



ANNO QUARTO

VICTORIÆ REGINÆ.

No. 4.

AN ACT to constitute a Municipal Corporation for the City of Adelaide.

WHEREAS by the Third annual Report of the Colonization Commissioners for South Australia to Her Majesty's Principal Secretary of State for the Colonies dated the 23d day of April and ordered by the House of Commons to be printed the 13th day of May 1839 the expediency of giving to the several towns established and about to be established in the said province as they respectively acquire a population of 2,000 inhabitants Elective Municipal Institutions on the principles therein detailed is recommended to the favorable consideration of his Lordship.

AND WHEREAS Her Majesty's said Principal Secretary of State by a despatch dated the 19th day of August 1839 addressed to his Excellency the Governor recommends that measures should be taken for passing a local enactment embracing the principles therein mentioned: And whereas the City of Adelaide having attained a population exceeding the requisite amount it is expedient in compliance with the aforesaid recommendation that the said City should now acquire an elective Municipal Institution.

BE IT THEREFORE ENACTED by His Excellency Lieutenant-Colonel George Gawler, Knight of the Royal Hanoverian Guelphic Order Governor and Commander-in-Chief of Her Majesty's Province of South Australia by and with the advice and consent of the Legislative Council thereof as follows that is to say—

I. That there shall be constituted at the time and in the manner hereinafter mentioned in and for the City of Adelaide a Municipal Corporation for the well-being good order and government thereof consisting of a Mayor Aldermen Common Council-Men and Citizens that is to say of Nineteen Common Council-Men of whom one shall be Mayor and Three others

others Aldermen and of all the Citizens therein who shall be enrolled in manner hereinafter mentioned which Municipal Corporation shall be a body Corporate and shall have a Common Seal and shall take and bear the name of "The Mayor and Corporation of the City of Adelaide" and by that name shall have perpetual succession and shall and may sue and be sued in all legal proceedings and shall be capable in Law to take hold and convey lands and generally by the Council hereinafter mentioned to do and suffer all Acts as a Body Corporate under and subject to the provisions hereinafter contained.

II. That from and after the passing of this act the boundaries of the said City for the purposes of this act shall be the inner limits of the park or public lands originally laid down by the survey and delineated in a map and plan thereof executed by William Light Esquire first Surveyor General of the province and now deposited in the Land Office at Adelaide and all public roads bridges streets squares terraces areas and spaces of land now existing or hereafter from time to time to be formed within the said limits shall in so far as necessary for carrying into effect the purposes of this act be vested in and be deemed the property of the said Corporation who shall have the control management and maintenance thereof: Provided nevertheless that subject to the reservation hereinafter mentioned the powers and duties of the said corporation shall also extend over and comprehend the control management and maintenance of all roads and bridges which may now or hereafter be laid out formed or constructed on the said park or public lands: Provided also that the rights of Her Majesty her heirs and successors and of the Governor and Council of the Province are hereby expressly reserved and nothing herein contained shall prevent the Governor in Council from aligning or altering and varying the direction and condition of the public roads and thoroughfares leading through the park lands from time to time or stopping up the same and substituting others in lieu thereof or generally exercising any act or power over the same which the Governor in Council may by law now competently exercise: Provided also that subject to the said reservation the powers and duties of the said corporation shall extend over and comprehend that part of the river Torrens and its tributaries included within the outer limits of the park or public lands in so far as may be necessary for carrying into effect the provisions of this act.

III. Provided also and be it further enacted that it shall be lawful for His Excellency the Governor by and with the advice and consent of the Legislative Council from time to time to extend the boundaries of the said City in such directions and to include therein such suburban townships villages ports or sea landing places as from the increase of population or other circumstances he may deem fit and the extended territory so included and the proprietors and inhabitants thereof shall be equally subject to the provisions of this act and possess the like privileges and immunities as if the same had been expressly herein described as forming a part of the said municipality.

IV. That every male person of full age who shall at the date of the enrollment aftermentioned have been at least six months resident within the Province and be the proprietor or occupier of any land house warehouse counting-house or shop within the said city of the annual value of not less than twenty pounds actually residing within the said city or within seven miles thereof shall if duly enrolled according to the provisions hereinafter contained be qualified and entitled to vote as a citizen of the said corporation at the election of common councilmen after-mentioned: Provided always that after any rate shall have been imposed in virtue of the provisions hereinafter

hereinafter contained no such person shall be so enrolled in any year unless he shall have paid on or before the fifteenth day of July all rates if any payable by him except such as shall have become payable within one calendar month next before: Provided also that no person being an alien shall be so enrolled and that no person who within six months prior to such enrollment shall have received public charitable relief or who within two years prior to such enrollment shall have been convicted of felony or of a misdemeanor followed by imprisonment of three months with hard labour under a sentence of any supreme or superior court within Her Majesty's dominions shall be so enrolled.

