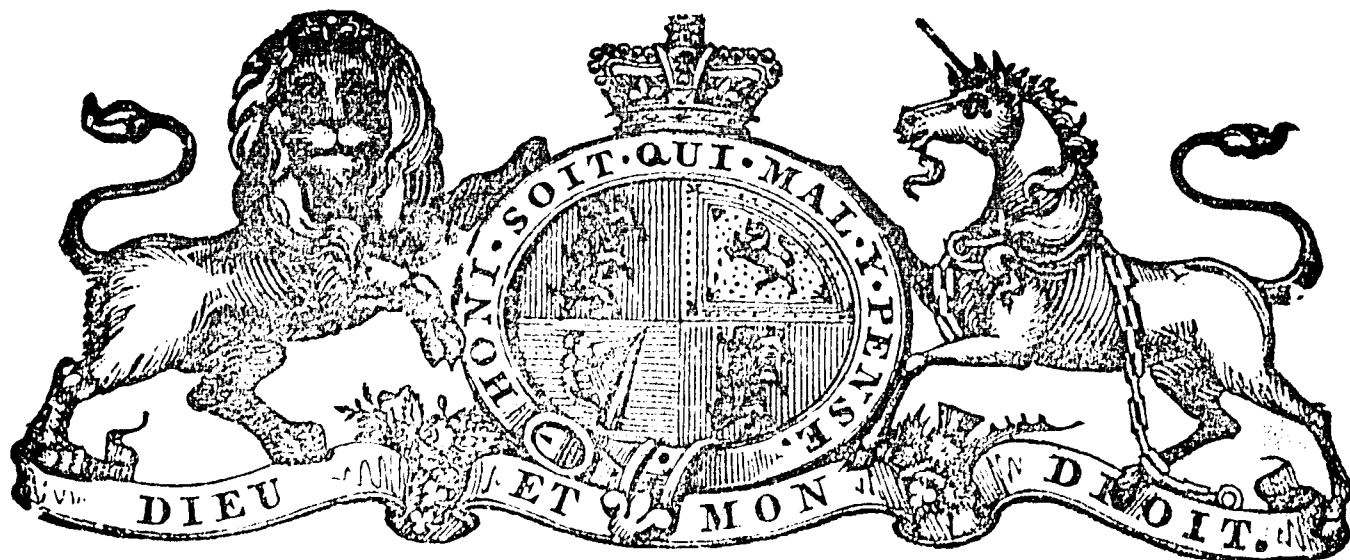


VICTORIA.



ANNO QUADRAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. DCLVI.

An Act to repeal the “Waterworks Commissioners Act 1869,” and for other purposes.

[25th June 1880.]

BE it enacted by the Queen’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. This Act shall be called and may be cited as “*The Waterworks Act 1880*,” and so far as is consistent with the tenor hereof shall be construed as one with “*The Local Governing Bodies Loan Act 1872*.”

Short title and construction.

No. 448.

2. The Acts specified in the First Schedule to this Act are hereby repealed to the extent specified in the last column of that Schedule : Provided that this repeal shall not except as herein provided affect—

Repeal of Acts in First Schedule.

- (a.) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed ; nor
- (b.) Any right privilege obligation or liability acquired accrued or incurred under any enactment hereby repealed ; nor
- (c.) Any penalty forfeiture or punishment incurred in respect of any enactment hereby repealed.

3. There

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Appointment of Commissioners, who are to be a corporation.

3. There shall be seven Commissioners for carrying this Act into execution, and such Commissioners shall be a body corporate by the name of "The Ballarat Water Commissioners," and by that name shall have perpetual succession and a common seal, and shall have power to hold lands tenements and hereditaments goods chattels and other property for any of the purposes of this Act; and such Commissioners shall be and be deemed to be a "local governing body" within the meaning of "*The Local Governing Bodies Loan Act 1872*" and any Act amending the same or construed therewith, and shall and may exercise all the powers conferred upon a "local governing body" by the said Acts, and the Water Supply District of Ballarat, the boundaries of which are set out in the Second Schedule hereto, shall be deemed to be a "water supply district" within the meaning of the said Acts.

