



ANNO VICESIMO SEXTO ET VICESIMO SEPTIMO

# VICTORIÆ REGINÆ.

A.D. 1863.

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## No. 15.

*An Act to repeal An Act, No. 17 of 1858, intituled "An Act to amend and consolidate the Acts providing for the Water Supply and Drainage of the City of Adelaide," and to make other Provisions in lieu thereof.*

[Assented to, 12th November, 1863.]

**W**HEREAS an Act was passed in the twenty-second year of the reign of Her Majesty Queen Victoria, No. 17 of 1858, intituled "An Act to amend and consolidate the Acts providing for the Water Supply and Drainage of the City of Adelaide;" and it is expedient to repeal the same, and to make other provisions in lieu thereof—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:

1. This Act may be cited and referred to for all purposes as "The Adelaide Waterworks Act, 1863." Short title of Act.

2. An Act, No. 17 of 1858, intituled "An Act to amend and consolidate the Acts providing for the Water Supply and Drainage of the City of Adelaide," is hereby repealed: Provided that nothing herein contained shall be construed to revive any Act or Acts, or portions of Act or Acts thereby repealed: Provided also that nothing lawfully done under the authority thereof shall be invalidated, nor shall any rights acquired or liabilities incurred thereunder be affected hereby. Repeal of Act No. 17 of 1858.

3. In

*Adelaide Waterworks Act.—1863.*

Interpretation of  
terms.

3. In the construction of and for the purposes of this Act, when not inconsistent with the context, the expression "The undertaking" shall mean the waterworks and the works connected therewith heretofore constructed, or hereby 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 for the said Province: 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 heretofore taken or used, or 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; the expression "Cattle" shall include neat cattle, horses, asses, and mules; the expression "Carriages" shall include all such vehicles as are usually cleansed by the use of water; the expression "Vacant lands" shall mean unoccupied lands not built upon, nor used in connection with any building; and the expression "Unoccupied lands" shall mean lands other than vacant lands, which shall be declared to be unoccupied in the manner hereinafter provided.

*Commissioner.*

Commissioner to ap-  
point officers.

4. 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.

5. 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

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by such name as aforesaid; and by that name may implead and be impleaded, defend and be defended, answer and be answered.

*Commissioner.*

6. The Commissioner may make such roads over any of the lands authorized to be taken as may be considered necessary for carrying into effect the purposes of this Act, 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 said purposes, 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 may make roads, &c.

7. All lands, houses, property, chattels, and effects, now vested in the Commissioner under the said Act, No. 17 of 1858, 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 favor 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.

8. 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," whenever used in the said Lands Clauses Consolidation Act, shall mean "The Commissioner."

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

9. 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.

10. 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

Commissioner may sell land purchased under this Act.

*Adelaide Waterworks Act.—1863.**Construction of waterworks.**Principle of the waterworks.**Commissioner may execute the work herein named.*

money accruing from the sale of such property shall be applied for the purposes of this Act.

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

12. Subject to the provisions hereinafter contained, the Commissioner may execute any of the following works for constructing the waterworks, 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, waterworks, 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 said City 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 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.

*Commissioner to make compensation for damages.*

13. 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 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 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*

14. 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.

15. After

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15. 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 waterworks.*

Penalty for illegally diverting the water.

16. 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 waterworks, 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.

17. 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 of constructing the said undertaking, and of laying down, altering, cleansing, repairing, and removing any 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.

*Laying of pipes and drains.*

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

18. 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 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

Streets or drains not to be broken up except

*Adelaide Waterworks Act.—1863.**Laying of pipes and drains.*

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.

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

Penalty for delay in reinstating, streets, &c.

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

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.

20. 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 keep the road or pavement which has been so broken in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and kept thereagainst every night during which such road or pavement shall continue open or broken up.

21. 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 13.

22. 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

*Adelaide Waterworks Act.—1863.*

sons by the Commissioner, and such expenses may be recovered in the same way as damages are recoverable under this Act

*Laying of pipes and drains.*

23. The Commissioner shall, upon the written request of the owner or occupier of any tenement in any street (and upon payment or tender of the cost thereof), lay down communication pipes from such street, and also such other works as are necessary for the supply of such tenement with water.

Communication pipes may be laid on request of owner or occupier.

24. 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, 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.

25. 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 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.

26. 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.

