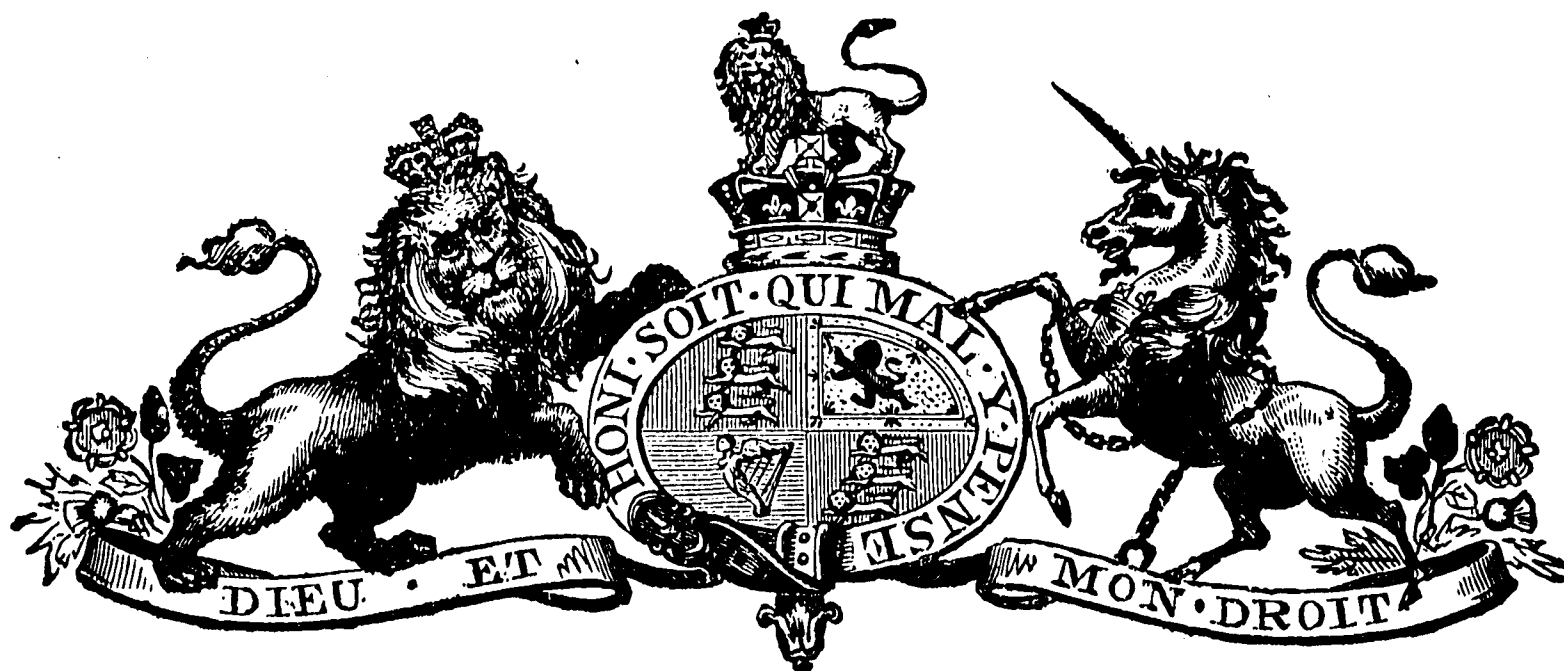


VICTORIA.



ANNO SEXAGESIMO

VICTORIÆ REGINÆ.

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No. 1447.

An Act to provide for the Reduction of Floods  
in the River Yarra Yarra within the Cities  
of Melbourne Richmond and Prahran and for  
other purposes.

[6th August, 1896.]

**W**HEREAS owing to floods the River Yarra Yarra has from time to time caused great damage to property: And whereas it is desirable that power be taken to widen deepen and improve the said river between Prince's-bridge and the Church-street bridge so as to lessen the liability to a recurrence of damage by floods of the said river: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Preamble.

