



ANNO VICESIMO SECUNDO

VICTORIÆ REGINÆ.

A.D. 1858.

No. 17.

An Act to amend and consolidate the Acts providing for the Water Supply and Drainage of the City of Adelaide.

[Assented to, 24th December, 1858.]

WHEREAS it is expedient to amend and consolidate Act No. 28 of 1855-6, and Act No. 11 of 21st Vict., providing for the Water Supply and Drainage of the City of Adelaide—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.

*Left to the operation
of the
14th July 1859.*

1. This Act may be cited for all purposes as “The Adelaide Waterworks Act, 1858.” Short title of Act.

2. An Act, No. 28 of 1855-6, intituled “An Act to provide for the Water Supply and Drainage of the City of Adelaide,” is hereby repealed, excepting in so far as relates to the raising of money for the purposes of such Act by the issue of bonds. Repeal of Act No. 28 of 1855-6, except as to raising money by bonds.

3. Sections ninety-three, ninety-four, and ninety-five of Ordinance No. 11 of 1849, “To Constitute a Municipal Corporation for the City of Adelaide,” are hereby repealed. Repeal of sections 93, 94, 95 of Ordinance No. 11 of 1849.

4. The expression “the Undertaking” shall mean the water-works and drainage works, and the works connected therewith, hereby authorized Interpretation clause.

authorized to be constructed; the expression "the Commissioner" shall mean the Commissioner of Public Works for the time being, until the powers and duties hereby conferred and imposed shall be transferred to the Municipal Authorities, in manner hereinafter provided; and from and after such transfer the expression "Commissioner" 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 "Justices" shall mean Justices of the Peace of the Province of South Australia; the expression "the waterworks" shall mean the waterworks 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 "owners" shall include the agent or other person authorized to act or usually acting in the owner's behalf; 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 Commissioner for a supply of water.

Commissioner.

Commissioner to
appoint officers.

5. The Commissioner shall, from time to time, appoint and employ such manager, secretary, solicitor, engineers, clerks, messengers, and other officers, at such reasonable salary, pay, or reward, as to him may seem meet; and shall also, from time to time, at his discretion dismiss and discharge such officers, or any of them, and appoint others in their place.

Commissioner may
purchase land, &c.

6. The Commissioner may, for the purposes of this Act, and under the name style or title of "The Commissioner of the Adelaide Waterworks," purchase, take, or acquire, any lands and other hereditaments, goods, chattels, and things, and contract and agree for the same, and become a party to any instrument for giving effect to such purchase, taking, or acquisition, or for the performance or construction of any works, or delivery or removal of any materials, and may take security by way of bonds or obligations, or otherwise, by such name as aforesaid; and by that name may implead and be impleaded, defend and be defended, answer and be answered.

Commissioner may
make roads.

7. The Commissioner may make such roads over any of the lands authorized to be taken as may be considered necessary for carrying
into

into effect the said undertaking, and for communicating with and maintaining the works which may be constructed; and may repair, amend, and fence in such roads, and use the same exclusively for the purposes of the said undertaking, or permit the public or any person or persons to make use of the same, upon such terms and conditions as he shall from time to time think proper.

Commissioner.

8. All lands, houses, property, chattels, and effects, now vested in the Commissioners under the said Act, No. 28 of 1855-6, or any former Commissioners, or any of them, shall, from and after the commencement of this Act, be absolutely vested in the Commissioner; and all persons who then owe any moneys to the said former Commissioners, or to any person on their behalf, shall pay the same to the Commissioner; and all moneys due and owing by the said former Commissioners shall be paid by or be recoverable from the Commissioner; and all contracts, agreements, bonds, covenants, and securities made or entered into, or in favour of, or by the said former Commissioners, may be proceeded on and enforced in favor of, by, or against the Commissioner, as if the same had been entered into with the Commissioner.

Lands to vest in Commissioner.

9. For the purpose of enabling the Commissioner to obtain any land, or any right or easement, in or over any land which he may require for the purposes of this Act, "The Lands Clauses Consolidation Act" shall, subject to the provisions herein contained, be incorporated with this Act, and the provisions of the said Act so incorporated with this Act shall be applicable in the case of the purchase of a right or easement in or over any land; and for the purposes of this Act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean "the Commissioner."

