

W E S T E R N A U S T R A L I A

ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ

No. 13

An Act to enable Municipal Councils to construct Water Works, or to Contract for a Water Supply.

[Assented to 4th December, 1889.]

Preamble

WHEREAS the construction of works for supplying with water the several Municipal Districts of the Colony would be of great public advantage, and it is expedient that powers should be conferred on the Council of any Municipality for effectually supplying good and wholesome water within the Municipality, and that such Council should be empowered to levy a special rate in respect of such Water Supply: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Short title

1. This Act may be cited as 'The Water-works Act, 1889,' and shall be divided into parts, relating to the following matters:—

PART I.—Interpretation.

PART II.—Construction of works, and powers and liabilities of the Council and contractors.

PART III.—Water supply and protection of works and fittings.

PART IV.—Water Rate.

PART V.—Legal Procedure.

PART I

INTERPRETATION

Interpretation

2. In the construction of this Act, except where the subject matter or context shall require a different interpretation, the following words in inverted commas shall have the respective meanings hereinafter assigned to them, that is to say—

'Council' shall mean and include the Council of the Municipality.

'Contractors' shall mean and include any person or persons, company or corporation, with whom the Council may have contracted by virtue of the provisions of section 5 of this Act.

'Consumer' shall mean any person, company, or corporation supplied with water under this Act.

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- ‘Fitting’ shall include communication pipes, standpipes, and other pipes, and also all cocks, valves, siphons, cisterns, and other apparatus used or intended for the supply of water under this Act, and for that purpose placed in or upon the lands or premises of the consumer.
- ‘Land’ shall include lands, tenements, and hereditaments of any tenure.
- ‘Owner’ shall include the person for the time being receiving or entitled to receive the rents and profits of any land, whether on his own account or as agent, trustee, or attorney.
- ‘Premises’ shall include any house, and any public or private building whatsoever, and any part of any house or building, and any garden, stable, yard, or other offices used together or in connection with any house or building, and every part thereof.
- ‘Stream’ shall include spring, lake, brook, river, and other running water.
- ‘Street’ shall mean and include every public square, place, road, terrace, and thoroughfare, and any private street.
- ‘Water-rate’ shall include every rent payable, and every reward or payment to be made, whether under agreement or otherwise to the Council or contractors for a supply of water from the water-works for any purpose whatever.

PART II

CONSTRUCTION OF WORKS, AND POWERS AND LIABILITIES OF THE COUNCIL AND CONTRACTORS

3. It shall be lawful for the Council to construct and maintain water-works for supplying good and wholesome water to and in the Municipality, or to contract with any person or persons for the construction and maintenance of the same, upon such terms and conditions, and with or without the right of purchase of the works, as such Council may think fit; and in case of any such contract the contractor or contractors shall have and exercise all the rights, powers, benefits, and privileges, and be subject and liable to all the duties, obligations, and restrictions by this Act respectively vested in, exercisable by, and imposed upon the Council or contractors. Provided always, that nothing in this Act contained shall be construed to extend the limits of the borrowing powers of Municipalities fixed under the provisions of ‘The Municipal Institutions Act, 1876.’ Provided further, that it shall not be lawful for any Council, other than the Council of the City of Perth, to enter into any contract for the construction of water-works until the proposal has been submitted to and approved by the ratepayers in manner and form as required by ‘The Municipal Institutions Act, 1876,’ Part VIII., to be observed before the raising of a Loan.

Council may
construct water-
works or con-
tract for water
supply

4. Plans of the water-works proposed to be constructed, together with a map showing the proposed line of the pipes to be laid into the

Plans of works
to be deposited

The Water-works Act

Municipality, and a Book of Reference in the form given in Schedule A to this Act, shall be deposited and kept at the office of the Council, and such plans, map, and book shall be open to public inspection, at the office of the Council, on such days in the week not being less than three, and during such hours on such days as the Council shall by notice in the 'Government Gazette' appoint.

