

## No. XXXV.

### An Act for supplying the City of Sydney and portions of the Suburbs thereof with Water. [31st October, 1853.]

SYDNEY WATER  
SUPPLY.

**W**HIEREAS the City of Sydney and the Suburbs thereof and the Preamble.  
Shipping in the Port of Sydney are at present inadequately supplied with pure and wholesome water and it is considered that a plentiful supply thereof may be procured from the watercourse and watersheds between the head of the swamp and land in the Parish of Alexandria known as the Sydney Water Reserve whence the present inadequate supply is principally drawn and the termination of such watercourse at Botany Bay And whereas the greater part of the lands containing the said watercourse and watersheds have been alienated by the Crown and are now in the hands of private individuals and it is for the public advantage that so much of the said lands as may be required for the purposes of this Act should be resumed by the Crown and that the waters of the said watercourse should be protected from diversion and pollution And whereas it is resolved that the necessary works for obtaining such supply from the said watercourse and watersheds shall be undertaken by Commissioners to which end provision is required to be made by Legislative enactment for the appointment of proper officers with sufficient powers and for raising and regulating the expenditure of the requisite funds and for other the purposes hereinafter mentioned Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows:—

1. It shall be lawful for the Governor to borrow from the Power to borrow money on security of General Revenue of the Colony.  
Savings' Bank of New South Wales or if need be from any other body or any person or persons upon the security of the General Revenues of the Colony at a rate of interest not exceeding four per centum per annum any such sum and sums of money not exceeding in the whole the sum of two hundred thousand pounds as shall from time to time be required for carrying this Act into execution and all such sums shall be paid over to the Commissioners of the City of Sydney as the same may be required and shall be by them placed to the credit of a separate fund for defraying the cost of supplying the said City and Suburbs with water and all such sums so borrowed shall be a charge upon the water rates of the said City.

2. The entire expenditure of moneys upon the said works and otherwise in carrying out the purposes of this Act (except in respect of sums awarded as compensation for lands resumed taken prejudiced or used or as damages for any loss or injury sustained by any person in or by the execution of this Act and the taxed costs of the action

Expenditure to be under control of Legislative Council.

OR

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Receipts of Commissioners to be subject to examination in the Council.

Governor to appoint Commissioners for executing the purposes of this Act.

Governor with advice of Executive Council authorized to resume watercourse and alienated lands.

Commissioners empowered to divert and take water for purposes of this Act.

And to do all necessary things for collecting water.

Power to construct works &c. for conducting water to Sydney &c.

or issue in or under which such compensation shall have been awarded) shall be subject to the control of the Legislative Council and shall be regulated by Votes and Acts of the said Council in the same manner as the ordinary public expenditure of the Colony and accounts of all income and revenues whatsoever received by the said Commissioners in relation to the works to be executed under this Act and of the expenditure thereof shall be annually laid before and shall be subject to examination by the said Legislative Council in the same manner as if the same were a part of the General Revenue of the said Colony.

3. The Commissioners for the City of Sydney to be appointed by virtue of an Act passed in this present Session intituled "*An Act to dissolve the Corporation of the City of Sydney and for the appointment of Commissioners in lieu thereof for a limited period*" shall be Commissioners for the purpose of providing a plentiful supply of pure and wholesome water for the said City and the Suburbs thereof and for the shipping in the said port and for carrying into effect the whole of the purposes of this Act.

4. It shall be lawful for the Governor by and with the advice of the Executive Council if the said Governor and Executive shall think fit so to do at any time and from time to time in the name of Her Majesty the Queen to resume and take into Her Majesty's hands either the whole or such parts of the said watercourse or stream with its said tributaries and affluents and also such parts of the alienated lands adjacent thereto as he and they shall think it expedient to resume for the purpose of carrying this Act and the objects thereof fully into effect and upon any such resumption being notified by order of the said Governor in the *New South Wales Government Gazette* the said watercourse and stream with its tributaries and affluents or such part or parts thereof as shall be notified as having been so resumed and also all such parts of the said adjacent lands as shall be notified as having been resumed shall immediately and without any deed or instrument of conveyance or surrender thereof become and be vested in Her Majesty Her Heirs and Successors for the uses of the Government of this Colony.

5. The said Commissioners are hereby authorized and empowered for the supply of water to the said City Suburbs and Shipping to divert take and use not only the waters arising from or flowing through the lands in the possession of the Crown now known as the Sydney Water Reserve but also the waters arising from or flowing into or from the stream or watercourse extending from the said reserve to the shore of Botany Bay and all the tributaries and affluents of the said stream or watercourse and all swamps morasses or other sources of water in the neighbourhood of the said stream or watercourse and its tributaries and affluents or so much thereof as may from time to time be necessary for the said purpose and for such purpose to dig cut trench sink or bore into any ground and also to take and use the lands required for forming proper reservoirs catch-drains conduits and other works and machinery necessary for collecting and receiving the said waters and for all purposes of necessity or convenience incident to such works and to the effectual carrying out the objects of this Act Provided that the said Commissioners their officers workmen and assistants shall do as little damage as may be in the execution of the several powers hereby granted.