Second Schedule.

Who shall elect and appoint Commissioners.

4. The council of the corporation of the city of Ballarat shall from time to time elect two of such Commissioners, the council of the town of Ballarat East shall from time to time elect two other of such Commissioners, and the Governor in Council shall appoint three other of such Commissioners, one of whom shall be the chairman, and such Commissioners so elected or appointed may remove from office. The Commissioners to be elected by the councils herein specified shall be so elected by a majority of the whole of the members of each of such councils respectively. The first election and appointment of such Commissioners shall take place within one month after the passing of this Act. If from any cause either of such councils neglects or refuses to elect two Commissioners within such month, the Governor in Council may appoint as many Commissioners as may be required in consequence of any such neglect or refusal.

Term of office of Commissioners.

5. The Commissioners from time to time elected by the said councils shall hold office for a period of two years next ensuing from the date of such election unless disqualified as herein provided or removed by the Governor in Council, and the Commissioners from time to time appointed by the Governor in Council shall continue in office for four years next ensuing from the date of such appointment unless disqualified or removed as herein provided: Provided however that the two Commissioners first elected by the council of the City of Ballarat shall each hold office for a period of three years unless disqualified or removed as aforesaid.

Vacancies.

6. Any vacancy in the office of Commissioner under this Act occasioned by death resignation removal disqualification or any other cause whatever shall be filled up by the council which elected the person whose seat may have become vacant or by the Governor in Council within one month after the vacancy shall have occurred by the election or appointment of a new Commissioner. But if from any cause the council whose duty it is to elect any such Commissioner fail neglect or refuse so to do within one month after the occurrence of such vacancy, then the Governor in Council may appoint as many fit and proper

proper persons to be Commissioners as are required to fill vacancies caused by such failure neglect or refusal. No act or proceeding of any of the Commissioners acting under the authority of this Act shall be invalidated or be illegal in consequence only of there being any vacancy in the number of Commissioners at the time of doing or executing such act or proceeding.

Acts not invalidated
by reason of
vacancies.

7. No person being an uncertificated insolvent shall be capable of being elected or appointed a Commissioner under this Act, and no Commissioner who shall be declared insolvent or who shall apply to take the benefit of any Act for the relief of insolvent debtors or who shall compound by deed or instrument in writing with his creditors or who shall stop payment in the common mercantile acceptation of the term shall be capable of continuing a Commissioner, and the office of such Commissioner shall thereupon be vacant.

Insolvents not to be
or continue to be
Commissioners.

8. If at any time subsequent to the election or appointment of any such Commissioner he shall accept or continue to hold any office or place of profit under the Commissioners or be concerned in any contract (except for the supply of water to such Commissioner) or participate in any manner in any work to be done under the authority of this Act, or shall derive or be entitled to any benefit either directly or indirectly therefrom, or shall be absent from four consecutive periodical meetings of the Commissioners without leave obtained from the Commissioners in that behalf, such person shall cease to be a Commissioner, and his office thereupon shall become vacant.

No person holding
office under or
concerned in any
contract with the
Commissioners to
be a Commissioner.

No person being a shareholder or member of any incorporated or joint stock company consisting of more than twenty persons shall be disqualified from acting as a Commissioner under this Act by reason of any contract entered into between such company and the Commissioners; nevertheless it shall not be lawful for any such shareholder or member to act as a Commissioner in any matter relating to any contract entered into between the Commissioners and such company.

Exception.