Deviations, &c.,
from plans

5. All deviations from the proposed line of works and all alterations of or additions to the said plans, map, or book shall be forthwith marked thereon respectively, and any omission, misstatement, or wrong description may be corrected therein respectively by the Council. Notice of any such deviation, alteration, or addition, and of any such correction as aforesaid, shall be forthwith published in the 'Government Gazette' by the Council.

Council or con-
tractors may do
certain acts and
execute certain
works

6. For the purpose of constructing, completing, extending, or maintaining any water-works, and for supplying water to or in any Municipality, and for the purpose of carrying out the provisions of this Act, the Council or contractors or their authorised agents may exercise any of the powers following; that is to say:—

- (1) They may enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary, and dig, break, and trench the soil of such lands, and remove or use all earth, stone, minerals, trees, or other things dug or obtained out of or from the same.
- (2) They may enter upon, take, and hold, either temporarily or permanently, such lands as they may from time to time deem necessary for the construction, maintenance, repair, or improvement of any water-works, or obtaining or enlarging the supply of water, or for improving the quality thereof, or otherwise, for the purposes of this Act.
- (3) They may from time to time sink such wells or shafts, and make, maintain, alter, or discontinue any reservoirs, water-works, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings upon the land, streams, and water-courses taken by them as they shall think proper for carrying out the scheme of water supply according to the plans deposited as aforesaid.
- (4) They may from time to time divert and impound the water from any stream as they may think fit, and alter the course of the same, and also take the water of any such stream, and also such water as may be found in, under, or on any lands so to be taken for the purposes of this Act.
- (5) They may enter upon any Crown or private lands, bridges, streets, roads, or thoroughfares, and lay or place thereon or therein any main or other pipes, and lay down and set up any service pipes or standpipes in connection with such mains or pipes, and may repair, alter, cut

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off, or remove the same from time to time. Provided always, that in the exercise of the said powers the Council and contractors shall do as little damage as possible, and in all cases where it can be done shall provide other watering places, drains, and channels for the use of adjoining lands in place of any such as shall be taken away or interrupted.

7. It shall be lawful for the Council or contractors, for the purposes of this Act, and so far as the same are applicable, to exercise similar powers, rights, and privileges, as are conferred on the Commissioner of Railways by 'The Railway Act, 1878,' or by any Act amending, or incorporated therewith, in respect of the entry upon, and the taking, purchase, or other acquisition of lands, for the construction of railways, but subject also to similar duties, liabilities, and restrictions, so far as may be applicable, imposed by the said Act or Acts upon the Commissioner.

Council or contractors may exercise similar powers of entry on and taking, &c., lands as conferred on Commissioner of Railways

8. In all cases in which any land, stream, watercourse, or water is taken, entered upon, or used, under the powers conferred by this Act, full compensation shall be made by the Council or contractors to the owner or owners of such land, or person or persons sustaining damage, and entitled to such stream, watercourse, or water (subject always to the rights of the Crown), and such compensation shall in all cases be estimated and settled upon the same principle and in the same manner as provided by the Acts referred to in the last preceding section in respect of lands taken by the Commissioner of Railways.

Compensation for lands taken, &c.

9. Every person who shall wilfully obstruct any person acting under the authority of the Council or contractors in setting out the line of works, or pull up or remove any pegs, poles, or stakes driven into the ground for the purpose of setting out the line of works, or deface or destroy any works made for the same purpose, shall be liable to a penalty not exceeding Five pounds for every such offence.

Penalty for obstructing construction of works

10. After any stream or supplies of water shall have been taken by the Council or contractors, every person who shall illegally divert or take the water supplying or flowing into the stream so taken, or any part thereof, or who shall do any unlawful act whereby the said streams or supplies of water may be drawn off or diminished in quantity, and who shall not immediately repair the injury done by him on being required so to do by the Council or contractors, so as to restore the said waters to the state in which they were before such act, shall forfeit to the Council or contractors any sum which shall be awarded by any two Justices not exceeding Five pounds for every day during which the said supply of water shall be diverted or diminished, by reason of any act done by or by the authority of such person, and any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged liable to pay to the Council or contractors for any damage which they may sustain by reason of their supply of water being diminished, and the payment of the sum so forfeited shall not bar or affect the right of the Council or contractors to bring an action at law against such person for the damage so committed.