6. The said Commissioners shall have full power and they are hereby authorized to make and construct such cuts channels feeders catch-drains reservoirs aqueducts tunnels pipes pipe-tracts conduits filters trenches mounds engines and other works and machinery as they may think necessary proper or convenient for conducting an adequate supply of water to the said City and Suburbs together with such

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such reservoirs and other works as the said Commissioners shall think necessary for securing regularity in the said supply of water and to clean uphold and repair the said works and machinery in all time ensuing and for any and every such purpose to enter upon take and use any lands required to be entered taken or used for such purposes Provided always that the said Commissioners their officers workmen and assistants shall do as little damage as may be in the execution of the several powers hereby granted as aforesaid.

7. The said Commissioners and their servants and workmen are hereby authorized and empowered to enter into and upon the lands of every person or corporation whatsoever required for the purposes of this Act and to survey and take levels of the same and to set out and ascertain such parts thereof as they shall think necessary and proper for making the said reservoirs conduits and other works and machinery hereby authorized to be made and necessary for making preserving and improving the same and also to bore dig cut trench sough get remove take and carry away and lay earth clay stone rubbish beds of gravel or sand for making the said reservoirs works and machinery which may be got on carrying on the said works or out of the lands of any person adjoining any part of the said works which the said Commissioners are hereby empowered to enter for the purpose of getting such materials and to make such roads as may be requisite for removing the same and also to place lay and work the same on the said lands Provided always that the said Commissioners shall not be entitled to take clay stone or other such materials for the purposes of this Act from any orchard garden yard planted walk avenue lawn pleasure ground or plantation of trees and they the said Commissioners doing as little damage as may be in the execution of the several powers hereby granted.

Power to enter lands &c.

8. The said Commissioners are hereby authorized and empowered by themselves or in the name of their Clerk or Treasurer duly authorized to that effect at some meeting of the said Commissioners to contract and enter into contracts and other agreements with any person engaging to execute perform and construct the works erections machinery and other operations hereby authorized to be made erected and constructed or any part thereof and which contracts and agreements shall be binding upon the Commissioners and their successors in office until the same shall be fully and fairly implemented and generally the said Commissioners shall have and possess every power and authority necessary to carry into complete effect all and every purpose of this Act according to the true intent and meaning thereof.

Power to contract for executing works.

9. The said Commissioners are hereby authorized and empowered for the purpose of laying pipes and conductors of water to all and every part or place they shall judge expedient within the said City and Suburbs and for maintaining cleansing repairing and altering the said pipes and conductors or the track line or direction thereof or any part of the same from time to time to open or cause to be opened up all streets lanes courts closes and turnpike and other roads passages and accesses of every description and also upon application by any party requiring the same to authorize such operations as they the said Commissioners shall think necessary for the conducting of the said water into dwelling-houses or other houses and premises of whatever description by pipes which are to be formed laid and regulated as to ball-cocks stop-cocks cisterns waste pipes and other requisites under the direction and to the satisfaction of the said Commissioners or such persons as they shall appoint Provided always that in all such cases the said Commissioners and all other persons shall be respectively bound and obliged to replace the streets lanes closes roads passages and accesses interfered with by them and pavements of the same in

General powers to carry into complete effect the purposes of this Act.

Power to open streets for laying pipes.

Power to authorize such operations as may be necessary for carrying water to dwellings.

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the same situations and like good order and condition in every respect as when they commenced their several operations thereon.

Power to erect public fountains and wells.

Fire-plugs and fire-cocks to be provided.

No rate or charge to be made for water for extinguishing fires.

Powers and works now vested in and held by Corporation of City to be transferred to Commissioners upon notification of sufficient advancement of works under this Act.

Provisions for protecting the waters from pollution.

Penalty.

10. The said Commissioners are hereby authorized and empowered to make or cause to be made at such times and places as shall appear proper to them such number of public fountains and wells within the said City and Suburbs as they shall deem expedient to which the whole inhabitants except when otherwise herein provided shall have free and unlimited access with all convenient appurtenances of cocks stop-cocks waste pipes and other necessary appendages thereto and to use and take all means for the establishment support and continuance of such fountains and wells the said Commissioners making compensation to the owners and occupiers of any private property taken or used for the said purposes to be valued and paid for in manner hereinafter mentioned and the said Commissioners are hereby authorized empowered and required upon laying down any main pipe in any street passage or place for supplying the same with water to fix or place or cause to be fixed and placed at the time of laying down such main pipe sufficient fire-plugs and fire-cocks on or near one side of such street passage or place for the supply of water for the extinguishing of fires and when and so soon as such fire-plugs and fire-cocks shall be finished the said Commissioners shall immediately deposit keys of such fire-plugs and fire-cocks at each place within the said City and Suburbs where any engine shall be kept for the extinguishing of fires or at such other places as may be fixed by the said Commissioners and it shall not be lawful for the said Commissioners to make any rate or charge whatever for any water supplied for the extinguishment of fires.

