



ANNO QUADRAGESIMO PRIMO ET QUADRAGESIMO
SECUNDO

VICTORIÆ REGINÆ.

A.D. 1878.

No. 106.

Adelaide Sewers Act.

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An Act for the Better Sewerage and Cleansing of the City of Adelaide and the Suburbs thereof.

[Assented to, 30th November, 1878].

Preamble.

WHEREAS it is expedient that the City of Adelaide and the suburbs thereof should be supplied with proper sewers, and drains, and other means for effectually draining and cleansing the same—Be it therefore Enacted by the Governor 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:

PRELIMINARY.

Short title.

1. This Act may be cited for all purposes as the "Adelaide Sewers Act."

Interpretation.

2. In this Act (except when inconsistent with the context)—

"Commissioner" means the Commissioner of Sewers:

"Land" includes lands, tenements, and hereditaments of any tenure:

"Premises" means and includes any house and any public or private building whatsoever, and any part of any house or building,

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building, and any garden, stable, yard, or other offices used together or in connection with any house or building, and every part thereof:

- “Street” includes any square, court or alley, highway, bridge, lane, road, thoroughfare, passage, or place:
- “Vacant land” means unoccupied land which is not built upon, and which is not appurtenant to or used in connection with any building, and whether such land is used for the purpose of depasturing cattle thereon or otherwise:
- “Undertaking” means the sewers, drains, and other works connected therewith being authorised to be constructed and maintained, and includes all fittings to be laid down or fixed by the Commissioner, and all lands to be held or used by him for the purposes of this Act:
- “Drain” means and includes any drain of and used for the drainage of one building only or premises within the same curtilage, and made merely for the purpose of communicating with a cesspit or like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed:
- “Sewer” means sewers and drains of every description, except drains, to which the word “drain,” interpreted as aforesaid, applies:
- “Drainage Area,” means the City of Adelaide and all other lands and premises which may, from time to time, be proclaimed by the Governor within the Drainage Area by Proclamation to be published in the *Government Gazette*:
- “Owner” includes the person for the time being receiving the rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land or premises were let at a rent:
- “Fittings” includes cocks, valves, cisterns, water pipes, traps, syphons, manholes, lampholes, ventilators, entrances, and other apparatus connected with and requisite to secure the safe and proper working of any drain or sewer:

3. “The Lands Clauses Consolidation Act” (except the 127th section thereof), and an Act, No. 26 of 1855-6, intituled “An Act to amend the Lands Clauses Consolidation Act,” are, so far as the same are applicable, and except where expressly varied by this Act, incorporated with and form part of this Act, and for the purposes of this Act, the expression “the promoters of the undertaking,” whenever used in the Lands Clauses Consolidation Act, shall mean the Commissioner, and the words “Special Act” shall mean this Act. All the sections of “The Railways Clauses Consolidation Act,” which are enacted “with respect to the temporary occupation of lands near
the

Incorporation of other Acts.

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the railway during the construction thereof," are, so far as they are applicable and except where expressly varied by this Act incorporated with and form part of this Act: And for the purposes of this Act, the expressions, "the company" and "the railway" wherever used in those sections shall respectively mean the Commissioner, and the undertaking and the words "Special Act" shall mean this Act. All the said portions of "The Lands Clauses Consolidation Act" and "The Railways Clauses Consolidation Act," shall apply to the maintenance and extension of the undertaking as well as to the construction thereof.

Repeal.

4. Sections No. 82, 83, 84, 85, 86, and 87, of "The Municipal Corporations Act, 1861," are hereby repealed, and "The Public Health Act," and the "Public Health Act 1876," so far as the same relate to the management, control, and supervision of sewers and drains within the drainage area, are also hereby repealed; but such repeal shall not affect the validity of any act, prosecution, order, or other proceeding done or commenced under or by virtue of such repealed enactments.

FINANCE.

Treasurer to borrow
£200,000

5. It shall be lawful for the Treasurer for the time being of the said province to borrow from any person upon the security of the General Revenue of the said province, a sum of money not exceeding in the whole the sum of Two Hundred Thousand Pounds, and for that purpose to issue and sell bonds for such sums not exceeding in the whole the sum of Two Hundred Thousand Pounds, as he may deem expedient, and such bonds shall be in the form following, that is to say—

South Australian Government Securities.

No. [Royal Arms.] No.

Authorised by Act of Parliament, No. of 1878.

£ £

I, the Treasurer of the Province of South Australia, in consideration of the sum of Pounds paid to me for public purposes, do hereby bind myself to pay to the holder for the time being of this present obligation the sum of Pounds and interest thereon at the rate of Four Pounds per centum per annum, such interest to be payable half-yearly on the first day of January and the first day of July in each year, and the principal to be paid on the first day of in the year of our Lord

Sealed with my seal. Dated the day of one thousand eight hundred and

Signed, sealed, and delivered in }
the presence of }

(Bond transferable by delivery.)

NOTE

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NOTE.—The principal and interest, payable under this bond is payable at the Treasury in Adelaide [*or in London, at the office of the South Australian Government, or any other place to be declared at the time of the sale of the bonds*].

6. The said bonds shall bear interest at the rate of Four Pounds per centum per annum, and the interest and principal upon such bonds shall be paid to the holder thereof at such place and at such time as may be specified or provided therein: Provided that the principal shall not be payable or paid before the expiration of twenty-five years, and the time appointed for payment thereof shall not extend beyond fifty years from the issue of the said bonds. Interest on bonds.

7. All sums of money raised or received by the Treasurer upon the security of the said bonds shall be carried by the said Treasurer to the credit of the Commissioner for the construction, maintenance, and management of the undertaking, and shall be by him paid to the Commissioner in such amounts and manner as the Governor, by any warrant under his hand, may from time to time authorise and direct. Application of moneys.

8. The Treasurer shall and is hereby required in each and every half-year from the first raising of any sums of money under the authority hereof until the whole of the amounts so raised and all interest thereon shall have been duly paid to set apart such sum as shall suffice to pay the amount of bonds redeemable during the ensuing half-year together with interest upon all bonds which shall then bear interest, and shall apply such sum in payment of such bonds and interest aforesaid in manner specified in such bonds. Moneys to be set apart half-yearly for payment of principal and interest.

9. The Governor may from time to time by warrant under his hand, countersigned by the Chief Secretary of the said province, authorise the Treasurer to advance and pay to the Commissioner for the purposes of this Act any sums of money not exceeding in the whole the sum hereby authorised to be raised, and any sums of money so advanced and paid shall be retained by the said Treasurer out of any moneys raised by him under the authority hereof. Governor may advance moneys to be repaid.

10. One equal third part of the interest becoming due in respect of the said bonds, shall be a charge upon and paid out of the General Revenue of the said province, and the remaining two equal third parts of such interest shall be a charge upon and paid out of the sewerage rates hereinafter provided for. Interest on loan, how chargeable.

11. The interest accruing due in respect of the aforesaid bonds before such sewerage rates shall begin to accrue, shall be considered as capital moneys expended for the purposes of the undertaking, and shall be carried by the Treasurer to the debit of the Commissioner, and shall bear simple interest at the rate of Four Pounds per centum per annum, payable half-yearly, and such interest shall be a charge upon and paid out of such sewerage rates. Certain interest to be regarded as capital.