9. The Ballarat Water Commissioners shall meet and assemble at the office of the Ballarat and Ballarat East Water Commissioners upon the Wednesday next after all such Commissioners shall have been elected and appointed as herein provided at the hour of Twelve noon for the purposes of this Act; and such Commissioners shall and may from time to time by adjournment from such meeting or from any subsequent meeting to be holden under the authority of this Act meet together at any convenient place to be from time to time appointed by them for that purpose at such hour as may from time to time be appointed; and if at any such meeting there shall not be four Commissioners present within a quarter of an hour after the time appointed for such meeting, then it shall be lawful for the Commissioners present or the major part of them or any one Commissioner if only one be present to adjourn such meeting until another

Meetings of Com-
missioners.

another day, and if no Commissioner shall be present then it shall be lawful for the secretary to adjourn the meeting to another day.

Quorum of Commissioners.

10. All powers vested in the Ballarat Water Commissioners may be exercised by any four or more of such Commissioners present at any meeting of Commissioners holden in pursuance of this Act, and no business shall be transacted at any such meeting unless four or more of the Commissioners shall be present at any such meeting ; and all questions at any meeting shall be decided by a majority of the votes of the Commissioners present, and in case of an equal division of votes the chairman shall have a second or casting vote in addition to his vote as a Commissioner. If at any meeting the chairman is not present at the time appointed for holding the same the members present shall choose some one of their number present to be chairman of such meeting.

Chairman.

Commissioners to appoint officers.

11. The Ballarat Water Commissioners shall from time to time appoint and remove officers and other servants and persons to assist in the execution of this Act as the Commissioners shall think necessary or proper, and such persons shall hold office during pleasure only, and shall pay to such officers servants and persons such salaries wages and allowances as the Commissioners shall think reasonable. No person so appointed shall be permitted to engage in any employment other than in connection with the duties of his office without the sanction in writing of the Commissioners. Before any person intrusted with the custody and control of moneys whether treasurer collector or other officer of the Commissioners shall enter upon his office the Commissioners shall take sufficient security from him for the faithful execution of his office.

Commissioners to take security from officers intrusted with money.

Commissioners may make regulations.

12. Subject to the approval of the Governor in Council such Commissioners may from time to time make amend and repeal regulations for or relating to all or any of the following subjects :—

- (1.) The appointment of the place and hour of meetings whether periodical or special of Commissioners and the management and conduct of business thereat :
- (2.) The powers and duties and the control supervision and guidance of all officers servants and persons appointed or employed by the Commissioners, and the time and mode of accounting by officers of all moneys coming to their hands :
- (3.) The management and mode of making contracts and the conduct of same :
- (4.) The imposing levying and receiving of all rates or charges :
- (5.) The imposing of penalties for any breach of any regulation by this Act authorized to be made, not exceeding for any offence the sum of Five pounds :

And

And generally for duly administering and carrying out the powers confided to the Commissioners :

And any penalty in respect of the breach of any such regulation may be recovered in a summary way before any two justices.

Breaches of regulations punishable by fine.

13. The Governor in Council may at the expiration of one month after the presentation to him of a petition under the common seal of any municipality make an order declaring any municipal district or any place or locality within a municipal district to be a "water supply district" within the meaning of Acts Nos. 448 and 500, and such order shall appoint the council of such municipality as the "local governing body" of such water supply district, notwithstanding that no loan shall have been granted by the Governor in Council to such municipality for waterworks purposes, and such local governing body shall have and may exercise all the powers conferred upon local governing bodies by the said recited Acts or any Act incorporated therewith in the same manner and to the same effect as if such water supply district and local governing body had been created in pursuance of the provisions of the said enactments.

Power to proclaim any municipal district or part thereof a "local governing body."

14. Immediately on the holding of the first meeting of the Ballarat Water Commissioners the Ballarat and Ballarat East Water Commissioners and all commissions issued under the provisions of Act No. 347 shall by the operation of this Act be abolished, and all the undertaking and works of such last mentioned Commissioners and all property real and personal vested in or belonging to the Ballarat and Ballarat East Water Commissioners shall in like manner be absolutely transferred to and be vested in and belong to the Ballarat Water Commissioners subject to all encumbrances thereon.

Undertaking and property of Ballarat and Ballarat East Water Commissioners transferred to new Commissioners.

