



ANNO QUADRAGESIMO QUINTO ET QUADRAGESIMO
SEXTO

VICTORIÆ REGINÆ.

A.D. 1882.

No. 269.

Waterworks Act.

ANALYSIS.

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An Act to amend and consolidate the Laws relating
to Water Supply.

[Assented to, November 17th, 1882.]

WHEREAS it is expedient to amend and consolidate the laws relating to water supply—Be it therefore Enacted by the Governor of the Province of South Australia, by and with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

PRELIMINARY.

1. This Act may be cited as “The Waterworks Act, 1882.” It shall be divided into parts relating to the following subject matters—

Short title.

PART I.—Repeal and Interpretation, sections 2 to 4:

PART II.—Constitution of Water Districts and Incorporation of Acts, sections 5 and 6:

PART III.—Incorporation, Rights, and Powers of the Commissioner, sections 7 to 31:

PART IV.—Supply of Water and Protection of Fittings and Works, sections 32 to 64:

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PART I.

PART I.

REPEAL AND INTERPRETATION.

2. The several Acts mentioned in the First Schedule hereto are hereby repealed.

Repeal, &c.

3. Nothing herein contained shall affect the validity of any proclamation, assessment, bond, act, deed, matter, or thing lawfully made, executed, or done under or by virtue of the said repealed Acts, or any or them, or of any regulations lawfully made in pursuance of such Acts, or any of them respectively, or prevent any penalty being imposed, enforced, or recovered, or any punishment being inflicted for any offence heretofore committed against any of the said Acts or regulations.

Saving proceedings under repealed Acts.

4. In the construction of this Act, except where the subject matter, or context, or other provisions hereof require a different construction.

Interpretation.

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PART I.

construction, the following terms in inverted commas shall have the respective meanings hereafter assigned to them, that is to say—

- Commissioner. “Commissioner” shall mean the Commissioner of Waterworks:
- Consumer. “Consumer” shall mean any person supplied with water under this Act:
- Fittings. “Fittings” shall include communication pipes, standpipes, and all other pipes, and also all cocks, valves, siphons, cisterns, and other apparatus used or intended for the supply of water under this Act by the Commissioner to a consumer, and for that purpose placed in or upon the lands or premises of the consumer:
- Justices. “Justice” shall mean any Justice of the Peace for the province:
- Land. “Land” shall include lands, tenements, and hereditaments of any tenure:
- Owner. “Owner” shall include the person for the time being receiving, or entitled to receive, the rents and profits of any land, messuages, or hereditaments, whether on his own account or as agent, trustee, or attorney:
- Premises. “Premises” shall mean and 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:
- Streams. “Streams” shall include springs, lakes, brooks, and rivers, and other running waters:
- Street. “Street” shall mean and include every public square, place, road, terrace, and thoroughfare, and any private street:
- Vacant land. “Vacant Land” shall mean 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:
- Water district. “Water District” shall mean and include the District of Adelaide, described in the Second Schedule hereto, and every other district to be proclaimed from time to time under this Act within which water is to be supplied:
- Water rate. “Water Rate” shall include every rent payable, and every reward or payment to be made, whether under agreement or otherwise, to the Commissioner, for a supply of water from the waterworks for any purpose whatever.

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PART II.

PART II.

CONSTITUTION OF WATER DISTRICTS AND
INCORPORATION OF ACTS.

5. The Governor may from time to time, by Proclamation to be published in the *Government Gazette*, declare any district, place, or town, to be a water district for the purposes of this Act, and may define the boundaries thereof. And may in like manner add to or alter the boundaries of any such water district.

Constitution of water districts.

6. The Lands Clauses Consolidation Act (except the 110th, 114th, 115th, 116th, 117th, and 118th sections thereof), and the Acts amending the same, shall be incorporated with and form part of this Act. The Commissioner may, under the Acts so incorporated, take and acquire, either compulsorily or by agreement, all such lands and easements in or over any lands within or outside any water district which he may require for the purpose of constructing, completing, or extending any waterworks heretofore authorised, or which may hereafter be authorised, or for the construction or extension of which moneys shall be voted by Parliament.