1. This Act may be cited as the *Yarra Improvement Act 1896*.

Short title.

2. In this Act unless the context otherwise requires—

Interpretation.

“The Board” means the Board of Land and Works;

“The river” means the bed, soil, and banks of the River Yarra Yarra between the east side of Prince's-bridge and Church-street bridge.

3. Notwithstanding anything contained in the *Melbourne and Metropolitan Board of Works Act 1890* or any other Act, it shall be lawful for the Governor in Council by order published in the

Portion of River Yarra Yarra may be vested in Board of Land and Works.

[9d.]

Government

No. 1197 s. 60.

*Government Gazette* to vest in the Board the bed, soil, and banks of the River Yarra Yarra between Prince's-bridge in line with Swanston-street, Melbourne, and the bridge connecting Church-street, Richmond, with Chapel-street, Prahran, and thereupon the same shall without any conveyance assignment or transfer be and become and are hereby declared to be vested in the Board of Land and Works only for the purpose of carrying out the objects of this Act.

#### OBJECTS OF ACT.

Objects of Act.

4. The objects of this Act are to authorize the Board—

- (a) To widen the river ;
- (b) To deepen the bed of the river; and
- (c) To form suitable banks on each side of the river with a public road thereon at least sixty-six feet in width and otherwise improve the river.

Such objects are to be executed in such a manner as will in the opinion of the Board lessen the liability of a recurrence of damage by floods of the river.

#### PRELIMINARY.

Board to prepare plans specifications and estimate of cost and execute work.

5. As soon as practicable after the commencement of this Act the Board shall prepare plans and specifications of the work necessary to be done in order to carry out the objects of this Act, and also an estimate of the cost thereof when completed, including the cost of any land necessary to be acquired for the purposes of this Act, and upon the same being approved by the Governor in Council the Board shall carry out such work enter into such contracts and take all such steps for the proper execution thereof as the Board may think proper.

#### POWER OF GOVERNOR IN COUNCIL AS TO CERTAIN EXISTING RESERVES.

Power to revoke permanent reservation of.

6. (1) For the purpose only of enabling the objects of this Act to be carried out by the Board it shall be lawful for the Governor in Council by order to revoke to such extent only as may in his opinion be actually necessary the undermentioned Orders in Council, namely—

G.G. '73, pp. 1463-1775.

- (a) an Order in Council dated the twenty-ninth day of September One thousand eight hundred and seventy-three reserving from sale permanently certain land in the county of Bourke on the left bank of the Yarra Yarra River as a site for Public Park and Gardens ;

(b) an

(b) an Order in Council dated the ninth day of June One thousand eight hundred and seventy-three reserving from sale permanently certain land in the county of Bourke as a site for Public Park, now known as Yarra Park; and

G.G. '73, p. 1059.

(c) the Orders in Council dated the twenty-seventh day of May One thousand eight hundred and seventy-two and the twenty-sixth day of May One thousand eight hundred and seventy-three respectively reserving from sale permanently certain land in the county of Bourke as a site for Recreative purposes for use of Friendly Societies.

G.G. '72, p. 780;  
'73, pp. 628 and 1059.

(2) On the publication in the *Government Gazette* of any Order in Council made pursuant to this section so much land as is thereby declared to be exempted from the operation of any Order in Council therein specified shall be exempted accordingly and may be granted by the Governor in Council to the Board for the purposes of this Act.

Effect of Order in Council.

(3) So far as relates to the land comprised in the Crown grant issued on the thirteenth day of June One thousand eight hundred and seventy-three to the Board of Land and Works and the Mayor Aldermen Councillors and Citizens of the City of Melbourne and their successors and registered in the register-book of the Office of Titles volume six hundred folio one hundred and nineteen thousand nine hundred and two such grant to such extent as may be specified in any Order in Council revoking the permanent reservation of any portion of such land shall be and the same is hereby declared to be made void revoked and annulled, and the Registrar of Titles is hereby authorized and directed to cancel the enrolment of record of such grant in the Office of Titles so far as it relates to the said revocation, and also to cancel to the like extent the duplicate Crown grant which the said Board and the said Council are hereby required to produce to him for such purpose.

