



1855-6.

No. 28.

*An Act to provide for the Water Supply and Drainage of the City of Adelaide.*

[Assented to, June 19, 1856.]

**W**HEREAS it is expedient that provision should be made for introducing a supply of pure water for the use of the inhabitants of the City of Adelaide, and for the drainage of the said City, and for the raising of the necessary funds for the said purposes, in manner after mentioned: And whereas plans and sections, showing, as regards the water-works, the source of supply, and the reservoirs, and the works connected therewith, and the direction of the main and branch pipes, and the streets and grounds through which they are to be laid; and, as regards the sewers, the direction of the drains and the streets and grounds through which the same are to be carried, and the place of delivery of the refuse matter carried away thereby; and also books of reference containing the names of the owners or occupiers, or reputed owners or occupiers of any private lands through which the same works will pass, have been deposited in the office of the Surveyor-General: Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council thereof, as follows—

Preamble.

1. From and after the commencement hereof, the provisions relating to the supply of the said City with water, contained in a certain Ordinance, No. 11 of 1849, "To constitute a Municipal Corporation for the City of Adelaide," sections ninety-third, ninety-fourth, and ninety-fifth, shall be and are hereby repealed.

Repeal of sections 93, 94, and 95, of Ordinance No. 11 of 1849.

2. The expression "the Undertaking" shall mean the water-works and

Interpretation clause.

and drainage-works, and the works connected therewith, hereby authorized to be constructed; the expression "the Commissioners" shall mean such persons as shall from time to time be appointed by the Governor, with the advice of the Executive Council, as herein authorized, until the powers and duties hereof shall be transferred to the Municipal Authorities, in manner after provided; and from and after such transfer the expression "Commissioners" shall mean the Municipal Authorities, for the time being, of the said City; and the expression "Municipal Authorities" shall mean the Corporation, or other Municipal Authorities, for the time being, empowered by any Act or Ordinance in force in that behalf, to have the control and management of the municipal affairs of the said City; the expression "the water-works" shall mean the water-works and the works connected therewith, hereby authorized to be constructed; the expression "the sewers" shall mean the sewers, drains, and all other works connected with the drainage of the said City; the expression "the lands and streams" shall mean the lands and streams of water hereby authorized to be taken or used for the purposes hereof; the word "lands" shall include messuages, lands, tenements, and hereditaments of any tenure; the word "streams" shall include springs, brooks, rivers, and other waters; the word "street" shall include any square, court, or alley, highway, land, road, thoroughfare, or public passage or place; the expression "water-rate" shall include any rent reserved, or payment to be made to the Commissioners for a supply of water.

Commissioners.

Governor may appoint  
Commissioners.

3. It shall be lawful for the Governor, with the advice of the Executive Council, by warrant under his hand, to appoint a Chief Commissioner, and two other Commissioners, for the purposes of this Act, and from time to time, with the like advice, to remove any of such persons from such office of Commissioners, and appoint another person in his place, and such Commissioners not holding any other office under the Crown; and shall be paid such salary, or other remuneration, as may be reasonable in that behalf; and at all meetings of the said Commissioners, two, whereof one shall be the Chief Commissioner, shall form a quorum, and such Commissioners shall have full power to construct and carry out the undertaking hereby authorized.

Commissioners to  
appoint officers.

4. The Commissioners shall, from time to time, appoint and employ such secretary, solicitor, engineers, clerks, messengers, and other officers, at such reasonable salary, pay, or reward, as to such Commissioners may seem meet, subject to the approval of the Governor; and shall also, from time to time, at their discretion, dismiss and discharge such officers, or any of them, and appoint others in their place, subject to such approval as aforesaid.

Commissioners to sue  
and be sued in name  
of secretary.

5. The Commissioners may sue and be sued in the name of their secretary for the time being, and no action or suit, to be brought or commenced by or against the said Commissioners shall abate or discontinue by the death or removal, or by the act of such secretary.

6. The

*Construction of  
water-works.**Principle and source  
of the water-works.**Errors and omissions  
in plans, &c., may be  
corrected by Justices,  
&c., who shall certify  
the same.**Certificates, &c., to be  
deposited.**Surveyor-General to  
receive plans of alter-  
ations, &c., and allow  
inspection.**Copies of plans and  
alterations, &c., to be  
evidence.**Incorporation of No. 6  
of 1847.**Commissioners, sub-  
ject to the provisions  
of this Act, may exe-  
cute the works herein  
named.*

6. The water supply shall be on the principle of constant supply at high service, and shall be derived from the Torrens.

7. If any omission, misstatement or wrong description shall have been made of any lands or streams, or of the owners, lessees, or occupiers of any lands or streams described in the plans or books of reference deposited as aforesaid, the Commissioners, after giving ten days' notice to the owners and occupiers of the lands and streams affected by such proposed correction, may apply to two Justices for the correction thereof; and if it shall appear to such Justices that such omission, misstatement, or wrong description arose from mistake, they shall certify the same accordingly, and shall in such certificate state the particulars of any such omission, misstatement or wrong description; and such certificate, with the other documents to which it relates, shall be deposited with the other documents to which they relate, in the office of the Surveyor-General, and thereupon such plan, or book of reference, shall be deemed to be corrected according to such certificate; and the Commissioners may make the works in accordance with such certificate, as if such omission, misstatement, or wrong description had not been made.