Penalty for illegally diverting water.

11. The Council or contractors may open and break up the soil and pavement of streets and bridges for the purpose of the works of the

Power to break up streets

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water supply, and may lay down and place pipes, conduits, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which they shall from time to time deem necessary for supplying water under the provisions of this Act.

Notice to be given before breaking up streets

12. Before the contractors or the Council (in case of any street or bridge beyond their jurisdiction) shall open or break up the soil or pavement of any street or bridge, they shall give to the persons or authority under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of the intention to open or break up the same, not less than twelve hours before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works.

Reinstatement of streets

13. When the Council or contractors shall open or break up the road or pavement of any street or bridge they shall, with all convenient speed, complete the work for which the same shall be broken up and fill in the ground and reinstate and make good the road or pavement so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so open or broken up, cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up; and the contractors shall, after replacing and making good the road or pavement which shall have been so broken up by them, keep the same in good repair for six months thereafter.

Power to make by-laws

14. The Council or contractors may from time to time make, alter, and repeal by-laws—

- (1) For regulating the conduct of the officers and servants appointed or employed under or for the purposes of this Act.
- (2) For fixing a scale of charges for water supplied by measure and a minimum quantity of water to be charged for where water is so supplied.
- (3) For determining the times at which any charge for water supplied under agreement shall be payable, and whether in advance or otherwise.
- (4) For regulating the number, form, material, dimensions, construction, and arrangement of pipes, fittings, and other works supplying water from the pipes of the Council or contractors to adjacent premises; the time of executing and the notices to be given for such works; the superintendence thereof; the making good and replacing ground which may be displaced in the course of such works, and for inspecting at reasonable times pipes and fittings, whether within any buildings or otherwise.
- (5) For regulating the construction, disposition, and inspection of meters.

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- (6) For regulating the quantity of water each consumer is entitled to use in respect of his rates in any given period.
- (7) For preventing the waste or misuse of water, whether supplied by meter or otherwise.
- (8) For compelling persons using water supplied by the Council or contractors to keep their pipes, fittings, and other appliances in proper repair; for preventing any alteration of or interference with such pipes or fittings without the consent of or notice to the Council or contractors; for repairing such pipes, fittings, and appliances so as to prevent waste of water, and for recovering the cost of such repairs.
- (9) For licensing competent plumbers and for cancelling such licenses, and also for preventing any other than licensed plumbers from fixing, altering, or repairing any pipes, fittings, or meters connected with the pipes or works of the Council or contractors; and fining licensed plumbers for breach of any of the regulations.

The Council or contractors may, by such by-laws, impose such reasonable penalties as they may think fit, not exceeding Twenty pounds, for any breach of such by-laws, and in case of a continuing offence a further penalty, not exceeding Five pounds, for each day after notice of such offence shall have been given by the Council or contractors to the offender; and every such by-law shall, after it has been approved by the Governor in Executive Council, and published in the 'Government Gazette,' have the force of law.

Penalty for
breach of
by-laws

PART III

WATER SUPPLY AND PROTECTION OF WORKS AND FITTINGS

15. The Council or contractors shall, unless prevented by unusual drought or other unavoidable cause or accident, or during necessary repairs, supply sufficient water for watering the streets along which any main pipe may be laid, and also for the use of all lands and buildings in the Municipality situate within 180 feet of a main, and occupied and used by the Council for public purposes. Provided that water so supplied shall not be charged for at a higher rate than one half of the charge made for the time being to private consumers.

Supply for
public purposes

16. The Council or contractors shall fix and keep in effective order proper fire plugs in the mains, at such distances and at such places as they may consider proper and convenient for the supply of water for extinguishing fires.

Fire plugs for
public purposes

17. The Council or contractors may, at the request and cost of the owner or occupier of any manufactory or other premises situate in or near any street in which or within 100 yards of which there shall be a main pipe, place as near as conveniently may be to such manufactory or premises, and maintain in effective order, a fire plug to be used only for extinguishing fires, and shall supply a key of such fire plug to such

Fire plugs for
manufactories,
&c.