Cancellation of part of grant of Yarra Park.

Register-book  
volume 600  
folio 119902.  
No. 1239 s. 3.

(4) So far as relates to the land comprised in the Crown grant issued on the twenty-sixth day of May One thousand eight hundred and seventy-three to John Branscomb Crews, Joseph McLean, Edward John Dixon, Francis Le Plastrier, Peter John Petherick, James Lindsay, Abraham Israel Cohen, William Robertson, John Boyd, Richard Bloxom Smith, Daniel Grogan, Allan Kingsley Tronson, Daniel Scott, Robert Beer, Robert Miller, and David Bennett, and to their heirs hereinafter called the Trustees and registered in the register-book of the Office of Titles volume six hundred and twenty-six folio one hundred and twenty-five thousand and twenty such grant to such extent as may be specified in any Order in Council revoking the permanent reservation of any portion such land shall be and the same is hereby declared to be made void revoked and annulled, and the Registrar of Titles is hereby authorized and directed to cancel the enrolment of record of such grant in the Office of Titles so far as it relates to the said revocation, and also to cancel to the like extent the duplicate Crown grant or any certificate of title issued thereon which the said trustees and any other

Cancellation of part of grant of Friendly Societies' Gardens.

Register-book  
volume 626  
folio 125020.

trustees

trustees of the said land appointed by the Governor in Council who may be surviving are hereby required to produce to the said Registrar for such purpose.

(5) No compensation shall be payable or be paid to any corporation trustees or person in consequence of the exercise of any power by this section conferred on the Governor in Council.

#### EXPENDITURE.

Limit of  
expenditure.

7. (1) The expenditure for the carrying out of the objects of this Act shall not exceed Sixty-five thousand pounds.

Liability for  
expenditure.

(2) Of such amount Six thousand pounds shall be contributed by the City of Melbourne ; Four thousand pounds by the City of Richmond ; and Four thousand pounds by the City of Prahran ; and Six thousand pounds by the persons acting as trustees of the fund formed in or about the year One thousand eight hundred and ninety-one and commonly known as the Yarra Floods Relief Fund ; and the balance shall be paid out of funds to be provided by Parliament.

Indemnity of  
trustees of relief  
fund.

(3) After the payment by the said persons acting as trustees of the said fund of the said contribution of Six thousand pounds such persons shall not be under any liability to pay any claim made for any payment out of the said fund beyond the amount of such funds in their hands at the time of the making of such claim.

Contributions  
recoverable at law.

(4) The amount of the said several contributions shall be a debt due by the said several cities or persons acting as trustees to the Treasurer of Victoria, and may be recovered accordingly by the said Treasurer in any court of competent jurisdiction.

#### POWERS OF BOARD OF LAND AND WORKS.

Board may make  
contracts &c.

8. (1) The Board may in such manner and upon such terms and under such stipulations conditions and restrictions as it thinks fit enter into such contracts or employ such persons as may be necessary for carrying into execution any work authorized by this Act, or for any matters and things whatsoever necessary for enabling the Board to carry the purposes of this Act into full and complete effect.

(2) Every contract may, if the Board thinks fit, specify the person to whose satisfaction any works are to be completed or materials are to be furnished, and the mode of determining any dispute which may arise concerning or in consequence of such contract.

Approval of  
Governor in Council  
where necessary.

(3) The Board shall not without the sanction of the Governor in Council enter into any contract the consideration whereof exceeds Five thousand pounds in amount or for the supply either directly or indirectly from places outside Victoria of any materials matter or thing.

9. (1) The



9. (1) The powers by this Act granted to the Board to make contracts may lawfully be exercised as follows (that is to say):—

Contracts by the Board how to be entered into.