8. The said Surveyor-General shall keep the said plans, and sections, and books of reference, and all other documents deposited with him for the purposes of this Act, and shall allow all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same.

9. Copies of the said plans, and sections, and books of reference, or of any alteration or correction thereof, or of any other such documents as aforesaid, or extracts therefrom, certified by the Surveyor-General, which certificate such Surveyor-General shall give to all parties interested, when required, shall be received in all Courts or elsewhere in the said Province as evidence of the contents thereof.

10. The Lands Clauses Consolidation Act shall be incorporated herewith.

11. Subject to the provisions and restrictions in this Act, and any Act incorporated therewith, the Commissioners may execute any of the following works for constructing the water-works, that is to say:

They may enter upon any lands and other places described on the said plans and in the said books of reference, and take levels of the same, and set out such parts thereof as they shall think necessary, and dig and break up the soil of such lands, and trench and sough the same, and remove or use all earth, stones, mines, minerals, trees, or other things dug or gotten out of the same:

They

Construction of  
water-works.

They may, from time to time, sink such wells or shafts, and make, maintain, alter, or discontinue such reservoir, water-works, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings, upon the lands and streams authorized to be taken by them as they shall think proper for supplying the inhabitants of the City of Adelaide with water:

They may, from time to time, divert and impound the water from the streams mentioned for that purpose in the said plans or books of reference, and alter the course of any such streams; and also take such waters as may be found in and under, or on the lands to be taken for constructing the water-works.

Commissioners to make  
compensation for  
damages.

12. Provided always, that, in the exercise of the said powers, the Commissioners shall do as little damage as can be, and in all cases where it can be done, shall provide other watering places, drains, and channels for the use of adjoining lands, in place of any such as shall be taken away or interrupted by them, and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers.

Penalty for obstruct-  
ing construction of  
works.

13. Every person who shall wilfully obstruct any person acting under the authority of the Commissioners, in setting out the line of the works, or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works, or deface or destroy any works made for the same purpose, shall be liable to a penalty not exceeding Five Pounds for every such offence.

Penalty for illegally  
diverting the water.

14. After the stream or supplies of water hereby authorized to be taken by the Commissioners shall have been so taken, every person who shall illegally divert or take the waters supplying or flowing into the stream so taken, or any part thereof, or who shall do any unlawful act whereby the said streams or supplies of water may be drawn off or diminished in quantity, and who shall not immediately repair the injury done by him on being required so to do by the Commissioners, so as to restore the said waters to the state in which they were before such act, shall forfeit to the Commissioners any sum which shall be awarded by two Justices, not exceeding Five Pounds for every day during which the said supply of water shall be diverted or diminished by reason of any act done by or by the authority of such person, and any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged liable to pay to the Commissioners for any damage which they may sustain by reason of their supply of water being diminished; and the payment of the sum so forfeited shall not bar or affect the right of the Commissioners to sue such person for the damage so committed.

Reservation of exist-  
ing rights.

15. Provided always, that nothing herein contained shall prevent the owners and occupiers for the time being of lands through or by which such streams shall flow from using the waters thereof in such

such manner and to such extent as they might have done before the commencement hereof, unless they shall have received compensation in respect of their right of so using such water.

16. The Commissioners shall be required to erect all works for making good the interruption caused to any lands adjoining or near the water-works, or otherwise for the accommodation of such lands; and if any difference shall arise respecting the construction of any such accommodation works, or the kind, or size, or sufficiency thereof, respecting the maintenance thereof, the same shall be determined by two Justices, and such Justices shall also appoint the time within which such accommodation works shall be begun and finished by the Commissioners.

*Accommodation works.*

Differences as to the construction of accommodation works to be settled by Justices.

17. If the Commissioners shall, for fourteen days next after the time appointed by such Justices for the beginning of any such accommodation works, fail to begin such works, or having begun such works, fail diligently to execute the same in a sufficient manner, the person aggrieved by such failure may execute such works or repairs; and the reasonable expenses thereof shall, on demand, be repaid by the Commissioners to the person by whom the same shall so have been executed; and if there be any dispute about the amount or nature of such expenses the same shall be settled by two Justices.

If Commissioners fail to execute such works, persons aggrieved may perform the same, and charge the expense to the Commissioners.

18. The Commissioners, under such superintendence as is herein-after specified, may open and break up the soil and pavement of the several streets and bridges within the necessary limits, for the purpose of constructing the said undertaking, and of laying down, altering, cleansing, repairing, and removing any sewers, drains, pipes, conduits, service pipes, and other works and engines, and remove and use all earth and materials in and under such streets and bridges, and do all other acts which the Commissioners shall from time to time deem necessary for carrying out the undertaking, doing as little damage as can be in the execution of the powers hereby granted, and making compensation for any damage which may be done in execution of such powers.

*Laying of pipes and drains.*

Power to break up streets, &c., under superintendence, and to open drains.