V. That for ascertaining the number of the qualified constituency and revising the list of voters as well as for conducting and declaring the election of common council-men a returning officer and two or more assessors shall be appointed in manner after mentioned that is to say the Bench of Magistrates for the Province assembling at Adelaide shall and they are hereby required within fifteen days after the passing of this act to nominate and appoint a fit and proper person to execute the duties of returning officer and two or more other fit and proper persons to execute the duties of assessors at and preparatory to the first election under this act and the Mayor for the time being whom failing by indisposition or otherwise such common councilman as may by the said common council be nominated for the time shall be returning officer at and preparatory to all subsequent elections: And the said bench of Magistrates shall annually at the quarterly meeting in June nominate and appoint two or more fit and proper persons to be assessors to the said Mayor and one fit and proper person to act as auditor in manner aftermentioned and the said returning officer and assessors or a majority of their number shall have power to appoint polling places and also such clerks and other officers as may be necessary for the proper conducting the registrations and elections under this act and to require the attendance and assistance of the Town Clerk Collectors and other officers appointed in manner hereinafter provided to examine parties and witnesses upon oath or declaration to call for the production of books and other writings and documents and to administer the usual and requisite oaths and declarations of office to the Mayor Aldermen and Common Councilmen on their election: And the said returning officer and assessors shall also have power to make such adjournments and continuations of the days appointed for the business of registration and election as circumstances may from time to time require.

VI. That within not less than twenty-one days or more than thirty days from and after the passing of this act and annually on the first day of September thereafter the returning officer for the time being appointed as aforesaid shall cause advertisements to be inserted in the *South Australian Gazette* and in each of the public newspapers in Adelaide appointing a period of not less than one week or greater than fourteen days within which it shall be competent for all persons possessing the requisite qualification and desirous of voting at the election of common councilmen to claim to be enrolled as qualified electors in the manner after mentioned and also appointing a day at the distance of not less than three weeks thereafter for publicly revising the said roll and ascertaining the number of qualified electors.

VII. That before the expiration of such period every qualified claimant shall deliver a notice to the Returning Officer setting forth in terms as nearly as may be of the schedule A, hereto annexed his residence and qualification and claiming to be enrolled as a qualified voter. Provided always that after the first registry under this act it shall not be necessary for

for any person already enrolled to claim anew to be enrolled at any subsequent registry but the qualification of such person shall continue on the roll of voters unless his name shall have been objected to and expunged from the roll as aftermentioned.

VIII. That immediately on the expiration of the period appointed for receiving claims the Returning Officer shall prepare a complete list specifying the names residences and qualifications of all persons so enrolled or claiming to be enrolled which list he shall authenticate and shall cause to be printed and published for at least one fortnight prior to the day of public revision: And every person whose name shall have been inserted in the said list may previous to such day of public revision object to any other person as not being entitled to be enrolled or to continue on the roll as a qualified voter by giving at least a weeks previous notice thereof in writing to the said Returning Officer in form as nearly as may be of the schedule B hereto annexed who shall thereupon forthwith give due notice thereof to the objected party if resident in the said city and on the day appointed by advertisement the Returning Officer shall assisted by the said assessors publicly revise the lists and hear and dispose of all objections and in cases where the qualification of the persons objected to shall not be proved to his satisfaction the Returning Officer shall expunge their names from the roll and shall prepare and certify and cause to be printed and published an authenticated copy of the roll of citizens and all persons whose names are registered thereon and no others shall be deemed to be the qualified voters at the said election.

IX. That on the registration being so completed the Returning Officer shall cause to be inserted once in each of the said newspapers and Gazette a public advertisement declaring the total number of voters admitted on the roll, with the proportion required to constitute each electoral section or quorum empowered to return a member of the common council in manner after provided which shall be as nearly as the numbers will admit one 19th part of the whole qualified voters and the returning officer shall by the said advertisement appoint polling places and a day for receiving the votes of all electors who may exercise their option of forming such electoral sections or quorums and also polling places and a day at a distance of not more than three days thereafter for completing the election in case the entire number of common councilmen shall not be returned by quorums in manner after mentioned.