Any contract which if made between private persons would be by law required to be in writing and under seal, the Board may make in writing in the corporate name of the Board under its common seal, and in the same manner may vary or discharge the same:

Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, the Board may make in writing in the corporate name of the Board signed by any two members of the Board, and in the same manner may vary or discharge the same.

(2) All contracts made according to the provisions herein contained and duly executed by the parties thereto respectively shall be effectual in law and shall be binding upon the Board and its successors and every other party thereto his heirs executors or administrators (as the case may be); and on any default in the execution of any such contract either by the Board or by any other party thereto such actions or suits may be brought thereon and damages and costs recovered either by or against the Board in its corporate name or the other party failing in the execution thereof as might be brought and recovered had the same contract been made between private persons only.

10. It shall be lawful for the Board at a meeting specially called for that purpose from time to time to compound and agree with any person who has entered into any contract in pursuance or under the authority of this Act or against whom any action or suit is brought for any penalty contained in any such contract or in any bond or other security for the performance thereof or for or on account of any breach or non-performance of any such contract bond or security for such sum of money or other consideration or recompense as the Board thinks proper.

Board may compound for breach of contracts.

11. For the purposes and subject to the provisions and restrictions of this Act, the Board may from time to time exercise any of the following powers, namely:—

Powers of Board of Land and Works.

(a) Upon giving twenty-four hours' notice to the owner or occupier thereof, it may enter upon any land within two hundred yards of either bank of the river, whether or not the same be Crown land or land of the Victorian Railways Commissioner or land alienated from the Crown or a public road or street, and may take levels of the same;

(b) It may enter upon take and hold any such land for the purposes of this Act provided that where the Board takes a portion of any public road or street it shall as soon as possible provide a suitable road or street in lieu thereof so that the public traffic shall not be stopped or hindered;

(c) It

- (c) It may make maintain alter or discontinue any works whatsoever upon any land taken as aforesaid, or upon any land bounded or intersected by the river for the purpose of preventing or lessening any damage which may be threatened or which may have actually occurred or be likely to occur by the overflow of the water of the river, or from the breaking of the banks thereof;
- (d) It may divert impound or take away any water from the river and may also alter the course of the river;
- (e) It may at all reasonable times by its servants or workmen and with or without carriages loaded or unloaded enter into and pass through and over any land whatever, doing thereby no unnecessary or avoidable damage to such land and making good any damage done thereby;
- (f) It may lay or deposit upon any such land any materials whatsoever to be used in the maintenance or construction of any such works, and may erect thereon any temporary shelter for any workmen or persons engaged in such maintenance or construction, causing thereby as little damage or inconvenience as may be and making good any damage done thereby;
- (g) It may take any earth stone boulders gravel sand or other material off from or out of any Crown land for the purpose of using the same in or about any work authorized by this Act; and
- (h) It may by agreement or compulsorily purchase any land required to be taken for the purposes of this Act, and make compensation to all persons interested in any such lands.

Incorporation of the  
*Lands Compensation*  
*Act 1890.*  
No. 1109.

**12.** The *Lands Compensation Act 1890* and all Acts for the time being in force amending the same are hereby incorporated with and shall be read and construed as part of this Act; and in the construction of the said Acts the words "special Act" shall mean this Act.

In assessing  
compensation  
accruing  
advantages to be  
assessed and  
deducted.  
See No. 1288 s. 93.

**13.** In estimating the purchase money or compensation to be paid to any person for or in respect of any land purchased pursuant to this Act regard shall be had by the magistrates arbitrators valuers or jury as the case may be to the enhancement in value of any adjoining lands belonging to such person by reason of the works authorized by this Act, and a reduction shall be made accordingly from the amount which but for that provision would have been paid or payable as purchase money.

Excess lands may  
be sold.  
See No. 1106 s. 8.

**14.** Any land purchased pursuant to this Act by the Board by agreement or compulsorily and not actually required for the purposes of this Act may be sold by the Governor in Council or otherwise disposed of in the name and on behalf of Her Majesty in the same manner and form but not otherwise as if such land had never been alienated from the Crown.

