonable expenses incurred by any council in carrying into effect any of the provisions of this Act upon or in respect of any premises shall be repaid to the council by the owner or occupant within one week after a written demand of the amount made by the council or inspector of nuisances has been served upon him, otherwise the same may be recovered by the council after the service of the notice next mentioned by summary proceedings in the manner hereinafter set forth.

All reasonable expenses incurred by councils to be repaid by owners, &c.
Ibid. s. 14.

28. Before commencing any such works or operations, the council or inspector of nuisances shall give at least one week's notice in writing to the owner or occupant of the premises (unless delay is considered by the council or inspector of nuisances to be injurious to the public or in other respects inexpedient, in which case three days' notice shall be sufficient) requiring him to perform the work therein specified, and notifying that, in default of his compliance therewith during the time which may be allowed by any by-law made for the purpose of dealing with such cases, the council will cause such specified work to be done at his expense.

One week's written notice to be first served on the owner or occupant.
Ibid. s. 15.

29. If the occupant of the premises is not also the owner, and has not himself caused the subject matter complained of and specified in the notice mentioned in the next preceding section, and forthwith after the delivery of such notice serves the same on the owner of the premises; and if such owner does not within the time mentioned in the next preceding section perform the work as before-mentioned, such occupant may thereupon comply with the terms of the said notice, and after defraying the necessary expense occasioned thereby, he may deduct the amount from any rent then due by him or accruing, or at his option sue for and recover the same with costs of suit from the owner as for money paid to his use in an action brought in any court of competent jurisdiction.

The occupant may recover from the owner any sums paid to the council under the authority of this Act.
Ibid. s. 16.

30. No person shall hereafter place any closet, or make or place any cesspit in any unauthorised spot upon his premises, or construct any cesspit of any unauthorised materials or dimensions. And any person so offending shall be liable to a penalty not exceeding twenty pounds nor less than two pounds. And if the closet is removed, or the

No person hereafter allowed to form a cesspit in any spot unauthorised.
Ibid. s. 23.

Nuisances Prevention.

30 Vic. No. 14.

the cesspit filled up as the case may be, by the inspector of nuisances (which he is hereby authorised to do), the person offending as above-mentioned shall also be liable to pay all the expenses incurred thereby, and such expenses may be recovered by summary proceedings in the manner hereinafter provided.

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

Ibid. s. 17.

31. Whoever refuses to obey an order of a justice, as hereinbefore provided, for the admission of the inspector of nuisances or other officer or persons authorised to carry into effect any operations or measures under the authority of this Act, or their respective workmen or labourers upon any premises, or who wilfully obstructs any person acting under the authority, or employed in the execution of this Act, shall be liable for every such offence to a penalty not exceeding ten pounds nor less than one pound.

Occupant of premises obstructing owner liable to a penalty.

Ibid. s. 23.

32. If the occupant of any premises prevents the owner thereof from obeying or carrying into effect the provisions of this Act, any justice to whom application is made on affidavit made before him in that behalf, shall, by order in writing, require such occupant to desist from such prevention, or to permit the execution of the work required to be executed, provided that such work appears to such justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act; and if within three days after the service of such order the occupant against whom it is made does not comply therewith, he shall be liable to a penalty not exceeding five pounds for every day afterwards during the continuance of such non-compliance.

This Act not to affect the provisions of the *Municipalities Act of 1867, &c.*

Ibid. s. 31.

33. Nothing in this Act shall be construed to affect any of the provisions of the *Municipalities Act of 1867*, other than such as relate to the class of nuisances for which this Act is intended to provide, or of any other Act as to matters included in this Act, nor to impair any power of abating nuisances at common law; and all municipal officers, or other persons, may respectively proceed for the abatement of nuisances within any municipality, or in respect of any other matter or thing hereinbefore provided for, referred to under the before-mentioned Act, or any other Act conferring jurisdiction in respect of the several nuisances, matters, and things referred to in this Act, or any by-laws framed under any such Act as they may think fit.

PART IV.

Legal proceedings.

All penalties imposed, &c., to be paid to the council fund for purposes of this Act.

Ibid. s. 29.

34. All penalties imposed by this Act, or by any by-law made under its authority, for offences committed, and all sums of money ordered to be paid thereby may be recovered, and all complaints heard in a summary way before any two justices according to the provisions of the Act *fourteenth Victoria number forty-three, and the Imperial statutes thereby adopted*, and shall, when recovered, be paid over to the council interested, to be applied in aid of its expenses under this Act.

Service of notices, &c.

Ibid. s. 30.

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

Nuisances Prevention.

36. All complaints, or other legal proceedings, for any non-compliance with, or any breach of this Act, or of any by-laws made under its authority, may be laid and taken by the inspector of nuisances or any other officer appointed by the council in that behalf.

All legal proceedings may be taken in the name of the inspector of nuisances.
39 Vic. No. 14, s. 32.

37. Any person feeling himself aggrieved by any conviction, penalty, or charge imposed under the authority of this Act, where the penalty or sum exceeds five pounds, may appeal against the same to the next Court of Quarter Sessions holden in the district where the subject matter thereof arose, unless such Quarter Sessions are held within fourteen days from the date of such conviction or judgment, and in that case to the Court of Quarter Sessions then next following; and such Court shall have power to hear and determine the matter in a summary way, and shall have and exercise all other powers vested in them by the *third* section of the Act *Fifth William the Fourth number twenty-two*, and the decision of such Court shall be final and conclusive in respect to the subject matter of such appeal:

Appeal allowed to Quarter Sessions.
Ibid. s. 33.

Provided always that the person so appealing shall have given written notice seven days at the least before the hearing of such appeal of his intention to appeal, and stating the grounds thereof to any one of the convicting justices, and to the inspector of nuisances, or other officer duly appointed by the council, and who prosecuted the matter before the justices in petty sessions:

Provided also that such person (in case a penalty has been awarded against him) shall pay into the hands of the convicting justices the full amount thereof, together with the costs awarded, within one week next after conviction, and shall within the same period enter into a bond, with two sureties approved by such justices, conditioned to prosecute such appeal with effect, and to abide the event of such appeal, and to pay the full amount of all such costs as may on such appeal be awarded against him.

38. The forms contained in the Second Schedule to this Act annexed, or any other forms to the like effect, but varied as circumstances may require, may be used for legal instruments under this Act, and shall be sufficient for the purposes intended.

Forms in Third Schedule may be used.
Ibid. s. 34.

39. No order nor any other proceeding, matter, or thing done or transacted in relation to the execution of this Act shall be vacated, quashed, or set aside for want of form, nor be removable by *certiorari* or otherwise into the Supreme Court.

Proceedings not to be quashed or set aside for want of form.
Ibid. s. 35.

SCHEDULES.

FIRST SCHEDULE.

Section 3.

Reference to Act.	Title of Act.	Extent of Repeal.
39 Vic. No. 14 ..	An Act for preventing certain nuisances in the city of Sydney and other municipalities.	The whole Act.
55 Vic. No. 20 ...	An Act to amend the Nuisances Prevention Act thirty-nine Victoria, number fourteen, in certain respects.	The whole Act.

SECOND

Nuisances Prevention.

Section 2.

SECOND SCHEDULE.

Municipalities.

Aberdeen	Grafton	Parramatta
Adamstown	Granville	Peak Hill
Albury	Grenfell	Penrith
Alexandria	Greta	Petersham
Annandale	Gulgong	Picton
Armidale	Gunnedah	Plattsburg
Ashfield	Hamilton	Port Macquarie
Auburn	Hay	Prospect and Sherwood
Ballina	Hilston	Queanbeyan
Balmain	Hunter's Hill	Quirindi
Balranald	Hurstville	Randwick
Bankstown	Inverell	Raymond Terrace
Bathurst	Jamberoo	Redfern
Bega	Jerilderie	Rockdale
Berry	Junea	Rookwood
Blayney	Katoomba	Ryde
Bombala	Kempsey	Scone
Botany	Kiama	Silverton
Bourke	Kogarah	Singleton
Bowral	Lane Cove	Stockton
Braidwood	Leichhardt	Strathfield
Broken Hill	Lismore	St. Peter's
Burwood	Lithgow	Tamworth
Camden	Liverpool	Taree
Camperdown	Maclean	Temora
Canterbury	Manly	Tumut
Carrington	Marrickville	Ulladulla
Casino	Merewether	Uralla
Central Illawarra	Mittagong	Vaucluse
Concord	Moama	Wagga Wagga
Cobar	Molong	Walcha
Condobolin	Moree	Wallsend
Cooma	Morpeth	Waratah
Coonamble	Moruya	Warren
Cootamundra	Moss Vale	Waterloo
Coraki	Mudgee	Waverley
Cowra	Murrumburrah	Wellington
Darlington	Narrandera	Wentworth
Deniliquin	Narrabri	West Maitland
Drummoyne	Newcastle	West Narrabri
Dubbo	Newtown	Wickham
Dungog	North Botany	Wilcanna
East Orange	North Sydney	Willoughby
Enfield	Nowra	Wingham
Erskineville	Nyngan	Wollongong
Five Dock	Orange	Woollahra
Forbes	Paddington	Yass
Gerringong	Parkes	Young
Glebe		
Glen Innes		
Goulburn		

Section 38.
39 Vic. No. 14.
Schedules.

THIRD SCHEDULE.

FORM A.

Order of justice for admission of inspector of nuisances or other officer to inspect premises.

To Mr. G. H., or the owner or occupant of the premises [*here describe the same as in the body of the order*].

WHEREAS A. B., the inspector of nuisances for the municipality of [*if acting for any combined municipalities add and other combined municipalities*], has made oath before me, E. F., Esquire, one of Her Majesty's justices of the peace, of his belief

Nuisances Prevention.

belief that a nuisance, within the meaning of the Nuisances Prevention Act, 189 , exists on premises situated in street, [describe the number or name and situation of the premises so as to identify them], of which premises you are said to be either the owner or occupant, and that demand of admission to such premises, for the inspection thereof, has been duly made and refused. Now therefore I, the said E. F., do hereby require you to admit the said A. B., with or without his workmen or assistants, for the purpose of inspecting and examining the said premises, under the provisions of the said Act.

Given under my hand this day of , 18 .

E. F.,
J.P.

FORM B.

Summons for a nuisance.

To Mr. G. H., or the owner or occupant of the premises [here describe the same as in the body of the summons].

[state name of police district], to wit.

You are hereby summoned to appear before two of Her Majesty's justices of the peace, at the petty session holden at the police office, [insert place], on the day of next, at the hour of in the forenoon, to answer the complaint this day made to me by A. B., the inspector of nuisances for the municipality of [if acting for any combined municipalities add and other combined municipalities]. that in or upon certain premises situate in street, [describe the number or name and the situation of the premises so as to identify them], the following nuisance exists [describe it, as the case may be, as nearly as convenient in the words of the Act or by-law], and that the said nuisance is caused by the act or default of the owner or occupier of the premises, or by yourself, G. H.