X. That it shall be competent to the electors by voluntary classification to form themselves into as many electoral sections or quorums as there are members to be elected and each of these quorums may provided they can agree upon a unanimous vote return one member to the common council and on the said first appointed day between the hours of ten o'clock of the forenoon and four o'clock of the afternoon and at the polling place or places appointed as aforesaid when and as often as any number of qualified electors amounting to the proportion required to constitute such quorum as aforesaid shall assemble and appear personally at the poll and declare their unanimous vote in favor of any single candidate the Returning Officer or such assessor as he may appoint to be for him at such polling place shall enter in a poll book in the form as nearly as may be of the schedule C hereto annexed the names of the electors in every such quorum respectively specifying under proper columns the names of the candidates so voted for and at four o'clock of the afternoon the assessors acting at separate polling places shall certify and seal their respective poll books and proceed to deliver them to the said returning officer and the said returning officer shall forthwith scrutinize the poll books and declare duly returned

returned to the common council all members so elected by the unanimous votes of such quorums respectively: Provided always that no elector voting with any such quorum in the return of a member as aforesaid shall be competent to vote at the subsequent part of the election as hereinafter provided or for more than one candidate.

XI. That in case the common council shall not be filled up in whole or in part by electoral quorums as aforesaid the whole or such number as may not be so elected shall be returned by ordinary election in manner aftermentioned that is to say between the hours of ten of the forenoon and four of the afternoon on the day and at the polling place or places appointed as aforesaid for the completion of the election it shall be competent for every qualified elector who has not previously voted with any such sections or quorums in the return of a candidate to exercise his vote or votes in favor of the whole remaining members to the number required to complete the common council and the Returning Officer or such assessor as he may appoint to be for him at such polling place shall enter such votes in separate poll books in the form as nearly as may be of the schedule C hereto annexed specifying under proper columns the candidates in whose favor such votes are respectively exercised And at the hour appointed for closing the election the assessors if acting at separate polling places shall certify and seal their respective poll books and proceed to deliver them to the returning officer and the said returning officer shall forthwith scrutinize the poll books and declare duly returned as common councilmen those candidates to the number required to fill up the council who possess the majority of votes and in the case of several candidates possessing an equal number of votes he shall cast lots, and declare duly returned such candidate or candidates in whose favor the lot is determined.

XII. That no enquiry shall be permitted at any election as to the right of any person to vote except that the mayor or other presiding officer shall if required by any two qualified electors put to any voter at the time of his tendering his vote the questions whether he is the person named on the roll of qualified voters and whether he has already voted at the same election And no person required to answer the said questions shall be permitted or qualified to vote until he shall have answered the same and if any person shall wilfully make a false answer to the said questions he shall be deemed guilty of perjury and may be indicted and punished accordingly.

XIII. That no person who is not enrolled upon the list of citizens and who is not the proprietor or occupier of a house within the said city of the yearly rental of at least fifty pounds or possessed of personal property to the value of at least five hundred pounds shall be capable of being elected or of acting as a common councilman and no person who has at any time been convicted of a misdemeanor followed by imprisonment of three months with hard labour under a sentence of any supreme or superior court within Her Majesty's dominions shall be capable of being so elected.

XIV. That no person who is directly or indirectly by himself or any partner concerned or interested in or under any contract with by or on behalf of the said corporation or to which such corporation is a party other than contracts of lease or contracts with a company the shares of which are transferable by sale of which such person may be a shareholder nor any person who holds directly or indirectly by himself or any partner any place of profit office or employment under or in the appointment of the said corporation shall be capable of being elected or of acting as a common councilman while he shall hold such employment or during the subsistence of such contract or while any claim arising out of the same shall be unsettled.

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XV. That no elected candidate shall be declared duly returned by the returning officer as aforesaid until he shall have made and subscribed a declaration in the form as nearly as may be of the schedule D hereto annexed purporting that he is not qualified as a common councilman under the provisions of this act and if any elected candidate shall wilfully make a false declaration to the above purport he shall be deemed guilty of perjury and shall forfeit and pay a penalty of not less than £50 nor more than £100 recoverable in manner after provided for penalties under this act.