19. Provided always, that nothing herein contained shall authorize or empower the Commissioners to lay down or place any pipe, conduit, service pipe, or other work connected with the water-works, in any land not dedicated to public use without consent of the owners and occupiers thereof, except that the Commissioners at any time may enter upon and lay or place any new pipe in the place of an existing pipe, in any land wherein any pipe hath been already lawfully laid down or placed, and may repair, alter, or remove, or cut off, in cases provided in this Act, any pipe so laid down.

Not to enter on private land without consent.

20. Before the Commissioners open or break up any street or bridge, they shall give to the persons under whose control or management

Notice to be served on persons having control, &c., before breaking

Laying of pipes  
and drains.

up street or opening  
drains.

management the same may be, or to their clerk, surveyor, or other officer, notice, in writing, of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency, arising from defects in any of the sewers, pipes, or other works, and then as soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Streets or drains not  
to be broken up except  
under superintendence  
of persons having con-  
trol of the same.

If persons, having the  
control, &c., fail to  
superintend, Commis-  
sioners may perform  
the work without  
them.

21. No such street or bridge shall, except in the case of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons, or their officer; or in case of any difference respecting such plan, then according to such plan as shall be determined by two Justices; and such Justices may, on the application of the persons having the control or management of any such street or bridge, or their officer, require the Commissioners to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such street or bridge: Provided always, that if the persons having such control or management as aforesaid, and their officer fail to attend at the time fixed for the opening of any such street, or bridge, after having had such notice of the intention of the Commissioners, as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the Commissioners may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets, &c., broken  
up, to be reinstated  
without delay.

22. When the Commissioners open or break up the road or pavement of any street, or bridge, they shall, with all convenient speed, complete the works for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and kept thereagainst every night during which such road or pavement shall be continued open or broken up, and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for three months thereafter, and such further time if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in  
reinstating streets, &c.

23. If the Commissioners open or break up any street or bridge, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid,

aforesaid, when so required, except in the cases in which the Commissioners are authorized to perform such works without any superintendence or notice, or if the Commissioners make any unnecessary delay in completing any such work, or filling in the ground, or reinstating and making good the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street or bridge, in respect of which such default is made, a sum not exceeding Five Pounds for every such offence, and an additional sum of Five Pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

*Laying of pipes  
and drains.*

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24. If any such delay or omission as aforesaid shall take place, the persons having the control or management of the street or bridge in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the Commissioners, and such expenses may be recovered in the same way as damages are recoverable under this Act.

In case of delay, other parties may reinstate and recover the expenses.

25. The Commissioners shall provide and keep, in the pipes to be laid down by them, a supply of pure and wholesome water, sufficient for the domestic use of the inhabitants of the City, who, as hereinafter provided, shall be entitled to demand a supply, and shall be liable to pay water-rate for the same; and such supply shall be constantly laid on.

*Supply of water.*

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A constant supply of water to be kept for domestic purposes at high service.

26. In all the pipes to which any fire-plug shall be fixed, the Commissioners shall provide and keep constantly laid on, unless prevented by unusual drought or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes, that is to say—for cleansing the sewers and drains, for cleansing and watering the streets, and for supplying any public baths or washhouses that may be established for the free use of the inhabitants, or paid for out of any rates levied within the City; and such supply shall be provided at such rates, in such quantities, and upon such terms and conditions as may be fixed upon by the Commissioners and the Municipal or other proper Authorities and parties concerned.

Supply of water to be kept for cleansing sewers, drains, &c., and for other public purposes.

27. The Commissioners, at the request of the Municipal or other proper Authorities or parties concerned, shall fix proper fire-plugs in the main or other pipes belonging to them, at such places as may be most proper and convenient for the supply of water for extinguishing any fire which may break out within the limits of the City.

*Fire-plugs.*

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Commissioners to affix public fire-plugs in the mains.

*Fire-plugs.*

Commissioners to repair fire-plugs, and deposit keys thereof at engine-houses, &c.

28. The Commissioners shall from time to time renew and keep in effective order every such fire-plug; and as soon as any such fire-plug is completed they shall deposit a key thereof at each place, within the limits of the City, where any fire-engine is kept, and in such other places as may be appointed by the Municipal or other proper Authorities, and shall put up a public notice in some conspicuous place in each street in which such fire-plug is situated, showing its situation, which notice the Commissioners may put up on any house or building in such street.

Expense of fire-plugs, &c., how borne.

29. The cost of such fire-plugs, and the expense of fixing, placing, and maintaining the same in repair, and of providing such keys as aforesaid, shall be defrayed by the Municipal or other proper Authorities out of the City funds.

Fire-plugs to be placed near manufactories at request, &c., of owners.

30. The Commissioners shall, at the request and expense of the owner or occupier of any work or manufactory, situated in any street in which there shall be a pipe of the Commissioners, place and maintain in effective order a fire-plug (to be used only for extinguishing fires), as near as conveniently may be to such work or manufactory.

Pipes to be kept charged, and water taken to extinguish fires without charge.

31. The Commissioners shall at all times keep charged with water all their pipes to which fire-plugs shall be fixed, unless prevented by unusual drought, or other unavoidable cause or accident, or during the necessary repairs, and shall allow all persons at all times to take and use such water for extinguishing fire without making compensation for the same.

