



ANNO VICESIMO QUINTO ET VICESIMO SEXTO

VICTORIÆ REGINÆ.

A.D. 1862.

No. 25.

An Act to provide for the supply of Fresh Water to Port Augusta.

[Assented to, 21st October, 1862.]

WHEREAS it is expedient to provide for the supply of fresh water to Port Augusta—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows: Preamble.

1. It shall be lawful for the Treasurer, for the time being, of the said Province, from time to time to issue bonds, not exceeding in the whole the sum of Twenty Thousand Pounds, for such amounts as he may deem expedient, and such bonds shall be in the form following, that is to say— Treasurer to raise £20,000.

No.	£	No.	Form of bond.
			South Australian Government Revenue Securities. (Waterworks)
			I, the Treasurer of the Province of South Australia, in consideration of the sum of Pounds, paid to me for the purposes of the Port Augusta Waterworks, 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

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 and principal*, payable at the Treasury, in Adelaide, South Australia, or [in London or in any other agreed place, to be declared at the time of issue] at such place as may be appointed, by notice to be given in the *South Australian Government Gazette* [and in the *London Gazette*].

And every holder of any such bond, for the time being, shall be entitled to all rights and remedies, under and in respect of the same, in the like manner as though he had been named therein as the obligee thereof.

Bonds to bear interest at six per cent.

2. 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 at such time as may be specified or provided therein: Provided that the principal shall not be payable or paid before the expiration of twenty years, and the time appointed for payment thereof shall not extend beyond forty-five years.

When payable.

Moneys raised by bonds how applied.

3. All sums of money raised and received by the Treasurer upon the security of the said bonds, shall be carried by the said Treasurer to the credit of the Commissioner of Public Works, for the purposes of this Act, and shall be by him paid to the said Commissioner, in such amount and manner as the Governor, by any warrant under his hand may, from time to time, authorize and direct.

Sum to be set apart annually for payment of principal and interest.

4. It shall be lawful for the said 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 amounts so raised, and all interest thereon, shall have been duly paid, to set apart such sum as shall suffice to pay the amount of bonds redeemable during such year, together with interest upon all bonds which shall then bear interest; and shall apply such sum in payment of such bonds and interest as aforesaid, in manner specified in such bonds.

Plans to be prepared.

5. The Commissioner of Public Works shall forthwith cause to be prepared plans and sections of the necessary works for providing a supply of fresh water, and such plans shall show all lands which shall be deemed necessary to be entered upon, used, or taken for the purpose of such works, to be deposited in the office of the Surveyor-General, at Adelaide.

6. The

6. Copies of the said plans and sections shall be laid before both Houses of Parliament as soon as completed; or, if Parliament be not then sitting, within fourteen days after the then next sitting thereof for the dispatch of business.

Plans to be laid before both Houses of Parliament.

7. The Lands Clauses Consolidation Act shall be incorporated with and form part of this Act.

Incorporation of Act No. 6 of 1847.

8. It shall be lawful for the Commissioner of Public Works, as soon as the said plans and sections shall be deposited in the office of the said Surveyor-General, to make and maintain the said waterworks in the line and upon the lands delineated in the said plans, and to enter upon, use, and take such of the lands delineated and referred to in such plans, as shall be or be deemed necessary for such purpose.

Power to make waterworks according to deposited plans.

9. The said Commissioner may sell and dispose of any land purchased under this Act, or any property whatever vested in him under this Act, which it may appear to him may be properly sold or disposed of, and may transfer or convey the land or other property sold and disposed of unto the purchaser, or as he shall direct; and his receipt shall be a sufficient discharge to the purchaser for the purchase money in such receipt expressed to be received; and the money accruing from the sale of such property shall be applied for the purposes of this Act.

Commissioner may sell land purchased under this Act.

10. Subject to the provisions hereinafter contained, the said Commissioner may execute any of the following works for constructing the waterworks, that is to say:

Commissioner may execute the work herein named.