XVI. That the entire election being completed the returning officer shall summon the whole number to assemble on the following day and the council or a majority of their number being so assembled shall proceed to elect a chairman who shall have not only a deliberative but also a casting vote in cases of equality and the meeting shall thereupon proceed by the same mode of election as in the case of election of common councilmen (as nearly as may be) to elect from the common councilmen four aldermen and the said aldermen being so elected the meeting shall proceed to elect a mayor being one of the said aldermen by ordinary ballot and the said returning officer shall thereupon administer to each of the said parties the usual and requisite oaths prescribed by law.

XVII. That annually on the said oaths being administered in future years the mayor aldermen and common council of the preceding year shall with the exception aftermentioned go out of office and their whole powers and duties shall be transferred to their successors: Provided nevertheless that any of the persons so going out of office shall be eligible to be re-elected Provided also that one-half of the aldermen including the mayor as an alderman shall without re-election continue in office for two years which continuing aldermen shall previous to the second general election under this act be determined by ballot and at all subsequent elections shall be the aldermen junior in office.

XVIII. That it shall and may be lawful for the said common council to order payment to the mayor of such salary or allowance as they may deem reasonable and proper provided that the said salary or allowances shall not exceed the sum of £300 per annum without the approval of the Governor in Council.

XIX. That the mayor for the time being shall during the period of his mayoralty and for one year thereafter and the aldermen for the time being shall during their term of office have exercise and enjoy all the rights duties and privileges of justices of the peace of and for the said city and all acts and deeds done or to be done by them in that capacity after duly qualifying by taking the oaths prescribed by law shall be as good valid and effectual to all intents and purposes as if their names had been specially inserted in Her Majesty's commission of the peace: Provided nevertheless that no such mayor or alderman shall in virtue of the powers hereby conferred be capable or entitled to act as a justice of the peace at any Court of Gaol Delivery or General Quarter Sessions or at any meeting of the Justices of the Province.

XX. That every qualified person who shall be elected to any office under this act shall accept such office by taking a declaration in the form as nearly as may be of the schedule E to this act annexed within five days after notice of his election and every person accepting and filling any such office shall execute the duties thereby committed to him or in default thereof pay to the treasurer of the corporation such fine not exceeding fifty pounds as the common council may by bye law to be made in manner aftermentioned declare which fine shall be leviable in manner after provided for penalties against this act and any office not so accepted shall

shall thereupon be deemed to be vacant and shall be filled up by a new election in manner herein mentioned: Provided always that no person incapacitated by natural infirmity shall be liable to such fine as aforesaid.

XXI. That if any person holding the office of mayor alderman or common councilman shall become bankrupt or insolvent or shall be absent from the province for a continuous period of six months the common council shall immediately declare such person to be disqualified, and to have ceased to hold his said office and shall proceed to supply the vacancy by a new election: Provided that so soon as the cause of disqualification shall be removed such person shall become re-eligible.

XXII. That the common Council shall annually one month after the said election appoint a fit person not being a member thereof to be town clerk and another fit person to be treasurer and the said common council are hereby authorized and empowered at any time to appoint such other officers as may be necessary for carrying into execution the provisions of this act and from time to time to discontinue the appointment of such officers and to take proper security for the due execution of their respective offices and to pay or order to be paid to such officers reasonable salaries or allowances and in case of a vacancy by death resignation removal or otherwise to appoint other fit persons to supply such vacancies.

XXIII. That if any extraordinary vacancies shall be occasioned in the common council during the currency of any year the qualified electors shall on public notice by the returning officer of not less than five nor more than ten days elect persons properly qualified to supply such vacancies in the same manner as nearly as may be as is above provided in the case of the ordinary poll election: Provided always that no such new election shall be made unless the number of common councilmen remaining after such vacancies shall not exceed two-thirds of the whole council: And similar vacancies occurring in the office of mayor or aldermen shall be supplied by a new election to be conducted in the same manner as nearly as may be as is above provided in the case of ordinary poll elections.

XXIV. That all acts and questions whatsoever coming before the council may be done and decided by the majority of the members present and voting at any properly constituted meeting the whole number present at such meeting not being less than one-third part of the number of the whole council and at all such meetings the mayor if present shall preside and the mayor or in the absence of the mayor such alderman or in the absence of all the aldermen such common councilman as the members of the council then assembled shall choose to be the chairman of the meeting shall have both a deliberative and a casting vote in all cases of equality of votes and minutes of the proceedings of such meetings shall be duly recorded and authenticated by the mayor alderman or common councilman presiding: Provided always that previous to any extraordinary meeting of the council being held a notice of the time and place of such intended meeting shall be given three clear days at least before such meeting to the members specifying the business proposed to be transacted and no business shall be transacted at such meetings other than is specified in the notice: Provided always that such formalities shall not be requisite for meetings occurring by appointment at stated intervals for the transaction of regular business.