"The Lands Clauses Consolidation Act" incorporated with this Act.

10. The Commissioner, before taking land or any right or easement in or over land otherwise than by agreement with the parties interested therein, or enabled to sell and convey the same, shall deposit in the office of the Surveyor-General a plan, showing the quantity of land or the particulars of the right or easement which he may require for the purposes of this Act.

Commissioner to serve notice, &c., before taking lands.

11. The 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.

12. The

*Construction of
water-works.*

12. The water supply shall be on the principle of constant supply at high service.

Principle of the water-works.

Commissioner may execute the work herein named.

13. Subject to the provisions hereinafter contained, the Commissioner may execute any of the following works for constructing the water-works, that is to say :

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, mines, 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, 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 him as he shall think proper for supplying the inhabitants of the City of Adelaide with water :

He may, from time to time, divert and impound the water from the streams mentioned for that purpose in the plans of the said water-works, 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 water-works.

Commissioner to make compensation for damages.

14. In the exercise of the said powers, the 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 water-works, 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 Commissioner and the parties interested as aforesaid, 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.

15. Every person who shall wilfully obstruct any person acting under the authority of the 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.

16. After

16. After the stream or supplies of water hereby authorized to be taken by the Commissioner 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 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 Commissioner 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 Commissioner to sue such person for the damage so committed.

Construction of water-works.

Penalty for illegally diverting the water.

17. 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.

Reservation of existing rights.

18. The 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 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, or respecting the maintenance thereof, the same shall be determined by two Justices in the manner hereinbefore provided.

Accommodation works.

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

19. If the 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 or repairs; and the reasonable expenses thereof shall, on demand, be repaid by the 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.

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

20. The Commissioner, under such superintendence as is herein after specified, may open and break up the soil and pavement of the several roads, streets, and bridges within the necessary limits, for the purpose

Laying of pipes and drains.

Power to break up streets, &c., under su-

*Laying of pipes
and drains.*

perintendence, and to
open drains.

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 Commissioner 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 as hereinbefore provided for any damage which may be done in execution of such powers.

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

21. Before the 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.

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

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

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

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

23. When the Commissioner shall open or break up the road or pavement of any street or bridge, he 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

night during which such road or pavement shall continue open or broken up.

Laying of pipes and drains.

24. If the Commissioner shall open or break up any street or bridge, without giving such notice as aforesaid, or if the Commissioner 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 he shall neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, he shall make compensation as hereinbefore provided for in clause 15.

Penalty for delay in reinstating, streets, &c.

25. 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 to be executed the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the Commissioner, 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.

26. The Commissioner shall provide and keep, in the pipes to be laid down by him, a supply of pure and wholesome water, sufficient for the domestic use of the inhabitants of the said 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, unless prevented by drought or other unavoidable accident, or during necessary repairs.

Supply of water.

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

27. In all the pipes to which any fire-plug shall be fixed, the Commissioner shall provide and keep constantly laid on, unless prevented as aforesaid, 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 said 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 Commissioner 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.

28. The Commissioner, at the request of the Municipal or other proper Authorities or parties concerned, shall upon the laying of the main or other pipes belonging thereto, fix proper fire-plugs 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 said City.

Fire-plugs.

Commissioner to affix public fire-plugs in the mains.

29. The Commissioner 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, shall deposit a key thereof at each place, within the limits of the said City, where any fire-engine is kept, and in such

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

Fire-plugs.

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 Commissioner may put up on any house or building in such street.

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

30. The Commissioner shall, at the request and expense of the owner or occupier of any work or manufactory, situated in any street in which water shall have been laid on by the Commissioner, 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 Commissioner shall at all times keep charged with water all pipes to which fire-plugs shall be fixed, unless prevented by unusual drought, or other unavoidable cause or accident, or during the necessary works or 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 Commissioner 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, he neglect to keep his 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, he 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 Commissioner of the want of supply.