11. All and every the powers and duties conferred and imposed upon the said Corporation or Council of the City of Sydney their officers and servants for the purpose of supplying the said City and the Shipping in the Harbour thereof with water by the Act passed in the fourteenth year of Her Majesty's reign "*to provide for the regulation of the Corporation of the City of Sydney*" shall or may be exercised and performed by the said Commissioners their officers and servants and all and every the powers which were by the Water-tunnel Act passed in the fourth year of the reign of His late Majesty King William the Fourth numbered one conferred upon any surveyor artificer servant or other person or persons acting by or under the authority of the Governor for the purpose of supplying the Town and Port of Sydney with water shall and may be exercised by any surveyor artificer servant or other person acting by or under the authority of the said Commissioners.

12. If any person shall wash any dog or other animal or any clothes wood leather or the skins of any sheep lamb or other animal or any noisome or offensive thing or throw or cast any dead animal or any filth dirt or other noisome or offensive thing or shall bathe in the said watercourse or stream or in any reservoir basin or aqueduct tunnel or waterway or waterworks made or to be made for supplying the said City and Suburbs with water or cause or suffer the water of any sewer or drain to run or be conveyed into the said watercourse or stream or into any such well fountain reservoir basin aqueduct tunnel pipe waterway or waterworks or cause or permit any other thing whatsoever to be done to the water contained in the said watercourse or stream or in any such well fountain basin reservoir aqueduct tunnel or waterway or waterworks whereby or by means whereof the said water or any part thereof shall or may be soiled fouled corrupted or injured every person so offending shall forfeit and pay any sum not exceeding fifty pounds for every such offence.

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13. In case any person shall wilfully or maliciously obstruct hinder or molest any officer servant or other person employed in the execution of any of the powers committed by this Act to the said Commissioners such person shall be liable to pay a penalty not exceeding five pounds for the first and ten pounds for the second and every subsequent offence.

Penalty on persons obstructing the execution of this Act.

14. Any person who shall injure any public fountain pump cock or water pipe cistern or public watercourse or any part thereof respectively shall pay the costs of repairing the same and if the injury be wilfully done shall forfeit any sum not exceeding fifty pounds and any person who shall in any manner clandestinely or unlawfully appropriate to his own use any water from any fountain pipe or cistern under the charge of the said Commissioners shall forfeit any sum not exceeding twenty-five pounds and any person who shall open or leave open any cock or any public fountain or pump so that the water shall or may run to waste shall forfeit any sum not exceeding five pounds and any person who shall wash any clothes or other materials at any public fountain or pump shall forfeit and pay any sum not exceeding one pound and any person who shall lead or cause to be led or taken any horses cattle sheep or other animal to any public fountain or pump now erected or hereafter to be erected by the said Commissioners for the purpose of watering or cleansing the said horses cattle sheep or other animals at such public fountains or pumps shall for every such offence forfeit and pay any sum not exceeding five pounds.

Penalty for injuring public fountains &c.

Or clandestinely or unlawfully appropriating water

Or allowing water to run to waste

Or washing clothes &c.

Or watering horses &c. thereat.

15. All persons whose lands shall have been so as aforesaid resumed and taken into Her said Majesty's hands or whose lands may have been taken used or prejudiced by the said Commissioners under any of the provisions herein contained or who shall have sustained any loss or damage whatever in or by the execution of this Act shall be entitled to reasonable compensation for the loss or injury sustained by them and such compensation shall be ascertained assessed or awarded as hereinafter mentioned Provided that in fixing the amount of such compensation reference shall be had to any reservation contained in the grants by which the lands of the parties claiming such compensation were alienated by the Crown.

Compensation for lands resumed &c. and damage done.

16. In all cases in which compensation is claimed it shall be competent to the said Commissioners to agree with the claimant for the payment of such sum of money as the said Commissioners may think reasonable and proper and upon any such agreement being made the sum so agreed upon shall be paid accordingly and in all cases it shall be lawful for the Commissioners to tender to the claimant such sum of money as such compensation as aforesaid as the Commissioners shall think fit and in case the Commissioners and claimant shall not agree as aforesaid the amount to be paid shall be determined in the Supreme Court by an action for damages to be brought by the claimant against the Commissioners or upon an issue agreed to by the claimant and Commissioners respectively Provided that in all cases in which an action shall be brought in the Supreme Court in respect of any claim for such compensation as aforesaid it shall be lawful for the Commissioners to plead any such tender as aforesaid in bar of such action on paying into Court in the usual way according to the practice of the Court the amount of money tendered or to pay into Court such sum of money as the Commissioner shall think fit and to plead such payment in bar of the further maintenance of such action and whichever party shall succeed in such action or upon such issue as aforesaid shall be entitled to costs to be awarded and recovered according to the practice of the Court.

Mode of fixing amount of compensation.

Commissioners may plead a tender or may pay money into Court.

Costs.

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*Water Police.*

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Title of Act.

17. This Act may be quoted as "The Sydney Water Act of 1853" and shall be construed as if the same had been incorporated with the Act passed in the present Session of Council "*To dissolve the Corporation of the City of Sydney and for the appointment of Commissioners in lieu thereof for a limited period.*"

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