XXV. That it shall be lawful for the council to appoint out of their own body

body from time to time such and so many committees either of a general or special nature and consisting of such number of persons as they may think fit : Provided that the acts of every such committee shall be subject to the approval of the common council unless such committee shall have been authorised in cases of emergency to act without such approval and in every such case the act of such committee shall be specially reported to the next meeting of the common council.

XXVI. That the said common council shall have power subject to the provisions hereinafter mentioned to carry into execution all necessary public improvements within the said city as regards streets footpaths walks highways causeways and bridges and edifices of every description planting or felling of trees and shrubs digging of wells conduits and sewers and other like works to take order for the preservation and the advantageous and beneficial use thereof for the prevention of fires the suppression of infectious diseases the regulation of weights and measures the establishment and regulation of markets the regulation of the quality of bread butchers' meat and other provisions and the seizure and forfeiture of unwholesome provisions exposed for sale the suppression and restraint of gambling of disorderly houses playhouses and houses of ill-fame and repute the regulation of carters porters any drivers and the removal and abatement of all kinds of public nuisances for the proper paving lighting cleansing draining supplying with water regulating and improving the said city and for the health comfort and well-being of the inhabitants.

XXVII. That for raising the necessary funds to carry the purposes of this act into execution it shall be lawful for the said council and they are hereby authorised and empowered subject to the provisions hereinafter mentioned from time to time when and so often as they shall think it necessary but not exceeding once every quarter of a year to make and levy in manner aftermentioned a just and equitable rate or assessment in the nature of a borough rate upon all proprietors and occupiers of houses shops warehouses counting houses lands tenements and hereditaments within the said city : Provided always and be it enacted that no such rate shall be levied on any public buildings lands or other property belonging to or possessed by or for the use of Her Majesty her heirs and successors or the Colonization Commissioners of this Province which are hereby declared to be exempt from and in nowise subject to the imposition of any rates under this act: Provided also that houses in the course of erection or which for the entire quarter in respect of which any rate may be imposed in manner after mentioned shall remain unoccupied by any proprietor or by any tenant representative of such proprietor shall be exempt from the rates applicable to every such quarter during which such houses may remain so unoccupied.

XXVIII. That for this purpose the said council shall from time to time at meetings specially called estimate as correctly as may be the total amount of money required in order to carry into effect the provisions of this act to be raised in the manner herein directed and not to exceed at any one time nine pence per pound upon the fair annual value of all rateable property within the said city to be computed according to a valuation made in manner aftermentioned: Provided always and be it enacted that in order to prevent injustice by the partial operation of this act as affecting the inhabitants of remotely situated districts or parts of the said city it shall not be necessary in all cases to levy a uniform rate throughout the limits of the said city but the said common council shall have power in the levying of rates in particular districts or parts of the said city to have regard to the situation of the same with respect to the extent and manner in which they may be likely from

from time to time to derive benefit from the provisions of this act for lighting draining or otherwise and so to apportion modify or alter from time to time the amount of the rate leviable from such districts or parts of the said city as a due regard to the rights of the parties interested therein may to the said common council appear to require.

XXIX. That the said Common Council shall cause public notice to be given of the amount of money so proposed to be raised for the purposes of this act the causes rendering the rate necessary and the objects to which the same is intended to be applied at least once in the *South Australian Gazette* and shall after the expiration of seven days authorise certain fit and proper persons to be by them appointed as Collectors of rates to ascertain the fair annual value of the said rateable property and to levy the amount required.

XXX. That the said Collectors of rates shall on valuing and assessing the said rateable property deliver to the rate payers if resident within the said city or to their known agents or representatives if absent therefrom written notices specifying the valuation rate of assessment and amount leviable from each in respect of the property rated and demanding payment within a reasonable time and in case of non-payment thereof the Mayor or any two Justices of the peace for the Province or for the said City shall and may issue a warrant to any constable or other person named therein to levy the same by distress and sale of the goods and chattels of the persons so rated and assessed and failing to pay and in default of sufficient distress by imprisonment in the same manner as after provided in the case of penalties under this act: Provided always that no sale of such goods and chattels shall take place until after the expiration of three days after the seizure thereof and that no such imprisonment shall exceed the term of one month: Provided also that all parties aggrieved by the proceedings of the said Collectors or Justices shall have right to appeal to the common council who shall have power to hear and determine finally on the matter.