12. The

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Application of
sewerage rates.

12. The sewerage rates hereinafter provided for shall be applied—

1. In payment of all expenses of and connected with the working and maintenance of the undertaking :
- II. In payment of two equal third parts of the interest becoming due in respect of the aforesaid bonds, and in payment of the interest becoming due in respect of the moneys carried to the debit of the Commissioner under the last preceding section hereof :
- III. In payment of the annual sum of Twelve Hundred and Fifty Pounds to be set apart by the Treasurer as a sinking fund, and to be applied by him in manner hereinafter provided.

Sinking fund.

13. The Treasurer shall carry such sinking fund to a separate account to the credit of the Commissioner, and shall allow compound interest thereon at the rate of Four Pounds per cent. per annum, with half-yearly rests to the intent that such sinking fund shall accumulate until sufficient to pay off the full amount due in respect of the aforesaid bonds, and also the moneys debited to the Commissioner under the authority of the eleventh section hereof ; and when such sinking fund shall be sufficient for the purposes aforesaid, the same shall be applied to the redemption of such bonds and in payment of such moneys.

Annual accounts to be
published.

14. In each year the Commissioner shall cause to be prepared for the year preceding under the distinct heads of receipts and expenditure, an account in abstract of all moneys advanced to him, and of all sewerage rates, and other moneys levied or received by him for the purposes of the undertaking, and also of all moneys expended by him for such purposes, and of the manner in which such moneys were expended. Each such account shall contain a statement of the balance of such account, and shall be duly audited and certified by the Auditor-General of the province ; and a true copy of such account in abstract shall be published in the *Government Gazette* on or before the thirty-first day of December in the year in which it is prepared.

INCORPORATION AND POWERS OF THE COMMISSIONER.

Commissioner.

15. The Commissioner of Public Works for the time being shall be the Commissioner of Sewers.

Commissioner to be a
body corporate.

16. The Commissioner and his successors in office shall be, and he is and they are hereby made for the purposes of this Act, a body corporate under the name and title of "The Commissioner of Sewers," and shall, by that name, be capable forthwith of exercising all the functions of an incorporated body, and shall have, by that name, a perpetual succession and a seal, and shall and may by that name sue or be sued, plead or be impleaded in all courts and before all justices of the peace and others, and shall have power to purchase,

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purchase, take, hold, or dispose of lands and other property, for the purposes of the undertaking.

17. The Commissioner may appoint and employ for the purposes of this Act, such engineers, managers, secretaries, clerks, collectors, messengers, and other officers, at such reasonable salaries and remunerations as to him shall seem fit: Provided that the salaries and remunerations of all persons appointed or employed by the Commissioner under the authority of this Act shall be annually voted by Parliament. Commissioner may appoint officers.

18. The Commissioner may make all such regulations as may seem to him expedient— Commissioner may make regulations.

- i. For protecting the undertaking, and every part thereof, from trespass or injury:
- ii. For regulating, in regard to drainage, the plans, inclination, and the materials of the pavement and roadway of public and private streets, and the plans and level of sites for buildings, and the levels of the bottoms of cellars, and the lowest parts of buildings, and the drainage of streets into sewers:
- iii. For regulating the dimensions, form, and mode of construction, and the materials, and the keeping, cleaning, and repairing of the pipes, drains, and other means of communicating with sewers, and the fittings and apparatus connected therewith for the emptying, cleansing, closing, and filling up of sinks, cesspools, and privies, and for such other works of cleansing and of removing and disposing of refuse as the Commissioner is authorised to perform:
- iv. For prohibiting the use of any form of or any mode of management of any baths, water-closets, soil-pans, sinks, cesspits, wells, and other receptacles and fittings the use of which may in his judgment tend to any fouling or contamination or to endanger the public health:
- v. With respect to regulating the conduct of the officers, workmen, and servants appointed, employed, or hired under, and for the purposes of this Act, and for the making, levying, and collecting of sewerage rates hereinafter provided for, and for providing for the due management and use in all respects of the property of the Commissioner and of the undertaking, and for its construction, completion, maintenance, and extension, and for carrying into effect the purposes of this Act generally.

And the Commissioner may, by such regulations, impose such reasonable penalties as he may think fit, not exceeding Ten Pounds, for breach of such regulations; and in case of a continuing offence, a further penalty, not exceeding One Pound, for each day after notice of such offence shall have been given by the Commissioner

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to the offender. No regulation made by the Commissioner pursuant to this section shall have any force or effect until approved by the Governor, and every such regulation made, or purporting to have been made, in pursuance of this section shall, when approved by the Governor and published in the *Government Gazette*, have the force of law.

Undertaking to vest in Commissioner.

19. The whole of the undertaking and all the materials and things which shall at any time be and form part thereof, shall vest in the Commissioner, and shall be deemed to be his property, and shall be held and used by him for the purposes of this Act.

Payments to be made on account of Commissioner.

20. It shall be lawful for the Treasurer, under the authority of the Commissioner, to pay out of any moneys at his disposal, under this Act, any sum due by the Commissioner under any agreement lawfully made for and in accomplishing any of the purposes of this Act, and any sum recovered against the Commissioner by any process of law or equity, and any sum which by any order made or purporting to be made under this Act, the Commissioner is directed to pay for or by way of compensation, damages, costs, fines, penalties, forfeitures, or otherwise howsoever.

Commissioner not to be personally liable.

21. The Commissioner shall not be personally liable to pay or make good any sum of money which shall at any time be recoverable under this Act from him or be due by him as Commissioner, or recovered as damages for any act done, or omitted to be done by him in the *bonâ fide* belief that he is acting in pursuance of this Act.

Commissioner may delegate his powers.

22. The Commissioner may authorise such persons as he shall think proper, to do all and any of the acts, matters, and things which the Commissioner is hereby authorised or required to do, and every person so authorised shall have and enjoy all such and the like powers as are hereby conferred on the Commissioner enabling him to do such acts, matters, or things respectively, and all such acts, matters, and things, when done under such authority, shall be as valid and effectual as if they had been done by the Commissioner, and every person so authorised shall have and enjoy in respect of every such act, matter, or thing, so done by him, all such immunities from personal liability as the Commissioner would have and enjoy if he had done such act, matter, or thing.

THE CONSTRUCTION, MAINTENANCE, AND EXTENSION OF THE UNDERTAKING.

Drainage area.

23. It shall be lawful for the Governor from time to time by Proclamation to be published in the *Government Gazette*, to declare that any land suburban to or in the neighbourhood of the City of Adelaide, and defined in such Proclamation, shall be contained within and form part of the drainage area.

24. The

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24. The Commissioner shall as soon as conveniently may be cause to be made a survey of the drainage area and land not included therein forming part of the undertaking, and a map thereof on such scale and with such indications of levels and particulars of sewers and underground works and of the surface as the Commissioner shall think expedient for the purposes of this Act, and the Commissioner shall, at least one calendar month before beginning to construct any portion of the undertaking, cause a notice to be published in the *Government Gazette*, that such map is open for public inspection, and the same may thereupon be inspected at the office of the Commissioner at all reasonable times by the owners and occupiers of land or premises within the drainage area. And the Commissioner may cause such map, or any part thereof, to be copied, engraved, or published as he may think fit, and shall from time to time cause the same to be revised and such additions made thereto as may show any new sewers and drains and new streets, houses, and other alterations, and the date of revision shall be expressed thereon, and every such map shall be kept in the office of the Commissioner, and the same or a copy thereof shall be open at all reasonable times to the inspection of the owners and occupiers of any lands or premises within the drainage area.