**15.** All

**15.** All lands buildings erections works and other things and also all tools utensils and materials and things whatever taken purchased obtained erected constructed made procured or provided by or by the order, or which are or shall be within or under the view cognizance or management of the Board, with the several conveniences and appurtenances thereunto respectively belonging, shall be the property of the Board.

Property &c.  
vested in Board.

**16.** (1) The Board may order the occupier, or in case there is no occupier then the owner, of any land on the bank of the river or on the bank of the River Yarra Yarra up stream from the river at any part thereof within a distance of five miles from the General Post Office, Melbourne, to remove any tree shrub or bush or any part thereof hanging in the water or impeding the free flow thereof, or to cut down remove or trim any part of a tree shrub or bush overhanging the same or likely to fall therein.

Board may order  
removal of trees  
&c. impeding flow  
of water.

(2) In the event of any such owner or occupier failing to comply with such order within fourteen days from the service thereof he shall be liable to a penalty not exceeding Five pounds for every day during which such order is not obeyed, and a further sum equal to the cost incurred by the Board in cutting down removing or trimming any such tree shrub or bush or any part thereof ; and the said cost shall until paid be a charge on the land and may be recovered by the Board from the occupier or owner of the said land for the time being in any court of competent jurisdiction.

Penalty for non-  
removal.

**17.** (1) The Board may remove from the river all weeds refuse and other growth and all driftwood logs trees branches and things which may be lodged therein or against the banks thereof and be calculated to impede the free flow of water therein and may dispose of the same respectively towards recouping the cost of such removal.

Board may remove  
weeds driftwood &c.

(2) For such purposes the Board shall by its servants with such carriages carts vehicles and horses as may be necessary have the free right of ingress egress and regress on any land on or near the banks of the river.

**18.** Notwithstanding anything in this Act contained any public road constructed by the Board pursuant to this Act shall to the extent included in any municipal district be deemed to belong to the municipality of such district, and after such construction shall be controlled and maintained by such municipality.

Maintenance of  
road.

#### ADVANCES TO CITIES.

**19.** In order to enable each of the said cities to pay the amount of the contribution for which such city is liable under this Act the Treasurer of Victoria may with the approval of the Governor in Council

Treasurer may lend  
city the amount of  
its contribution.

out

out of any moneys provided by Parliament advance by way of loan to such city, and such city may without prejudice to any other borrowing powers borrow any sum not exceeding the amount of such contribution.

**Repayment.**

**20.** For the purpose of repaying any such advance made to any such city and interest on so much of such advance as shall from time to time be unpaid at the rate of Four pounds per centum per annum, the council of such city shall appropriate and apply so much of its town fund or municipal fund as may be necessary.

**Mode in which  
municipality to  
repay advances.**

**21.** The amount advanced to any city shall be repaid by such city to the Treasurer by means of half-yearly repayments commencing at the end of six months after the date of the making of the advance. Such repayments shall be made on dates to be fixed by the Treasurer in forty half-yearly payments, all being of an equal amount except the last. Such city shall also pay to the Treasurer interest on so much of such advance as shall from time to time be unpaid calculated from the date of the making of the advance at the rate of Four pounds per centum per annum by equal half-yearly payments on dates to be fixed by the Treasurer.

**Application of  
half-yearly  
payments.**

**22.** Every such half-yearly payment shall be applied as follows :—

- (a) for interest at the rate of Four pounds per centum per annum ; and
- (b) the balance to form a sinking fund towards redemption of principal.

**Mode of payment  
and appropriation.  
Schedule.**

**23.** Such half-yearly payments respectively shall be paid allocated and appropriated according to the Schedule to this Act, and in proportion thereto for every fraction or multiple respectively of every One thousand pounds of such advance.

**Premature  
repayment of  
advances.**

**24.** At the option of any city which has received an advance and with the permission of the Governor in Council such advance may be repaid with interest at any shorter period than that provided in the said Schedule but not less than twelve months' notice of intention so to repay such advance shall be given to the Treasurer.