Given under the hand of me, E. F., Esquire, one of Her Majesty's justices of the peace, this day of , 18 .

E. F.,
J.P.

FORM C.

Order to permit execution of works by owner or by the inspector of nuisances.

[state name of police district], to wit.

To Mr. G. H., or the owner or occupant of the premises [describing them as in Form B].

WHEREAS C. D., the owner of the said premises within the meaning of the Nuisances Prevention Act, 189 [or Mr. A. B., the inspector of nuisances for the municipal council of], having appeared before me, E. F., Esquire, one of Her Majesty's justices of the peace [or police magistrate], and having made oath to me of his belief that a nuisance, within the meaning of the aforesaid Act, existed on the premises above-mentioned, of which you are said to be the occupant, and that you, the said G. H., being such occupant, have prevented the said C. D. [or the said A. B.] from obeying and carrying into effect the provisions of the said Act, that is to say, that you, the said G. H., prevented [here describe the act of prevention generally, for instance, thus; prevented the said C. D. from repairing a cesspit, or removing a closet, or digging up a drain connected with the cesspit, which is a nuisance and injurious to health]. And whereas you, the said G. H., having been summoned this day to answer the said complaint, and not having shown sufficient cause against the same [or having failed to attend, as the case may be], and it appearing to me that it is necessary that [here describe the act or work to be done, for instance, thus: that the said cesspit should be repaired, or that the said closet should be removed, or that the said drain should be dug up] for the purpose of enabling the said C. D. [or the said A. B.] to obey and carry into effect the provisions of the said Act, I do hereby order you, the said G. H., to permit the said C. D. [or the said A. B.] to do and perform the aforesaid duty and works, according to the provisions of the said Act and by-laws.

Given under my hand and seal, at Sydney, this day of , 18 .

E. F.,
J.P.

OTHER FORMS.

Any other legal instrument requisite may readily be adapted from the forms annexed to the Act *fourteenth Victoria, number forty-three, and the Imperial statutes thereby adopted.*

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

FREDK. M. DARLEY,

Government House,

Lieutenant-Governor.

Sydney, 6th December, 1897.

Nuisance Prevention

pollution; that a nuisance within the meaning of the Nuisance Prevention Act, 1887, exists on premises situated in ...

Given under my hand and seal, this ... day of ... 18 ...

To Mr. G. H., or the owner or occupant of the premises [describe the premises] ...

Given under the hand of me, E. T. Esquire, one of Her Majesty's Justices of the Peace, this ... day of ... 18 ...

Order to prevent execution of work by order of the inspector of nuisances ...

Given under my hand and seal, at Sydney, this ... day of ... 18 ...

Any other legal instrument requisite may readily be adapted from the form annexed to the Act ...

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

Government House, Sydney, 6th December, 1887. Lieutenant-Governor.

Memo. and Certificate to accompany the Nuisances Prevention Bill.

THIS Bill consolidates two Acts, viz. :—

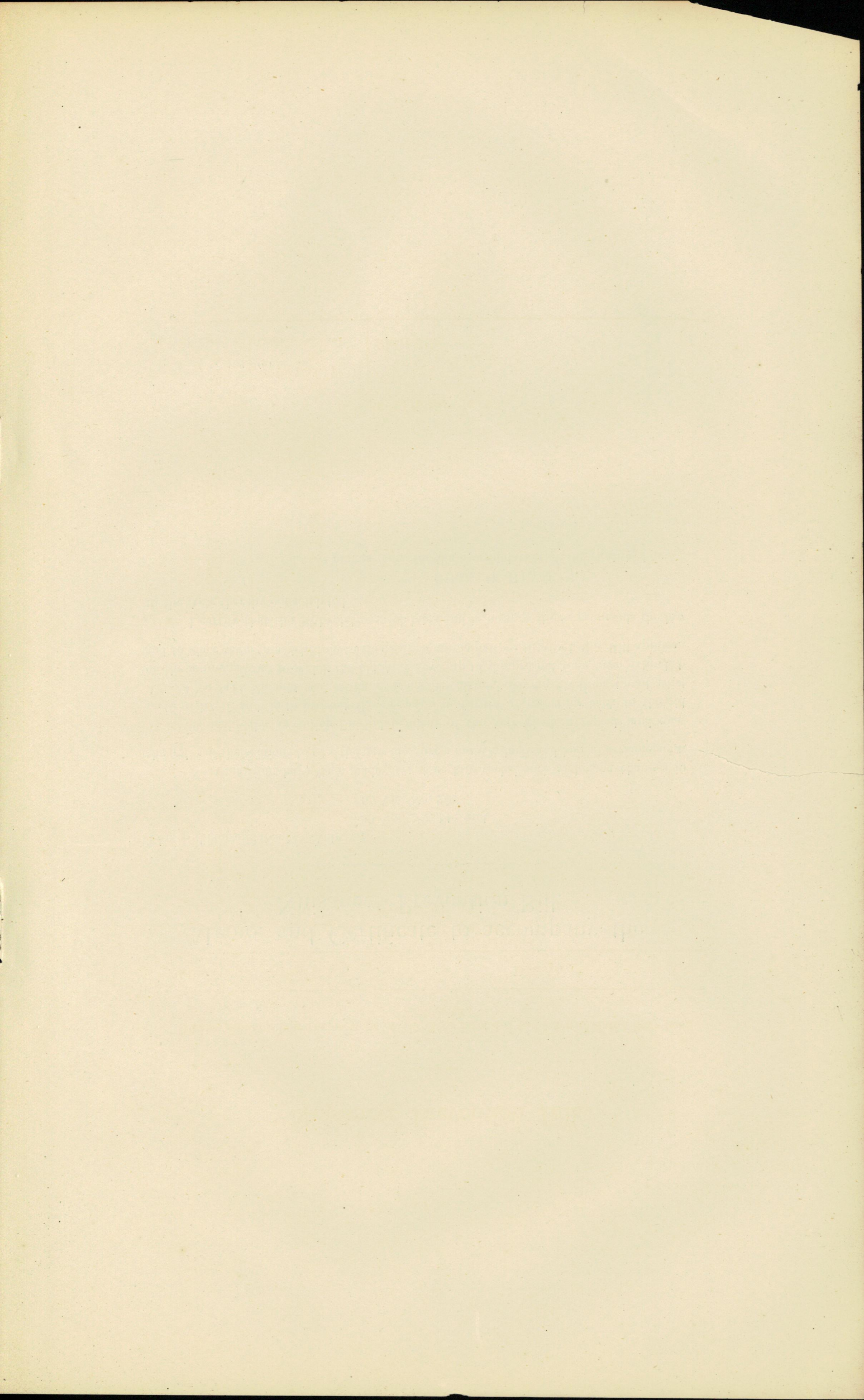
39 Vic. No. 14; and
55 Vic. No. 20.

No alterations have been made except certain verbal ones and some changes in the order of the sections to give the new measure a more orderly and logical arrangement.

To make the amending Bill independent of the Acts which it repeals and complete in itself, and so to prevent the necessity in future of referring back to the old Acts, it has been thought well to obtain from the Colonial Secretary's Department a list of the municipalities to which the old Acts have up to the present time been extended and to place them in a Schedule to this Bill as municipalities to which this Bill applies.

I certify that this Bill solely consolidates and in no way alters or amends the law in the Acts thereby consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.



Nuisances Prevention Bill.

TABLE showing how the sections of the Acts intended to be consolidated have been dealt with.

Section of Act.	Clause of Bill.	Remarks.
39 VICTORIA No. 14.		
1	Short title.
2	2	
3	4	
4	5	
5	6	
6	7	
7	8	
8	9 and 10	
9	17	
10	18	
11	21	
12	25	
13	26	
14	27	
15	28	
16	29	
17	31	
18	11	
19	12	
20	13	
21	14	
22	15	
23	30	
24	16	
25	22	
26	23	
27	24	
28	32	
29	34	
30	35	
31	33	
32	36	
33	37	
34	38	
	39	
55 VICTORIA No. 20.		
1	17	
2	17 and 19	
3	20	
	Short title.

Nuisances Prevention Bill.

Table showing how the sections of the Act intended to be consolidated have been dealt with.

Section of Act	Class of Bill	Treatment
1		30 Victoria No. 14
2		Short title
3		
4		
5		
6		
7		
8		
9 and 10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		
34		
35		
36		
37		
38		
39		
40		
41		
42		
43		
44		
45		
46		
47 and 48		30 Victoria No. 20
49		Short title

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council Chamber,
Sydney, 28th October, 1897. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. . (A.D. 1897.)

An Act to consolidate the Laws relating to the prevention of certain Nuisances in Municipalities.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5

PART I.

Preliminary.

1. This Act may be cited as the "Nuisances Prevention Act 1897," and is divided into Parts and Divisions as follows:—

PART I.—*Preliminary.*—ss. 1–5.

10 PART II.—*Administrative authorities.*—ss. 6–10.

PART III.—*Regulation of closets, cesspits, &c.*

DIVISION 1.—*Powers of municipal councils.*—ss. 11–16.

DIVISION 2.—*Emptying of closets and cesspits.*—ss. 17–20.

DIVISION 3.—*Removal of nuisances.*—ss. 21–24.

15 DIVISION 4.—*Miscellaneous provisions.*—ss. 25–33.

PART IV.—*Legal proceedings.*—ss. 34–39.

Nuisances Prevention.

2. This Act shall come into operation—

(I) in every municipality mentioned in the Second Schedule hereto,
on the date of the passing of this Act; and

(II) in all other municipalities on such dates respectively as the
Governor from time to time appoints by proclamations
published in the Gazette.

Commencement of
Act.
Second Schedule.
39 Vic. No. 14, s. 2.

3. The Acts mentioned in the First Schedule hereto are hereby
repealed.

Repeals and savings.

All by-laws and regulations made under the authority of any Act
hereby repealed, and being in force at the date of the passing of this
Act shall be and continue in force hereunder, and shall be deemed
to have been made under the authority of this Act.

4. The Governor may at any time by proclamation exempt for
a stated period or otherwise any municipality from the operation of
any section or part of a section contained in this Act, and specified in
such proclamation.

Exemption from
operation of specified
sections.
Ibid. s. 3.

5. In the construction of this Act the following words within
inverted commas shall, unless inconsistent with the context, have the
meanings hereby assigned to them respectively (that is to say):—

Interpretation of
terms.
Ibid. s. 4.