Survey and map to be made of drainage area.

25. It shall be lawful for the Commissioner to purchase or take on lease for such term as he may think fit, with or without right of purchase, any land or premises which he may think necessary for the purposes of this Act or for the formation or protection of any works which he is authorised to execute under this Act, also any sewage farms, offices, buildings, yards, stations, or places for deposit of refuse, material, or things, or any land for the formation or erection of such sewage farms, offices, buildings, yards, stations, or places for deposit as aforesaid.

Commissioner may purchase or lease land.

26. It shall be lawful for the Commissioner at any time, subject to the provisions herein contained, to make and construct sewers, drains, and works with all necessary fittings, of such construction, and in such manner as he shall think expedient, for the purpose of effectually draining the drainage area, and it shall be lawful for the Commissioner, subject to such provisions, to carry any such sewers and drains through, across, or under any public or private street, and any cellar or vault which may be under the pavement of any public or private street, and into, through, or under any lands or premises whatsoever, making compensation for any damage done thereby, as herein provided; and, subject to such provisions, to break up any street and the soil, pitchings, and pavements thereof, and to excavate and sink trenches for the purpose of laying down, making, and constructing such sewers and drains therein, and to cause such sewers to discharge upon such land as may be acquired by the Commissioner for that purpose, or to cause such sewers to communicate with the sea as the Commissioner may think expedient, and also from time to time to open, cleanse, and repair such sewers, drains, and fittings, and alter the position or construction thereof, and to make any drains

Commissioner may construct sewers.

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to any main sewer from any land or premises within the drainage area for the purpose of cleansing and draining any such land or premises by means of such drains and sewers, and to do all such other acts, matters, and things as he shall from time to time deem necessary and proper for making, amending, attaching, altering, repairing, completing, or improving any such sewers, drains, fittings, or other works to be made, done, and provided for the purposes of this Act: Provided that the Commissioner is hereby required to build and construct the said sewers, drains, fittings, and other works in a sufficient and effectual manner for accomplishing the purposes of this Act.

Commissioner may construct dams.

27. The Commissioner may make and erect such dams and reservoirs as he may think expedient across and in the bed of the River Torrens, or elsewhere, for the purpose of retaining water to flush and cleanse the sewers and drains for the time being vested in the Commissioner, and may lay pipes therefrom for the purpose of conducting water to all or any of the said sewers and drains.

Position of dams.

28. Such dams and reservoirs may be erected at such points in the bed of the said river or at such other places as the Commissioner shall think proper, and may be constructed of such materials and in such manner as the Commissioner may think expedient.

Power to construct accommodation works

29. The Commissioner shall construct and erect all works necessary for making good the interruption caused by the exercise of any of the said powers to the possession or enjoyment of any lands adjoining or near any part of the undertaking, or otherwise necessary 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, the same shall be determined by two justices in the manner provided by the Lands Clauses Consolidation Act for the determination of questions of disputed compensation.

Power to make roads.

30. The Commissioner may make and maintain upon or over the lands which shall have been taken or used for the purposes of this Act and the undertaking, such roads or other like means of communication as he may deem necessary or proper for effectually executing such purposes, and making all proper approaches to the undertaking, whether such approaches are permanent or needed only for a temporary purpose; and may repair, amend, and fence in such roads or other means of communication, and may cause all or any of them to be used exclusively for those purposes, or may, at his discretion, permit the public or any particular person to use all or any of them, upon such terms and subject to such conditions as he shall think proper to make or impose, and he shall have power to dedicate all or any such roads or other means of communication permanently to the use of the public; but the public or any particular person shall not acquire any right to use, or any privilege

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privilege or easement in respect to all or any of them, save such as shall be expressly granted or dedicated by the Commissioner in conformity with this section.

31. For the purpose of constructing, extending, and maintaining the undertaking, the Commissioner, under such superintendence as is hereinafter specified, may open and break up any street and the soil and pavement thereof, and any sewers, drains, or tunnels within or under such streets, and may lay down and place such sewers, drains, fittings, and other works and engines as he shall deem necessary, and repair, alter, or remove any of them, and for the aforesaid purposes may remove and use all earth and materials in and under such streets, and do all other acts which he shall deem necessary or expedient for constructing and maintaining the undertaking, and shall do as little damage as can be in the execution of the powers hereby granted, and for any damage which may be done in the execution of such powers, he shall make compensation in the manner provided for the settlement of disputed claims for compensation by the Lands Clauses Consolidation Act.

Power to break up streets.

32. Before the Commissioner opens or breaks up any street, sewer, drain, or tunnel, 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, and such notice shall be given not less than three clear days before beginning such opening or breaking up, except in such cases of emergency, as in the opinion of the Commissioner justify him in omitting to give such notice, and in every such case he shall give the notice as soon as he conveniently can after the beginning of such opening or breaking up, or after the necessity for the same shall have arisen.

Notice to be served before breaking up streets.

33. No such street, sewer, drain, or tunnel 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 their officer, and according to such plan as shall within the three days next after the receipt of such notice be proposed by such persons or their officer, and approved by the Commissioner, or in case of any difference respecting such plans, then according to such plan as shall be determined by the Surveyor-General or other competent officer to be appointed by the Governor: Provided always, that if the persons having such control or management as aforesaid, or their officer, after having received such notice as is mentioned in the next preceding section, fail to attend at the time fixed for the opening of any such street, sewer, drain, or tunnel, or shall not, within the three days next after receipt by them of such notice, 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; and in case such a plan has been proposed by such persons, but a difference respecting

Street not to be broken up except under superintendence.

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respecting it has arisen, then the Commissioner shall not commence any such work until some plan has been determined upon in that behalf by the Surveyor-General or other competent officer appointed by the Governor as aforesaid.

Streets broken up to be reinstated without delay.

34. When the Commissioner shall open or break up any street or any sewer, drain, or tunnel, he shall with all convenient speed complete the works for which the same shall have been broken up, and fill in the ground, and reinstate and make good the road or pavement, or the tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall keep the road or pavement which has been so opened or broken up 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 opened or 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 be continued open or broken up.

Compensation for delay in reinstating streets.

35. If the Commissioner shall open or break up any street, or any sewer, drain, or tunnel, without giving such notice as hereinbefore is provided, 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 to every interested person reasonable compensation for any damage actually sustained by such person through or in consequence of any such act, delay, or neglect; and the amount of such compensation, if it has not been agreed upon between any such person and the Commissioner, shall be fixed by two justices in the manner provided by the Lands Clauses Consolidation Act for the determination of questions of disputed compensation.

In certain cases parties other than the Commissioner may reinstate.