XXXI. That such rates shall be wholly payable in the first place by and recoverable from the occupant (if there be such) of the said property rated but such occupant by whom such rates shall be paid shall be entitled to deduct one half of such rates from the rent payable to the proprietor or his agent or other person by whom such rateable premises shall have been let who shall in the second place be liable wholly for such rates and from whom the same may be wholly levied in case of the removal or in default of any actual possessor of the said premises and such rates shall be instantly due and payable at and from the time stated in the Collector's notice of demand.

XXXII. That the City Treasurer shall at least once in every quarter of a year cause to be published in the first *Gazette* after the first days of January April July and October respectively a list of the persons who shall be in arrear of rates and of the amounts respectively due and from and after the date of such publication such rates with ordinary bank interest thereon and the expense of proceedings taken to recover the same shall constitute a lien and have priority and be preferable after crown debts to every subsequent security or claim of any description against the estate real and personal of the debtors respectively.

XXIII. That in case any proprietor of any lands tenements and hereditaments (subject to be rated under this act) who shall not be possessed of any distrainable goods whether resident within the province or not shall permit the rates due in respect of such property to remain in arrear unpaid for a period of three years it shall be lawful for the said Collector or such officer as
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may be authorized by the said Corporation in that behalf to make application by petition to the Supreme Court of the province and the said court shall after such notice by publication or otherwise as may be deemed necessary and proper summarily adjudge and order such lands tenements and hereditaments or such part thereof as may be sufficient to pay the whole arrears of rates due at or prior to the said application with ordinary bank interest thereon the costs of such application and expenses of sale to be sold by public auction and the proceeds to be paid into court and the said court is also hereby authorized and empowered to order payment to the said corporation or such officer as aforesaid of the said amount of rates interest costs and expenses incurred in preference to any mortgage or other right of security over the said premises and to issue and grant to the purchasers a deed or deeds of conveyance in terms of law free of any mortgage or other burthen or incumbrance whatsoever and such conveyance to the said premises sold shall be as good valid and effectual as if the same had been granted by the lawful proprietor thereof any law or practice to the contrary notwithstanding: And any balance or sum remaining after payment of the said rates costs and expences shall be paid by the Clerk of the said court into a public bank at the sight and approval of the Chief Justice subject to the future orders of court for behoof of the party or parties having interest therein.

XXXIV. That for the more effectually carrying the purposes of this act into execution the said Common Council are hereby authorized and empowered subject to the provisions hereinafter mentioned to make and pass such bye laws orders and regulations as may be deemed necessary which shall be equally valid and effectual as if expressly inserted herein and to impose fines and penalties for offences in contravention thereof (not exceeding the sum of five pounds in each case) such fines and penalties to be recovered by summary proceeding before the Resident Magistrate Mayor or any two of Her Majesty's Justices of the peace for the province or for the said city in manner after mentioned.

XXXV. Provided always and be it enacted that all such bye laws and orders shall on being made and passed by the said Common Council in virtue of the powers above conferred be immediately communicated for the approval or disallowance of his Excellency the Governor in Council and no bye laws orders or resolutions shall be carried into execution or be of any force or effect until the expiration of forty days after being so communicated and if at any time within the said period the Governor in Council shall disallow any bye law or part thereof such bye law or part disallowed shall not come into operation: Provided also that it shall be lawful for the Governor if he shall think fit at any time within the said period to enlarge the time within which such bye law if disallowed shall not come into force and no such bye law shall in that case come into force until after the expiration of such enlarged time: Provided also that the maximum amount of the ordinary expenditure of the said Corporation in exercise of the powers herein conferred on them is hereby estimated and fixed at the sum of £500 for each and every quarter of a year and it shall not be competent for the said Corporation to exceed the said amount or incur expenditure of an unusual description or contract loans for the erection of public buildings execution of extensive improvements or the like without the approval of the Governor in Council duly notified and when and so often as it may be necessary for the said Corporation to incur extraordinary expenditure it shall be incumbent on them to transmit for such approval a copy of the minutes or resolutions stating the specific object and purpose and the grounds of such extraordinary expenditure.