Penalty for refusing to fix, &c., fire-plugs, or occasional failure of supply of water.

32. If, except when prevented as aforesaid, the Commissioners neglect or refuse to fix, maintain, or repair such fire-plugs, or to furnish to the Municipal or other proper Authorities a sufficient supply of water for the public purposes aforesaid, upon such terms as shall have been agreed on or settled as aforesaid; or if, except as aforesaid, they neglect to keep their pipes charged under such service as aforesaid, or neglect or refuse to furnish to any owner or occupier entitled to receive a supply of water, during any part of the time for which the rates for such supply have been paid or tendered, they shall be liable to a penalty not exceeding Ten Pounds, and shall also forfeit to every person having paid or tendered the rate, the sum of Forty Shillings for every day during which such refusal or neglect shall continue after notice in writing shall have been given to the Commissioners of the want of supply.

*Pipes to be laid by the Commissioners.*

Commissioners to lay down communication pipes on request of occupier, with consent of owner, in houses of limited value.

33. The Commissioners shall, upon the request of the owner or occupier of any dwelling-house in any street in which pipes shall have been laid down by them, and upon payment or tender of the proportion of water-rate in respect of such house, hereby made payable in advance, and of the cost of laying down such pipes and other works as are hereinafter referred to, lay down communication pipes and other necessary works for the supply of such house with water



water for domestic or other purposes, and shall keep the same in repair, and thereupon the occupier of such house shall be entitled to have a sufficient supply of water for his domestic purposes from the Commissioners: Provided, nevertheless, that it shall be lawful for the Commissioners, in their discretion, to defray, in the first instance, the cost of laying down such pipes and necessary works; and in such case the Commissioners may charge for such pipes and works, in addition to the rate hereby authorized, an annual rent equal to one-tenth of the ascertained actual cost of such communication-pipes and works; and such rent shall be chargeable on and recoverable from the occupier, or, in his default, from the owner of such house, at the same time and in the same manner as water-rates; and such pipes and other works shall not be subject to distress, or to the landlord's remedy for rent, nor to be taken in execution under any process of a Court of Law or Equity, or under any proceedings in bankruptcy or insolvency against such occupier or against such owner, unless he shall have paid for the laying down of the same, or shall have become the proprietor of the said pipes and works under the provisions hereinafter contained.

*Pipes to be laid by the Commissioners.*

34. If, upon such request and consent, and upon tender of payment of such proportion of water-rate, and cost of laying down, as aforesaid, the Commissioners, for a reasonable time, neglect or refuse to lay down such communication-pipes or other works, they shall be liable to forfeit to the person so making such request the sum of Five Pounds, and a further sum of Forty Shillings for every day during which such refusal or neglect shall continue after seven days from the making of such request and tender as aforesaid.

Penalty on Commissioners for refusal to lay communication pipes.

35. If the occupier for the time being of the house in which any such communication-pipes or other works shall have been laid down by the Commissioners at their own cost, refuse to pay for a supply of water, or if such house be unoccupied for twelve months, the Commissioners may demand from the owner thereof payment of the amount of the principal money invested by them in providing and laying down such communication-pipes and other works; and if such owner, after ten days' notice given to him by the Commissioners, neglect or refuse to pay such principal money, the Commissioners may enter the house and remove such pipes and other works; and the balance of such principal money, after deducting the value of such pipes and other works, with all arrear of rent for such pipes and works, shall in default of payment, be recovered with the costs incurred from the owner, or from the occupier for the time being, in the same manner as water-rates are directed by this Act to be recovered: Provided always, that no greater sum shall be recovered from any such occupier than the amount of rent for the time being owing by him, unless he refuse to discover the amount of rent owing by him; and that every such occupier shall be entitled to deduct from the amount of rent payable by him the sum so recovered from him, or which he shall have paid on demand.

Commissioners to be at liberty to remove pipes and recover expenses of owners or occupiers.

No greater sum to be recovered from occupiers than amount of rent due.

*Pipes to be laid by  
the Commissioners.*

Owners to be at liberty  
to purchase the pipes.

36. The owner or reputed owner of any house where any such communication-pipes or other works shall have been laid down by the Commissioners, at their own costs, may at any time pay off the amount then due to the Commissioners in respect of the cost of providing and laying down such pipes and works; and all rent at that time due in respect thereof, and thereupon such pipes and works shall become the property of such owner, and all further rent in respect thereof shall cease to accrue to the Commissioners.

*Protection of  
water.*

Persons using water  
to keep works in  
repair.

Penalty for neglect.

37. Every person supplied with water shall keep such part of the communication-pipe and the stop-cocks, drains, and other works, as shall be within his own premises in good repair, so as effectually to prevent the water from running to waste or the collection of unwholesome matter; and in case any person shall neglect to keep the same in good repair, the Commissioners may cut off the pipe, or turn off the water from the premises of such person, until such stop-cock shall be provided or repaired, as the case may require.

Penalty for suffering  
pipe, &c., to be out of  
repair.

38. Every person supplied with water by the Commissioners, who shall suffer any such pipe or stop-cock to be out of repair, so that the water supplied to him by the Commissioners shall be wasted, shall forfeit to the Commissioners, for every such offence, a sum not exceeding Five Pounds.