Incorporation of Lands Clauses Consolidation Act.

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INCORPORATION, RIGHTS, AND POWERS OF THE
COMMISSIONER.

7. The Commissioner of Public Works for the time being shall be the Commissioner of Waterworks.

Commissioner of Public Works to be Commissioner of Waterworks.

8. The Commissioner and his successors in office shall be a body corporate, under the name of "The Commissioner of Waterworks," and by that name shall have perpetual succession and a seal, and shall sue and be sued, and shall have all the rights, powers, duties, authorities, and liabilities now vested in or appertaining to or binding on the Commissioner of Waterworks existing at the time of the commencement of this Act, except so far as the same are or shall be by this Act, or by some Act hereafter in force, expressly varied or altered, and by that name shall and may accept, purchase, hold, enjoy, sell, and dispose of any lands and easements in or over any lands and personal property of every kind for the purposes of this Act. All real and personal property and the benefit of all contracts and all choses in action, and all easements, rights and privileges vested in or belonging to the Commissioner of Public Works and the Commissioner of Waterworks under the said repealed Acts shall vest in and belong to the Commissioner under this Act, and all actions and liabilities which might have been maintained or enforced by or against the Commissioner under the said repealed Acts (or any of them) may be maintained or enforced by or against the Commissioner under this Act.

Commissioner to be a body corporate.

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Power to appoint officers.

9. The Commissioner may from time to time, for the purposes of this Act, appoint any officers and servants, and may at his discretion dismiss such officers and servants and appoint others in their stead.

Power to make by-laws.

10. The Commissioner may from time to time make, alter, and repeal by-laws—

- i. For regulating the conduct of the officers and servants appointed or employed under or for the purposes of this Act:
- ii. For regulating the form of contracts to be entered into with him, and generally for carrying into effect the purposes of this Act:
- iii. For determining, making, levying, and collecting the water rates to be paid in each water district, except the Adelaide water district, in respect of lands and tenements liable to be rated under this Act:
- iv. For fixing the terms and conditions upon which he will supply water:
- v. For fixing a scale of charges for water supplied in each district by measure, and a minimum quantity of water to be charged for where water is so supplied:
- vi. For determining the times at which any charge for water supplied under agreement shall be payable, whether in advance or otherwise:
- vii. For imposing an extra charge for water supply in places distant more than fifteen yards from the main pipe:
- viii. For regulating the number, form, material, dimensions, construction, and arrangement of pipes, fittings, and other works supplying water from the pipes of the Commissioner 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 situate within any buildings or otherwise:
- ix. For regulating the construction, disposition, and inspection of meters:
- x. For regulating the quantity of water each customer is in each year entitled to use in respect of his rates:
- xi. For preventing the waste or misuse of water, whether supplied by meter or otherwise:
- xii. For compelling persons using water supplied by the Commissioner 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

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sent of or notice to the Commissioner ; for repairing such pipes, fittings, and appliances so as to prevent waste of water, and for recovering the costs of such repairs :

- XIII. For preventing unauthorised persons using, directly or indirectly, water supplied by the Commissioner :
- XIV. For licensing competent plumbers and for cancelling such licences, 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 Commissioner ; and fining licensed plumbers for breach of any of the regulations :
- xv. For preventing persons from wilfully or negligently breaking, injuring, or from interfering with any pipe, lock, cock, valve, engine, or work belonging to the Commissioner, and from doing any other wilful act whereby the water supplied by the Commissioner may be wasted.

The Commissioner may, by such by-laws, impose such reasonable penalties as he 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 Commissioner to the offender ; and every such by-law shall, after it has been approved by the Governor and published in the *Government Gazette*, have the force of law, and be binding upon and be observed by all persons, and shall be sufficient to justify all persons acting under the same. The production of the *Government Gazette* containing any such by-law shall, in any action at law, or any other proceedings, and in all courts, be sufficient evidence that such by-law, as it is printed in such *Gazette*, has been duly made and published as hereinbefore provided.