15. The Ballarat Water Commissioners shall adopt have the benefit of may enforce and shall perform all lawful contracts and agreements entered into by or with the Ballarat and Ballarat East Water Commissioners prior to the day of the first meeting as aforesaid of the Ballarat Water Commissioners and then subsisting or remaining unperformed on that day, and all the liabilities of the Ballarat and Ballarat East Water Commissioners thereunder or under the deed mentioned in the next succeeding section shall and may be enforced against the Ballarat Water Commissioners.

Contracts transferred to the Ballarat Water Commissioners.

16. The deed of mortgage dated the seventh day of May One thousand eight hundred and eighty and made between the Ballarat and Ballarat East Water Commissioners of the first part His Excellency the Most Honorable George Augustus Constantine Marquis of Normanby Governor of the Colony of Victoria by and with the advice and consent of the Executive Council of the same of the second part and the Board of Land and Works of the third part, a memorial whereof is registered in the office of the Registrar-General of the Colony of Victoria at Melbourne number seven hundred and sixteen (No. 716) book 287, is hereby

Mortgage of 7th May 1880 transferred to new Commissioners.

hereby declared to have been lawfully given accepted made and executed and such deed is hereby declared to be a valid security to secure the payment by the Ballarat and Ballarat East Water Commissioners to the Board of Land and Works or to the Treasurer of Victoria for the time being of the sum of Three hundred and twenty-four thousand eight hundred and forty-three pounds seventeen shillings and fourpence and interest thereon as in such deed is mentioned and provided ; and from and after the date of the said first meeting of the Ballarat Water Commissioners such deed shall be read and construed and carried out and enforced as if it had been made and executed by the Ballarat Water Commissioners in the place and stead of the Ballarat and Ballarat East Water Commissioners. In default of payment by the Ballarat Water Commissioners of the said interest or of any portion thereof the Board of Land and Works shall exercise all the powers conferred upon the said Board by section four of Act No. 448.

Certain reserves
to revert to Her
Majesty and be
Crown lands.

17. The land now known as Lake Wendouree reserved for water supply purposes by Order in Council dated the thirtieth day of September One thousand eight hundred and sixty-one published in the *Government Gazette* of the fifteenth October One thousand eight hundred and sixty-one shall no longer be vested in the Ballarat and Ballarat East Water Commissioners, and the same shall revert to Her Majesty her heirs and successors and be Crown lands ; and it shall be lawful for the Governor in Council in the name of Her Majesty to grant to the corporation of the mayor councillors and citizens of Ballarat subject to such exceptions reservations terms and conditions as the Governor in Council shall think fit the whole or any portion of Lake Wendouree and the shores thereof and of any Crown land adjoining to be held by the said corporation upon trust for recreation purposes.

Service pipes &c.
to be repaired, and
new pipes &c. to
be laid on, by
owners.

18. All pipes and stop-cocks heretofore or hereafter laid on so as to connect the main pipes of the Ballarat Water Commissioners with any tenement and whether the same may have been so laid by the owners of such tenement or not or by the Commissioners hereby abolished shall be kept in repair and all new pipes and stop-cocks shall be laid on by or at the exclusive cost of the owner of the tenement to which the pipe is laid on.

Power to increase
water rates to ten
per cent, per
annum.

19. The Ballarat Water Commissioners may under the provisions of the Act No. 500 make and levy rates upon all land and tenements within the Water Supply District of Ballarat not exceeding the amount of Ten pounds per centum per annum on the annual valuation of the property rated. The said Commissioners shall have power to fix from time to time the minimum sum to be charged in lieu of rates upon land and tenements the valuation of which is less than Twenty pounds per annum such charge not to exceed One pound per annum, but whenever the said Commissioners shall make a rate of more than One shilling in the

the pound then in that case the extra rate over and above One shilling in the pound shall be charged upon the valuation of such land and tenements in addition to the said minimum sum. The said Commissioners may make a bye-law for the half-year ending the thirty-first day of December One thousand eight hundred and eighty increasing the rates and charges fixed by Bye-law No. 6 of the Ballarat and Ballarat East Water Commissioners and dated the nineteenth day of December One thousand eight hundred and seventy-nine, provided that such increased rates and charges shall not exceed such amount of Ten pounds per centum per annum and shall not be chargeable until after the thirtieth day of June One thousand eight hundred and eighty.