36. If the Commissioner, having, for the purposes of the undertaking, opened or broken up any street, keeps the same open or broken up longer than is reasonably necessary, or makes any unnecessary delay in filling in the ground, or in reinstating and making good the road or pavement of any such street, or in carrying away the rubbish occasioned thereby, or if he shall neglect to cause the place where such road or pavement has been opened or broken up to be fenced, guarded, and lighted while it is so opened or broken up, the persons having the control or management of the street, in respect of which such delay, omission, or neglect shall have taken place, may cause to be executed or done the work or act so delayed, omitted, or neglected to be executed or done; and all the reasonable expense of executing or doing the same shall be reimbursed to them by the Commissioner, out of any moneys at his disposal under this Act; and

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and if any dispute arises between them and the Commissioner, touching the nature, legality, or amount of the expenses claimed by them in that behalf, every such dispute shall be determined by two justices, in the manner provided by the Lands Clauses Consolidation Act for the determination of questions of disputed compensation.

37. Whoever shall wilfully pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of the works connected with the undertaking, or deface or destroy any works made for the same purpose, shall be liable to a penalty not exceeding Five Pounds for every such offence.

Penalty for interference with works.

38. If the Commissioner shall at any time deem it necessary for the purposes of the undertaking, to raise, sink, or otherwise alter the situation of any water or gas pipes, mains, plugs, or other waterworks or gasworks laid in or under any street, he may, by notice in writing, require the person to whom the pipes, mains, plugs or works belong, to raise, sink, or otherwise alter the situation of the same in such manner and within such reasonable time as shall be specified in such notice, and the expenses attendant upon or connected with any such alterations shall be paid by the Commissioner, and if such notice shall not be complied with the Commissioner may make the alterations required: Provided that no such alteration shall be required or made which will permanently injure any such pipes, mains, plugs, or works, or prevent the water or gas from flowing as freely and conveniently as usual.

Water and gas pipes to be altered when necessary.

39. The Commissioner shall cause the sewers which shall at any time be vested in him, and all private drains and sewers, to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, flushed, and emptied, and for the purpose of such clearing, cleansing, flushing, and emptying, the Commissioner may construct or place, either above or underground, such reservoirs, sluices, engines, manholes, lampholes, ventilators, entrances, and other works as he may think necessary, and may contract with the Commissioner of Waterworks for the said province for the supply of such quantity of water at such times and such places, and in such manner as he may think fit, and may cause all or any of such sewers to communicate with and be emptied into such places as he may think proper, and may cause the sewage and refuse therefrom to be collected for sale, or for any purpose whatsoever, but not so as to create a nuisance.

Commissioner to keep sewers cleansed.

40. So soon as any sewer, or any part thereof, shall be completed so as to be ready for use in any street or other place within the drainage area, the Commissioner may demand that the owners or occupiers of any land or premises shall construct such drains and fittings from and in connexion with such land or premises, to communicate with such sewer, as the Commissioner may prescribe; and such demand may be made by giving a notice thereof in writing,

Owners and occupiers to make drains to public sewers.

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writing, signed by the Commissioner, to such owners or occupiers, or by leaving the same at such land or premises, and such drains and fittings shall be made, constructed, and attached, according to such plans and directions as the Commissioner shall think proper for effectually carrying off all impurities from the said land or premises, and so much of the cost of such drains and fittings as shall be made and constructed in any street shall be paid for by the Commissioner, and the remainder by the owners or occupiers thereof; and such owners or occupiers shall also, when required in manner aforesaid to do so by the Commissioner, at their own expense alter or repair such drains and fittings in such manner as the Commissioner shall from time to time think expedient.

Commissioner to make drains in default of compliance with orders.

41. The Commissioner may, by such notice as aforesaid, require such drains and fittings to be made, constructed, and attached by such owners or occupiers within such time as the Commissioner may limit in that behalf; and if the same shall not be made within the prescribed time, or if the same shall not be made, constructed, and attached in every respect according to such plans and directions as aforesaid, it shall be lawful for the Commissioner to make, construct, and attach the same, and for that purpose to enter upon the land or premises of such owners or occupiers, and excavate the ground, and to make, construct, and lay down such drains and fittings in, along, or over the land and premises of any person; and in such case the Commissioner shall be entitled to recover from every such owner or occupier, in a summary manner, before any two justices of the peace, the full amount of the expense of making such drains and fittings: Provided that no such proceedings shall in any case be taken until default shall have been made in payment of such expenses for twenty-one days after a signed demand by the Commissioner, for payment of such expenses shall have been given to such owners or occupiers, or shall have been left at the land or premises in respect of which such drain and fittings shall have been made, constructed, or attached.

No cesspit to be constructed or used after drains completed.

42. After the construction of such drains shall have been completed, it shall not be lawful for the owners or occupiers of any such land or premises, without the written permission of the Commissioner, to make or dig any cesspits or wells for the purpose of receiving or holding any sewage matter; and any person who shall so make use of any cesspit or well without such permission shall, on conviction, forfeit and pay for each offence a penalty not exceeding Five Pounds.

Drains how to be constructed.

43. In every case where any such owner or occupier shall make, attach, alter, or repair any such drain or fittings, all and every the provisions of this Act relating to the ground soils, pitchings, and pavements to be opened or broken up and reinstated, and making good and guarding the same, and repairing other damage, shall be complied with and observed by and apply to every such owner or occupier or other person, and their agents, servants and workmen, in such and the like manner as is herein mentioned with respect to any sewer or fittings to be made or repaired by the Commissioner

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missioner, and upon default herein in any particular the said several matters may be forthwith done and performed by the Commissioner, and such owner or occupier or other person shall on conviction of any such default before two justices of the peace be liable to pay the expenses so incurred by the Commissioner, and which may be occasioned by such default, together with a penalty not exceeding Five Pounds for every such default.

44. No person shall without having previously given one week's written notice to the Commissioner construct or alter any drain, or fitting communicating with any sewer, and no person shall under any circumstances construct, attach, or alter any such drain or fitting, except according to such plans as the Commissioner may approve, and in such manner as he may direct. Any person contravening the provisions of this section shall on conviction forfeit and pay a penalty not exceeding Fifty Pounds.

No private drain or sewer to be made without notice.

45. All drains and fittings communicating with any sewer shall from time to time be repaired and cleansed under the inspection or direction of the Commissioner at the expense of the occupiers of the land or premises in respect of which the said drains shall have been constructed; and in case any such occupiers shall neglect to repair or cleanse any such drain according to the direction of the Commissioner, he shall, upon conviction, for every such offence forfeit and pay a penalty not exceeding Five Pounds.

Drains to be cleansed

46. Any owners or occupiers of any land or premises adjoining or near to, but beyond the limits of the drainage area, may cause any drain or sewer from such premises to communicate with any sewer made by or vested in the Commissioner, upon such terms and conditions as shall be agreed upon between such owners and occupiers and the Commissioner.

Owners beyond drainage area.

47. The Commissioner may cause any ventilating shaft, pipe, or tube for any sewer or drain to be attached to the exterior wall of any building within the drainage area: Provided that the mouth of every such shaft, pipe, or tube shall be at least six feet higher than any window or door situate within a distance of thirty feet therefrom.

Ventilators may be made.

48. The cost of providing, laying down, constructing, and fixing in readiness for use, such drains and fittings as are necessary for draining any land or premises, shall be payable by the occupier or lessee of such land or premises, when such land or premises shall be held by such occupier or lessee for a term whereof a period of more than five years remains unexpired at the time of such cost being incurred, and when the unexpired term of such lease shall at such time be less than five years, one moiety only of such cost shall be payable by such occupier or lessee, and if such occupier or lessee shall have paid the full amount of such cost, he shall be entitled to recover

Cost of drains by whom payable.