XXXVI. That no work improvement or undertaking the cost of which shall exceed £400 shall be executed unless the same shall have been agreed to and sanctioned by a minute or resolution passed at a meeting specially called for the consideration thereof in the manner hereinbefore directed and the execution of every such work improvement or undertaking where the estimated expence thereof shall exceed £400 shall be by contract and after advertisement for tenders in the *South Australian Gazette* and the contract shall be approved of by like minute or resolution.

XXXVII. That in order the more effectually to enable the said Corporation to make repair and maintain in good condition all public streets roads and thoroughfares within the said municipality they are hereby authorised and empowered subject to the approval of the Governor in Council in manner hereinbefore provided to erect turnpikes and impose and levy tolls on the principal thoroughfares leading to and from the city.

XXXVIII. That in order to provide for the expences of the first election and such proceedings as may be necessary to bring this act into operation it shall be lawful for his Excellency the Governor by warrant under his hand from time to time to authorise and direct payment of such sums as he may see fit and proper to be made by the Colonial Treasurer out of the public funds of the province which sums shall so soon as the Corporation has by rating or otherwise acquired sufficient funds be immediately repaid by the City Treasurer out of the first and readiest means under his control.

XXXIX. And whereas a large proportion of the expences incurred in consequence of crimes committed within the said province is properly applicable to the city Be it enacted that when and so soon as the said Corporation shall have raised sufficient funds to meet the expenses of ordinary regulation and of carrying into effect the purposes of this act above mentioned such funds shall contribute to the cost of prosecution to the maintenance of the gaols and to the general expenses attending the administration of justice in so far as the same arise from and are incurred in consequence of felonies and misdemeanors committed or supposed to have been committed within the limits of the said city and the City Treasurer shall accordingly answer and obey all orders of court and all lawful demands for payment of such expenses duly ascertained.

XL. That annually on the 15th day of August the City Treasurer shall lay before the Common Council a distinct account or statement of the whole property revenue and debts due to and due by the Corporation of every description or from whatever source as well as of the actual receipts and disbursements income and expenditure for the year preceding and such accounts and statements shall be examined by two Auditors of whom one shall be nominated by the bench of Magistrates and the other by the Common Council and on or before the 15th day of September an abstract of the said accounts shall together with the Auditors' report thereon be published in the *South Australian Gazette* for public information.

XLI. And whereas on the fifteenth day of October last an act was passed by his Excellency the Governor in Council intituled "An Act for raising and organising a Police Force for the Province of South Australia" in which certain provisions were made and powers granted for the maintenance of the public peace and good order and which act is now in beneficial operation Be it therefore enacted that nothing herein contained shall be construed to repeal alter or innovate to any extent whatever the provisions of the said act or to confer on the said Mayor Aldermen and Common Council
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any of the powers therein appropriated or which by usage or general understanding are commonly assigned to the Police department but the functionaries appointed under the authority of the said act or by any similar act to be hereafter passed shall continue to exercise the said powers and duties as exclusively and extensively as heretofore both within and beyond the limits of the said City anything expressed in this act to the contrary notwithstanding.

XLII. That if any person shall act as Mayor Alderman Common Council man or other officer under this act without having made the declarations herein before required in that behalf or without being duly qualified at the time of making such declarations or after he shall cease to be qualified according to the provisions of this act or after he shall have become disqualified to hold any such office he shall for every such offence forfeit the sum of £50 to be recovered with all costs of suit by any qualified elector who shall sue for the same within three calendar months after the commission of such offence. And every person so sued by reason of not being qualified in respect of estate shall prove that he was at the time of so acting qualified as aforesaid or otherwise shall pay the said penalty without any further evidence being given on the part of the plaintiff than that such person has acted in the execution of such office: Provided always that it shall be lawful for any defendant by Judge's order to be obtained within fourteen days after he shall have been sued with process in any such action to require the plaintiff to give security for costs and in such case all further proceedings in the cause shall be stayed until the plaintiff shall give security to the satisfaction of the proper officer of court for costs in case a verdict shall pass for the defendant or the plaintiff become non-suit or discontinue such action or if upon demurrer or otherwise judgment shall be given against the plaintiff and the defendant shall in either of such cases recover his full costs as between attorney and client: Provided also that no such action shall be brought unless the plaintiff shall within fourteen days after the commission of the offence have served a notice in writing personally upon the party committing such offence of his intention to bring such action and in case the plaintiff shall obtain a verdict the money recovered shall after payment of costs and expenses be paid to the City treasurer and applied in aid of the Corporation fund: Provided always that all acts and proceedings of any person in possession of the office of and acting as Mayor Alderman Common Councilman or other officer shall notwithstanding such disqualification or want of qualification be as valid and effectual as if such person had been duly qualified.