“Boxes”—The receptacles used in earth-closets.

“Cesspit”—Any cesspit, tank, box, or other receptacle for faecal
matter or urine not discharged by water.

“Closet”—Any privy, water-closet, earth-closet, or place used for
the reception of faecal matter or urine or earth mixed there-
with.

“Council”—The municipal council of any municipality or the
board of councillors of any combined municipalities.

“Earth-closet”—Any mechanical contrivance by which faecal
matter may be received and deodorized by the agency of dry
earth or ashes without being discharged by water.

“Inspector of nuisances”—The inspector of nuisances of any
municipality or other officer who may be appointed by the
municipal council to execute any powers or duties vested in
or imposed upon the said council or inspector of nuisances
by this Act.

“Municipality”—A borough or municipal district.

“Night-soil”—Faecal matter or urine.

“Night-soil depôt”—The place appointed for the deposit of night-
soil removed from cesspits.

“Occupant”—The tenant or other person occupying the premises
except a *bonâ fide* servant of the owner.

“Owner”—The proprietor, landlord, or person at the time receiv-
ing the rent of the premises in question whether on his own
account or otherwise or who claims to be the owner.

“Premises”—Any land whether any building is erected thereon
or not.

Nuisances Prevention.

PART II.

Administrative authorities.

6. The council of each municipality shall, within the boundaries of such municipality, exercise and execute the several powers, authorities, and duties requisite for carrying into effect the intentions of this Act.

Municipal council to execute the several powers, &c., of this Act.

39 Vic. No. 14, s. 5.

7. Whenever two or more municipalities adjoin or are adjacent to each other, and the several councils thereof deem it expedient to combine for the purpose of carrying into effect the objects and intentions of this Act, it shall be lawful for each of them to nominate an alderman who shall, together with the several mayors, jointly form a board of councillors who shall thereupon be authorised—

Adjoining municipalities may combine for the purpose of carrying out this Act.

Ibid. s. 6.

(I) to make all necessary by-laws for the purposes aforesaid which, after approval by the Governor and publication in the Gazette, shall have the same effect and validity and may be enforced as if the same had been separately made by each council as hereinafter provided. And the said board of councillors shall alone have the power at any time of repealing or altering such by-laws with the approval of the Governor ;

And thereupon may make by-laws.

(II) to contract upon such terms and conditions as they may see fit with any persons for doing any work, matter, or thing authorised to be done by any council under this Act ;

And also make any contracts.

(III) to appoint an inspector of nuisances or other officers to act for any such combined municipalities in the performance of any of the duties imposed upon the inspector of nuisances or other officers by this Act or by any by-laws which may be made by the said board of councillors ; and

And also make any appointments.

(IV) generally to control and manage all matters and things which the councils or the said officers respectively are by this Act required or empowered to do and perform.

And also manage all matters.

8. The council of any municipality may contract from time to time with the council of any other municipality for the performance of any duty or work imposed by this Act upon any such last-mentioned council or its officers.

One council may contract with any other council to carry this Act into effect.

Ibid. s. 7.

9. If the council of any municipality for a period of two months after this Act has come into operation in such municipality under the provisions of subsection (II) of section two—

If any council neglects to make by-laws ;

Ibid. s. 8.

(I) neglects to make proper and sufficient by-laws for carrying into effect such duties as are by this Act imposed upon it ; or

or to appoint an inspector of nuisances, &c. ;

(II) neglects to appoint an inspector of nuisances or other necessary officers ; or

(III) has, in the opinion of the Governor, wilfully failed to comply with such provisions of this Act as the said council has not been exempted from as hereinbefore provided for,

or wilfully fails to comply with the provisions of this Act ;

it shall be lawful for the Governor thereupon—

(I) to make regulations for carrying into effect the aforesaid provisions which, after publication in the Gazette, shall within the said municipality have the same force and validity as any by-law made under the authority of this Act ; and

the Governor may make regulations which shall have the validity of by-laws ;

(II) to appoint an inspector of nuisances and other officers for performing the aforesaid duties, and thereupon such inspector and other officers shall be entitled to demand and recover from the said council such reasonable salary or wages as the Governor may have assigned to each officer respectively on making the appointment, and such inspector and other officers shall or may severally exercise all the powers and authorities

and may appoint an inspector of nuisances, &c.

vested

Nuisances Prevention.

vested in such officers respectively by this Act, in the same manner and to the same extent in all respects as if such inspector or other officers had been appointed by any council under the authority of this Act.

- 5 10. The provisions of the next preceding section shall apply in respect of every municipality referred to in subsection (I) of section two, the council of which has neglected or failed to do the things in the next preceding section mentioned for a period of two months after the Acts hereby repealed had come into operation in such municipality.
- Application of section 9 to certain municipalities.
39 Vic. No. 14, s. 8.

10

PART III.

*Regulation of closets, cesspits, &c.*DIVISION 1.—*Powers of municipal councils.*

11. As soon as this Act comes into operation in any municipality, the council thereof is hereby required and authorised to make
15 all such by-laws as may be necessary for carrying into effect the several provisions of this Act :
- Municipal council to make by-laws.
Ibid. s. 18.

Provided that a copy of all such by-laws sealed with the seal of the said council shall be sent to the Governor for confirmation, and when so confirmed shall be published in the Gazette :

- 20 Provided also that copies of all such by-laws after confirmation and publication, as aforesaid, shall be laid before both Houses of Parliament forthwith, if Parliament be then sitting, and if not, then within one month after the commencement of the next ensuing session.

- 25 12. All by-laws, when so confirmed and published, but not before, shall have the same force and effect (when made in accordance with the provisions of this Act) until repealed or altered as if each respectively had formed a part of this Act, and the production of the Gazette containing them shall be sufficient evidence upon any trial or proceeding in any court of every such by-law having been duly made,
30 confirmed, and published.
- By-laws to have the force of law and Gazette to be evidence.
Ibid. s. 19.

13. Every council may make by-laws for all or any of the subjects following (that is to say) :—

The subjects of by-laws.
Ibid. s. 20.

- 35 (I) Regulating the construction in all respects, the dimensions, and situation of cesspits and closets to be made after such by-laws have come into force.
- (II) Prescribing the degree of closet accommodation to be supplied for dwelling-houses, factories, or any other places of business.
- 40 (III) Providing for such alterations as may, in the opinion of the inspector of nuisances or any officer appointed by any council in that behalf, be requisite for preserving public health or decency in the case of cesspits and closets existing at the time when such by-laws come into force.
- (IV) Appointing a place, with the approval of the Governor, either
45 within or without the municipality as a general depôt for the deposit of night-soil.
- (V) Prescribing the method to be employed in the removal of night-soil from cesspits, and also whether by contract or otherwise.

(VI)

Nuisances Prevention.

- (VI) Prescribing the manner of its disposal whether by burying in the earth, or casting it into the sea, or otherwise.
- (VII) Making all necessary conditions and stipulations for the proper transit and ultimate disposition of night-soil which has been sold or given away,
- 5 (VIII) Regulating the height above the surface of the ground and the depth beneath of every cesspit intended to be constructed varying or not according to the nature of the ground, and the probable number of persons for whom it is intended. 39 Vic. No. 14.
- 10 (IX) Appointing the days and hours for the inspection of premises or for doing any work authorised by this Act therein.
- (x) And generally for carrying into effect the intentions and objects of this Act.
14. Every by-law made in accordance with the provisions of this Act may state some maximum and minimum penalty for any neglect or breach thereof: By-laws may state maximum and minimum penalties. *Ibid.* s. 21.
- Provided that no penalty shall exceed twenty pounds.
15. Every council is hereby authorised to purchase or rent for any term of years or otherwise so much land as may be deemed sufficient for the purpose of forming a depôt for the reception of night-soil, whether the situation of the said land is within the boundaries of the municipality or otherwise. Council may purchase or rent land for night-soil depôts. *Ibid.* s. 22.
- 20 16. Every council on determining either to dispose of the night-soil by casting it into the sea or to provide a depôt as hereinbefore authorised is hereby empowered to incur all needful expenditure in enclosing or otherwise preparing such depôt, and providing all proper plant and appliances for dealing with the night-soil therein, whether by burying the same in the ground or otherwise, and also for making and repairing any roads leading either to the salt-water or to the depôt as the case may be. Councils may incur expenditure for preparing depôt, &c. *Ibid.* s. 24.
- 25 30

DIVISION 2.—*Emptying of closets and cesspits.*

17. From and after the time when this Act has come into operation in any municipality the owner or occupant of any premises within the same shall not empty, or cause to be emptied, any cesspit, earth-closet, or other closet pan, which may be included in his premises without the sanction in writing of the council or inspector of nuisances: Owners or occupants of premises not permitted to empty their own cesspits. 39 Vic. No. 14, s. 9. 55 Vic. No. 20, ss. 1 and 2.
- 35 Provided, however, that such sanction shall not be given unless the officers of the said council are by accident or unforeseen circumstances at the time unable to empty such cesspit, earth-closet, or other closet pan with the proper night-carts and appliances appointed to be used by them, whether supplied by a contractor or by the council, and any such owner or occupant so offending shall be liable to a penalty not exceeding ten pounds:
- 40 Provided further that any council may suspend the provisions of this section so far as applicable to earth-closets in the case of any premises as to which the council is satisfied that the owner or occupier has made suitable provision for the disposal of night-soil.
- 45 18. Every council shall cause its own servants or contractors, under the direction of the inspector of nuisances or other officers appointed in that behalf, to empty all cesspits within the municipality once at least every six months if necessary in the opinion of the inspector of nuisances, and such council shall cause to be used such implements and appliances, and shall take all such other measures in the performance of the work as may be deemed best adapted for the suppression of offensive smells or the suppression of other nuisances. Municipal councils to cause cesspits to be emptied. 39 Vic. No. 14, s. 10.
- 50 55 19. Every council may, unless otherwise provided for to the satisfaction of the council, cause its own servants or contractors, under the direction of the inspector of nuisances, or other officers appointed in
- 55

Nuisances Prevention.

in that behalf, to empty all earth-closets and other closet pans within the same municipality once at least every week, and to use implements and appliances, and take such other measures in the performance of the work as may be deemed best adapted for the suppression of
5 offensive smells, or the suppression of other nuisances.

20. In all cases in which the Governor is satisfied that adequate provision for the disposal of nightsoil, without danger to the public health, is made in or on behalf of any institution or establishment supported wholly or partly by grants from the Consolidated Revenue, and being the property of Her Majesty, or being vested in trustees
10 or other persons on behalf of Her Majesty, or for public or charitable purposes, he may, by proclamation in the Gazette, withdraw such institution from the operation of section nineteen, and so much of sections seventeen and twenty-one as apply to earth-closets and other closet pans, and may at any time, if he thinks fit, rescind such
15 proclamation.