**In each half-year  
Treasurer to de-  
duct one-fortieth  
of advance before  
paying any money  
&c. to borrowing  
city.**

**25.** During each of the forty half-years following the making of the advance the Treasurer shall not pay to any city which shall have received an advance under this Act any moneys in his hands that may at any time during such half-year be or become payable by him to such city on account of fees fines penalties or equivalent of licence-fees or otherwise payable to such city until he shall have first deducted therefrom the proportionate part of the money so advanced to such city pursuant to this Act and the interest thereon and also any instalments of such moneys which may not have been paid as aforesaid.

**26.** All



26. All such half-yearly payments of principal or deductions made by the Treasurer in respect thereof shall be paid into a special fund to be called the Yarra Improvement Loans Redemption Fund, and shall be invested in Victorian Government Stock so as to bear interest at the rate of Three pounds and ten shillings per centum per annum which interest shall be added half-yearly to such fund ; and such fund shall be available only for the purpose of paying off any money borrowed for the purposes of this Act.

Loans Redemption Fund.

27. (1) In the event in any half-year of the half-yearly payment not being fully paid by any city to the Treasurer either by means of moneys so deducted by him or out of the town or municipal fund, and upon the default continuing for one month after notice in writing under the hand of the Treasurer to the city the balance of the advance then unpaid shall notwithstanding anything in this Act contained become due payable and recoverable immediately together with the interest thereon up to the date of payment, and it shall forthwith become the duty of the said Treasurer to make and sign a certificate to that effect and to forward such certificate to the Crown Solicitor. In such certificate the said Treasurer shall specify how much of the whole advance remains unpaid by such city.

On default by city as to any year the whole balance of advance to be recovered.

(2) Upon the receipt of such certificate the Crown Solicitor shall apply to any County Court to appoint and such County Court may thereupon appoint some person or persons not exceeding three to receive or collect so much money as shall be sufficient to make up so much of the whole of the amount of the advance made to such city as remains unpaid by such city to the said Treasurer as specified in such certificate together with interest on the principal thereof at the rate of Four pounds per centum per annum until fully paid.

Receiver to be appointed to collect the whole of the unpaid advance.

(3) Such person or persons shall act under the directions of and may from time to time be removed by the County Court.

Subject to court.

(4) The person or persons so appointed shall be entitled to receive all rates and moneys other than special rates payable to the council of the city, and shall be deemed for the purpose of collecting such payments to be the council of such city and may exercise all the powers thereof.

Powers.

(5) Every such person shall be entitled to such commission as remuneration for his services as the court may direct.

Receivers' commission.

(6) Such person or persons shall apply all moneys received by him or them in payment of all proper costs and expenses including his or their commission and in payment and discharge of the whole amount specified in the certificate aforesaid and the interest thereon, and the surplus (if any) shall be paid to such city.

Application of moneys recovered by receivers.

MISCELLANEOUS.

## MISCELLANEOUS.

Statement for  
Parliament.

28. In the month of August in each and every year or as soon after as practicable the Treasurer shall prepare a detailed statement of his accounts with any city which has obtained an advance under the provisions of this Act and lay the same before both Houses of Parliament together with a general report on the compliance by each city with its obligations under this Act.

Power to make  
regulations.

29. (1) The Governor in Council may make such regulations not being contrary to the provisions of this Act as are necessary for carrying into effect the provisions of this Act.

(2) All such regulations shall be published in the *Government Gazette*, and when so published shall have the force of law and shall be judicially noticed and shall be laid before both Houses of Parliament within fourteen days after the same shall have been made if Parliament be then sitting, and if not then within ten days after the next meeting of Parliament.

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SCHEDULE.

## SCHEDULE.

Section 23.

TABLE SHOWING HALF-YEARLY PAYMENTS TO BE MADE BY CITY FOR EVERY £1,000 OF ADVANCE RECEIVED FROM TREASURER, AND FOR FRACTIONS OR MULTIPLES THEREOF IN PROPORTION.