Commissioners may  
repair pipes, &c.

39. The Commissioners may repair any such pipe, stop-cock, or other work, so as to prevent any such waste of water, and the expenses of such repair shall be repaid to them by the person so allowing the same to be out of repair, and may be recovered as damages.

Power to surveyor em-  
ployed by Commis-  
sioners to enter houses  
to inspect, &c.

40. The surveyor, or any other person acting under the authority of the Commissioners, may, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, enter into any house or premises supplied with water by virtue of this Act, in order to examine if there be any waste or misuse of such water; and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purposes aforesaid, or be prevented from making such examination as aforesaid, the Commissioners may turn off the water supplied by them from such house or other premises.

Penalty for allowing  
persons to use water.

41. Every owner or occupier of any tenement supplied with water under this Act, who shall supply to any other person, or wilfully permit him to take any such water from any pipe in such tenement, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water by the Commissioners, and the pipes belonging to him be, without his default, out of repair, shall forfeit to the Commissioners, for every such offence, a sum not exceeding Five Pounds.

Penalty for taking  
water without agree-  
ment.

42. Every person who, not having agreed to be supplied with  
water

water by the Commissioners, shall take any water from any reservoir, watercourse, or conduit, belonging to the Commissioners, or any pipe leading to any such reservoir, watercourse, or conduit, or from any cistern or other like place containing water belonging to the Commissioners, other than such as may have been provided for the gratuitous use of the public, shall forfeit to the Commissioners, for every such offence, a sum not exceeding Ten Pounds.

*Protection of water.*

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43. Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the Commissioners, or shall flush or draw off the water from the reservoirs, or other works of the Commissioners, or shall do any other wilful act whereby such water shall be wasted, shall forfeit to the Commissioners, for every such offence, a sum not exceeding Five Pounds.

*Penalty for destroying valves, &c.*

44. Every person who shall commit any of the offences next hereinafter enumerated, shall, for every such offence, forfeit to the Commissioners a sum not exceeding Five Pounds, that is to say—

*Fouling the water.*

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*Penalties for fouling water.*

Every person who shall bathe in any stream, reservoir, aqueduct, or other water-works belonging to the Commissioners, or any waters supplying or flowing into the same, or any part thereof, or wash, throw, or cause to enter therein any dog or other animal:

Every person who shall throw any rubbish, dust, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other water-works, or any waters supplying or flowing into the same, or any part thereof, as aforesaid, or wash or cleanse therein any lead or other mineral, or any cloth, wool, leather, or skin of any animal, or any other thing:

Every person who shall cause the water of any sink, sewer, or drain, steam-engine, boiler, or other filthy water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other water-works belonging to the Commissioners, or any waters supplying or flowing into the same, or any part thereof, or shall do any act whereby the water of the Commissioners shall be fouled:

And every such person shall forfeit a further sum of Twenty Shillings for each day, if more than one, that such last-mentioned offence shall be continued.

45. It shall not be lawful for any person or persons, without notice as hereinafter-mentioned, to make or branch any private sewer or drain into any of the sewers or drains made under authority hereof, or into any drain or sewer communicating therewith; and, in case any person shall make or branch any private sewer or drain into any such sewer or drain without such notice, such person shall, for

*Sewers.*

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*No private sewers to communicate without notice, under penalty.*

Sewers.

for every such offence, forfeit and pay to the said Commissioners a sum not exceeding Five Pounds; and it shall be lawful for the said Commissioners to stop up the communication of such private sewer or drain with the sewers to be made as aforesaid, or any sewer communicating therewith, and to recover the costs and charges occasioned thereby, from the person or persons so offending, in such and the like manner as any rate may by this Act be raised and levied.

Proprietors of private sewers, &c., to repair and cleanse the same under the direction of the Commissioners.

46. All such private sewers or drains as shall be permitted to be branched into any of the said sewers or drains so hereby authorized to be made, shall from time to time be repaired and cleansed, under the inspection and direction of the said Commissioners, or their officer appointed in that behalf, at the costs and charges of the occupiers of the lands to which the said private sewers or drains shall respectively belong, and in case any such occupier shall neglect to repair and cleanse any such sewer or drain so permitted as aforesaid, or to cause the same to be repaired and cleansed, according to the directions of the said Commissioners or their officer as aforesaid, shall forfeit and pay for every such offence a sum not exceeding Five Pounds, and the said Commissioners may repair and cleanse such private sewer or drain, and recover the expenses thereof from such occupier.

Penalty for non-compliance.

Inhabitants may lay drains to the sewers.

47. Any owner or occupier of lands within the said City who shall be desirous to have a drain to the sewers to be made under the authority hereof, or to any sewer communicating therewith, laid into his lands, may, at his own expense (subject nevertheless to the provisions hereinbefore contained), having given six days previous notice in writing of his or her intention so to do to the said Commissioners, and with the consent of the owners of the lands through which the drain shall be conveyed, open the ground between his land and any such sewer, or the sewer communicating therewith, and lay any drain (the same being made of such materials and in such manner, in all respects, as may be approved of by the said Commissioners), from such lands to communicate with the said sewer.

Commissioners to permit drains subject to approval.