Public or charitable institutions may be withdrawn from the operation of this Act.
55 Vic. No. 20, s. 3.

DIVISION 3.—*Removal of nuisances.*

21. If at any time the cesspit, earth-closets, or other closet pans in any premises overflow or burst, or cease to be water-tight, or if from any other cause the contents thereof are liable to escape, or the
20 effluvia arising therefrom becomes excessive, or any other nuisance in connection therewith occurs, the occupant or the owner (in case the premises are not occupied by any other person than the owner's *bona fide* servant) of the premises shall, within twenty-four hours, give notice thereof to the inspector of nuisances, otherwise such occupant
25 or owner, as the case may be, shall be liable to a penalty not exceeding ten pounds.

Notice to be given of any nuisance occurring in connection with the cesspit, &c.
39 Vic. No. 14, s. 11.

22. Whenever the inspector of nuisances has reasonable grounds for believing that there exists on any premises in the municipality a foul closet, whether occasioned by the blocking up of water-closet pans
30 or of their discharge pipes, or the surcharge of cesspits or of earth-closet boxes, or insufficient closet accommodation, or any concealed drain connected with the closet, or any other nuisance in connection with the closet, cesspit, or well, such inspector may demand admission on the premises from the owner or occupant to inspect the same at
35 any time between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, except on Sundays.

Power of entry on premises for inspector of nuisances, &c.
Ibid. s. 25.

23. Such inspector, on discovering the existence of any such nuisance as abovementioned, or any other of a like kind, may thereupon give a notice in writing to the owner or occupant to remove the
40 same forthwith, or within a time to be therein stated according to the exigency of the case, and to purify the locality by cleansing, and the application of disinfectants, or otherwise; and if the owner or occupant has not complied with such notice before the expiration of the time limited, he shall be liable to a penalty not exceeding twenty pounds
45 nor less than two pounds, and also to pay any reasonable expenses incurred by the council in removing the said nuisance (which the council is hereby empowered to do), which expenses may be sued for and recovered in a summary way as hereinafter provided.

Inspector of nuisances may give notice to owner or occupant to remove any nuisance.
Ibid. s. 26.

24. If the owner or occupant refuses permission for the inspector
50 of nuisances to enter as beforementioned, or prevents his entry upon the premises, any justice, on an affidavit made before him of the said inspector's belief in the existence of any nuisance, to be expressly stated in such affidavit, may by order under his hand require the owner or occupant to admit the said inspector upon the premises, who
55 may thereafter enter and examine and remove such nuisance, and take all such measures as are authorised by section twenty-eight.

If admission be refused, inspector of nuisances may obtain an order from any justice.
Ibid. s. 27.

DIVISION

*Nuisances Prevention.*DIVISION 4.—*Miscellaneous provisions.*

25. It shall not be lawful for any person to construct in any manner a gutter or drain, whether above or below the surface of the ground, on premises in any municipality which communicate with a street, sewer, or gutter, in any manner so that the contents of any cess-pit, whether in the case of an overflow or otherwise, may be discharged into such street sewer without the express written sanction of the council first obtained. And whosoever offends against this enactment shall be liable to a penalty not exceeding twenty pounds and not less than one pound, and a further penalty not exceeding two pounds for every day during which the offence is continued after notice in writing has been given to the owner or occupant or other person, as the case may be, by the inspector of nuisances in that behalf.

No sewer or drain to be allowed to connect with cesspits, &c.
39 Vic. No. 14, s. 12.

Penalty.

26. The council may fill up, remove, alter, or otherwise deal with any existing gutter, drain, closet, cesspit, or well, or any such respectively which may be hereafter made or constructed, and which, in the opinion of the said council—

Any drain, &c., now or hereafter constructed contrary to this Act may be filled up, &c.

Ibid. s. 13.

- (i) is injurious to the health; or
(ii) is opposed to decency by exposure or otherwise; or
(iii) presents obstacles to the emptying or cleansing of cesspits; or
(iv) affords insufficient closet accommodation; or
(v) is made or constructed or placed contrary to the provisions of this Act or of any by-laws made under its authority.

27. All reasonable expenses incurred by any council in carrying into effect any of the provisions of this Act upon or in respect of any premises shall be repaid to the council by the owner or occupant within one week after a written demand of the amount made by the council or inspector of nuisances has been served upon him, otherwise the same may be recovered by the council after the service of the notice next mentioned by summary proceedings in the manner hereinafter set forth.

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

Ibid. s. 14.

28. Before commencing any such works or operations, the council or inspector of nuisances shall give at least one week's notice in writing to the owner or occupant of the premises (unless delay is considered by the council or inspector of nuisances to be injurious to the public or in other respects inexpedient, in which case three days' notice shall be sufficient) requiring him to perform the work therein specified, and notifying that, in default of his compliance therewith during the time which may be allowed by any by-law made for the purpose of dealing with such cases, the council will cause such specified work to be done at his expense.

One week's written notice to be first served on the owner or occupant.

Ibid. s. 15.

29. If the occupant of the premises is not also the owner, and has not himself caused the subject matter complained of and specified in the notice mentioned in the next preceding section, and forthwith after the delivery of such notice serves the same on the owner of the premises; and if such owner does not within the time mentioned in the next preceding section perform the work as before-mentioned, such occupant may thereupon comply with the terms of the said notice, and after defraying the necessary expense occasioned thereby, he may deduct the amount from any rent then due by him or accruing, or at his option sue for and recover the same with costs of suit from the owner as for money paid to his use in an action brought in any court of competent jurisdiction.

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

Ibid. s. 16.

30. No person shall hereafter place any closet, or make or place any cesspit in any unauthorised spot upon his premises, or construct any cesspit of any unauthorised materials or dimensions. And any person so offending shall be liable to a penalty not exceeding twenty pounds nor less than two pounds. And if the closet is removed, or

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

Ibid. s. 23.

the

Nuisances Prevention.

the cesspit filled up as the case may be, by the inspector of nuisances 39 Vic. No. 14.
(which he is hereby authorised to do), the person offending as above-
mentioned shall also be liable to pay all the expenses incurred thereby,
and such expenses may be recovered by summary proceedings in the
5 manner hereinafter provided.

31. Whoever refuses to obey an order of a justice, as herein-
before provided, for the admission of the inspector of nuisances or
other officer or persons authorised to carry into effect any operations
or measures under the authority of this Act, or their respective work-
10 men or labourers upon any premises, or who wilfully obstructs any
person acting under the authority, or employed in the execution of
this Act, shall be liable for every such offence to a penalty not
exceeding ten pounds nor less than one pound.

32. If the occupant of any premises prevents the owner
15 thereof from obeying or carrying into effect the provisions of this
Act, any justice to whom application is made on affidavit made before
him in that behalf, shall, by order in writing, require such occupant
to desist from such prevention, or to permit the execution of the work
required to be executed, provided that such work appears to such
20 justice to be necessary for the purpose of obeying or carrying into
effect the provisions of this Act; and if within three days after the
service of such order the occupant against whom it is made does not
comply therewith, he shall be liable to a penalty not exceeding five
pounds for every day afterwards during the continuance of such non-
25 compliance.

33. Nothing in this Act shall be construed to affect any of the
provisions of the *Municipalities Act of 1867*, other than such as
relate to the class of nuisances for which this Act is intended to
provide, or of any other Act as to matters included in this Act, nor
30 to impair any power of abating nuisances at common law; and all
municipal officers, or other persons, may respectively proceed for the
abatement of nuisances within any municipality, or in respect of any
other matter or thing hereinbefore provided for, referred to under
the before-mentioned Act, or any other Act conferring jurisdiction in
35 respect of the several nuisances, matters, and things referred to in
this Act, or any by-laws framed under any such Act as they may
think fit.

PART IV.

Legal proceedings.

40 34. All penalties imposed by this Act, or by any by-law made
under its authority, for offences committed, and all sums of money
ordered to be paid thereby may be recovered, and all complaints heard
in a summary way before any two justices according to the provisions
of the Act *fourteenth Victoria number forty-three, and the Imperial*
45 *statutes thereby adopted*, and shall, when recovered, be paid over to
the council interested, to be applied in aid of its expenses under this
Act.

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

Nuisances Prevention.

36. All complaints, or other legal proceedings, for any non-compliance with, or any breach of this Act, or of any by-laws made under its authority, may be laid and taken by the inspector of nuisances or any other officer appointed by the council in that behalf. All legal proceedings may be taken in the name of the inspector of nuisances. 39 Vic. No. 14, s. 32.
- 5 37. Any person feeling himself aggrieved by any conviction, penalty, or charge imposed under the authority of this Act, where the penalty or sum exceeds five pounds, may appeal against the same to the next Court of Quarter Sessions holden in the district where the subject matter thereof arose, unless such Quarter Sessions are held Appeal allowed to Quarter Sessions. Ibid. s. 33.
- 10 within fourteen days from the date of such conviction or judgment, and in that case to the Court of Quarter Sessions then next following; and such Court shall have power to hear and determine the matter in a summary way, and shall have and exercise all other powers vested in them by the *third* section of the Act *Fifth William the Fourth*
- 15 *number twenty-two*, and the decision of such Court shall be final and conclusive in respect to the subject matter of such appeal:
- Provided always that the person so appealing shall have given written notice seven days at the least before the hearing of such appeal of his intention to appeal, and stating the grounds thereof to
- 20 any one of the convicting justices, and to the inspector of nuisances, or other officer duly appointed by the council, and who prosecuted the matter before the justices in petty sessions:
- Provided also that such person (in case a penalty has been awarded against him) shall pay into the hands of the convicting
- 25 justices the full amount thereof, together with the costs awarded, within one week next after conviction, and shall within the same period enter into a bond, with two sureties approved by such justices, conditioned to prosecute such appeal with effect, and to abide the event of such appeal, and to pay the full amount of all such costs as
- 30 may on such appeal be awarded against him.
38. The forms contained in the Second Schedule to this Act annexed, or any other forms to the like effect, but varied as circumstances may require, may be used for legal instruments under this Act, and shall be sufficient for the purposes intended. Forms in Third Schedule may be used. Ibid. s. 34.
- 35 39. No order nor any other proceeding, matter, or thing done or transacted in relation to the execution of this Act shall be vacated, quashed, or set aside for want of form, nor be removable by *certiorari* Proceedings not to be quashed or set aside for want of form. Ibid. s. 35.
- or otherwise into the Supreme Court.

SCHEDULES.

40

FIRST SCHEDULE.

Section 3.