XLIII. That if any person who shall have or claim to have any right to vote in any election under this act shall after the passing of this act ask or take any money or any reward by way of gift loan or other device or agree or contract for any money gift office employment or other reward whatsoever to give or to forbear to give his vote in any such election or if any person by himself or any person employed by him shall by any gift or reward or by any promise agreement or security for any gift or reward corrupt or procure any person to give or forbear to give his vote in any such election such person so offending in any of the cases aforesaid shall for every such offence forfeit the sum of £50 sterling to be recovered with full costs of suit by any qualified elector who shall sue for the same by action of debt bill plaint or information in the Supreme Court to be paid and applied as aforesaid. And any person so offending in any of the cases aforesaid being lawfully convicted thereof shall for ever be disabled to vote in any election under this act and to hold exercise or enjoy any office or franchise to which he then shall or at any time afterwards may be entitled as a Citizen of the said Corporation as if such person were actually dead.

That

XLIV. That immediately on any conviction or judgment being obtained declaring or having the effect of declaring any person who shall have been elected to any such office under this act to be not duly qualified or to have ceased to be qualified or to be or have become disqualified to hold any such office such office shall from and after the date of such conviction or judgment be *ipso facto* determined and void and a new election shall be proceeded with to fill up the vacancy in manner provided by this act.

XLV. That all fines penalties and forfeitures imposed by this act or by any bye law made in pursuance thereof for the recovery of which provision is not otherwise made by this act shall and may be recovered at the suit of any qualified elector on the roll of citizens by action bill plaint or information in the Supreme Court if the same shall exceed in amount the sum of £50 and if not exceeding the said amount in a summary manner before any Resident Magistrate Justice of the Peace for the Province or the said City as nearly as may be in form and manner provided by Act of Council for summary proceedings before Justices and all such fines and penalties shall be adjudged to be paid to the City Treasurer for the time being to the credit and on account of the Corporation fund: Provided always and be it further enacted that all such fines penalties and forfeitures may be remitted in whole or in part by the Governor.

XLVI. That no person although liable to the rate contributing to the corporation fund shall be deemed an incompetent witness in proof of any offence against this act by reason of any penalty or forfeiture for such offence being applicable to the use of the corporation fund and no Justice of the peace shall be disabled from acting in the execution of this act by reason of his being liable to the rate contributing to the corporation fund.

XLVII. That no such summary conviction order warrant or other matter made or purporting to be made by virtue of this act shall be quashed for want of form or be removed by *certiorari* or otherwise into the Supreme Court and no warrant or commitment shall be held void by reason of any defect therein provided that it be therein alleged that it is founded on a conviction and that there be a good and valid conviction to sustain the same and where any distress shall be made for levying any money by virtue of this act the distress itself shall not be deemed unlawful nor the party making the same deemed a trespasser on account of any defect or want of form in the summons conviction warrant of distress or other proceedings relating thereto nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him but the person aggrieved by such irregularity may recover full satisfaction for the special damage if any in an action upon the case.

XLVIII. And for the protection of persons acting in the execution of this act be it enacted that all actions and prosecutions against any person for anything done in pursuance of this act shall be commenced within six calendar months after the fact committed and not otherwise and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the 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 to be had 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 and if a verdict shall pass for the defendant or the plaintiff become nonsuited or discontinued any such action after 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

(D).

DECLARATION OF QUALIFICATION BY COMMON COUNCILMEN.

I HEREBY declare that I possess the qualifications required, and am in no manner disqualified, to be elected a Common Councilman, in terms of the Act constituting the Corporation of the City of Adelaide; and this declaration I make, believing the same to be true, and subject to the pains and penalties in the said Act mentioned.

[Signed with the name, occupation, and residence of candidate.]

Made and subscribed before me }
this [date.] }

[Signed by the Returning Officer.]

(E).

DECLARATION OF ACCEPTANCE OF OFFICE.

I HEREBY declare that I accept the office of to which I have been elected, and that I will faithfully execute the duties thereof, in terms of the Act constituting the Corporation of the City of Adelaide.

Made and subscribed the [date] }
before me, }

[Signed by the Presiding Officer.]