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Pipes to be kept charged and water taken for fires

owner or occupier, but such fire plug shall not be opened or used by him except for the purpose of aiding in extinguishing fires.

Constant supply of water to be distributed for domestic purposes

18. The Council or contractors shall at all times, unless prevented by unusual drought or other unavoidable cause or accident, or during necessary repair, keep charged with water all their pipes to which fire plugs are fixed, and shall allow all persons at all times to take and use such water for the purpose only of extinguishing fires.

What is domestic supply

19. The Council or contractors shall, unless prevented by unusual drought or other unavoidable cause or accident, distribute to all persons entitled thereto under this Act a constant supply of water for domestic purposes, in the manner prescribed by this Act and the by-laws made hereunder: Provided always, that the Council or contractors shall not be liable to supply water to any person in any street until after a main pipe shall have been laid down in such street, nor to any premises beyond a distance of 180 feet from any such main.

Supply to be subject to proper construction of fittings

20. A supply of water for domestic purposes shall include a supply for one watercloset and one bath, but shall not include a supply for cattle or for horses or for any steam engine or for washing carriages, where such horses or carriages are kept for hire or are the property of any dealer, or for any hotel, inn, trade manufacturer or business whatever, or for watering gardens or for fountains or for any ornamental purpose.

Power to supply by measure

21. The Council or contractors shall not be bound to supply any watercloset or bath, or the apparatus, cisterns, or pipes connected therewith, or any water for domestic purposes, unless the cisterns, pipes, and cocks necessary for such supply shall be constructed in a manner approved by the Council or contractors.

Supply may be cut off from unoccupied premises

22. The Council or contractors may supply any person with water for other than domestic purposes by measure at such prices and upon such terms and conditions as may be agreed upon between the Council or contractors and the person desirous of having the supply, and may compel any person supplied with water to take the same by measure at the same price and upon the same terms as water is then supplied by the Council or contractors to other consumers.

Power to lessen or discontinue supply

23. The Council or contractors may cut off the water supply from any lands or premises when the same shall have remained unoccupied for three months; and whenever such lands or premises shall again be occupied the water supply shall, on demand made in writing by the owner or occupier thereof, be restored. Provided always, that cutting off the water shall not release the owner or occupier of any such land or premises from any liability to pay water-rates in respect thereof.

24. Whenever the quantity of water stored in any reservoir has been diminished to such an extent as to render it necessary or expedient, in the opinion of the Council or contractors, to lessen the quantity of water supplied, they may, after giving public notice of their intention so to do, lessen the supply of water throughout the whole or any part of any water area to such extent, for such time, and in such manner as they shall think fit, or may lessen the supply to any particular class or classes of consumers supplied under agreement, or may, for

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such time as the Council or contractors shall think proper, discontinue the supply for any particular purpose.

25. Whenever it appears to the Council or contractors that a constant supply of water can be effectually and more economically provided for any group or number of houses situate in a court, passage, alley, lane, or other place by means of a standpipe or other fitting fixed outside such houses, the Council or contractors may provide, erect, and fix in readiness for use by the owners or occupiers of such group or number of houses, and shall renew or repair a standpipe, or other fittings, and shall afford and distribute by means thereof a constant supply of water for domestic purposes to the owners or occupiers of such group or number of houses. Such owners or occupiers, but not any other person, shall be entitled to take, consume, and use in the said group or number of houses, but not elsewhere, such constant supply, and the owners or occupiers of such houses shall be liable to the same water-rates as if the water had been supplied to each of such houses in the ordinary manner provided by this Act. The expense of providing, erecting, and fixing in readiness for use such standpipe or other fittings, and of renewing or repairing the same from time to time, shall be borne by the owner of such group or number of houses, or if they belong to more than one owner then by the respective owners thereof, in such proportions as the Council or contractors may determine and by notice require.