Reference to Act.	Title of Act.	Extent of Repeal.
39 Vic. No. 14 ...	An Act for preventing certain nuisances in the city of Sydney and other municipalities.	The whole Act.
45 55 Vic. No. 20 ...	An Act to amend the Nuisances Prevention Act thirty-nine Victoria, number fourteen, in certain respects.	The whole Act.

Nuisances Prevention.

SECOND SCHEDULE.

Section 2.

Municipalities.

Aberdeen	Grafton	Parramatta
Adamstown	Granville	Peak Hill
5 Albury	Grenfell	Penrith
Alexandria	Greta	Petersham
Annandale	Gulgong	Pieton
Armidale	Gunnedah	Piattsburg
Ashfield		Port Macquarie
10 Auburn	Hamilton	Prospect and Sherwood
	Hay	
Ballina	Hilston	Queanbeyan
Balmain	Hunter's Hill	Quirindi
Balranald	Hurstville	
Bankstown		Randwick
15 Bathurst	Inverell	Raymond Terrace
Bega		Redfern
Berry	Jamberoo	Rockdale
Blayney	Jerilderie	Rookwood
Bombala	Junee	Ryde
20 Botany	Katoomba	
Bourke	Kempsey	Scone
Bowral	Kiama	Silverton
Braidwood	Kogarah	Singleton
Broken Hill		Stockton
25 Burwood	Lane Cove	Strathfield
	Leichhardt	St. Peter's
Camden	Lismore	
Camperdown	Lithgow	Tamworth
Canterbury	Liverpool	Taree
30 Carrington		Temora
Casino	Maclean	Tumut
Central Illawarra	Manly	
Concord	Marrickville	Ulladulla
Cobar	Merewether	Uralla
35 Condobolin	Mittagong	
Cooma	Moama	Vaucluse
Coonamble	Molong	
Cootamundra	Moree	Wagga Wagga
Coraki	Morpeth	Walcha
40 Cowra	Moruya	Wallsend
	Moss Vale	Waratah
Darlington	Mudgee	Warren
Deniliquin	Murrumburrah	Waterloo
Drummoyne		Waverley
Dubbo	Narrandera	Wellington
45 Dungog	Narrabri	Wentworth
	Newcastle	West Maitland
East Orange	Newtown	West Narrabri
Enfield	North Botany	Wickham
Erskineville	North Sydney	Wilcanna
50 Five Dock	Nowra	Willoughby
Forbes	Nyngan	Wingham
		Wollongong
Gerringong	Orange	Woollahra
Glebe		
55 Glen Innes	Paddington	Yass
Goulburn	Parkes	Young

THIRD SCHEDULE.

Section 38.

FORM A.

39 Vic. No. 14.

Order of justice for admission of inspector of nuisances or other officer to inspect premises.

Schedules.

60

To Mr. G. H., or the owner or occupant of the premises [here describe the same as in the body of the order].

WHEREAS A. B., the inspector of nuisances for the municipality of [if acting for any combined municipalities add and other combined municipalities], has
65 made oath before me, E. F., Esquire, one of Her Majesty's justices of the peace, of his belief

Nuisances Prevention.

belief that a nuisance, within the meaning of the Nuisances Prevention Act, 189 , exists on premises situated in street, [describe the number or name and situation of the premises so as to identify them], of which premises you are said to be either the owner or occupant, and that demand of admission to such premises, for the inspection thereof, has been duly made and refused. Now therefore I, the said E. F., do hereby require you to admit the said A. B., with or without his workmen or assistants, for the purpose of inspecting and examining the said premises, under the provisions of the said Act.

Given under my hand this day of , 18 .

E. F.,
J.P.

10

FORM B.

Summons for a nuisance.

To Hr. G. H., or the owner or occupant of the premises [here describe the same as in the body of the summons].

[state name of police district], to wit.

15 You are hereby summoned to appear before two of Her Majesty's justices of the peace, at the petty session holden at the police office, [insert place], on the day of next, at the hour of in the forenoon, to answer the complaint this day made to me by A. B., the inspector of nuisances for the municipality of [if acting for any combined municipalities add and other combined municipalities]. that in or upon certain premises situate in street, [describe the number or name and the situation of the premises so as to identify them], the following nuisance exists [describe it, as the case may be, as nearly as convenient in the words of the Act or by-law], and that the said nuisance is caused by the act or default of the owner or occupier of the premises, or by yourself, G. H.

25 Given under the hand of me, E. F., Esquire, one of Her Majesty's justices of the peace, this day of , 18 .

E. F.,
J.P.

FORM C.

30 *Order to permit execution of works by owner or by the inspector of nuisances.*

[state name of police district], to wit.

To Mr. G. H., or the owner or occupant of the premises [describing them as in Form B].

WHEREAS C. D., the owner of the said premises within the meaning of the Nuisances Prevention Act, 189 [or Mr. A. B., the inspector of nuisances for the municipal council of], having appeared before me, E. F., Esquire, one of Her Majesty's justices of the peace [or police magistrate], and having made oath to me of his belief that a nuisance, within the meaning of the aforesaid Act, existed on the premises above-mentioned, of which you are said to be the occupant, and that you, the said G. H., being such occupant, have prevented the said C. D. [or the said A. B.] from obeying and carrying into effect the provisions of the said Act, that is to say, that you, the said G. H., prevented [here describe the act of prevention generally, for instance, thus; prevented the said C. D. from repairing a cesspit, or removing a closet, or digging up a drain connected with the cesspit, which is a nuisance and injurious to health]. And whereas you, the said G. H., having been summoned this day to answer the said complaint, and not having shown sufficient cause against the same [or having failed to attend, as the case may be], and it appearing to me that it is necessary that [here describe the act or work to be done, for instance, thus: that the said cesspit should be repaired, or that the said closet should be removed, or that the said drain should be dug up] for the purpose of enabling the said C. D. [or the said A. B.] to obey and carry into effect the provisions of the said Act, I do hereby order you, the said G. H., to permit the said C. D. [or the said A. B.] to do and perform the aforesaid duty and works, according to the provisions of the said Act and by-laws.

Given under my hand and seal, at Sydney, this day of , 18 .

E. F.,
J.P.

55

OTHER FORMS.

Any other legal instrument requisite may readily be adapted from the forms annexed to the Act *fourteenth Victoria, number forty-three, and the Imperial statutes thereby adopted.*

The witness further testified that the meaning of the Municipal Ordinance No. 100, which relates to the licensing of public houses, is that a license is not to be granted to a public house unless the premises are first licensed for the purpose of the Ordinance. The witness further testified that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance.

In the course of his evidence, the witness further testified that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance.

The witness further testified that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance. The witness further testified that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance.

It is further stated that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance.

The witness further testified that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance. The witness further testified that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance.

It is further stated that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance.

The witness further testified that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance.

It is further stated that the Municipal Council has no power to grant a license to a public house unless the premises are first licensed for the purpose of the Ordinance.

Memo. and Certificate to accompany the Nuisances Prevention Bill.

THIS Bill consolidates two Acts, viz. :—

39 Vic. No. 14; and

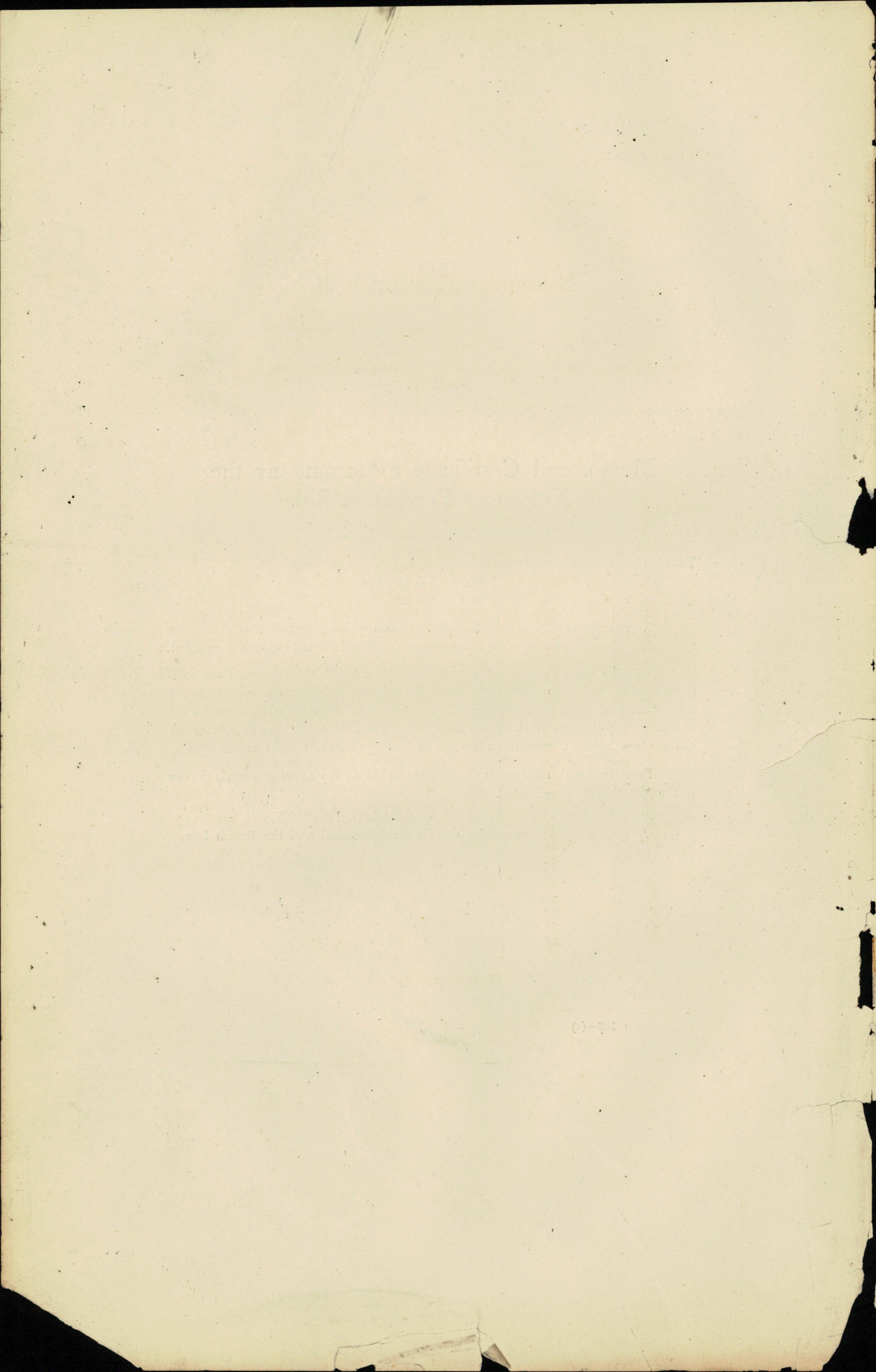
55 Vic. No. 20.