Power as to half-year ending 31 December 1880. *Government Gazette*, 1879, p. 3208.

20. The Ballarat Water Commissioners shall have power to enforce all bye-laws heretofore made by the Ballarat and Ballarat East Water Commissioners and to recover all rates and charges made or imposed under any such bye-laws as fully and effectually as such last mentioned Commissioners could have done if this Act had not passed : And all such bye-laws the operation of which has not already expired shall remain in full force and effect until revoked by the Ballarat Water Commissioners or until their expiry by effluxion of time.

Commissioners to enforce bye-laws already made and recover rates and charges thereunder.

21. The accounts of every local governing body shall be audited at least once in every year. In the month of January in every year every local governing body or in default the Governor in Council shall from time to time appoint an auditor to audit such accounts and every such person the Governor in Council may remove. Every auditor shall be entitled to receive and recover such remuneration from the body whose accounts he shall be appointed to audit as may from time to time be fixed by such body or in default by the Governor in Council, and shall and may exercise in reference to any such audit the powers conferred by section two hundred and eleven of the Act No. DVI. upon auditors appointed under that Statute.

Audit of accounts.

SCHEDULES.

Section 2.

SCHEDULES.

FIRST SCHEDULE.

Date and Number of Act.	Short Title of Act.	Extent of Repeal.
33 Vict. No. 347	" <i>Waterworks Commissioners Act 1869</i> "	The whole.
34 Vict. No. 375	" <i>The Waterworks Commissioners Amendment Act 1870</i> "	The whole.
36 Vict. No. 442	" <i>The Amending Waterworks Statute 1872</i> "	The whole.
38 Vict. No. 500	" <i>An Act to amend 'The Local Governing Bodies Loan Act 1872'</i> "	The following words in section five, viz.:—"except in any district comprised within a commission issued under the provisions of the ' <i>Waterworks Commissioners Act 1869</i> ,' in which case the rates and charges shall not exceed the amount set forth in the commission."

Section 3.

SECOND SCHEDULE.

BOUNDARIES OF THE BALLARAT WATER SUPPLY DISTRICT.

Order in Council
18th September
1876.

Commencing at the north-east angle of allotment 12 of section I. in the parish of Cardigan ; thence by a line bearing south two hundred and thirty chains more or less ; thence north $89^{\circ} 38'$ east three hundred and seven chains ; thence north one hundred and ninety chains to a point in the southern boundary of the town of Ballarat East ; thence by that boundary bearing east one hundred and ten chains to the south-east angle thereof ; thence by the eastern boundary of said town bearing north two hundred chains to the north-east angle thereof ; thence still by the same line five chains fifty links to a point in the southern boundary of allotment 3 of section IV. in the parish of Warrenheip ; thence by a line and a road bearing south-easterly thirteen chains ; thence south $80^{\circ} 56'$ east twenty chains ; thence north $89^{\circ} 47'$ east sixty-one chains ; thence north fourteen chains ; thence by a line and a road bearing north $29^{\circ} 42'$ east six chains to a point on the river Yarrowee ; thence by the said river bearing north-westerly one hundred and thirteen chains to a point about eight chains below its junction with the Gong Gong creek ; thence by a line bearing west four hundred and thirty chains ; thence south one hundred and thirty-three chains to a point in a road ; thence by the northern side of said road bearing east twenty-eight chains to a point in the western boundary of the city of Ballarat, and thence by a portion of boundary bearing south seventy-eight chains fifty links to the point of commencement.

MELBOURNE:

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