Supply in groups
of houses

26. Save in the cases provided for in the next preceding section, the Council or contractors, on receiving from the owner or occupier of lands or premises in any street in which a main pipe has been laid down a written request for a constant supply of water for domestic purposes, shall provide and lay down to the edge of the same street nearest to such premises, and fix in readiness for use, and shall thereafter, at the like request, on receiving due notice in that behalf, keep in repair communication pipes and other fittings, and do such other acts and construct such works as the Council or contractors shall deem necessary and proper for complying with and carrying out such request. The Council or contractors may in like manner and under like circumstances provide, lay down, and fix pipes for supplying water by measure to any person entitled thereto under any agreement.

Communication
pipe from main
to be laid

27. No person shall lay any gas pipe in any trench with or close alongside any main pipe, nor lay any tram-rail along the line of and immediately above a main pipe, without the consent of the Council or contractors; and if any person shall, without such consent, so lay any such gas-pipe or tram-rail, and refuse to remove the same when required by the Council or contractors so to do, he shall for each such offence forfeit and pay to the Council or contractors a sum not exceeding Five pounds, and a further sum of One pound for each day (if more than one) that such offence continues.

Laying of gas
pipe or tram-rail
in certain posi-
tions prohibited

28. The Council or contractors may let for hire to any consumer of water supplied under agreement any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money and upon such terms as may be agreed upon between the Council or contractors and the consumer.

Council or con-
tractors may let
meters

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Meters not
drainable

29. Such meters, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or to be attached or taken in execution under any process of any court of law, or under or in pursuance of any order in bankruptcy or other legal proceedings against or affecting the consumer of the water or the occupier of the premises or other person in whose possession the meters, pipes, instruments, or apparatus may be.

Council or con-
tractors to
supply meters

30. All meters for the supply of water under this Act shall be provided by the Council or contractors and by no other person or persons, and such meters shall be fixed, refixed, opened, removed, altered, repaired, and interfered with by the persons authorised by the Council or contractors, and none other.

Penalty on
unauthorised
persons fixing,
&c., meters

31. If any person other than the persons authorised by the Council or contractors shall fix, refix, open, tamper with, break, remove, alter, repair, or in any way interfere with any meter for measuring the supply of water under this Act, the hirer of such meter, or the person on whose premises the same shall be or shall have been fixed, shall forfeit and pay to the Council or contractors for each such offence a sum not exceeding Twenty pounds over and above the damage which he may be found liable to pay in an action at law at the suit of the Council or contractors; and the Council or contractors may, in addition, cut off the supply of water to such premises and refuse to restore the same until a proper meter has been fixed, or the existing meter repaired to the satisfaction of the Council or contractors, and all the expenses of cutting off and restoring such supply shall have been paid to the Council or contractors.

Consumer to
keep fittings in
repair

32. Every person supplied with water by the Council or contractors shall keep such part of the communication pipe and the stop-cock or drains and other works and fittings as shall be within his own premises in good repair, so as effectually to prevent the water from running to waste or the collection therein of unwholesome matter; and in case any person shall neglect to keep the same in good repair the Council or contractors may, in addition to any other remedy they may possess, cut off the pipe or turn off the water from the premises of any such person until such stop-cock or other works or fittings shall be provided or repaired, as the case may require.

No pipe or fitting
to be connected,
or disconnected,
or altered with-
out consent of
Council or con-
tractors

33. It shall not be lawful for the owner or occupier of any premises supplied with water, or any consumer of the water, or any other person, to affix, or cause or permit to be affixed, any pipe, fitting, or apparatus, to a pipe belonging to or used by such owner or occupier, consumer, or any other person, or to make any addition to or alteration in any such communication or service pipe, fitting, or apparatus connected therewith, without the consent, in every such case, of the Council or contractors: And if any person acts in any respect in contravention of the provisions of the present section, he shall, for every such offence, be liable to a penalty not exceeding Five pounds, without prejudice to the right of the Council or contractors to recover damages from him in respect of any injury done to their property, and to the right to recover from him the value of any water wasted or misused.