27. 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 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 the situation, which notice the Commissioner may put up on any house or building in such street.

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

28. 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.

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

29. The

*Adelaide Waterworks Act.—1863.****Fire-plugs.***

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

29. 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.

30. 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.

***Protection of water.***

Persons using water to keep works in repair.

Penalty for neglect.

31. 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.

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

32. 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.

Commissioner may repair pipes, &c.

33. 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 him by the person so allowing the same to be out of repair, and may be recovered as damages.

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

34. 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.

35. Every



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35. 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.

*Protection of water.*

Penalty for allowing persons to use water.

36. 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.

37. 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.

Penalty for destroying valves, &c.

38. 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—

*Fouling the water.*

Penalties for fouling water.

Every person who shall bathe in any stream, reservoir, aqueduct, or other waterworks 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 waterworks, 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 waterworks 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.

39. The

*Adelaide Waterworks Act.—1863.***Assessment.**

Commissioner may  
make assessment.

39. The Commissioner shall, before the first day of January, one thousand eight hundred and sixty-four, and in every year thereafter, make and bring into force an assessment of all lands within the City of Adelaide not being the property of the Crown or of the Corporation of the said city, according to the full, fair, and average estimated annual value of the same, clear of all outgoings; and the assessment shall be written in a book specifying in different columns the names of the respective occupiers and owners, or agents of owners, so far as the same can be ascertained, the estimated annual value of the several lands, and a description of the same, and showing which of the said lands are vacant lands.

If in any year no  
assessment made, the  
last assessment to be  
in force.

40. In case any yearly assessment shall not be duly made, and until the same shall be in force the assessment then last made shall be in force.

Right of inspecting  
city assessments.

41. 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.

Commissioner may  
adopt city assess-  
ment, and may  
appoint assessors.

42. The Commissioner may, in making the assessment, adopt any assessment made by authority of the Municipal authorities, or any previous assessment of the Commissioner, either wholly or in part, and may from time to time appoint any person or persons to assess the whole or any part of the said lands.

Commissioner may  
correct errors in  
assessment.

43. The Commissioner may at any time, and from time to time, correct any error which may appear to him to exist in the assessment; but the annual value of any property shall not be altered after the first publication of the notice of assessment, except under the order of a Court, as hereinafter provided.

Annual value of lands,  
how estimated.

44. The annual value of all vacant lands shall be estimated at five per centum per annum on the market value thereof; and the annual value of all other lands shall be estimated at the full, fair, and average estimated annual rent, clear of all outgoings, at which the land would let on a lease of not less than twenty-one years, or by the foot frontage on a building or improving lease for the same term.

Assessment-book, a

45. The Assessment-book, or a true copy thereof, shall be deposited

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sited in the office of the Manager of the Waterworks, and the same shall be open to inspection between the hours of eleven o'clock ante meridian and three o'clock post meridian on every day except Sundays, Saturdays, and public holidays.

*Assessment.*

copy to be kept for inspection at the office of Manager.

46. A notice of the making of such assessment, and of any alteration therein in the form Schedule A to this Act annexed, or as near thereto as circumstances will permit, shall be published once in the *South Australian Government Gazette*, three consecutive times, the last of which shall be in the same week as the publication in the *Gazette*, in at least one newspaper published in the said city, and thereupon the assessment-book, or as the case may be so much thereof, as depends upon the alteration, shall come into force.

Notice of assessment or alteration to be given.

47. Any person may, within one month after the publication in the *South Australian Government Gazette*, of the notice of the assessment, appeal therefrom upon the ground that any lands are assessed beyond or below their full and fair annual value are omitted from the assessment, or are not rateable, and within a like period and upon the like ground after the publication of the notice of any alteration in the *South Australian Government Gazette*, any person may appeal therefrom.

*Appeal from assessment.*

Assessment may be appealed against.

48. The Local Court of Full Jurisdiction, sitting in Adelaide, shall be the Court of Appeal; and every appeal shall be commenced by a notice in the form in the Schedule B to this Act annexed, or as near thereto as circumstances will permit, delivered to the Clerk of the Court within the period allowed for appeals.

*Local Court of Adelaide to be Court of Appeals.*

Appeals, how commenced.