No alterations have been made except certain verbal ones and some changes in the order of the sections to give the new measure a more orderly and logical arrangement.

To make the amending Bill independent of the Acts which it repeals and complete in itself, and so to prevent the necessity in future of referring back to the old Acts, it has been thought well to obtain from the Colonial Secretary's Department a list of the municipalities to which the old Acts have up to the present time been extended and to place them in a Schedule to this Bill as municipalities to which this Bill applies.

I certify that this Bill solely consolidates and in no way alters or amends the law in the Acts thereby consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.



Nuisances Prevention Bill.

TABLE showing how the sections of the Acts intended to be consolidated have been dealt with.

Section of Act.	Clause of Bill.	Remarks.
39 VICTORIA No. 14.		
1	Short title.
2	2	
3	4	
4	5	
5	6	
6	7	
7	8	
8	9 and 10	
9	17	
10	18	
11	21	
12	25	
13	26	
14	27	
15	28	
16	29	
17	31	
18	11	
19	12	
20	13	
21	14	
22	15	
23	30	
24	16	
25	22	
26	23	
27	24	
28	32	
29	34	
30	35	
31	33	
32	36	
33	37	
34	38	
	39	
55 VICTORIA No. 20.		
1	17	
2	17 and 19	
3	20	
	Short title.

Nuisances Prevention Bill

TABLE showing how the sections of the Act intended to be consolidated have been dealt with.

Section of Act	Class of Bill	Remarks
1		39 Victoria No. 14 Short title
2		
3		
4		
5		
6		
7		
8		
9	3 and 10	
10		
11		39 Victoria No. 14 Short title
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		39 Victoria No. 14 Short title
22		
23		
24		
25		
26		
27		
28		
29		
30		
31		39 Victoria No. 14 Short title
32		
33		
34		
35		
36		
37		
38		
39		
40		
1		38 Victoria No. 20 Short title
2		
3	IV and V and 10	

Legislative Council.

No. , 1897.

A BILL

To consolidate the Laws relating to the prevention of certain
Nuisances in Municipalities.

[MR. WANT;—13 October, 1897.]

BE it enacted by the Queen's Most Excellent Majesty, by and with
the advice and consent of the Legislative Council and Legislative
Assembly of New South Wales in Parliament assembled, and by the
authority of the same, as follows:—

5

PART I.

Preliminary.

1. This Act may be cited as the "Nuisances Prevention Act" Short title and
division.
189 ;" and is divided into Parts and Divisions as follows:—

PART I.—*Preliminary.*—ss. 1-5.

10 PART II.—*Administrative authorities.*—ss. 6-10.

PART III.—*Regulation of closets, cesspits, &c.*

DIVISION 1.—*Powers of municipal councils.*—ss. 11-16.

DIVISION 2.—*Emptying of closets and cesspits.*—ss. 17-20.

DIVISION 3.—*Removal of nuisances.*—ss. 21-24.

15 DIVISION 4.—*Miscellaneous provisions.*—ss. 25-33.

PART IV.—*Legal proceedings.*—ss. 34-39.

c 108—A

2.

Commencement of Act.
Second Schedule.
39 Vic. No. 14, s. 2.

2. This Act shall come into operation—
(I) in every municipality mentioned in the Second Schedule hereto, on the date of the passing of this Act; and
(II) in all other municipalities on such dates respectively as the Governor from time to time appoints by proclamations 5 published in the Gazette.

Repeals and savings.

3. The Acts mentioned in the First Schedule hereto are hereby repealed.

All by-laws and regulations made under the authority of any Act hereby repealed, and being in force at the date of the passing of this 10 Act shall be and continue in force hereunder, and shall be deemed to have been made under the authority of this Act.

Exemption from operation of specified sections.

Ibid. s. 3.

4. The Governor may at any time by proclamation exempt for a stated period or otherwise any municipality from the operation of any section or part of a section contained in this Act, and specified in 15 such proclamation.

Interpretation of terms.

Ibid. s. 4.

5. In the construction of this Act the following words within inverted commas shall, unless inconsistent with the context, have the meanings hereby assigned to them respectively (that is to say):—

- “Boxes”—The receptacles used in earth-closets. 20
 “Cesspit”—Any cesspit, tank, box, or other receptacle for faecal matter or urine not discharged by water.
 “Closet”—Any privy, water-closet, earth-closet, or place used for the reception of faecal matter or urine or earth mixed therewith. 25
 “Council”—The municipal council of any municipality or the board of councillors of any combined municipalities.
 “Earth-closet”—Any mechanical contrivance by which faecal matter may be received and deodorized by the agency of dry earth or ashes without being discharged by water. 30
 “Inspector of nuisances”—The inspector of nuisances of any municipality or other officer who may be appointed by the municipal council to execute any powers or duties vested in or imposed upon the said council or inspector of nuisances by this Act. 35
 “Municipality”—A borough or municipal district.
 “Night-soil”—Faecal matter or urine.
 “Night-soil depôt”—The place appointed for the deposit of night-soil removed from cesspits.
 “Occupant”—The tenant or other person occupying the premises 40 except a *boná fide* servant of the owner.
 “Owner”—The proprietor, landlord, or person at the time receiving the rent of the premises in question whether on his own account or otherwise or who claims to be the owner.
 “Premises”—Any land whether any building is erected thereon 45 or not.

PART II.

Administrative authorities.

6. The council of each municipality shall, within the boundaries of such municipality, exercise and execute the several powers, authorities, and duties requisite for carrying into effect the intentions of this Act. Municipal council to execute the several powers, &c., of this Act.
39 Vic. No. 14, s. 5.
7. Whenever two or more municipalities adjoin or are adjacent to each other, and the several councils thereof deem it expedient to combine for the purpose of carrying into effect the objects and intentions of this Act, it shall be lawful for each of them to nominate an alderman who shall, together with the several mayors, jointly form a board of councillors who shall thereupon be authorised—
- (I) to make all necessary by-laws for the purposes aforesaid which, after approval by the Governor and publication in the Gazette, shall have the same effect and validity and may be enforced as if the same had been separately made by each council as hereinafter provided. And the said board of councillors shall alone have the power at any time of repealing or altering such by-laws with the approval of the Governor; Adjoining municipalities may combine for the purpose of carrying out this Act.
Ibid. s. 6.
And thereupon may make by-laws.
- (II) to contract upon such terms and conditions as they may see fit with any persons for doing any work, matter, or thing authorised to be done by any council under this Act; And also make any contracts.
- (III) to appoint an inspector of nuisances or other officers to act for any such combined municipalities in the performance of any of the duties imposed upon the inspector of nuisances or other officers by this Act or by any by-laws which may be made by the said board of councillors; and And also make any appointments.
- (IV) generally to control and manage all matters and things which the councils or the said officers respectively are by this Act required or empowered to do and perform. And also manage all matters.
8. The council of any municipality may contract from time to time with the council of any other municipality for the performance of any duty or work imposed by this Act upon any such last-mentioned council or its officers. One council may contract with any other council to carry this Act into effect.
Ibid. s. 7.
9. If the council of any municipality for a period of two months after this Act has come into operation in such municipality under the provisions of subsection (II) of section two—
- (I) neglects to make proper and sufficient by-laws for carrying into effect such duties as are by this Act imposed upon it; or
- (II) neglects to appoint an inspector of nuisances or other necessary officers; or
- (III) has, in the opinion of the Governor, wilfully failed to comply with such provisions of this Act as the said council has not been exempted from as hereinbefore provided for, or wilfully fails to comply with the provisions of this Act;
- it shall be lawful for the Governor thereupon—
- (I) to make regulations for carrying into effect the aforesaid provisions which, after publication in the Gazette, shall within the said municipality have the same force and validity as any by-law made under the authority of this Act; and the Governor may make regulations which shall have the validity of by-laws;
- (II) to appoint an inspector of nuisances and other officers for performing the aforesaid duties, and thereupon such inspector and other officers shall be entitled to demand and recover from the said council such reasonable salary or wages as the Governor may have assigned to each officer respectively on making the appointment, and such inspector and other officers shall or may severally exercise all the powers and authorities vested

vested in such officers respectively by this Act, in the same manner and to the same extent in all respects as if such inspector or other officers had been appointed by any council under the authority of this Act.

Application of section 9 to certain municipalities.
39 Vic. No. 14, s. 8.

10. The provisions of the next preceding section shall apply 5
in respect of every municipality referred to in subsection (I) of section two, the council of which has neglected or failed to do the things in the next preceding section mentioned for a period of two months after the Acts hereby repealed had come into operation in such municipality.

PART III.

10

Regulation of closets, cesspits, &c.

DIVISION I.—*Powers of municipal councils.*

Municipal council to make by-laws.
Ibid. s. 18.

11. As soon as this Act comes into operation in any municipality, the council thereof is hereby required and authorised to make all such by-laws as may be necessary for carrying into effect the 15 several provisions of this Act :

Provided that a copy of all such by-laws sealed with the seal of the said council shall be sent to the Governor for confirmation, and when so confirmed shall be published in the Gazette :

Provided also that copies of all such by-laws after confirmation 20 and publication, as aforesaid, shall be laid before both Houses of Parliament forthwith, if Parliament be then sitting, and if not, then within one month after the commencement of the next ensuing session.

By-laws to have the force of law and Gazette to be evidence.
Ibid. s. 19.

12. All by-laws, when so confirmed and published, but not before, shall have the same force and effect (when made in accordance 25 with the provisions of this Act) until repealed or altered as if each respectively had formed a part of this Act, and the production of the Gazette containing them shall be sufficient evidence upon any trial or proceeding in any court of every such by-law having been duly made, confirmed, and published. 30

The subjects of by-laws.
Ibid. s. 20.

13. Every council may make by-laws for all or any of the subjects following (that is to say) :—

- (I) Regulating the construction in all respects, the dimensions, and situation of cesspits and closets to be made after such by-laws have come into force. 35
- (II) Prescribing the degree of closet accommodation to be supplied for dwelling-houses, factories, or any other places of business.
- (III) Providing for such alterations as may, in the opinion of the inspector of nuisances or any officer appointed by any council in that behalf, be requisite for preserving public health or 40 decency in the case of cesspits and closets existing at the time when such by-laws come into force.
- (IV) Appointing a place, with the approval of the Governor, either within or without the municipality as a general depôt for the deposit of night-soil. 45
- (V) Prescribing the method to be employed in the removal of night-soil from cesspits, and also whether by contract or otherwise.