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recover one moiety thereof from the owner or lessor of such land or premises or may deduct such moiety from the rent due or to accrue under his lease. If the owner or lessor of any land or premises shall have paid any such cost or moiety thereof which should have been paid by such occupier or lessee, such owner or lessor shall be entitled by action at law to recover from such occupier or lessee the amount of such cost or moiety thereof, as the case may be, or may recover the same by distress in the same manner as the rent under such lease is recoverable: Provided that the provisions of this section shall not invalidate or affect any contract.

PROVISIONS FOR THE PROTECTION OF THE
DRAINAGE WORKS.

Notice of building or rebuilding to be given to Commissioner.

49. Any person intending to build any new house, or rebuild any house within the drainage area, shall, at least fourteen days before beginning to dig or lay out the foundations thereof give to the Commissioner written notice of such intention, together with full particulars of the levels or intended levels of the cellar or lowest floor, and of the situation or construction of the privies, cesspits, and drains to be built, constructed, or used in connection with such house; and no person shall begin to build or rebuild any such house, or build or construct any such privy, cesspit, or drain until the particulars so required to be stated shall have been approved by the Commissioner, who is hereby required to signify his approval or otherwise within the space of fourteen days after receiving such notice; and any person failing to deliver such notice as aforesaid, or either wholly or partially building, rebuilding, or constructing, or causing to be either wholly or partially built, rebuilt, or constructed, any such house, privy, cesspit, or drain, without such approval shall, on conviction, forfeit and pay a penalty not exceeding Fifty Pounds.

Power to pull down buildings.

50. If any person shall build, rebuild, or construct any house, privy, cesspit, or drain, in contravention of the last preceding section, it shall be lawful for the Commissioner to pull down or demolish the same, and the expenses of and incident to such demolition shall be recoverable from such person in manner hereinafter provided.

Power to Commissioner to authorise inspection.

51. It shall be lawful for the Commissioner, or for his surveyor or inspector, or such other person or persons as he may appoint, to inspect any land or premises within the drainage area, and any drain, watercloset, privy, cesspit, water supply apparatus, or fitting, and for that purpose at all reasonable times in the daytime, after twenty-four hours' notice in writing has been given to the occupier of, or left upon such land or premises, or the premises to which such drain, watercloset, privy, cesspool, water-supply apparatus, or fitting is attached, or, in case of emergency, without notice, to enter, by himself or his Surveyor or Inspector or workmen, upon any such land or premises, and, for the purpose of such inspection, to cause the ground to be opened in any place he think fit, doing as little damage as may be.

52. Every

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52. Every person who shall knowingly erect, construct, or place any building wall, bridge, fence, obstruction, annoyance, or encroachment in, upon, over, or under any sewer or drain, and every person obstructing, filling in, closing up, or diverting any sewer or drain without the previous consent in writing of the Commissioner shall, in addition to any other penalty to which he may be liable thereby, forfeit and pay to the Commissioner a sum not exceeding Twenty Pounds for every such offence, and the Commissioner may demolish and remove any such building, wall, bridge, fence, obstruction, annoyance, or encroachment, and perform any works necessary for restoring or reinstating the sewer or drain so obstructed, filled in, closed up, or diverted, and the party erecting such building, wall, bridge, fence, or causing such obstruction, annoyance, or encroachment, or obstructing, filling in, closing up, or diverting such sewer or drain as the case may be, shall also pay the expense of removing and abating such wall, bridge, fence, obstruction, annoyance, or encroachment, or of reopening, restoring, repairing, or reinstating any such sewer or drain obstructed, filled in, closed up, or diverted; and in case of a continuing offence in any of the cases aforesaid, the offender shall be liable to a further penalty not exceeding Five Pounds for each day after notice thereof shall have been given by the Commissioner to such offender, and such penalties and expenses shall be recoverable either by action at law or before two justices in a summary manner at the option of the Commissioner: Provided always that nothing herein contained shall extend to prevent or impede the maintenance, repair, or renewal of any buildings or works under which a sewer or drain has been or may be constructed, but so nevertheless that such buildings or works shall not injure or obstruct any such sewer or drain.

Penalties on persons encroaching on sewers.

53. The exclusive control of all gutters, shoots, grates and openings in the streets, within the drainage area, communicating directly or indirectly with the sewers vested in the Commissioner by whomsoever such shoots, grates, and openings may have been made or may be maintained or managed, shall belong to and the same is hereby vested in the Commissioner.

Street drains, to be under the control of Commissioner.

54. Before beginning to lay the pavement or hard surface of any new street, or to re-lay the pavement or hard surface of any existing street, the person authorised or intending to do so, shall give to the Commissioner fourteen days' notice thereof in writing, accompanied by a plan showing by reference to some datum line established by the Commissioner, the proposed level and surface inclination of such street and the nature of the pavement or hard surface proposed to be made or laid thereon, and the Commissioner, within seven days after receiving such notice, may specify by notice given to such person, any and what alteration in the proposed level inclinations or material he may think requisite, and such person shall make such alterations accordingly.

Notice of making and re-laying streets to be given to Commissioner.

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Commissioner may refuse admission of rubbish into sewers.

55. No person shall, without the written permission of the Commissioner, sweep, rake, or place any dust, soil, rubbish, filth, or any other thing into any sewer, or over any grate communicating with such sewer; and no person shall, without such permission, knowingly suffer any dust, soil, rubbish, filth, or other thing from the premises of such person to obtain admission into any sewer; and every person who shall so offend shall, for every such offence, forfeit and pay a penalty not exceeding Five Pounds. No storm waters or surface drainage of streets shall be admitted into any sewer except with the express approval and consent of the Commissioner.

Agreement with Commissioner.

56. It shall be lawful for the Commissioner, by agreement with and at the expense of the owner or occupier of any land or premises within the drainage area, to execute any drainage works on such land or premises which such owner or occupier may be desirous to have so executed thereon,

Penalty for destroying sewers and fittings.

57. Every person who, not being authorised thereto by the Commissioner, shall wilfully or carelessly break, injure, or open, or shall wilfully permit to be broken, injured, or opened, any sewer, drain, or fitting, or any work, engine, or other part of the undertaking, shall, upon conviction thereof, forfeit to the Commissioner, for every such offence, a sum not exceeding Five Pounds, besides the amount of the expense to which the Commissioner may be put in respect thereof in repairing such sewer, drain, fitting, work, engine, or part of the undertaking, and the amount of such expense shall be ascertained, determined, and recovered in the same manner as such forfeited sum.

Penalty for interrupting officers, in execution of duty.

58. If any person at any time obstruct, hinder, or molest any surveyor, inspector, collector, or other officer, workman, or person whomsoever employed by virtue of this Act in the performance or execution of his duty, every such person so offending shall for the first offence forfeit and pay the sum of Five Shillings, for the second offence the sum of Twenty Shillings, and for any subsequent offence the sum of Five Pounds.

Penalty on occupiers obstructing execution of works by owner.