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34. No person shall use or place in or upon, or affix or attach to, or permit to be used or placed in or upon or affixed or attached to any lands or premises supplied or to be supplied with water under this Act, for the purpose or with the intent of thereby using, taking, conveying, or delivering such water, any bath, watercloset, soilpan, receptacle, or fitting, other than such as are by any by-law prescribed or permitted by the Council or contractors to be so used, placed, affixed, or attached ; nor shall any such watercloset, soilpan, receptacle, or fitting be arranged in a mode different from that prescribed. Any person who shall do or permit any act in contravention of this section shall be liable to forfeit and pay to the Council or contractors any sum not exceeding Five pounds for each offence.

None but pre-scribed fittings,
&c., to be used

35. Any officer of or person authorised by the Council or contractors may, at all reasonable times, enter upon any lands and into any premises to which water is supplied by the Council or contractors under agreement or otherwise for the purpose of examining and ascertaining, and may examine and ascertain whether there has been or is any waste, misuse, fouling, or contamination of such water, and what quantity of water has been consumed there, and whether all baths, waterclosets, soilpans, receptacles, and fittings, and the materials and mode of arrangement thereof, used or intended to be used on or in such lands or premises for the purpose of conveying, delivering, or receiving water supplied or about to be supplied are in every respect in accordance with the by-laws made under this Act and are in proper order and repair, and that they are used only for the purposes for which they may be lawfully used under this Act. If any bath, watercloset, soilpan, receptacle, or fitting shall on such examination be found to be out of repair, or the mode or arrangement thereof not in accordance with such by-laws, the Council or contractors may, without prejudice to any other power or remedy which they may have under this Act, give notice to the occupier or owner of such land or premises to repair or alter the same ; and if any such occupier or owner shall fail or neglect to comply with such notice, or if any officer of or person authorised by the Council or contractors be at any reasonable time refused admission upon such lands or into such premises where such admission is claimed for any of the purposes mentioned in this section, or be obstructed in or hindered from doing all or any of the acts by this section authorised to be done, the Council or contractors may cut off the water from such lands and premises, and shall not be bound to supply water thereto again, except at such times and upon such conditions (including payment of the expenses of cutting off and restoring such water) as the Council or contractors shall think proper to prescribe, but the owner or occupier of such lands or premises shall nevertheless continue liable to pay water-rates as before.

Power to enter
and examine if
water is wasted,
&c., and if
fittings in order

36. No pipe or fitting attached to or connected with any of the pipes of the Council or contractors shall be seized or taken in execution by process of law or under distress for rent.

No pipe or fitting
to be taken by
process of law

37. Any person who, being an owner or occupier of lands or premises supplied with water under this Act, for the purpose of taking, in a manner not authorised by this Act, any such water, uses in or

Penalty for
using unauthorised fittings

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places on or affixes or attaches to such lands or premises or to any prescribed fitting, or wilfully permits to be used in or placed on or affixed or attached to such lands or premises or to any fitting, any instrument or thing not authorised in that behalf by the Council or contractors, or who alters, misuses, injures or removes any prescribed fitting, except for the purpose of necessary repairs, shall upon conviction thereof forfeit and pay to the Council or contractors a sum not exceeding Ten pounds, without prejudice to the right of the Council or contractors to recover from him damages in respect of any injury by such owner or occupier done, or wilfully permitted to be done, to the property of the Council or contractors, and without prejudice to the right of the Council or contractors to recover from him the value of any water wasted, misused, or unduly consumed.

Penalty for
breaking valves,
&c.

38. Every person who, not being authorised thereto by the Council or contractors, shall wilfully or carelessly break, injure, or open, or shall wilfully permit to be broken, injured, or opened, any lock, cock, valve, pipe, or other fitting, or any work or engine belonging to the Council or contractors, or shall flush or draw off the water from the reservoirs or other works of the Council or contractors, or shall do any other wilful act, or shall wilfully permit to be done any act whereby such water shall be wasted, shall, upon conviction thereof, forfeit and pay to the Council or contractors for every such offence a sum not exceeding Ten pounds, besides the amount of damage to which the Council or contractors may be put in respect thereof, as well for the value of the water wasted as in repairing such fittings or other parts of the works, and the amount of such damage shall be ascertained, determined, and recovered in the same manner as any forfeited sum.