Pipes to be laid by the Commissioner.

Commissioner to lay down communication pipes on request of occupier or owner.

33. The Commissioner shall, upon the request of the owner or occupier of any dwelling-house or tenement, in any street, lane, alley, or other place in which pipes shall have been laid down by them, and upon payment or tender 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 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 Commissioner.

Penalty on Commissioner for refusal to lay communication pipes.

34. If, upon such request and consent, and upon tender of payment of such cost of laying down, as aforesaid, the Commissioner, for a reasonable time, neglect or refuse to lay down such communication-pipes or other works, he shall be liable to forfeit to the person so making such request the sum of Five Pounds, and a further sum

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.

Pipes to be laid by the Commissioner.

35. 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 Commissioner 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.

Protection of water.

Persons using water to keep works in repair.

Penalty for neglect.

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

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

37. The Commissioner 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.

Commissioner may repair pipes, &c.

38. The surveyor, or any other person acting under the authority of the Commissioner, may, between the hours of eight of the clock in the forenoon and six 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 Commissioner may stop off the water supplied by them from such house or other premises.

Power to surveyor employed by Commissioner to enter house to inspect, &c.

39. 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 Commissioner, and the pipes belonging to him be out of repair, shall forfeit to the Commissioner, for every such offence, a sum not exceeding Five Pounds.

Penalty for allowing persons to use water

40. Every person who, not having agreed to be supplied with water by the Commissioner, shall take any water from any reservoir, watercourse, pipe, or conduit, belonging to the Commissioner, or from any cistern or other like place containing water belonging to the Commissioner, other than such as may have been provided for the gratuitous use of the public, shall forfeit to the Commissioner, for every such offence, a sum not exceeding Ten Pounds.

Penalty for taking water without agreement.

Protection of water.

Penalty for destroying valves, &c.

41. Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the Commissioner, or shall flush or draw off the water from the reservoirs, or other works of the Commissioner, or shall do any other wilful act whereby such water shall be wasted, shall forfeit to the Commissioner, for every such offence, a sum not exceeding Five Pounds, besides the amount of damage to which the Commissioner may be put in respect thereof.

Fouling the water.

Penalties for fouling water.

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

Every person who shall bathe in any stream, reservoir, aqueduct, or other water-works belonging to the Commissioner, 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 Commissioner, or any waters supplying or flowing into the same, or any part thereof, or shall do any act whereby the supply of water to the citizens 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.

Drainage.

Commissioner to prosecute drainage of the City with unexpended balances of rates.

43. It shall be lawful for the Commissioner, out of the moneys which may accrue to him, under the provisions of this Act, after payment and satisfaction of all expenses of construction, management, and maintenance of the said works, and of all liabilities on account of interest, or other charges in respect thereof, and not before, to execute from time to time such works for the drainage of the City of Adelaide, as may be approved by the Governor in Council, on plans and estimates to be furnished him by the Commissioner.

Rates.

Commissioner may levy rates, and vary the same with the concurrence of the Government.

44. It shall be lawful for the Commissioner, and he is hereby authorized to make and levy rates, according to the Schedule of rates marked A to this Act annexed, on all lands within the said City included in the City assessment made by the Municipal Authorities, and with the concurrence of the Governor, by and with the advice
and

and consent of the Executive Council of the said Province, to vary such rates, the annual value of the said land to be deemed, for the purposes of this Act, the same as is stated in such City assessment for the time being: Provided that if there shall be no assessment for the time being for such of the said lands, as are liable to rates, on their assessed value, it shall be lawful for the said Commissioner to cause the same to be assessed according to the true annual value thereof, subject to appeal to the Local Court, holden before a Special Magistrate and two Justices of the Peace, within the said City.

Rates.

45. The said rates shall in all cases be payable by the occupier of the lands upon or in respect of which the same are imposed, except as hereinafter provided.

Rates payable by the occupier.