11. The Commissioner may make and enter into any contracts and agreements with any person for the purchase of any lands or easements in or over any land, or for any materials, and for the construction of any works which shall be authorised to be made under and in pursuance of the provisions hereof, and all such contracts shall be in the name of the Commissioner.

Power to make contracts.

12. For the purpose of constructing, completing, extending, or maintaining any waterworks, and for supplying water to or in any water district, and for the purpose of carrying out the provisions of this Act, the Commissioner may exercise any of the powers following, that is to say—

Commissioner may do certain acts and execute certain works.

- i. He may enter upon any lands and take levels of the same, and set out such parts thereof as he 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 :
- ii. He may enter upon, take, and hold, either temporarily or permanently,

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permanently, such lands as he may from time to time deem necessary for the construction, maintenance, repair, or improvement of any waterworks heretofore or hereafter to be authorised, or for the construction of which money has been, or hereafter shall be, voted by Parliament, or for obtaining or enlarging the supply of water, or for improving the quality thereof, or otherwise for the purposes of this Act:

- iii. He may from time to time sink such wells or shafts, and make, maintain, alter, or discontinue such reservoirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings upon the lands, streams, and water-courses authorised to be taken by him as he shall think proper for supplying the inhabitants of any water district with water:
- iv. He may from time to time divert and impound the water from any streams or springs as he may think fit, and alter the courses of the same, and also take the water of such streams or springs and also such waters as may be found in, under, or on any lands so to be taken for the purposes of this Act:
- v. He may enter upon any Crown or private lands, streets, roads, or thoroughfares, and lay or place therein any pipes, and may repair, alter, cut off, or remove the same, and may enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any water-courses, pipes, or other works, being his property or under his control:

Provided always, that in the exercise of any of the powers hereby conferred the Commissioner shall inflict as little damage as may be, and in all cases, where he can conveniently do so, shall provide other watering-places, drains, and channels for the use of adjoining lands, in place of any taken away or interrupted by him, and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers: Provided, nevertheless, that the Commissioner shall not be liable to make compensation in respect of any damage sustained by reason of the taking or diverting of water permanently or otherwise from any river, stream, or watercourse, unless a claim in writing shall be made in respect of such compensation within twelve months after any damage has been caused, and that in every case where the Commissioner cannot agree with the owner or claimant, the amount of compensation shall be ascertained, and the case, in other respects, shall be dealt with under the provisions of the Lands Clauses Consolidation Acts: Provided that no park lands, or other lands under the control of any Municipal Corporation or District Council shall be so entered upon, taken, and held without the consent in writing of the Municipal Corporation or District Council having the control thereof.

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When lands to revert to Corporations.

13. If from any cause whatever the occupation by the Commissioner of any park lands or Corporation reserves for the purposes of this Act shall at any time hereafter cease, the care, control, and management of such park lands shall revert to the Municipal Corporation from which the same shall have been taken.

Accommodation works to be constructed.

14. 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 works or otherwise necessary for the accommodation of such lands, and if any difference shall arise respecting the number, kind, size, dimensions, or sufficiency of any such accommodation works, or respecting the maintenance thereof, the same shall be determined by two Justices in the manner provided by the Railway Clauses Consolidation Act for settling differences as to accommodation works; but such Justices shall not have power to decide as to the liability of the Commissioner to construct any accommodation works in cases where that liability is disputed.

Penalty for obstructing construction of works.

15. Every person who shall wilfully obstruct any person acting under the authority of the Commissioner in setting out the line of any works undertaken under the authority of this Act, or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works, or destroy or injure any works so undertaken as aforesaid, shall incur a penalty not exceeding Five Pounds for every such offence.

Penalty for illegally diverting water.