(VI)

- (VI) Prescribing the manner of its disposal whether by burying in the earth, or casting it into the sea, or otherwise.
- (VII) Making all necessary conditions and stipulations for the proper transit and ultimate disposition of night-soil which has been sold or given away,
- (VIII) Regulating the height above the surface of the ground and the depth beneath of every cesspit intended to be constructed varying or not according to the nature of the ground, and the probable number of persons for whom it is intended.
- (IX) Appointing the days and hours for the inspection of premises or for doing any work authorised by this Act therein.
- (X) And generally for carrying into effect the intentions and objects of this Act.
14. Every by-law made in accordance with the provisions of this Act may state some maximum and minimum penalty for any neglect or breach thereof : By-laws may state maximum and minimum penalties. *Ibid.* s. 21.
- Provided that no penalty shall exceed twenty pounds.
15. Every council is hereby authorised to purchase or rent for any term of years or otherwise so much land as may be deemed sufficient for the purpose of forming a depôt for the reception of night-soil, whether the situation of the said land is within the boundaries of the municipality or otherwise. Council may purchase or rent land for night-soil depôts. *Ibid.* s. 22.
16. Every council on determining either to dispose of the night-soil by casting it into the sea or to provide a depôt as hereinbefore authorised is hereby empowered to incur all needful expenditure in enclosing or otherwise preparing such depôt, and providing all proper plant and appliances for dealing with the night-soil therein, whether by burying the same in the ground or otherwise, and also for making and repairing any roads leading either to the salt-water or to the depôt as the case may be. Councils may incur expenditure for preparing depôt, &c. *Ibid.* s. 24.

DIVISION 2.—*Emptying of closets and cesspits.*

17. From and after the time when this Act has come into operation in any municipality the owner or occupant of any premises within the same shall not empty, or cause to be emptied, any cesspit, earth-closet, or other closet pan, which may be included in his premises without the sanction in writing of the council or inspector of nuisances : Owners or occupants of premises not permitted to empty their own cesspits. 39 Vic. No. 14, s. 9. 55 Vic. No. 20, ss. 1 and 2.
- Provided, however, that such sanction shall not be given unless the officers of the said council are by accident or unforeseen circumstances at the time unable to empty such cesspit, earth-closet, or other closet pan with the proper night-carts and appliances appointed to be used by them, whether supplied by a contractor or by the council, and any such owner or occupant so offending shall be liable to a penalty not exceeding ten pounds :
- Provided further that any council may suspend the provisions of this section so far as applicable to earth-closets in the case of any premises as to which the council is satisfied that the owner or occupier has made suitable provision for the disposal of night-soil.
18. Every council shall cause its own servants or contractors, under the direction of the inspector of nuisances or other officers appointed in that behalf, to empty all cesspits within the municipality once at least every six months if necessary in the opinion of the inspector of nuisances, and such council shall cause to be used such implements and appliances, and shall take all such other measures in the performance of the work as may be deemed best adapted for the suppression of offensive smells or the suppression of other nuisances. Municipal councils to cause cesspits to be emptied. 39 Vic. No. 14, s. 10.
19. Every council may, unless otherwise provided for to the satisfaction of the council, cause its own servants or contractors, under the direction of the inspector of nuisances, or other officers appointed

in

in that behalf, to empty all earth-closets and other closet pans within the same municipality once at least every week, and to use implements and appliances, and take such other measures in the performance of the work as may be deemed best adapted for the suppression of offensive smells, or the suppression of other nuisances. 5

Public or charitable institutions may be withdrawn from the operation of this Act.

55 Vic. No. 20, s. 3.

20. In all cases in which the Governor is satisfied that adequate provision for the disposal of nightsoil, without danger to the public health, is made in or on behalf of any institution or establishment supported wholly or partly by grants from the Consolidated Revenue, and being the property of Her Majesty, or being vested in trustees or other persons on behalf of Her Majesty, or for public or charitable purposes, he may, by proclamation in the Gazette, withdraw such institution from the operation of section nineteen, and so much of sections seventeen and twenty-one as apply to earth-closets and other closet pans, and may at any time, if he thinks fit, rescind such 15 proclamation.

DIVISION 3.—Removal of nuisances.

Notice to be given of any nuisance occurring in connection with the cesspit, &c.

39 Vic. No. 14, s. 11.

21. If at any time the cesspit, earth-closets, or other closet pans in any premises overflow or burst, or cease to be water-tight, or if from any other cause the contents thereof are liable to escape, or the 20 effluvia arising therefrom becomes excessive, or any other nuisance in connection therewith occurs, the occupant or the owner (in case the premises are not occupied by any other person than the owner's *bona fide* servant) of the premises shall, within twenty-four hours, give notice thereof to the inspector of nuisances, otherwise such occupant 25 or owner, as the case may be, shall be liable to a penalty not exceeding ten pounds.

Power of entry on premises for inspector of nuisances, &c.

Ibid. s. 25.

22. Whenever the inspector of nuisances has reasonable grounds for believing that there exists on any premises in the municipality a foul closet, whether occasioned by the blocking up of water-closet pans 30 or of their discharge pipes, or the surcharge of cesspits or of earth-closet boxes, or insufficient closet accommodation, or any concealed drain connected with the closet, or any other nuisance in connection with the closet, cesspit, or well, such inspector may demand admission on the premises from the owner or occupant to inspect the same at 35 any time between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, except on Sundays.

Inspector of nuisances may give notice to owner or occupier to remove any nuisance.

Ibid. s. 26.

23. Such inspector, on discovering the existence of any such nuisance as abovementioned, or any other of a like kind, may thereupon give a notice in writing to the owner or occupant to remove the 40 same forthwith, or within a time to be therein stated according to the exigency of the case, and to purify the locality by cleansing, and the application of disinfectants, or otherwise; and if the owner or occupant has not complied with such notice before the expiration of the time limited, he shall be liable to a penalty not exceeding twenty pounds 45 nor less than two pounds, and also to pay any reasonable expenses incurred by the council in removing the said nuisance (which the council is hereby empowered to do), which expenses may be sued for and recovered in a summary way as hereinafter provided.

If admission be refused, inspector of nuisances may obtain an order from any justice.

Ibid. s. 27.

24. If the owner or occupant refuses permission for the inspector 50 of nuisances to enter as beforementioned, or prevents his entry upon the premises, any justice, on an affidavit made before him of the said inspector's belief in the existence of any nuisance, to be expressly stated in such affidavit, may by order under his hand require the owner or occupant to admit the said inspector upon the premises, who 55 may thereafter enter and examine and remove such nuisance, and take all such measures as are authorised by section twenty-eight.

DIVISION

DIVISION 4.—Miscellaneous provisions.

25. It shall not be lawful for any person to construct in any manner a gutter or drain, whether above or below the surface of the ground, on premises in any municipality which communicate with a street, sewer, or gutter, in any manner so that the contents of any cess-pit, whether in the case of an overflow or otherwise, may be discharged into such street sewer without the express written sanction of the council first obtained. And whosoever offends against this enactment shall be liable to a penalty not exceeding twenty pounds and not less than one pound, and a further penalty not exceeding two pounds for every day during which the offence is continued after notice in writing has been given to the owner or occupant or other person, as the case may be, by the inspector of nuisances in that behalf.
26. The council may fill up, remove, alter, or otherwise deal with any existing gutter, drain, closet, cesspit, or well, or any such respectively which may be hereafter made or constructed, and which, in the opinion of the said council—
- (I) is injurious to the health; or
 - (II) is opposed to decency by exposure or otherwise; or
 - (III) presents obstacles to the emptying or cleansing of cesspits; or
 - (IV) affords insufficient closet accommodation; or
 - (V) is made or constructed or placed contrary to the provisions of this Act or of any by-laws made under its authority.
27. All reasonable expenses incurred by any council in carrying into effect any of the provisions of this Act upon or in respect of any premises shall be repaid to the council by the owner or occupant within one week after a written demand of the amount made by the council or inspector of nuisances has been served upon him, otherwise the same may be recovered by the council after the service of the notice next mentioned by summary proceedings in the manner hereinafter set forth.
28. Before commencing any such works or operations, the council or inspector of nuisances shall give at least one week's notice in writing to the owner or occupant of the premises (unless delay is considered by the council or inspector of nuisances to be injurious to the public or in other respects inexpedient, in which case three days' notice shall be sufficient) requiring him to perform the work therein specified, and notifying that, in default of his compliance therewith during the time which may be allowed by any by-law made for the purpose of dealing with such cases, the council will cause such specified work to be done at his expense.
29. If the occupant of the premises is not also the owner, and has not himself caused the subject matter complained of and specified in the notice mentioned in the next preceding section, and forthwith after the delivery of such notice serves the same on the owner of the premises; and if such owner does not within the time mentioned in the next preceding section perform the work as before-mentioned, such occupant may thereupon comply with the terms of the said notice, and after defraying the necessary expense occasioned thereby, he may deduct the amount from any rent then due by him or accruing, or at his option sue for and recover the same with costs of suit from the owner as for money paid to his use in an action brought in any court of competent jurisdiction.
30. No person shall hereafter place any closet, or make or place any cesspit in any unauthorised spot upon his premises, or construct any cesspit of any unauthorised materials or dimensions. And any person so offending shall be liable to a penalty not exceeding twenty pounds nor less than two pounds. And if the closet is removed, or

No sewer or drain to be allowed to connect with cesspits, &c.
39 Vic. No. 14, s. 12.

Penalty.

Any drain, &c., now or hereafter constructed contrary to this Act may be filled up, &c.

Ibid. s. 13.

All reasonable expenses incurred by councils to be repaid by owners, &c.
Ibid. s. 14.

One week's written notice to be first served on the owner or occupant.
Ibid. s. 15.

The occupant may recover from the owner any sums paid to the council under the authority of this Act.
Ibid. s. 16.

No person hereafter allowed to form a cesspit in any spot unauthorised.
Ibid. s. 23.

the

39 Vic. No. 14.

the cesspit filled up as the case may be, by the inspector of nuisances (which he is hereby authorised to do), the person offending as above-mentioned shall also be liable to pay all the expenses incurred thereby, and such expenses may be recovered by summary proceedings in the manner hereinafter provided.

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

Ibid. s. 17.

31. Whoever refuses to obey an order of a justice, as hereinbefore provided, for the admission of the inspector of nuisances or other officer or persons authorised to carry into effect any operations or measures under the authority of this Act, or their respective workmen or labourers upon any premises, or who wilfully obstructs any person acting under the authority, or employed in the execution of this Act, shall be liable for every such offence to a penalty not exceeding ten pounds nor less than one pound.

Occupant of premises obstructing owner liable to a penalty.

Ibid. s. 28.