49. The appeal shall be heard at the next sittings of the Court next after five weeks from the publication in the *Government Gazette* of the notice of assessment or alteration; and the assessment book shall be produced by or on behalf of the Commissioner, and upon examining upon oath any witnesses who may be tendered for examination touching the question in dispute, the Court at the same or at some adjourned or subsequent sittings may make such order touching the matter in dispute and costs as shall be just, and shall cause any alteration occasioned by the decision to be immediately made, which alteration shall be attested by the signature of the Special Magistrate, and the Court may enforce any order in the same manner as though the same were the order of a Justice under his summary jurisdiction.

Hearing of appeals.

50. The Court upon the hearing of any appeal may state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases according to the practice on special cases, and shall make such order as to costs as shall appear just; and any two or more Justices, or the Local Court of Adelaide, may make an order in respect of the matters referred to the Supreme Court in conformity with the certificate of the said Supreme Court or of any Judge thereof, which order

Special case may be stated for Supreme Court.

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*Local Court of  
Adelaide to be  
Court of Appeal.*

order shall be enforced in manner provided for the enforcement of orders of Justices under the Ordinance No. 6 of 1850.

Right to recover rates  
not suspended by  
appeal.

51. The right of the Commissioner to recover rates in respect of any land alleged in any notice of appeal to be assessed beyond its full and fair value shall not be suspended by the appeal.

*Rates.*

Scale of rates.

52. The Commissioner may make and levy rates on all lands included in the said assessment, and the scale of rates shall be as follows, viz.:—On all tenements assessed at or below Ten Pounds a year, Twenty-five Shillings; on all tenements assessed above Ten Pounds and not above Forty Pounds a year, twelve and a-half per cent.; five per cent. additional on the assessed annual value above Forty Pounds and not above One Hundred Pounds; two and a half per cent. additional on the assessed annual value above One Hundred Pounds; and on unoccupied tenements and vacant lands three per cent. on the assessed annual value.

Commissioner may  
reduce rates.

53. The Commissioner may, with the consent of the Governor in Executive Council, reduce the scale of rates by notice published in the *South Australian Government Gazette*, in the form in the Schedule C to this Act annexed; and any reduction shall take place on the first day of January, or the first day of July, as the case may be.

When several houses  
supplied by one pipe  
each to pay.

54. 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.

Rates on land  
unoccupied for three  
months may be re-  
duced.

55. The owner of any tenement which shall have been unoccupied for more than three months, may make a declaration to that effect in the form of Schedule F to this Act annexed; and the Manager shall, upon the receipt of such declaration, deduct from the rates which shall afterwards become due upon such tenement, a sum equal to the amount paid in excess of the sum chargeable for unoccupied tenements during the period for which such tenement shall have been unoccupied.

Rates to commence  
when main laid, and  
to be payable half-  
yearly.

56. When a main shall be laid down in any street or streets of the city, and on the expiration of seven days from public intimation published in the *South Australian Government Gazette* and in at least one newspaper published in the city that the main has been laid down, and that the water is ready for distribution, then, whether service pipes shall be provided or not, rates, according to the scale then in force, shall be payable in respect of all lands which shall or can be supplied with the service pipes from the main aforesaid, for the period elapsing between the first day of the month following the expiration of the said seven days and the thirtieth day of June or the

*Adelaide Waterworks Act.—1863.*

the thirty-first day of December, as the case may be ; and thereafter the rates shall be payable half-yearly in advance on every thirty-first day of January and first day of July, according to the scale which shall be in force at the time the payments shall respectively fall due.

*Rates.*

57. All lands to which service pipes have been or can be supplied from a main, of the laying down of which seven days' notice has been or may be given previously to the first day of January, 1864, shall be liable to rates from that date, upon the scale and payable in the manner provided for payment of rates under this Act.

Rates on lands to which mains laid down before January, 1864, to be paid under provisions of this Act.

58. No water from the waterworks shall be used as a mechanical power, or for manufacturing purposes, public baths, watering gardens, irrigation, or other than domestic or building purposes, except under a special agreement in writing, made by the person requiring the same with the Commissioner, and fixing the payment to be made therefor, under a penalty as hereinafter provided.

No water to be used except for domestic purposes, except under agreement.