Penalty for
contravening
this Act

39. If any person supplied with water by the Council or contractors wrongfully does or causes or permits to be done anything in contravention of any of the provisions of this Act, or fails to do anything which, under any of those provisions, ought to be done for the prevention of the waste, misuse, or contamination of the water of the Council or contractors, he shall forfeit and pay to the Council or contractors for each such offence a sum not exceeding Five pounds.

Penalty for
wasting water,
not repairing
fittings, &c.

40. If any person supplied with water by the Council or contractors wastes any water or wilfully or negligently causes or suffers any pipe, valve, cock, cistern, bath, soilpan, watercloset or other apparatus or receptacle to be out of repair, or to be so used or contrived that the water supplied to him by the Council or contractors is or is likely to be wasted, misused, or contaminated, or so as to occasion or allow the return of foul air, or other noisome or impure matter, into any pipe belonging to or connected with the pipes of the Council or contractors, he shall, for every such offence, be liable to a penalty not exceeding Five pounds.

Council or con-
tractors may cut
off water on non-
payment of rates
or breach of the
Act or by-laws

41. If any person supplied with water by the Council or contractors, under agreement or otherwise, shall fail to pay on demand any water-rates or other moneys due by him or due in respect of the premises occupied by such person, or shall in the opinion of the Council or contractors commit a breach of any of the provisions of this Act or of any by-laws made hereunder, the Council or contractors may, without

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prejudice to any other of their rights, powers, or remedies, cut off the supply of water to such person and refuse to restore the same until all water-rates and other moneys so due, and all penalties which shall have been inflicted, together with the expenses of cutting off and restoring such water, shall have been paid.

42. If any person, not being supplied with water by the Council or contractors, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the Council or contractors, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the Council or contractors, or supplied by them for the use of any consumer, he shall for every such offence be liable to a penalty not exceeding Five pounds.

Penalty for unlawfully taking water

43. If any person bathe in any stream, reservoir, aqueduct, or other water-works belonging to the Council or contractors, or wash, throw, or cause to enter therein any dog or other animal, he shall for every such offence forfeit a sum not exceeding Five pounds.

Penalty for bathing in water of Council

44. If any person throw or convey, or cause or permit to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing into any such stream, or in the bed of any watercourse, or into any reservoir, aqueduct, or other water-works as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing, he shall for every such offence forfeit a sum not exceeding Five pounds.

Penalty for throwing dirt in water

45. Where the owner or occupier of any land within the watershed of any water-works or of any reservoir or source of supply belonging to the Council or contractors does or permits to be done on his land any act, or permits to remain thereon any matter or thing which is likely to injure the water supply, if notice to discontinue or remove the same be given to him in writing by an officer of or person authorised by the Council or contractors, and if he neglect or refuse to discontinue such act, or to remove any such matter or thing, he shall for each such offence forfeit a sum not exceeding Five pounds, and a further sum of Twenty shillings for each day (if more than one) that such offence continues.

Penalty for nuisance in watershed

PART IV

WATER-RATE

46. The Council is hereby authorised and required, subject to the provisions of this Act, to make and levy a water-rate, not exceeding One shilling in the pound in any one year upon the net annual value of all property liable to the general rate as shown by the rate book compiled for the purposes of the general rate under 'The Municipal Institutions Act, 1876'; subject, however, to all similar rights of appeal as are provided in respect of such general rate.

Council may levy water-rate

47. All the provisions of 'The Municipal Institutions Act, 1876,' and of any Act incorporated therewith, with reference to the making, levying and recovering of the general rate or any arrears thereof shall,

Manner of levying and recovering water-rate

The Water-works Act

subject to the provisions of this Act, be equally applicable to any water-rate under the provisions of this Act, and any arrears of the same.