46. When lands or tenements are unoccupied, or when the annual value of the lands or tenements shall not exceed the sum of Twenty Pounds sterling, the owners of the same shall be liable for the payment of the water-rate instead of the occupier, and the powers and provisions hereinafter contained for the recovery of rates from occupiers, shall be construed to apply to the owners of such lands or tenements, or the person receiving the rent of any such lands or tenements from the occupier thereof on his own account, or the agent or receiver for any person interested therein, shall be deemed the owner of such lands or tenements: Provided, nevertheless, that the rate may be recovered in the first instance from the occupier, who shall, in that case, be entitled, in the absence of any agreement to the contrary, to deduct the amount thereof from any rent payable by him, or otherwise to recover the same as for money paid for the use of such owner.

Rates payable by owner when tenements, &c., unoccupied, or annual value is under twenty pounds.

47. It shall be lawful for the said Commissioner 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.

Commissioner may impose additional rates on factories, &c.

48. 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 water-rate 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 Commissioner by a separate pipe.

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

49. The Commissioner shall cause notice to be published in two consecutive numbers of the *South Australian Government Gazette*, and in one or more of the newspapers published in Adelaide, of his intention to lay down a main in any street or streets of the said City, in order that those persons who may desire to avail themselves

Notice of intention to lay down a main to be published in *Gazette*.

Rates.

themselves of the occasion to have service-pipes put on may do so; and he shall also cause notice to be published in like manner when the mains shall have been laid, or stand-cocks shall have been erected, as the case may be, and the water be ready for distribution.

Rates payable in advance in equal half-yearly payments.

50. The rates herein authorized to be imposed shall be paid in advance in equal half-yearly payments, the first payment to be made on the expiration of seven days from the date of the last notice referred to in the preceding clause, and whether the persons liable for the same shall have provided service-pipes or not; and in case of nonpayment thereof, by any person liable to pay the same for seven days after the same shall be payable, the Commissioner shall be, and he is hereby empowered to order warrants in the form of the Schedule marked B to this Act annexed, to be issued, from time to time, to some constable, or other person, named therein, to levy the same by distress and sale of the goods and chattels, wheresoever situate, of the person liable to pay such rate, or of other the goods and chattels to be found upon the premises in respect of which such rate shall be payable, and in the event of no sufficient goods and chattels of such occupier being found on the premises to satisfy such distress, then the owner of the premises, or his agent, if the owner be absent from the Colony, shall be liable, and the rate or charge may be recovered from him by action in any Court of competent jurisdiction: Provided, that if any tenant be called upon to pay and shall pay a greater amount of such rate or charge than is due for the period of his occupancy, it shall be lawful for him to recover the same, after demand from such owner, or agent, by any action, as for money paid to such owner's use, in any Court of competent jurisdiction.

Tenants under existing leases to repay the owner.

51. 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 of this Act, 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 a lease for less than five years to pay half the cost of service-pipes.

52. When any occupier under a lease for a less period unexpired than five years, without right of purchase or of renewal, shall have caused service-pipes to be laid on to the premises in his occupation, one half of the cost of such service-pipes shall be payable by the landlord; and such tenant shall be at liberty to deduct such proportion of such cost from any rent that may be then due, or thereafter to become due; or he may recover the same as money paid to the use of the said landlord.

53. 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 Two Hundred Thousand Pounds; including any sums heretofore advanced and paid under the authority of the said Act, No. 28 of 1855-6; and any sums of money so advanced and paid shall be retained by the Treasurer out of any moneys raised by him under authority of the last-mentioned Act.

Rates.

Governor may advance moneys to be repaid.

54. All moneys received by the Commissioner, 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 Commissioner to the Treasurer, who shall pay off such amount of capital and interest in respect of the moneys raised for the purposes of the said undertaking, as may from time to time fall due, and all balances, if any, remaining after such periodical payments of capital and interest shall, with the concurrence of the Governor, with such advice and consent as aforesaid, be returned to the Commissioner, to be expended by him in prosecuting the drainage of the said City.

Net proceeds of rates to be paid to Treasurer.

55. 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.

Financial provisions.

After payment of loan, undertaking to vest in City Authorities.

56. The Commissioner, or any person having an order for that purpose under his hand, 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 Commissioner, 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.