59. The Commissioner may charge, in addition to the rate hereinbefore mentioned, at the rate of Ten Shillings by the year for every head of great or every five head of small cattle kept upon lands supplied with water from the waterworks, and at the rate of Five Shillings by the year for every carriage having two wheels, and Ten Shillings by the year for every carriage having four wheels kept in like manner; but whenever the number of cattle or carriages usually kept upon land supplied with water from the waterworks shall, or are likely to, vary from time to time, the occupier shall make a declaration, in the form of the Schedule D to this Act annexed, of the average number of cattle or carriages kept or intended to be kept upon the land, and thereupon the Commissioner shall charge at the rate aforesaid for the average number of cattle or carriages so kept or intended to be kept.

Cattle, &c., to be charged extra.

60. If the Commissioner shall be dissatisfied with a declaration so made, or shall at any time consider that the average number of cattle or carriages kept by the declarant, or any person claiming under him, is greater than that stated in his declaration, or that he has, subsequently to any order made as hereinafter mentioned, kept a larger number than that fixed by such order, the matter shall be settled, on the information of the Commissioner or any collector, in a summary manner, before one or more Justices who may make such order as shall be just as to the payment of any additional sum for the past supply of water to the cattle, or for cleaning the carriages, and as to the number of cattle or carriages which the defendant shall be charged for in future; and any Justice may vary any order so made from time to time, in such manner as shall be just, on information of the Commissioner, or a collector, or any person interested.

Commissioner may have dispute, as to average number of cattle, settled by Justices.

61. The owner shall pay all rates upon unoccupied and vacant lands, and upon occupied lands where the yearly assessed value shall not exceed Twenty Pounds; and the occupier shall pay all other rates, but this provision shall not invalidate or affect any contract.

When owner to pay rates, and when occupier.

62. If

*Adelaide Waterworks Act.—1863.***Rates.**

Tenant entitled to recover portion of rate in certain cases.

Rates from whom recoverable.

Rates unpaid twenty-one days after demand may be distrained for.

Lands may be sold when rates are in arrear.

62. If a tenant shall pay rates for a period prior to or extending beyond his term, he shall be entitled to recover from his landlord the amount so paid.

63. The Commissioner or any collector appointed by him may recover rates from any person liable, or from the occupier at the time of any demand being made, and after demand on the occupier; and if no sufficient distress can be found on the premises to satisfy any rates for which the occupier is liable, together with all costs, the same rates may be recovered in like manner from the owner, and any person in actual receipt of the profits of any lands shall be liable as owner thereof.

64. If any rates or any arrears are unpaid for the space of twenty-one days after demand in writing shall have been served upon the occupier, or left at the house, land, or tenement rated and assessed thereto, the Commissioner or collector or his assistant may thereupon, without any warrant, enter into any part of the premises and distrain the goods and chattels found therein; or may enter into any other houses or land in the said city, occupied by any person liable to the same rates, and on whom notice to pay the same has been served personally or by leaving the same at his house for him, and distrain his goods and chattels therein and thereon; and if the sums for which the distress is taken be not paid for five days after the distress together with reasonable costs, then the said distress, or so much as shall be sufficient to pay the rates and costs aforesaid may be sold, and any overplus shall be returned to the owner of the goods.

65. In any case in which rates, in respect of any lands shall be in arrear for the space of two years, it shall be lawful for the Commissioner to cause to be published three times in the *South Australian Government Gazette* a notice in the form of Schedule E to this Act annexed; and if after one year from the last publication of the notice, the rates due at the time of the first publication thereof are still unpaid, the Commissioner may let the same from year to year, and may receive the rents and apply the same towards the payment of the rates, and hold any surplus for the owners of the lands, or by petition to the Supreme Court or any Judge thereof, may apply for a sale of the lands described in such notice, or of so much thereof as may be necessary; and the Court or Judge, on being satisfied by affidavit or otherwise that the arrears are lawfully due, and were in arrear at the time of the first publication of such notice, and that all things required by this clause to be done have been done, shall order the sale of the said lands, or so much thereof as shall be sufficient to pay the arrears and interest at five per centum per annum, from the time of the first publication of the notice, together with all costs of and attending the notice, and the costs of and attending the application, and of and attending the sale by public auction, and the proceeds to be paid into Court; and the Court or a Judge may order payment of the said rates, interests, costs, and expenses, in preference

to

*Adelaide Waterworks Act.—1863.*

to any mortgage or other security; and that conveyance shall be executed by the master or other officer of the Court, to the purchaser, his heirs, and assigns, in such form as shall be approved by the Court or a Judge, which shall vest the legal estate in the said lands, in the purchaser, his heirs, and assigns free from all encumbrances; and the balance arising from the proceeds of such sale shall remain, and be subject to any future or other orders of the Court, for behoof of the party or parties interested therein.