32. If the occupant of any premises prevents the owner thereof from obeying or carrying into effect the provisions of this Act, any justice to whom application is made on affidavit made before him in that behalf, shall, by order in writing, require such occupant to desist from such prevention, or to permit the execution of the work required to be executed, provided that such work appears to such justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act; and if within three days after the service of such order the occupant against whom it is made does not comply therewith, he shall be liable to a penalty not exceeding five pounds for every day afterwards during the continuance of such non-compliance.

This Act not to affect the provisions of the *Municipalities Act of 1867, &c.*

Ibid. s. 31.

33. Nothing in this Act shall be construed to affect any of the provisions of the *Municipalities Act of 1867*, other than such as relate to the class of nuisances for which this Act is intended to provide, or of any other Act as to matters included in this Act, nor to impair any power of abating nuisances at common law; and all municipal officers, or other persons, may respectively proceed for the abatement of nuisances within any municipality, or in respect of any other matter or thing hereinbefore provided for, referred to under the before-mentioned Act, or any other Act conferring jurisdiction in respect of the several nuisances, matters, and things referred to in this Act, or any by-laws framed under any such Act as they may think fit.

PART IV.

Legal proceedings.

All penalties imposed, &c., to be paid to the council fund for purposes of this Act.

Ibid. s. 29.

34. All penalties imposed by this Act, or by any by-law made under its authority, for offences committed, and all sums of money ordered to be paid thereby may be recovered, and all complaints heard in a summary way before any two justices according to the provisions of the Act *fourteenth Victoria number forty-three; and the Imperial statutes thereby adopted*, and shall, when recovered, be paid over to the council interested, to be applied in aid of its expenses under this Act.

Service of notices, &c.

Ibid. s. 30.

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

36. All complaints, or other legal proceedings, for any non-compliance with, or any breach of this Act, or of any by-laws made under its authority, may be laid and taken by the inspector of nuisances or any other officer appointed by the council in that behalf.

All legal proceedings may be taken in the name of the inspector of nuisances. 39 Vic. No. 14, s. 32.

37. Any person feeling himself aggrieved by any conviction, penalty, or charge imposed under the authority of this Act, where the penalty or sum exceeds five pounds, may appeal against the same to the next Court of Quarter Sessions holden in the district where the subject matter thereof arose, unless such Quarter Sessions are held within fourteen days from the date of such conviction or judgment, and in that case to the Court of Quarter Sessions then next following; and such Court shall have power to hear and determine the matter in a summary way, and shall have and exercise all other powers vested in them by the *third* section of the Act *Fifth William the Fourth number twenty-two*, and the decision of such Court shall be final and conclusive in respect to the subject matter of such appeal:

Appeal allowed to Quarter Sessions. *Ibid.* s. 33.

Provided always that the person so appealing shall have given written notice seven days at the least before the hearing of such appeal of his intention to appeal, and stating the grounds thereof to any one of the convicting justices, and to the inspector of nuisances, or other officer duly appointed by the council, and who prosecuted the matter before the justices in petty sessions:

Provided also that such person (in case a penalty has been awarded against him) shall pay into the hands of the convicting justices the full amount thereof, together with the costs awarded, within one week next after conviction, and shall within the same period enter into a bond, with two sureties approved by such justices, conditioned to prosecute such appeal with effect, and to abide the event of such appeal, and to pay the full amount of all such costs as may on such appeal be awarded against him.

38. The forms contained in the Second Schedule to this Act annexed, or any other forms to the like effect, but varied as circumstances may require, may be used for legal instruments under this Act, and shall be sufficient for the purposes intended.

Forms in Third Schedule may be used. *Ibid.* s. 34.

39. No order nor any other proceeding, matter, or thing done or transacted in relation to the execution of this Act shall be vacated, quashed, or set aside for want of form, nor be removable by *certiorari* or otherwise into the Supreme Court.

Proceedings not to be quashed or set aside for want of form. *Ibid.* s. 35.

SCHEDULES.

FIRST SCHEDULE.

Section 3.

Reference to Act.	Title of Act.	Extent of Repeal.
39 Vic. No. 14 ..	An Act for preventing certain nuisances in the city of Sydney and other municipalities.	The whole Act.
45 55 Vic. No. 20 ...	An Act to amend the Nuisances Prevention Act thirty-nine Victoria, number fourteen, in certain respects.	The whole Act.

Section 2.

SECOND SCHEDULE.

Municipalities.

Aberdeen	Grafton	Parramatta	
Adamstown	Granville	Peak Hill	
Albury	Grenfell	Penrith	5
Alexandria	Greta	Petersham	
Annandale	Gulgong	Picton	
Armidale	Gunnedah	Plattsburg	
Ashfield		Port Macquarie	
Auburn	Hamilton	Prospect and Sherwood	10
Ballina	Hay		
Balmain	Hilston	Queanbeyan	
Balranald	Hunter's Hill	Quirindi	
Bankstown	Hurstville		
Bathurst	Inverell	Randwick	15
Bega		Raymond Terrace	
Berry	Jamberoo	Redfern	
Blayney	Jerilderie	Rockdale	
Bombala	Junee	Rookwood	
Botany		Ryde	20
Bourke	Katoomba	Scone	
Bowral	Kempsey	Silverton	
Braidwood	Kiama	Singleton	
Broken Hill	Kogarah	Stockton	
Burwood		Strathfield	25
Camden	Lane Cove	St. Peter's	
Camperdown	Leichhardt		
Canterbury	Lismore	Tamworth	
Carrington	Lithgow	Taree	
Casino	Liverpool	Temora	30
Central Illawarra		Tumut	
Concord	Macleay		
Cobar	Manly	Ulladulla	
Condobolin	Marrickville	Uralla	35
Cooma	Merewether		
Coonamble	Mittagong	Vauchuse	
Cootamundra	Moama		
Coraki	Molong	Wagga Wagga	
Cowra	Moree	Walcha	
	Morpeth	Wallsend	40
Darlington	Moruya	Waratah	
Deniliquin	Moss Vale	Warren	
Drummoyne	Mudgee	Waterloo	
Dubbo	Murrumburrah	Waverley	
Dungog		Wellington	45
East Orange	Narrandera	Wentworth	
Enfield	Narrabri	West Maitland	
Erskineville	Newcastle	West Narrabri	
Five Dock	Newtown	Wickham	
Forbes	North Botany	Wilcanma	50
	North Sydney	Willoughby	
Gerringong	Nowra	Wingham	
Glebe	Nyngan	Wollongong	
Glen Innes		Woollahra	
Goulburn	Orange		
	Paddington	Yass	55
	Parkes	Young	

Section 38.
39 Vic. No. 14.
Schedules.

THIRD SCHEDULE.

FORM A.

Order of justice for admission of inspector of nuisances or other officer to inspect premises. 60

To Mr. G. H., or the owner or occupant of the premises [here describe the same as in the body of the order].

WHEREAS A. B., the inspector of nuisances for the municipality of [if acting for any combined municipalities add and other combined municipalities], has made oath before me, E. F., Esquire, one of Her Majesty's justices of the peace, of his belief

belief that a nuisance, within the meaning of the Nuisances Prevention Act, 189 , exists on premises situated in street, [describe the number or name and situation of the premises so as to identify them], of which premises you are said to be either the owner or occupant, and that demand of admission to such premises, for the 5 inspection thereof, has been duly made and refused. Now therefore I, the said E. F., do hereby require you to admit the said A. B., with or without his workmen or assistants, for the purpose of inspecting and examining the said premises, under the provisions of the said Act.

Given under my hand this day of , 18 .

E. F.,
J.P.

10

FORM B.

Summons for a nuisance.

To Hr. G. H., or the owner or occupant of the premises [here describe the same as in the body of the summons].

[state name of police district], to wit.

15 You are hereby summoned to appear before two of Her Majesty's justices of the peace, at the petty session holden at the police office, [insert place], on the day of next, at the hour of in the forenoon, to answer the complaint this day made to me by A. B., the inspector of nuisances for the municipality of [if acting for any combined municipalities add and other combined municipalities]. that 20 in or upon certain premises situate in street, [describe the number or name and the situation of the premises so as to identify them], the following nuisance exists [describe it, as the case may be, as nearly as convenient in the words of the Act or by-law], and that the said nuisance is caused by the act or default of the owner or occupier of the premises, or by yourself, G. H.

25 Given under the hand of me, E. F., Esquire, one of Her Majesty's justices of the peace, this day of , 18 .

E. F.,
J.P.

FORM C.

30 Order to permit execution of works by owner or by the inspector of nuisances.

[state name of police district], to wit.

To Mr. G. H., or the owner or occupant of the premises [describing them as in Form B].

WHEREAS C. D., the owner of the said premises within the meaning of the Nuisances Prevention Act, 189 [or Mr. A. B., the inspector of nuisances for the municipal 35 council of], having appeared before me, E. F., Esquire, one of Her Majesty's justices of the peace [or police magistrate], and having made oath to me of his belief that a nuisance, within the meaning of the aforesaid Act, existed on the premises above-mentioned, of which you are said to be the occupant, and that you, the said G. H., being such occupant, have prevented the said C. D. [or the said A. B.] from obeying 40 and carrying into effect the provisions of the said Act, that is to say, that you, the said G. H., prevented [here describe the act of prevention generally, for instance, thus; prevented the said C. D. from repairing a cesspit, or removing a closet, or digging up a drain connected with the cesspit, which is a nuisance and injurious to health]. And whereas you, the said G. H., having been summoned this day to answer the said com- 45 plaint, and not having shown sufficient cause against the same [or having failed to attend, as the case may be], and it appearing to me that it is necessary that [here describe the act or work to be done, for instance, thus: that the said cesspit should be repaired, or that the said closet should be removed, or that the said drain should be dug up] for the purpose of enabling the said C. D. [or the said A. B.] to obey and carry into effect the 50 provisions of the said Act, I do hereby order you, the said G. H., to permit the said C. D. [or the said A. B.] to do and perform the aforesaid duty and works, according to the provisions of the said Act and by-laws.

Given under my hand and seal, at Sydney, this day of , 18 .

E. F.,
J.P.

55

OTHER FORMS.

Any other legal instrument requisite may readily be adapted from the forms annexed to the Act *fourteenth Victoria, number forty-three*, and the *Imperial statutes thereby adopted*.

Faint, illegible text at the top of the page, possibly a header or title.

Second block of faint, illegible text.

Third block of faint, illegible text.

Fourth block of faint, illegible text.

Fifth block of faint, illegible text.

Sixth block of faint, illegible text.

Seventh block of faint, illegible text.

Eighth block of faint, illegible text.

Ninth block of faint, illegible text.

Tenth block of faint, illegible text.

Eleventh block of faint, illegible text.

Twelfth block of faint, illegible text at the bottom of the page.