Premises to be subject to water-rate only when main laid

48. Water-rates under this Act shall be paid and payable in respect only of lands and premises situate in any street in which a main pipe has been laid down for the purpose of a water supply: Provided always, that no lands or premises lying beyond 180 feet from the frontage of such street shall, for the purposes of this section, be deemed to be within the street. Whenever, after the passing of this Act, a main pipe shall have been laid down by the Council or contractors in any street, the Council or contractors shall publish in the 'Government Gazette' a notice that such main pipe has been laid down there, and that the Council or contractors are prepared to distribute a constant supply of water therefrom to the lands and premises situate in such street; and from and after the expiration of seven days from such publication being made the water-rate shall be payable in advance for the period which shall elapse between the first day of whatever month shall next follow the expiration of such seven days and the 31st day of December then following, and thereafter the rate shall be payable half-yearly in advance on every 1st day of January and 1st day of July in every year, subject to the provisions of this Act and to any by-laws made hereunder.

Lessee may recover half cost of service pipes, &c., when lease has less than five years to run

49. Any lessee and the executors, administrators, and assigns of any lessee of lands rated under this Act, who holds or who hold them under a lease for a term whereof a period less than five years remains unexpired, when the cost hereafter mentioned is incurred, shall be entitled to receive from his lessor, his executors, administrators, or assigns a moiety of the cost which such lessee or his under-lessee, or the executors, administrators, or assigns of such lessee or under-lessee may have paid or may be liable to pay to the Council or contractors for providing, laying down, and fixing in readiness for use such service pipes or other prescribed fittings as may be necessary for conveying the water from the pipes of the Council or contractors to such lands, and may, in addition to any other remedy for recovering such costs, deduct such moiety from any rent due to or to accrue due under such lease.

PART V

LEGAL PROCEDURE

Offences punishable on summary conviction

50. All informations and proceedings in respect of offences against this Act or any by-law made thereunder shall be summarily punishable, upon conviction before a Justice or Justices of the Peace in Petty Sessions.

Damages, &c., may be recovered summarily to extent of £20

51. All forfeitures, damages, and expenses, and other sums of money by this Act made payable to or recoverable by the Council or contractors, including moneys payable by persons supplied with water by measure, shall, where the amount sought to be recovered does not exceed Twenty pounds, be recoverable summarily before two or more Justices of the Peace in manner directed by an Ordinance passed in the session holden in the 14th year of the reign of Her present

The Water-works Act

Majesty, No. 5, intituled 'An Ordinance to facilitate the performance of the duties of Justices of the Peace out of Sessions within the Colony of Western Australia, with respect to Summary Convictions and Orders,' or any Ordinance passed for the amendment thereof.

52. Subject to the provisions of this Act one moiety of all penalties imposed or recovered under this Act, where the application is not thereby otherwise provided for, shall be paid to the informer, and the other moiety to the Council or contractors. Appropriation of penalties

53. Every penalty imposed by this Act or by any by-law made hereunder may be proceeded for and enforced either against the person actually committing any breach of such Act or by-law, or the person in whose employment he is, or on whose behalf he is acting. Persons liable to penalties

54. The register of every meter provided by the Council or contractors, or a copy thereof certified by the Town Clerk or any officer of the contractors to be true, shall be *prima facie* evidence of the quantity of water consumed. Register of meters *prima facie* evidence

55. Sections A, C, and F of 'The Shortening Ordinance, 1853,' shall be incorporated with and taken to form part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act. Sections A, C, and F of Shortening Ordinance adopted

56. Nothing in this Act contained shall be deemed or construed to affect any right, title, or interest of Her Majesty, her heirs or successors. Saving of Crown rights

F. NAPIER BROOME,
GOVERNOR.

SCHEDEULE

Book of Reference of the Water-works from to

No.	Length		Owners	Occupiers	General Bearing of Pipe Track	Description of Land through which Pipe Track is intended to be carried			Quantity required for making Pipe Track or other works	Value of Land taken	Value of injury by severance	Remarks
	From	To				Nature and Quality	State of cultivation	Inclusions, if any				
	C. L.	C. L.							A. R. P.	£ s. d.	£ s. d.	