59. If the occupier of any land or premises shall refuse or neglect to allow the owner thereof to carry into effect with respect to such premises any of the provisions of this Act, or any order of the Commissioner made in pursuance thereof, he shall be liable to a penalty not exceeding Five Pounds for every day during the continuance of such refusal or neglect: And if the occupier of any premises when requested by or on behalf of the Commissioner to state the name and description of the owner of the premises occupied by him shall refuse or wilfully omit to disclose, or wilfully misstate the same, it shall be lawful for any justice to summon the party to appear before him or some other justice at a time and place to be appointed in such summons; and if the party so summoned shall neglect or refuse to attend at the time and place so appointed, or shall not show good cause for such refusal, or if such wilful omission or misstatement be proved,

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proved, the justice before whom the party is so summoned may impose upon the offender a penalty not exceeding Five Pounds.

ASSESSMENT AND RATING.

60. As early as he conveniently can in each year, the Commissioner shall make, for the purposes of this Act, such an assessment as is in this Act described, and notice of the making thereof shall be published by the Commissioner in the *Government Gazette* so soon as he conveniently can after it has been made. Immediately upon such publication, such assessment shall be deemed to have been in force from the commencement of the then current year, and shall, unless lawfully altered within that year, continue and be in force until the end thereof; but if such assessment is lawfully altered within that year, then such assessment, as so altered, shall be deemed to have been in force from the commencement of that year, and shall continue to be in force until the end thereof: Provided always that the assessment, which is in force on the last day of any year, shall continue and be in force during the whole of the next year, if the Commissioner shall so direct by a notice published in the *Government Gazette* before the first day of February in such next year. Such assessment shall be made according to the full, fair, and average estimated annual value of the lands and premises assessed, and clear of all outgoings; and shall be written in a book, wherein shall be specified, in separate columns, the names of the respective occupiers and owners, or agents of the owners, of such lands and premises, so far as those names can be ascertained, and also the estimated annual value of the several lands and premises, with a succinct description of such lands and premises. Such of those lands as are vacant lands shall be distinguished as such in the said book.

Commissioner to make annual assessment.

61. 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 out-goings, 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.

Annual value of lands, how estimated.

62. In each assessment made by the commissioner for the purposes of this Act, he shall assess all lands and premises situated within the drainage area, except—

What lands shall be assessed.

- I. Lands and premises which are used by the Government of the province, or by the officers or servants of such Government, exclusively for the public purposes of such Government :
- II. Lands and premises which are occupied and used by the Municipal Corporation of the City of Adelaide, or by any other Municipal Corporation within the drainage area, exclusively for Municipal purposes, and are not underlet to or occupied for

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for other than Municipal purposes by tenants of such Corporations respectively: Provided that no lands or buildings which such Corporations may have a right to resume at will or upon three months' notice shall be deemed to be liable for sewerage-rates after such resumption:

- III. Lands and premises used exclusively for charitable purposes, also churches, chapels, and buildings used exclusively for public worship, and State schools.

Appointment of assessors, and adoption of assessment.

63. For the purpose of making any such assessment, the Commissioner may appoint any person to assess the whole or part of such lands and premises, and may, if he think proper, adopt either wholly or in part any assessment then in force which shall have been made by, or by the authority of, any Municipal Corporation or District Council.

Omissions in assessment may be corrected.

64. Whenever any land or premises which in the opinion of the Commissioner ought to have been or ought to be assessed for the purposes of this Act, is not so assessed, the Commissioner may cause the same to be so assessed, and after the same shall have been so assessed, shall, so soon as he conveniently can, alter and amend the assessment then in force, and the corresponding assessment-book, in such manner as shall seem to him proper in that behalf. If such lands or premises were, at the commencement of the then current year, assessable under this Act, the owner or occupier thereof shall thereupon be liable to pay and be charged with the whole amount of the sewerage-rate for that year; but if they have become so assessable since the commencement of that year, such owner or occupier shall be liable to pay, and charged with, only such proportionate part of that year's sewerage-rate as to the Commissioner shall seem just.

Power to inspect assessment books.

65. The Commissioner, or any person having an order for that purpose under the Commissioner's hand, shall be entitled as of right, at all reasonable times, to inspect free of charge, all rate-books and assessment-books then in use or in force, relating to any land or premises within the drainage area, and all other books and documents relating thereto, and may, free of charge, make and take copies thereof, or extracts therefrom; and all persons having any such rate-book, assessment-book, or other book or document in his custody, power, or control, shall, at all reasonable times, and without any fee or charge whatever, afford to the Commissioner, and to all persons authorised as aforesaid by him in that behalf, free access to all such rate, assessment, and other books and documents.

Penalty for not permitting inspection of assessment book.

66. Any person who, having the custody of any rate-book, assessment-book, or other book or document mentioned or described in the last preceding section of this Act, shall wilfully neglect or refuse to permit the Commissioner, or any other person having an order for that purpose, under the Commissioner's hand as aforesaid, to inspect the same free of charge, or to make and take, free of charge, copies or
extracts

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extracts from the same within two days after a demand in writing and such written authority under the Commissioner's hand 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 Twenty Pounds.

67. So soon in each year as any such assessment shall have been made, the assessment-book, or a true copy thereof, shall be deposited in the office of the Commissioner, and the same shall be open, free of charge, to inspection of all persons interested between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon on every day except Sundays, Saturdays, and public holidays.

Deposit of assessment-book.

68. So soon as he conveniently can after any alteration has been made under this Act in any assessment or assessment-book, the Commissioner shall publish in the *Government Gazette* a notice to the effect that such alteration has been made.

Notice of alteration to be published.

69. If it shall at any time appear to the Commissioner that the name of any person has been inserted in any assessment or assessment-book, as the owner or occupier of any lands or premises in respect of which some other person ought to have been assessed, or that any other matter purely of error needs rectification in such assessment or book, the Commissioner may cause such assessment to be rectified as he shall think proper, and a description of the lands or premises so omitted, and the name of the owner or occupier to be inserted in such assessment and book, together with the annual value at which such lands or premises shall be assessed, and may also substitute for the name of any person erroneously described therein as the owner or occupier of any lands or premises assessed, the name of the actual owner or occupier thereof, and may correct any other error in the said assessment-book in such manner as he shall deem proper.

Commissioner empowered to correct assessment.

70. The Commissioner may make and levy on all lands and premises comprised in the said assessment, such sewerage-rates as he may think expedient, not exceeding in the whole one shilling in the pound during any one year, and such sewerage-rates shall be payable at the times and in the manner hereinafter provided.

Scale of sewerage rates.

71. If the Commissioner shall at any time be of opinion that the sewerage-rates amount to more than sufficient for the purposes of this Act it shall be lawful for him by notice published in the *Government Gazette* to reduce throughout the whole or any part of the drainage area the scale of sewerage-rates on every or any description of property assessed under this Act. Every such reduction shall take place on the first day of January or the first day of July, as the case may be, in any year whichever of such days shall happen first after the publication of such notice, unless the reduction is thereby directed to take effect sooner.

Power to reduce scale of sewerage rates.

72. Whenever,

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Sewerage-rates to be payable so soon as sewer laid down.