16. After any stream or supply of water shall have been diverted, impounded, or taken by the Commissioner, under the authority of this Act, every person who shall illegally, or without the authority of the Commissioner, divert or take any water supplying or flowing into the stream or source of supply so diverted, impounded, or taken by the Commissioner, or who shall do any unlawful act whereby any such stream or supply of water may be diverted or diminished in quantity, or injured in quality or purity, and who shall not immediately repair the injury done by him, on being required by the Commissioner, so as to restore such stream or supply of water to the state in which it was before such unlawful act, shall forfeit to the Commissioner any sum not exceeding Twenty Pounds for every day during which the said supply of water shall be so diverted, or diminished, or injured 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 to pay to the Commissioner for any damage which he may sustain by reason of his supply of water being diminished; and the payment of the sum so forfeited shall not bar the right of the Commissioner to bring any action or any other remedy at law in respect of the damage so committed.

Penalty for destroying works.

17. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any reservoir, dam, tank, tunnel, watercourse, sluice, main-pipe, aqueduct, bridge, roadway, or engine,

or

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or other part whatever of the works of the Commissioner, every such offender shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

Power to break up streets.

18. The Commissioner may open and break up the soil and pavement of the several streets and bridges within or beyond the limits of any water district; and may open and break up any sewers, drains, or tunnels, within or under such streets and bridges, and lay down and place within or beyond the same limits, 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 the Commissioner shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits.

Notice to be given before breaking up streets.

19. Before the Commissioner shall open or break up any such street, bridge, sewer, drain, or tunnel, he 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 his 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.

20. When the Commissioner shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, he 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, or the sewer, drain, or tunnel 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 shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for six months thereafter.

Penalty for delay in reinstating streets.

21. If the Commissioner opens or breaks up any such street, bridge, sewer, drain, or tunnel, without giving such notice as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in cases in which he is authorised to perform such works without any notice, or if he makes any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he neglects to cause the place where such road or pavement has been broken up to be guarded and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, the Commissioner shall forfeit to the authority or persons having the control

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control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made, a sum not exceeding Five Pounds for every such offence, and an additional sum of Five Pounds for each day during which any such delay as aforesaid shall continue after he shall have received notice thereof.

22. If any such delay or omission as aforesaid shall take place, the authority or persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place, may, upon giving notice in writing to the Commissioner, cause to be executed the work so delayed or omitted, and the expense of executing the same shall be repaid by the Commissioner to, and may be recovered by, such authority or persons.

When other persons may reinstate streets.

23. It shall be lawful for the Commissioner, and all persons by him authorised, to enter upon any lands, not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than one hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of any waterworks, and to use the same for any of the following purposes, that is to say—

Power to take temporary possession of land.

For the purpose of taking earth or soil by side cuttings therefrom :

For the purpose of depositing soil thereon :

For the purpose of obtaining materials therefrom, for the construction or repair of the waterworks : or

For the purpose of forming roads thereon to, or from, or by the side of, the said works :

And in the exercise of such powers it shall be lawful for the Commissioner, and all other persons employed therein, to deposit and also to manufacture and work upon such lands, materials of every kind used in constructing or repairing the said works ; and also to take from any such lands any timber, and also to dig and take from or out thereof any clay, stone, gravel, sand, or other things that may be found therein, useful or proper for constructing or repairing the said works or any such roads as aforesaid ; and, for the purposes aforesaid, to erect thereon workshops, sheds, and other buildings of a temporary nature : Provided always, that nothing in this Act contained shall exempt the Commissioner from an action for nuisance or other injury (if any), done in the exercise of the powers hereby conferred, to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid : Provided also, that no stone or slate quarry, brickfield, or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom

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therefrom, for the purpose of selling or disposing of the same, shall be taken or used by the Commissioner, either wholly or in part, for any of the purposes lastly hereinbefore mentioned.

Commissioner to separate lands before using them.