Half-Year.	Payments to be made by City at end of each Half-year.			Sinking Fund.	
	Total.	For Interest at 4 per cent.	To Sinking Fund.	Interest added during each Half-year at 3½ per cent. per annum.	Total accumulated at end of each Half-year.
(1)	(2)	(3)	(4)	(5)	(6)
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1st ...	37 9 5	20 0 0	17 9 5	...	17 9 5
2nd ...	37 9 5	20 0 0	17 9 5	0 6 1	35 4 11
3rd ...	37 9 5	20 0 0	17 9 5	0 12 4	53 6 8
4th ...	37 9 5	20 0 0	17 9 5	0 18 9	71 14 10
5th ...	37 9 5	20 0 0	17 9 5	1 5 1	90 9 4
6th ...	37 9 5	20 0 0	17 9 5	1 11 8	109 10 5
7th ...	37 9 5	20 0 0	17 9 5	1 18 4	128 18 2
8th ...	37 9 5	20 0 0	17 9 5	2 5 1	148 12 8
9th ...	37 9 5	20 0 0	17 9 5	2 12 0	168 14 1
10th ...	37 9 5	20 0 0	17 9 5	2 19 1	189 2 7
11th ...	37 9 5	20 0 0	17 9 5	3 6 2	209 18 2
12th ...	37 9 5	20 0 0	17 9 5	3 13 5	231 1 0
13th ...	37 9 5	20 0 0	17 9 5	4 0 10	252 11 3
14th ...	37 9 5	20 0 0	17 9 5	4 8 5	274 9 1
15th ...	37 9 5	20 0 0	17 9 5	4 16 1	296 14 7
16th ...	37 9 5	20 0 0	17 9 5	5 3 10	319 7 10
17th ...	37 9 5	20 0 0	17 9 5	5 11 8	342 8 11
18th ...	37 9 5	20 0 0	17 9 5	5 19 10	365 18 2
19th ...	37 9 5	20 0 0	17 9 5	6 8 0	389 15 7
20th ...	37 9 5	20 0 0	17 9 5	6 16 5	414 1 5
21st ...	37 9 5	20 0 0	17 9 5	7 4 11	438 15 9
22nd ...	37 9 5	20 0 0	17 9 5	7 13 6	463 18 8
23rd ...	37 9 5	20 0 0	17 9 5	8 2 5	489 10 6
24th ...	37 9 5	20 0 0	17 9 5	8 11 4	515 11 3
25th ...	37 9 5	20 0 0	17 9 5	9 0 6	542 1 2
26th ...	37 9 5	20 0 0	17 9 5	9 9 9	569 0 4
27th ...	37 9 5	20 0 0	17 9 5	9 19 2	596 8 11
28th ...	37 9 5	20 0 0	17 9 5	10 8 10	624 7 2
29th ...	37 9 5	20 0 0	17 9 5	10 18 6	652 15 1
30th ...	37 9 5	20 0 0	17 9 5	11 8 6	681 13 0
31st ...	37 9 5	20 0 0	17 9 5	11 18 7	711 1 0
32nd ...	37 9 5	20 0 0	17 9 5	12 8 11	740 19 4
33rd ...	37 9 5	20 0 0	17 9 5	12 19 4	771 8 1
34th ...	37 9 5	20 0 0	17 9 5	13 10 0	802 7 6
35th ...	37 9 5	20 0 0	17 9 5	14 0 11	833 17 10
36th ...	37 9 5	20 0 0	17 9 5	14 11 10	865 19 1
37th ...	37 9 5	20 0 0	17 9 5	15 3 1	898 11 7
38th ...	37 9 5	20 0 0	17 9 5	15 14 6	931 15 6
39th ...	37 9 5	20 0 0	17 9 5	16 6 2	965 11 1
40th ...	37 10 11	20 0 0	17 10 11	16 18 0	1,000 0 0
Total ...	1,498 18 2	800 0 0	698 18 2	301 1 10	...

MELBOURNE:

By Authority: ROBT. S. BRAIN, Government Printer.