57. The Commissioner 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

Appointment and powers of assessors and collectors.

Financial Provisions.

to the same regulations and penalties, with reference to the assessing 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 Commissioner, or to any person authorized by him, 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.

58. It shall be lawful for any Collector, to be appointed by the Commissioner, to sue for, recover, and receive of and from the person 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 published in Gazette.

59. The Commissioner shall, in each year, cause an account in abstract to be prepared of the whole receipt and expenditure of all moneys advanced to him, 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; and a copy of such account shall, on or before the thirty-first day of December in each year following, be published in the *South Australian Government Gazette*.

Recovery of Damages and Penalties.

Provision for damages not otherwise provided for. 1850, No. 6.

60. 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.

61. 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 Treasurer, to be by him carried to the credit of the said Commissioner for the purposes of this Act.

Tender of amends and protection of Persons.

Tender of amends.

62. 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.

63. 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.*

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

General issue.

Tender of amends.

If judgment be
against plaintiff.

64. This Act shall take effect from the passing thereof.

Commencement of
Act.

SCHEDULES REFERRED TO.

A

SCALE OF RATES.

CLASS I.

Buildings rated according to the number of rooms (every apartment having a door and window, and an area of thirty superficial feet, to be accounted a room).

Houses occupied as private dwellings or offices, for business purposes (including the out-buildings, not being stables or stockyards, attached thereto respectively), containing—

Not exceeding 2 rooms,	to be rated at	30s.	per annum
“ “ 4	“	50s.	“ “
“ “ 6	“	70s.	“ “
“ “ 8	“	90s.	“ “
“ “ 10	“	110s.	“ “
Exceeding 10	“	130s.	“ “

Hotels, inns, lodging and eating-houses (including the out-buildings, not being stables or stockyards, attached thereto respectively), to be rated at double the amount of private dwelling-houses.

CLASS II.

Stables and Stockyards.

Livery and other stables, with stalls (including coach houses and sheds for vehicles attached thereto) to be rated, subject as below mentioned, at sixpence per stall per week, provided that where the stalls are numerous, and not in constant use, the Adelaide Water-works Commissioner may make any reasonable abatement.

Open shed and stockyards for horses or cattle, and stables in respect of which any difficulty shall arise as to the interpretation of what is a stall, or in ascertaining the number of stalls, to be rated at sixpence per head per week, on an average of the number of horses or cattle usually put to stand therein, to be ascertained by a declaration in writing by the person liable to the rate, who shall become bound in £100 for the truth of such declaration, or in default of such bond being given, then on the number of horses or cattle that the same will contain.

CLASS III.

Buildings and other property rated at a per centage on the annual value.

Stores, shops, banks, and other unenumerated buildings not included in the two first classes, and to which water is not laid on, and also all vacant houses and lands, to be rated at £2 10s. per annum, on every £100 of their annual value.

CLASS IV.

Buildings rated partly according to Class I. and partly according to Class III.

Stores, shops, banks, and other unenumerated buildings, not included in the two first classes, and to which water is laid on, to be rated at an annual sum made up as follows, that is to say, the amount of rate which the same would be liable to if they were private dwelling-houses, in addition to the sum of £2 10s. per annum, on every £100 of their annual value.

B

WARRANT OF DISTRESS.

City of Adelaide, } To the Superintendent of the Police of the District, and
to wit. } his assistants.

Whereas, _____ of Adelaide, on the _____ day of _____ last, became liable to pay to the Adelaide Waterworks Commissioner the sum of _____, being the amount due for water-rates, under the Adelaide Waterworks Act 1858, in respect of his occupation of a certain house or tenement (as the case may be), situated in _____ street, Adelaide, and such amount is still unpaid:

These are, therefore, to require and authorize you forthwith to levy the said sum of _____, together with the costs of these presents, and all other expenses, by distress and sale of the goods and chattels, wheresoever situate, of the said _____, or of other the goods and chattels found by you in or upon the said (house or tenement), according to law; and that you certify to me on the _____ day of _____ what you shall do by virtue of this warrant.

Given under my hand this _____ day of _____ 1858.

Commissioner.