48. The said Commissioners shall be obliged, in the manner before-directed, to permit every owner or occupier, or part owner or occupier of any lands situate within any street where the sewers of the said Commissioners shall be laid, to lay any drain from such lands, the same being made of such materials, and in such manner in all respects, as the said Commissioners shall approve of, to communicate with the said sewers so to be made by such Commissioners.

Commissioners empowered to remove nuisances from tenements, &c., on complaint, and to recover the charges for so doing from the owner or occupiers of such tenements.

49. It shall be lawful for the said Commissioners to cause a drain or sewer to be laid down from any lands within the said City to one of the main sewers or drains of the said Commissioners, or to some sewer or drain communicating therewith, and from time to time to repair and cleanse such drains, and to recover the

the expenses of laying down such drain or drains, and of repairing and cleansing the same, from the owner or occupier of such lands; and in case such owner or occupier shall, on demand, refuse to pay such expenses, the same shall be recoverable by the said Commissioners or their officer appointed in that behalf, before any two or more Justices of the Peace in a summary way: Provided always, that every occupier shall be entitled to deduct against, or to be repaid by his landlord, all such expenses as aforesaid, as shall be recovered from such occupier, unless he shall be liable to pay the same, under or by virtue of his lease or agreement with his landlord.

50. If any person, supplied with a drain by virtue of this Act, or having any drain or sewer which may communicate with the sewers of the said Commissioners, shall wilfully permit any other person, not having the authority or consent of the said Commissioners, to use any such drain, or any branch into the same, every such person so offending shall forfeit and pay to the said Commissioners, for every such offence any sum not exceeding Five Pounds over and above the full amount of the damage sustained by the said Commissioners by the acts or means in respect of which such penalty shall be incurred, and such penalty and damages shall be recoverable before any two or more Justices of the Peace for the said Province in a summary way, and the said Commissioners shall be at liberty to cut off the drain from every person so offending from the sewers of the said Commissioners.

And on persons supplied with drains permitting others to use the same.

51. It shall be lawful for any person acting by or under the authority of the said Commissioners, at all seasonable times in the day time, upon giving twenty-four hours' previous notice of their intention, to enter into any house, building, or other premises, having a drain or sewer communicating with the sewers to be made by virtue of this Act, in order to inspect and examine the state and condition thereof, and if there be any communication with such drain or sewer into any other building or premises; and if such person so acting by or under the authority of the said Commissioners, shall at such time be refused admittance into any such dwelling-house, building, or other premises, for the purpose of making such inspection, or on being admitted shall be obstructed or prevented from making such inspection, the occupier of such dwelling-house, building, or other premises, shall forfeit and pay a sum not exceeding Five Pounds.

Commissioners authorized to enter premises to see that no sewers communicate.

52. It shall be lawful for the said Commissioners to make an annual rate, not exceeding Two Shillings in the Pound, on all lands within the said City, included in the City assessment according to the value at which such lands shall be assessed therein, as a "Construction-rate;" and also to make an annual rate, not exceeding Sixpence in the Pound, on all such lands according to the value aforesaid, to be called the "Supply Water-rate:" Provided that if there shall be no assessment, for the time being, for the said lands,

Rates.

Construction-rate and supply water-rate to be levied.

Rates.

or any of them, it shall be lawful for the said Commissioners to cause the same to be assessed according to the true value thereof subject to appeal to the Local Court holden before a Special Magistrate and two Justices of the Peace within the said City.

Construction rate, by whom paid.

53. The construction-rate shall be borne, in equal moieties, by the owner and by the occupier of the lands upon or in respect of which the same is imposed, and shall in no case exceed what may be requisite to provide for all payments, for principal and interest, of the moneys raised under authority hereof, due, or to accrue due, at or during the time for which such rate may be imposed, together with the cost of repairing and maintaining the said undertaking: Provided, nevertheless, that the said construction-rate may be recovered, in the first instance, from the occupier of the lands in respect of which the same is imposed, but that in any case in which the same rate shall be recovered from the occupier of any land he shall, in the absence of any agreement to the contrary, be entitled to deduct one moiety of the same from any rent payable by him.

Supply-rate, by whom paid.

54. The supply water-rate shall be paid by and be recoverable from the person requiring, receiving, or using the supply of water.

Commissioners may impose additional rates on factories, &c.

55. It shall be lawful for the said Commissioners to impose an additional rate upon any lands to which water may be supplied under the provisions hereof, for the purposes of trading or manufacture, or for any other than domestic purposes; and such additional rate shall be proportioned to the quantity of water which may be required to be supplied to such lands for the purposes aforesaid.

When several houses supplied by one pipe, each to pay.

56. When several houses, or parts of houses, in the separate occupation of several persons, are supplied by one common pipe, the several owners or occupiers of such houses, or parts of houses, shall be liable to the payment of the same supply water-rate for the supply of water as they would have been liable to if each of such several houses, or parts of houses, had been supplied with water from the works of the Commissioners by a separate pipe.

Rates to be paid quarterly, in advance.