He may enter upon any lands required for the purposes of this Act, and take levels of the same, and set out such parts thereof as he 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, stone, minerals, trees, or other things dug or gotten out of the same:

He may, from time to time, sink such wells or shafts, and make, maintain, alter, or discontinue such reservoir, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings, upon the lands authorized to be taken by him, as he shall think proper for providing the supply of water as aforesaid.

He may from time to time divert and impound the water from the streams or springs mentioned for that purpose in the plans of the said waterworks, and books of reference thereto, deposited in the office of the Surveyor-General, 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 waterworks.

11. In

Commissioner to make compensation for damages.

11. In the exercise of the said powers, the said Commissioner 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 the land adjoining or near the waterworks, in place of any such as shall be taken away or interrupted by him, and shall make reasonable compensation to all parties interested for any damage actually sustained by them through the exercise of such powers; and the amount of such compensation shall, if no agreement shall have been come to between the said Commissioner and the parties interested, be settled in the manner provided for the settlement of disputed claims for compensation in the said Lands Clauses Consolidation Act.

Penalty for obstructing construction of works.

12. Every person who shall wilfully obstruct any person acting under the authority of the said Commissioner, 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.

13. After the streams or supplies of water hereby authorized to be taken by the said Commissioner shall have been so taken, every person who shall illegally divert or take the waters supplying or flowing into the streams 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 said Commissioner, so as to restore the said waters to the state in which they were before such act, shall forfeit to the Commissioner 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 said Commissioner for any damage which may be sustained by reason of the supply of water being diminished; and the payment of the sum so forfeited shall not bar or affect the right of the said Commissioner to sue such person for the damage so committed.

Reservation of existing rights.

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

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

15. The said Commissioner shall erect all works which may be necessary for making good the interruption caused by the exercise of the said powers, to the possession or enjoyment of any lands adjoining or near the waterworks, or otherwise for the accommodation

dation 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, or respecting the maintenance thereof, the same shall be determined by two Justices of the Peace.

16. If the said Commissioner 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; and the reasonable expenses thereof shall, on demand, be repaid by the said Commissioner 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 of the Peace.

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

17. The said Commissioner, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several roads, streets, and bridges within the necessary limits, for the purpose of constructing the said works, 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 said Commissioner shall from time to time deem necessary for carrying out the works, doing as little damage, as can be in the execution of the powers hereby granted, and making compensation as hereinbefore provided for any damage which may be done in execution of such powers.

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

18. Before the said Commissioner opens or breaks up any street or bridge, he shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing, of his 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.

Notice to be served on persons having control, &c., before breaking up street or opening drains.

19. No such street or bridge shall, except in the case of such emergency as 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 the Surveyor-General, or other competent officer, to be appointed by the Governor; and such Surveyor-General or other officer may, on the application of the persons having the control or management of any such street or bridge, or their officer, require the Commissioner to make such temporary or other works as they may think necessary for guarding against any interruption of the

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

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

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, or 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 said Commissioner, 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 said Commissioner may perform the work specified in such notice without the superintendence of such persons or their officer.

Governor may advance moneys to be repaid.

20. It shall be lawful for the Governor, from time to time, by warrant under his hand, to authorize the Treasurer to advance and pay to the said Commissioner, for the purposes of this Act, any sums of money not exceeding in the whole the sum of Twenty Thousand Pounds; and any sums of money so advanced and paid shall be retained by the Treasurer out of any moneys authorized to be raised or applied by him under authority hereof.

Exemption from local rates.

21. The waterworks by this Act authorized to be constructed, shall be and are hereby declared to be, exempt from sewers, highway, municipal, police, improvement, and all other local rates and taxes.

Short title of Act.

22. In citing this Act, in other Acts and legal instruments, it shall be sufficient to describe it as "The Port Augusta Waterworks Act, 1862."

In Her Majesty's name I assent to this Bill.

D. DALY, Governor.