72. Whenever, after the passing of this Act, a sewer shall have been laid down by the Commissioner, in any street situate in the drainage area, he shall publish in the *Government Gazette* a notice that such sewer has been laid down there, and from and after the expiration of seven days from such publication being made the full amount of sewerage-rates shall be payable according to the scale which shall then be in force in respect of all such lands or premises as in the opinion of the Commissioner could by means of drains be drained by such sewer. Such sewerage-rates shall be payable for the period which shall elapse between the first day of whatever month shall next follow the expiration of such seven days and the thirtieth day of June or the thirty-first day of December which shall next happen; and thereafter the rates shall be payable in full as aforesaid half-yearly in advance on every first day of January and first day of July, according to the scale which shall be in force at the time when such payments shall respectively fall due: Provided that all lands not included in such notice, and which, in the opinion of the Commissioner, will not be drained by any sewer, shall be liable to pay one half only of such rates.

Collector to leave particulars of sewerage rate.

73. So soon as conveniently may be after each sewerage-rate has been made by the Commissioner, the collector of sewerage-rates shall deliver to each owner or occupier who is liable to pay such sewerage-rate, or shall leave on or in the assessed lands and premises, written or printed particulars of the sewerage-rate which has been made and is to be collected in respect of such lands and premises; and in such particulars shall be specified the description of such lands and premises as set forth in the assessment-book, the time allowed for paying such sewerage-rate, and the consequence of not paying the same within such time.

When several premises drained by one drain each to pay.

74. When land or premises in the separate occupation of several persons are drained by one common drain or sewer, the several owners or occupiers of such land or premises shall be liable to the payment of the same sewerage-rate as they would have been liable to if each such piece of land or each of such premises had been drained by a separate drain.

When owner to pay sewerage-rates and when occupier.

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

Collector may collect rents when sewerage-rates in arrear.

76. When sewerage-rates for the payment whereof the owner of the property assessed is liable shall be in arrear, the collector shall give notice in writing to the occupier of the property in respect of which such arrears shall be due, to pay to him all rents thenceforward, until satisfaction shall be made thereof of such arrears; and every such occupier shall pay all rent accruing due after the service of such notice to the collector; and until full satisfaction of such arrears, by the receipt of rent as aforesaid, together with all costs, including

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cluding a poundage of One Shilling on the total sum, the Commissioner is hereby empowered to exercise against the occupier, in addition to any other remedy under this Act, all remedies which may be enforced by landlord against a tenant for recovery of rent in arrear. The receipts given by the Commissioner or collector to each such occupier shall, as between him and the person to whom he should otherwise have paid such rent, be a complete discharge from such rent to the amount paid, and may be pleaded in bar to every action in which such rent is, or damages in lieu thereof are sued for.

77. When any owner or lessor of any property assessed shall, by virtue of this Act, or by contract, or otherwise be liable to payment of any sewerage-rates to be collected in respect thereof, and such sewerage rates shall be required from and paid by any lessee or occupier, then such lessee or occupier may set off the amount so paid against any rent due from him to such owner or lessor and the collector's receipt for such sewerage-rate shall be a discharge of rent and evidence of payment to the amount specified therein; if the sewerage-rate so paid or satisfied shall exceed the rent due, such lessor or occupier may either set off such amount against accruing rent, or recover the same by action as for money paid; and if any such owner or lessor shall have paid any sewerage rate properly payable by such occupier or lessee, it shall be lawful for such owner or lessor to recover the amount so paid from such occupier or lessee, or may distrain for and recover the same in the same manner as if the same were rent in arrear.

As to rates payable by owner paid by tenant and rates payable by tenant paid by owner.

78. Any occupier or lessee of any land or premises within the drainage area who shall pay sewerage-rates for a period prior to or extending beyond his term, shall be entitled to recover from the owner or lessor of such land or premises the amount so paid, by action in any court of competent jurisdiction, or may deduct the same from any unpaid rent.

Rates paid by tenants.

79. All rates received by the Commissioner under the authority of this Act shall be paid by him to the Treasurer, who shall employ the same for the purposes set forth in this Act.

All rates to be paid to Treasurer.

LEGAL PROCEDURE.

80. Any person rated or liable to be rated under this Act, may, within one month after the publication in the *Government Gazette* of the notice of the assessment, appeal from the assessment upon the ground that any lands or premises are assessed above their full and fair annual value, or are omitted from the assessment, or are not assessable.

Assessment may be appealed from.

81. Any person rated or liable to be rated under this Act, may, within one month after the publication in the *Government Gazette* of notice of an alteration in the assessment, appeal from the assessment as altered upon the ground that any lands or premises are assessed above

Appeal from alterations of assessment.

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above or below their full and fair annual value, or are omitted from the assessment, or are not assessable: Provided that it shall not be competent for any person to appeal from an altered assessment upon any ground which would have enabled him to appeal from the assessment before the alteration was made.

Local Court of Adelaide to be Court of appeal.

82. The Local Court of Full Jurisdiction, sitting in Adelaide, shall be the Court of Appeal, having jurisdiction to hear and determine all appeals from every original or altered assessment made under this Act; and every such appeal shall be commenced by a written notice of such appeal, stating the grounds thereof, delivered to the clerk of the court within the period allowed for appealing. Such court may, in its discretion, refuse to award any costs to either the Commissioner or appellant, or may direct either the Commissioner or the appellant to pay to the other party to any such appeal all or so much of the costs properly and necessarily incurred in reference thereto as shall to such court seem just, and the court shall, upon determining such appeal, fix in a summary way the amount of the costs (if any) ordered to be paid.

Hearing of appeal from assessment.

83. Every appeal shall be heard at the sittings of the Local court next after five weeks from the publication in the *Government Gazette* of the notice of assessment or alteration thereof, as the case may be; and at the hearing the assessment-book shall be produced by the Commissioner. Upon considering any relevant legal evidence that may be tendered 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 necessitated by the decision to be immediately made in the assessment-book, which shall be then produced to the court by the Commissioner, and every such 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 acting under his summary jurisdiction.

Special case may be stated for Supreme Court.

84. The Local Court, upon the hearing of any appeal, may state a special case 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 shall be enforced in manner provided for the enforcement of orders of justices under the Ordinance No. 6 of 1850, or any Act substituted for or amending or repealing such Ordinance.

Appeal from orders of justices.

85. There shall be an appeal, in manner provided by the Ordinance No. 6 of 1850, or any Act substituted for or amending or repealing such Ordinance, from any justices' order, under the provisions of this Act, and from any justices' order dismissing an in-
formation

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formation laid under this Act; and no order of justices or of the Local Court shall be removed by *certiorari* into the Supreme Court.

86. The right of the Commissioner to recover sewerage-rates in respect of any land or premises alleged in any notice of appeal to be assessed above its or their full and fair value, shall not be suspended by the appeal; but if the appellant succeeds on such appeal, the amount (if any) of sewerage-rates received by the Commissioner in excess of the amount which, according to the decision on such appeal, the Commissioner was entitled to recover from him, shall forthwith be repaid to him by the Commissioner.

Right to recover sewerage-rates not suspended by appeal.