66. All rates and charges for service-pipes and fittings, due under the Waterworks Act, 1858, may be recovered by the Commissioner against the persons who owe the same, in every respect in the same manner as though the rates and charges for service-pipes and fittings had become due under this Act.

*Rates.*

Rates due before this Act recoverable under this Act.

67. The Commissioner may cut off the water supply from any lands when the same shall remain unoccupied for three calendar months, or when any rates or charges for service-pipes and fittings in respect thereof shall remain unpaid for fourteen days after the same shall become due; and whenever the lands shall become occupied, and all rates and charges for service-pipes and fittings paid, the supply shall on demand be restored, upon payment of the cost of such cutting off and restoration.

Water supply may be cut off from unoccupied land.

68. 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. 17 of 1858, and the Acts thereby repealed; 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 said Acts; 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.

Governor may advance moneys to be repaid.

69. 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.

Net proceeds of rates to be paid to Treasurer.

70. Any tenant of lands under a lease for a less period, unexpired, than five years, may recover from his landlord half the cost to which he or his undertenant may be put in causing service-pipes to be laid on to the said lands.

Tenant may recover half cost of service-pipes when lease has less than five years to run.

71. The Commissioner may at any time, on the request in writing of

Commissioner may supply water to any

*Adelaide Waterworks Act.—1863.**Rates.*

place within two  
miles of main.

of any person or persons residing at any place within two miles of the main between the reservoir and the said City, take the necessary steps for supplying such person or persons with water from the said Waterworks: Provided always, that the expense of the works necessary for supplying water to any such place as aforesaid shall in all cases be paid by the person or persons making such request as aforesaid: And provided also, that the rates charged shall in no case be less than those charged to the inhabitants of the said City.

Power to allow a pro-  
portion of service fit-  
tings, from near main  
to edge of property  
supplied.

72. It shall be lawful for the Commissioner, out of the moneys at his disposal, to repay to all persons who may have been supplied with service fittings, and may have paid for the same; and to allow all persons who may have been or shall hereafter be so supplied, and who may not have paid for the same, a proportion of the price charged thereupon, for so much of the service fittings as extend from the nearest main to the edge of the land to which such service fittings shall have been supplied, such proportion to be in all cases determined by the Commissioner.

*Financial Pro-  
visions.*

When undertakings to  
vest in the City.

73. So soon as the sum of Two Hundred Thousand Pounds, principal money raised for the completion of the Waterworks, together with the interest thereon, shall have been paid by means of the rates hereby authorized, the said undertaking, and the powers and duties hereby or hereafter conferred and imposed, shall 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.

Water supplied to  
Government free of  
charge.

74. A full and sufficient supply of water shall be afforded to all Government buildings and Establishments free of charge.

Appointment and  
powers of Collectors.

75. The Commissioner shall, from time to time, nominate one or more persons as Collectors, for levying the said rates respectively, who shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such rates, as if they were Collectors appointed by the Municipal authorities for collecting the City rates, and shall pay over the amount of such rates to the Commissioner, or to any person authorized by him, or, in default thereof, shall be proceeded against in the same manner as such Collectors, by any Act now or hereafter to be in force, are to be proceeded against for non-payment.

Collectors may sue.

76. 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.

77. Any



*Adelaide Waterworks Act.—1863.*

77. Any person using or allowing to be used the water laid on to lands occupied by him for other than domestic or building purposes, except in cases of fire, or under an agreement with the Commissioner, or under clause 58 of this Act, shall be liable to a penalty of not less than Two Pounds, and not more than Twenty Pounds, for every day during which the offence shall be committed.

*Offences.*

Penalty for illegal use of water.

78. Any person who shall make a false declaration of the average number of cattle kept by him upon his lands, shall be liable to a penalty of not less than Five Pounds or more than Fifty Pounds.

Penalty for false declaration of number of cattle kept.

79. Loans raised under the Acts No. 11 of 1857, No. 2 of 1860, and No. 19 of 1861, and interest thereon, may be, from time to time, repaid out of the rates.

*Bonds.*

Loans and interest may be repaid out of rates.

80. 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*.