24. If any such lands shall be used by the Commissioner for any of the purposes aforesaid he shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be necessary for the convenient occupation of such lands, and in case of any difference between the owners or occupiers of such lands and the Commissioner as to the necessity for such fences and gates, then with such fences and gates as Justices may order for the purposes aforesaid.

Compensation to be made for temporary occupation.

25. In any of the cases aforesaid where the Commissioner shall take temporary possession of lands by virtue of the powers herein granted, it shall be incumbent on him, within one month after his entry upon such lands, upon being required to do so, to pay to the occupier of the said lands the value of any crop that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Commissioner so taking possession of his lands: And if there shall be any dispute as to such value, the same shall be settled by Justices in the manner provided by the Lands Clauses Consolidation Act for settling questions of compensation.

Waterworks, &c., to be the property of the Commissioner.

26. The whole of the waterworks, and all lands, goods, materials, and things which now form, or which at any time hereafter shall form, part thereof, shall be and be deemed to be the property of the Commissioner, and shall be held and used by him for the purposes of this Act.

Consolidation of construction accounts.

27. Notwithstanding anything in any Loan Act contained, the accounts for the construction of waterworks within the district described in the First Schedule hereto may be consolidated.

Payments may be made by Commissioner.

28. The Commissioner may, out of any moneys at his disposal under this Act, pay any sum due by him under any agreement lawfully made for or in accomplishing any of the purposes of this Act, and any sum recovered against him by any process of law; and he shall not be personally liable to pay or make good any sum of money which shall at any time be recoverable from or be due by him as Commissioner 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.

29. The Commissioner may authorise such person as he shall think proper to do all or any of the acts, matters, and things which the Commissioner is hereby empowered 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, to enable him to do such acts, matters, and things respectively; and all such acts, matters,

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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 each such act, matter, or thing so done by him, all such immunities from personal liability as the Commissioner would have had or enjoyed if he had done such act, matter, or thing.

30. The Commissioner may demise any land purchased by him, and which he shall not immediately require for the purposes of this Act, for such period, at such rent, and upon such conditions as he shall think fit, and may sell or otherwise dispose of any such land or other property which he shall not further require for the purposes of the waterworks, and may transfer or convey such land or other property to the purchaser, or as he shall direct, and the Commissioner's receipt shall be a sufficient discharge to the purchaser for the purchase-money in such receipt expressed to be received, and the rent of land demised; and the money accruing from the sale or other disposition of the property sold or disposed of shall be paid by the Commissioner to the Treasurer of the province for the time being, and shall be carried by him to the account of the Commissioner for the purposes of this Act.

Power to lease and sell surplus land and property.

31. The Commissioner may erect standpipes at any place within or beyond the limits of any water district, and may, from any standpipe or from any hydrant, sell water by measure to any persons, at such price, at such times, and upon such conditions as he shall think fit.

Power to erect standpipes and sell water.

32. The Commissioner may enter into an agreement with the owner or occupier of any lands or premises to supply him in such land or premises with water by measure, at such rates, upon such terms, and subject to such conditions as may from time to time be fixed by any by-law made in pursuance of this Act with respect to the supply of water by agreement. The Commissioner and every other party to each such agreement shall be deemed to have entered into and signed it, subject to the provisions of this Act and to the by-laws made in pursuance thereof, and which shall from time to time be in force; and the owner or occupier of the said land and premises, and every subsequent owner and occupier thereof, shall hold or occupy the same subject to such agreement, and be bound by the same agreement as if parties thereto; and the land and premises to which water shall be supplied to the owner thereof under any such agreement shall be charged with the moneys from time to time due to the Commissioner for water so supplied, and such moneys shall be deemed to be and shall be recoverable as water rates.

Power to make agreement to supply water by measure.

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SUPPLY OF WATER AND PROTECTION OF FITTINGS AND WORKS.

33. The Commissioner shall, unless prevented by unusual drought or other unavoidable cause or accident, or during necessary repairs, supply

Free supply to the City and Port Adelaide Corporations for public purposes.