87. If any sewerage-rates, or any arrears thereof, are unpaid for the space of twenty-one days after demand by the Commissioner, or any collector for payment thereof, shall have been served personally upon the occupier, or left at the land, or premises, rated and assessed thereto, the Commissioner or collector, or his assistant, may thereupon, without any warrant, enter into any part of the lands or premises, and distrain the goods and chattels found therein or thereon: or may enter into any other land or premises, occupied by any person liable to the same sewerage-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, together with reasonable costs thereof, be not paid within five days after the distress has been made, then the said distress, or so much as shall be sufficient to pay such sewerage rates and costs, may be sold, and any overplus shall be returned to the owner of the goods.

Sewerage-rates may be distrained for.

88. All rates made under the authority of this Act shall, until payment, be a continual and perpetual charge upon the land and premises charged therewith, and no Statute of Limitations shall affect any action or other proceeding which shall be brought for the recovery or enforcement of such rates.

Rates to be a charge upon the land.

89. Whenever any sewerage-rate in respect of any lands or premises shall have been in arrear for the space of two years, it shall be lawful for the Commissioner to cause to be published three times in the *Government Gazette*, a notice specifying such lands and premises and the amount of sewerage-rate due in respect thereof, and stating that if such rates shall not be paid within one year from the first publication of such notice, the Commissioner will let the same from year to year as provided by this Act or will apply to the Supreme Court for a sale thereof; and if after one year from the first publication of the notice, all or any part of the sewerage-rates due at the time of the first publication thereof are still unpaid, the Commissioner may let such lands or premises from year to year, and may receive the rents and apply the same towards the payment of the sewerage rates and other costs and expenses, and hold any surplus for the owners of the lands or premises; or the Commissioner may by petition to the Supreme Court, or any Judge thereof

Lands may be sold when rates are in arrear.

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thereof, apply for a sale of the lands described in such notice, or of so much 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 acts required by this clause to be done by the Commissioner have been done, may order the sale of the said lands, or so much thereof as shall be sufficient to pay all arrears due up to time of sale and interest at five per centum per annum, from the time of the first publication of the notice, on such arrears as were then due, 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 that the proceeds of such sale shall be paid into court; and the court or a judge may order payment of the said sewerage-rates, interest, costs, and expenses to be made in preference to any mortgage or other security; and that the conveyance or transfer, as the case may be, 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, and such conveyance or transfer shall vest the legal estate in the sold lands in the purchaser, his heirs, and assigns, free from all incumbrances; and in cases where the land is under the provisions of the Real Property Act of 1861, or any Act repealing or amending the same, the purchaser shall be entitled to receive a certificate of title to the land purchased; 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 the behoof of the party or parties interested therein.

Penalties extended
persons causing
offences.

90. The penalties declared by this Act in the case of persons committing the offences mentioned herein are hereby extended and made applicable to all persons causing the commission of any such offences, or by whose order or direction any such offences shall be committed.

Power to Commis-
sioner to apportion
payments.

91. Where, under the authority of this Act, two or more persons are or may be directed by the Commissioner to do or join in doing any act, or to pay or join in paying any sum of money, costs, or expenses, or where the Commissioner is authorised or thinks proper to permit two or more persons to join together in doing any act or paying any sum of money, costs, or expenses, it shall be lawful for the Commissioner to apportion the matter to be done or the sum of money, costs, or expenses, to be paid between such persons in such manner as the Commissioner consider just and reasonable.

Recovery of moneys
due to Commissioner

92. If any person refuses or neglects to pay to the Commissioner any sewerage-rate or other sum of money due by such person to the Commissioner under this Act, the Commissioner or any collector in his name may sue for and recover the same in any court of competent jurisdiction, as a debt due to the Commissioner; and the Commissioner's remedy under this section shall be in addition to his other remedies for the recovery thereof.

93. In

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93. In all cases where any compensation, 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 specifically provided by this Act or the Lands Clauses Consolidation Act, such amount, in case of dispute, shall be ascertained and determined and recovered in a summary way by and before two Justices acting under the Ordinance No. 6 of 1850.

Provision for ascertaining and recovering damages.

94. All fines, penalties, and other moneys levied or recovered by the Commissioner under this Act, or under any agreement made under it shall be paid to the Treasurer, to be by him carried to the credit of the Commissioner for the purposes of this Act.

Appropriation of moneys recovered under this Act.

95. The production of the *Government Gazette*, or of any printed document purporting to be a copy thereof, published by authority or printed by the Government Printer for the said province, and containing any regulations purporting to be regulations made under the authority of this Act, and any notice purporting to be published by the Commissioner in pursuance of this Act, shall, in every court of justice, be deemed and taken to be *prima facie* evidence of the publication, and of all such facts and circumstances as were or shall be necessary to authorise the publication and making of such regulations and the publication and giving of such notice.

Gazette to be evidence in certain cases.

96. All notices by this Act required to be given to the owner or occupier of any land or premises or other person may be served personally upon such owner, occupier, or person, or left with some inmate of his place or abode, and any notice required to be given to any such owner or occupier may, if there be no occupier, be affixed to some conspicuous part of the land or premises, and it shall not be necessary in any notice to any owner or occupier of any land or premises to name such owner or occupier: Provided always that where there is no occupier, and the owner of such land and premises and his place of abode or that of his agent is known to the Commissioner such notice shall be served on such owner personally, or left with some inmate of his place of abode or transmitted to such owner through the Post Office addressed to him at his place of abode, or last known place of abode in the said province, or served on his agent in manner aforesaid.

Service of notices.

97. Every notice, demand, or like document given by or on behalf of the Commissioner under this Act may be in writing or print, or partly in writing and partly in print, shall be sufficiently authenticated if signed by the Commissioner or by the officer by whom the same is given, or if the name of the Commissioner or other officer be printed thereon.

Authentication of notices.

98. The Commissioner may remit the whole or any part of any fine, penalty, or forfeiture inflicted under the provisions hereof.

Commissioner may remit fines.

99. Copies of the plans mentioned in the twenty-fourth section of this Act, and of any alteration or correction thereof, and of any other such

Copies of plans and alterations to be evidence.

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such documents as aforesaid, or extracts therefrom, certified by the Commissioner or any officer in his department, to be true copies thereof (which certificates the Commissioner shall give to all parties interested when required, on payment of such fees as he may think fit,) shall be received in all courts and elsewhere as conclusive evidence of the contents of the originals.

As to proceedings
against persons acting
under this Act

100. All actions and prosecutions to be commenced against any person for anything done, or for anything omitted which ought to have been done in pursuance of this Act shall be commenced within six calendar months after the fact was committed or omitted, as the case may be, 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 as hereinafter mentioned 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 had, shall certify in writing at the conclusion of the trial, his approbation of the action, and of the verdict obtained thereupon.

Tender of amends.

101. If any person shall commit any irregularity, trespass, or other wrongful proceeding in execution of this Act, or shall omit to do anything which in pursuance of this Act he ought to do, or by virtue of any power or authority hereby given, and if, before action brought in respect thereof, such person make tender to the person injured, his attorney, or agent, of such amends as, in the opinion of the jury at the trial were sufficient, such last mentioned person shall not recover in any such action; and if no such tender shall have been made, the defendant may, by leave of the court wherein such action is pending, at any time before issue joined, pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Commencement of
Act.

102. This Act shall come into operation on a day to be appointed by the Governor by proclamation, to be published in the *Government Gazette*.

In the name and on behalf of Her Majesty, I hereby assent to
this Bill.

WM. F. DRUMMOND JERVOIS, Governor.