57. All rates hereby authorized to be imposed shall be paid in advance, by equal quarterly payments; and the first payment of the construction-rate shall be made when the said undertaking shall be so far completed as that water may be supplied to the said City by means thereof, of which completion a notice by authority of the Governor, published in the *South Australian Government Gazette*, shall be sufficient evidence; and the first payment of the supply water-rate shall be made at the time when the pipe by which the water is supplied is made to communicate with the pipes of the Commissioners, or at the time when the agreement to take water from the Commissioners is made.

58. The

58. The occupier of any dwelling-house, or part of a dwelling-house, liable to the payment of any supply water-rate, who shall give notice of his intention to discontinue the use of the water supplied by the Commissioners, or who shall remove from his dwelling-house between any two quarterly days of payment, shall pay such rate in respect of such dwelling-house, or part of a dwelling-house, for the quarter ending on the quarterly day of payment next after his quitting the same or giving such notice.

*Rates.*

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Parties giving notice to discontinue use of water, or removing, to pay to the next quarter day.

59. The owners of all dwelling-houses, or parts of dwelling-houses, occupied as separate tenements, the annual value of which houses or tenements shall not exceed the sum of Thirty Pounds, shall be liable to the payment of the supply water-rate instead of the occupiers thereof; and the powers and provisions herein contained for the recovery of rates from occupiers shall be construed to apply to the owners of such houses and tenements; and the person receiving the rent of any such house or tenement as aforesaid, from the occupier thereof, on his own account, or as agent or receiver for any person interested therein, shall be deemed the owner of such house or tenement.

Owners of houses not exceeding £30 rent to be liable to water rates.

60. Provided always, that when any owner shall pay any such supply water-rate in respect of any such dwelling-house, or part of a dwelling-house, which shall be in the occupation of any tenant under any lease or agreement made prior to the commencement hereof, such tenant shall repay to the owner all sums which shall be so paid by him during the continuance of such lease, unless it has been agreed that the owner shall pay the water-rates in respect of such dwelling-house, or part of a dwelling-house; and every such sum of money payable by the tenant to the owner under the provisions hereinbefore contained, may be recovered, if the same be not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.

Tenants under existing leases to repay the owner.

61. If any person supplied with water by the Commissioners, or liable as herein provided to pay the supply water-rate, neglect to pay such supply water-rate at any of the said times of payment thereof, the Commissioners may stop the water from flowing into the premises in respect of which such rate is payable, by cutting off the pipe to such premises, or by such means as the Commissioners shall think fit; and may recover the rate due from such person, if less than Thirty Pounds, with the expenses of cutting off the water and costs of recovering the rate, in the same manner as any damages or penalties for the recovery of which no special provision is made, are recoverable by this Act; or if the rate so due amount to Thirty Pounds or upwards, the Commissioners may recover the same, with the expenses of cutting off the water, by action in the Supreme Court.

Rates now to be recovered.

62. It shall be lawful for the Colonial Treasurer, for the time being, of the said Province, from time to time, to issue bonds, not exceeding in the whole the sum of Two Hundred and Eighty Thousand Pounds,

*Financial Provisions.*

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Colonial Treasurer to raise £280,000.

*Financial Provisions.*

Pounds, for such amounts as he may deem expedient; and such bonds shall be in the form following, that is to say—

Form of bond.

No.	£	No.	£
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City of Adelaide Water-works and Drainage Bond.

I, Colonial Treasurer of the Province of South Australia, in consideration of the sum of Pounds paid to me for the purposes of the City of Adelaide Water-works and Drainage, do hereby bind myself to pay to the holder, for the time being, of this present obligation, the sum of Pounds, and interest thereon after the rate of six per cent. per annum; such interest to be payable on the first day of January and the first day of July in every year, and the principal to be paid on the first day of , in the year one thousand eight hundred and . Sealed with my seal.

Dated the day of , one thousand eight hundred and .

Signed, sealed, and delivered, in }  
the presence of }

NOTE.—*Interest*, payable at the Colonial Treasury in Adelaide South Australia, or [in London or in any other agreed place], at such place as may be appointed, by notice to be given in the *South Australian Government Gazette* [and in the *London Gazette*].

Principal payable at the Colonial Treasury, in Adelaide, or, at the option of the holder [in London or other agreed place], if six months' notice of desire to that effect be given to the Colonial Treasurer in South Australia.

Bonds to bear interest at six per cent.

63. The said bonds shall bear interest at the rate of Six Pounds per centum per annum, and the interest and principal upon such bonds shall be payable and paid to the holder thereof, at such place and time as may be specified or provided therein.

Moneys raised by bonds, how applied.

64. All sums of money raised and received by the Colonial Treasurer upon the security of the said bonds shall be carried by the said Treasurer to the credit of the said Commissioners, for the construction, completion, and management of the said undertaking, and shall be by him paid to the said Commissioners, in such amount and manner, as the Governor, by any warrant under his hand, may, from time to time, authorize and direct.

£28,000 to be set apart annually for payment of principal and interest.