*Accounts of Receipt and Expenditure.*

Annual account to be made up by Commissioner, and published in *Gazette*.

81. 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.

*Recovery of Damages and Penalties.*

Provision for damages not otherwise provided for. 1850, No. 8.

82. 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.

*Appropriation of moneys.*

83. 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.

*Tender of amends.*

84. 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,

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

*Adelaide Waterworks Act.—1863.*

*Tender of amends  
and protection of  
Persons.*

General issue.

Tender of amends.

If judgment be  
against plaintiff.

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.

*Appeal.*

85. There shall be an appeal, in manner provided by the Act of the Governor and Legislative Council, No. 6 of 1850, to facilitate the performance of the duties of Justices of the Peace out of Sessions, with respect to summary convictions and orders from any order of Justices, from any order of a Justice or Justices, under the provision of this Act, and from any order of Justices dismissing an information laid under this Act; and no order of Justices or of the Local Court shall be removed by *certiorari* into the Supreme Court.

In the name and on behalf of the Queen I hereby assent to  
this Act.

D. DALY, Governor.

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*Adelaide Waterworks Act.—1863.*

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## SCHEDULES REFERRED TO.

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A*Notice of Assessment.*

## ADELAIDE WATERWORKS.

Notice is hereby given, that I, the Commissioner of Waterworks, have caused to be made an assessment of all rateable lands within the City of Adelaide, showing the names of the owners or occupiers, so far as the same can be ascertained, the estimated annual value of the several lands, and a description of the same, showing which of the said lands are vacant lands, and that the same or a copy thereof, can be inspected at the office of the Manager of Waterworks, between the hours of 11 a.m. and 3 p.m., on every day but Sundays, Saturdays, and public holidays; and any one intending to appeal against the assessment, must serve the notices required by the Adelaide Waterworks Act, 1863, within one month from the publication of this notice in the *South Australian Government Gazette*.

Dated, &c.

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B*Notice of Appeal from Assessment.*

## ADELAIDE WATERWORKS.

*In the Local Court of Adelaide.* } To the Commissioner of Waterworks, and to all whom it may concern.

Take notice, that I appeal against the assessment [or alteration, notice whereof appears in the *South Australian Government Gazette* of the                      day of                      , 18                      ], on the ground that

Dated, &c.

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C*Notice of Reduction of Scale of Rates.*

## ADELAIDE WATERWORKS.

Notice is hereby given, that the scale of rates for this undertaking has been reduced by [one-tenth or the like], and this reduction will take effect on the [31st January, 18                      , or 30th June, 18                      .]

Dated, &c.

Commissioner.

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D

## ADELAIDE WATERWORKS.

I,                      , of                      , do hereby declare that the average number of [carriages, or of cattle and carriages, as the case may be] which I intend to keep at the [livery stables in, &c.], situate in                      street, Adelaide, is as follows, viz., [horses, cows, carriages, as the case may be].

Dated, &c.

NOTE.—If the premises have been occupied for the preceding six months, insert clause to this effect:—(And I do further declare that the average number kept by me at the aforesaid                      during the preceding six months has not exceeded                      ).

E

*Adelaide Waterworks Act.—1863.***E****ADELAIDE WATERWORKS.****DISTRICT OF**

Notice is hereby given that there is now due, and has been due for two years, in respect of the lands mentioned in the schedule hereto, the sum of [or respective sums] set opposite to the description of such land in the schedule of ; and the owners of such land are required to take notice that, unless the amount so due, together with the costs of and attending this notice, be paid in one year from the first publication of this notice, the Commissioner may let the same from year to year, in manner provided by the Adelaide Waterworks Act, 1863, or an application will be made to the Supreme Court of this Province, or a Judge thereof, for an order for the sale of the said lands, or so much as may be necessary to produce the rates so due and costs, as aforesaid, and also the costs of and attending the said application.

Dated

Commissioner.

**THE SCHEDULE.**

| Exact Description of Land. | Name of Owner or Reputed Owner, as far as known. | Amount of Rates due. |
|----------------------------|--|----------------------|
|                            |  |                      |

**F***Declaration that Tenement is Unoccupied.***ADELAIDE WATERWORKS.**

I, , of , do hereby declare that the building owned by me, in street, and numbered on the notice of rate for the half year ending 18 , was unoccupied during clear months, commencing , and ending , 18 .

Dated

(Signed)