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supply to the Corporations of the City of Adelaide and the Town of Port Adelaide, free of charge, sufficient water for watering the streets of the said city and town respectively, and also for the use of all lands and buildings situate within such city and town and occupied and used by either of such Corporations exclusively for public purposes.

Commissioner to fix public fireplugs in the mains.

34. The Commissioner shall, within each water district, fix proper fireplugs in the main and other pipes belonging to him, at such distances and at such places as he may consider proper and convenient for the supply of water for extinguishing any fire which may break out within such district; and the Commissioner shall from time to time renew and keep in effective order every such fireplug; and shall, so soon as any such fireplug is completed, deposit a key thereof at each fire-reel station within such district: Provided always, that the cost of such fireplugs and the expenses of fixing and maintaining the same in repair (except in the Adelaide water district) shall be defrayed by the Council of the town or district within the boundaries of which the plugs are fixed.

Fireplugs for manufactories, &c.

35. The Commissioner may, at the request and expense of the owner or occupier of any manufactory or other premises situated in or near any street in which, or within one hundred yards of which, there shall be a pipe of the Commissioner, place as near as conveniently may be to such manufactory or premises, and maintain in effective order a fireplug to be used only for extinguishing fires; and shall supply a key of such fireplug to such owner or occupier, but such fireplug shall not be opened or used by him except for the purpose of aiding in extinguishing fires within the water district.

Pipes to be kept charged and water taken for fires.

36. The Commissioner shall at all times, unless prevented by drought or other unavoidable cause or accident, or during necessary repairs, keep charged with water all his pipes to which fireplugs are fixed, and shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire within the water district.

Constant supply of water to be distributed.

37. The Commissioner shall, in each water district, 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 in the manner prescribed by this Act and the by-laws made thereunder: Provided always, that the Commissioner shall not be liable to supply water to any person in any street within the water district until after a main pipe shall have been laid down in such street.

Power to compel consumer to take water by measure.

38. The Commissioner may, if he think fit, compel any person, in any water district supplied with water, to take water by measure, at the same price and upon the same terms as water is then supplied by him under agreement to other consumers in the same water district.

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

Water-supply may be cut off from unoccupied land.

40. 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 Commissioner to lessen the quantity of water supplied, he may, with the sanction of the Governor, and after giving public notice of his intention so to do, lessen the supply of water throughout the whole or any part of any water district, to such extent, for such time, and in such manner as he shall think proper, or he may lessen the supply to any particular class or classes of consumers supplied under agreement; or he may, for such time as he shall think proper, discontinue the supply for any particular purpose.

Power to lessen or discontinue supply.

41. Whenever it appears to the Commissioner that a constant supply of water can be effectually and more economically provided for any group or number of dwelling-houses situate in a court, passage, lane, or alley, within the water district, by means of a standpipe or other fitting fixed outside such dwelling-houses, he may provide, erect, and fix in readiness for use by the owners or occupiers of such group or number of dwelling-houses, and shall renew or repair, a standpipe, or other fittings, and shall afford and distribute by means thereof a constant supply of water to the owners or occupiers of such group or number of dwelling-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 dwelling-houses, but not elsewhere, such constant supply; and the Commissioner shall be entitled to receive and recover from such owners or occupiers water rates, in the same manner and to the same amount as if water had been supplied to each of such dwelling-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 dwelling-houses, or, if they belong to more than one owner, then by the respective owners thereof, in such proportions as the Commissioner shall determine and by notice require.

Supply to groups of houses.

42. Save in the cases provided for in the next preceding section, the Commissioner, 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, 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

Commissioner, on request, to lay communication pipe from main.

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pipes and other fittings, and do such other acts, and construct such works as he shall deem necessary and proper for complying with and carrying out such request. The Commissioner 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.

No gaspipe to be laid in same trench with water main, and no tramrail to be laid along line of main pipe.