65. It shall be lawful for the said Colonial Treasurer, and he is hereby required, in each and every year from the first raising of any sums of money under the authority hereof, until the whole of the amounts so raised, and all interest thereon, shall have been duly paid, to set apart the sum of Twenty-eight Thousand Pounds, or such lesser sum as shall suffice to pay the amount of bonds redeemable during such year, together with interest upon all bonds which shall then



then bear interest; and shall apply such sum in payment of such bonds and interest as aforesaid, in manner specified in such bonds. *Financial Provisions.*

66. It shall be lawful for the Governor, from time to time, by warrant under his hand, to authorize the Colonial Treasurer to advance and pay to the said Commissioners, for the purposes of this Act, any sums of money not exceeding in the whole the sum herein authorized to be raised; and any sums of money so advanced and paid shall be retained by the Colonial Treasurer out of any moneys raised by him under authority hereof. *Governor may advance moneys to be repaid.*

67. All moneys received by the said Commissioners, for or on account of the rates herein authorized to be imposed, after deducting the necessary costs and charges of and attending the collection of the same, and also of the maintenance of the said Undertaking, and of keeping up the supply of water, shall be paid by the said Commissioners to the Colonial Treasurer, until the whole of the money so to be raised by the sale of bonds, together with interest thereon at the rate aforesaid, shall be fully paid and satisfied. *Net proceeds of rates to be paid to Colonial Treasurer.*

68. So soon as the whole of the principal and interest of the money so to be raised as aforesaid shall have been paid by means of the rates so hereby authorized to be imposed, the said undertaking, and the powers and duties hereby conferred and imposed, shall thenceforth vest in the Municipal Authorities for the said City: Provided that it shall be lawful for the Governor, with the advice of the Executive Council, at any time after the construction of the said undertaking is completed, to appoint the Municipal Authorities as aforesaid to be Commissioners for the purposes of this Act, and such appointment from time to time to revoke, and other Commissioners to appoint as hereinbefore authorized. *After payment of loan, undertaking to vest in City Authorities.*

69. The Commissioners, or any person having an order for that purpose under the hand of any one of them, may inspect any city-rate made or to be made for the said City, and the assessment book and other documents relating thereto, and may take copies or extracts from the same without payment of any fee or reward; and if any person having the custody of any such rate, assessment book, or other document, shall wilfully neglect or refuse to permit the Commissioners, or such other person as aforesaid, to inspect the same, or to take copies or extracts from the same within two days after a demand in writing, or such order shall have been produced and shown to him, or a copy thereof left at his usual place of abode, such offender shall, on conviction thereof, forfeit and pay for every such offence a penalty not exceeding the sum of Ten Pounds. *Rights of inspecting City assessments.*

70. The Commissioners shall, from time to time, nominate one or more persons as assessors or collectors for assessing and levying the said rates respectively, who shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the assessing and *Appointment and powers of assessors and collectors.*

*Financial Provisions.*

and levying of such rates, as if they were assessors or collectors appointed by the Municipal Authorities for collecting the city-rates, and shall pay over the amount of such rate to the Commissioners, or to any person authorized by them or any one of them, or, in default thereof, shall be proceeded against in the same manner as such assessors or collectors, by any Act now or hereafter to be in force, are to be proceeded against for non-payment.

Collectors may sue.

71. It shall and may be lawful for any collector, so to be appointed by the Commissioners, to sue for, recover, and receive of and from the persons thereto liable, any rate, assessment, or other moneys payable under the provisions of this Act, before any Court of competent jurisdiction; and for the purposes of any action, suit, or other proceedings, such rate, assessment, or moneys, shall be deemed to be due and payable to such Collector.

*Accounts of Receipt and Expenditure.*

Annual account to be made up by Commissioners and sent to the Colonial Secretary, and to be open to inspection.

72. The Commissioners shall, in each year, cause an account in abstract to be prepared of the whole receipt and expenditure of all moneys advanced to them, and of all rates or other moneys levied under the powers of this Act, for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the Auditor-General, or by the Chief Commissioner, and also by the auditors thereof, if any; and a copy of such account shall be sent to the Colonial Secretary on or before the thirty-first day of December in each year, and shall be published in the *South Australian Government Gazette*.

*Recovery of Damages and Penalties.*

Provision for damages not otherwise provided for.

1850, No. 6.

73. In all cases where any damages, costs, or expenses are by this Act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined and recovered in a summary way by and before two Justices of the Peace for the said Province.

*Appropriation of moneys.*

74. All fines, penalties, and arrears of money, levied or recovered under this Act, shall, so far as not otherwise specially appropriated, be paid to the Colonial Treasurer, on behalf of Her Majesty, Her Heirs, and Successors, for the public uses of the Province, and support of the Government thereof.

*Tender of amends and protection of Persons.*

Tender of amends.

75. If any person shall have committed any irregularity, trespass, or other wrongful proceeding in execution of this Act, or by virtue of any power or authority hereby given, and if, before action brought in respect thereof, such person make tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action; and if no such tender have been made, the defendant may, by leave of the Court where such action is pending, at any time before issue joined, pay into Court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

76. All

76. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within six calendar months after the fact was committed, and not otherwise, and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of such action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, together with the costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited, or discontinue any such action on issue joined, or if upon demurrer, or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases, and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

*Tender of amends  
and protection of  
Persons.*

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As to proceedings  
against persons acting  
under this Act.  
Notice of action.

General issue.

Tender of amends.

If judgment be  
against plaintiff.