43. No person shall lay any gaspipe in any trench with, or close alongside, any main pipe of the Commissioner, nor lay any tramrail along the line of and immediately above a main pipe without the consent of the Commissioner, and if any person shall, without such consent, so lay any such gaspipe or tramrail and refuse to remove the same, when required by the Commissioner so to do, he shall for each such offence forfeit and pay to the Commissioner a sum not exceeding Five Pounds, and a further sum of One Pound for each day (if more than one) that such offence continues.

Commissioner may let meters.

44. The Commissioner 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 Commissioner and the consumer, and all money due in respect of such hiring shall be recoverable in the same manner as rates due to the Commissioner for water.

Meters, &c., of Commissioner not distrainable.

45. 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 insolvency, 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.

No person but the Commissioner to provide, fix, repair, or interfere with meter.

46. No other person than the Commissioner shall provide any meter for the supply of water under this Act, and no other person than the Commissioner, or the person authorised by him, shall fix, refix, open, remove, alter, repair, or interfere with any such meter.

Penalty for any other person than Commissioner fixing, repairing, or interfering with meter.

47. If any person other than the Commissioner, or the person authorised by him, 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 Commissioner 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 Commissioner: And the Commissioner 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 Commissioner, and all the expenses of cutting off and restoring such supply shall have been paid to him.

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48. Every person supplied with water by the Commissioner shall keep such part of the communication pipe, and the stopcock, 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 Commissioner may, in addition to any other remedy he may possess, cut off the pipe, or turn off the water from the premises of such person, until such stopcock or other works or fittings shall be provided or repaired, as the case may require.

Consumer to keep pipes and fittings within his premises in repair.

49. It shall not be lawful for the owner or occupier of any premises supplied with water by the Commissioner, or any consumer of the water of the Commissioner, 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 Commissioner: 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 Commissioner to recover damages from him in respect of any injury done to his property, and without prejudice to the Commissioner's right to recover from him the value of any water wasted or misused.

No pipe or fitting to be connected or disconnected, or altered, without the consent of the Commissioner.

50. 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 Commissioner 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 Commissioner any sum not exceeding Five Pounds for each offence.

None but prescribed fittings, &c., to be used.

51. Any officer of the Commissioner may, at all reasonable times, enter upon any lands, and into any premises to which water is supplied by the Commissioner, 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, water-closets, 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, by the Commissioner

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

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sioner are in every respect in accordance with the by-laws made by him 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 proper order or repair, or the mode or arrangement thereof not in accordance with such by-laws, the Commissioner may, without prejudice to any other power or remedy which he 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 the Commissioner be at any reasonable time refused admission upon such lands or into such premises, when 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 Commissioner 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 he shall think proper to prescribe, but the owner or occupier of such lands or premises shall, nevertheless, continue liable to pay water rates as theretofore.

No pipe or fitting to be taken in execution or under distress for rent.

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

Penalty for using unauthorised fittings.

53. 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 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 Commissioner, 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 him a sum not greater than Ten Pounds, without prejudice to the right of the Commissioner to recover from him damages in respect of any injury by such owner or occupier done or wilfully permitted to be done to the Commissioner's property, and without prejudice to the Commissioner's right to recover from him the value of any water wasted, misused, or unduly consumed.

Penalty for breaking valves, &c.

54. 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 lock, cock, valve, pipe, or other fitting, or any work or engine belonging to the Commissioner, or shall flush or draw off the water from the reservoirs or other works of the Commissioner, or shall do any other wilful act, or shall wilfully permit to be done any act whereby such water

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water shall be wasted, shall, upon conviction thereof, forfeit to the Commissioner for every such offence a sum not exceeding Ten Pounds besides the amount of damage to which the Commissioner 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 such forfeited sum.

55. If any person supplied with water by the Commissioner 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 Commissioner, he shall forfeit and pay to the Commissioner for each such offence a sum not exceeding Five Pounds.

Penalty for contravening this Act.

56. If any person supplied with water by the Commissioner 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 Commissioner 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 Commissioner, he shall for every such offence be liable to a penalty not exceeding Five Pounds.

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

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

Commissioner may cut off water on non-payment of water rates or breach of the provisions of the Act or by-laws.

58. If any person, not being supplied with water by the Commissioner, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe, belonging to the Commissioner, 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 Commissioner, or supplied by him 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.

59. If any person bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the Commissioner, or wash, throw,

Penalty for bathing in water of the Commissioner.

or

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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 throwing dirt therein.

60. 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 waterworks, 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 each such offence, forfeit a sum not exceeding Five Pounds.

Penalty for allowing foul water to flow thereinto.

61. If any person cause the water of any sink, sewer, or drain, steam-engine, boiler, or other filthy water belonging to him, or under his control, to run or be brought into any stream, reservoir, aqueduct, pipe, or other waterworks belonging to the Commissioner, or shall do any other act whereby the water of the Commissioner shall be fouled, 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.

62. Where the owner or occupier of any land within the watershed of any water district, or any reservoir or source of supply vested in the Commissioner, does, or permits to be done, on his land any act, or permits to remain thereon any matter or thing which, in the opinion of the Commissioner, is likely to injure the water-supply, if notice to discontinue or remove the same be given to him in writing by the Commissioner, and if he neglect or refuse to discontinue such act, or to remove 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 permitting substances produced in making gas to flow into works.

63. Every person making or supplying gas within the limits of a water district, who shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, or waterworks belonging to the Commissioner, or into any drain, communicating therewith, any washing or other substance which shall be produced in making or supplying gas, or who shall wilfully do any act, connected with the making or supplying of gas, whereby the water in any such stream, reservoir, aqueduct, or other waterworks shall be fouled, or the pipes or conduits thereof injured, shall forfeit to the Commissioner the sum of Twenty Pounds, to be recovered with full costs of suit in the Supreme Court for each day during which such washing or other substance shall be brought or shall flow as aforesaid, or during which the act shall continue by which such water is fouled, after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the Commissioner

Penalty in gasmakers causing water to be fouled.

64. Whenever the water supplied by the Commissioner shall be fouled by the gas of any person making or supplying gas within the district

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district aforesaid, such person shall forfeit to the Commissioner, for every such offence, a sum not exceeding Twenty Pounds, and a further sum not exceeding Ten Pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

65. For the purpose of ascertaining whether the water of the Commissioner be fouled by the gas of any person making or supplying gas within the said district, the Commissioner may dig up the ground and examine the pipes, conduits, and works of the persons making or supplying gas: Provided that, before proceeding so to dig and examine, the Commissioner shall give twenty-four hours' notice, in writing, to the person so making or supplying gas of the time at which such digging and examining is intended to take place, and shall give the like notice to the persons having the control or management of the roads, pavements, or place where such digging shall take place, and shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay or any non-feasance or misfeasance therein, as hereinbefore provided with respect to roads and pavements broken up by the Commissioner for laying pipes; and if upon such examination it appears that such water has been fouled by any gas belonging to such person, the expenses of the digging, examination, and repairs of the street or place disturbed in any such examination shall be paid by the person making or supplying gas, but if upon such examination it appears that the water has not been fouled by the gas of such person, then the Commissioner shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gaspipes to ascertain cause of water being fouled.

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ASSESSMENT, RATING, AND RECOVERY OF RATES.

66. 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

Annual assessment to be made.

next

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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 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.

Appointment of assessors and adoption of assessment.

67. 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 thinks proper, adopt, either wholly or in part, any assessment then in force which has been made by, or by the authority of, any Municipal Corporation or District Council.

Power to inspect assessment-books.

68. The Commissioner, or any person having an order for that purpose under the Commissioner's seal, 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 any water district, 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.

69. 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 person having an order for that purpose under the Commissioner's seal as aforesaid, to inspect the same free of charge, or to make and take free of charge, copies or extracts from the same within two days after a demand in writing and such written authority under the Commissioner's seal 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 Twenty Pounds.

Annual value of land, how estimated.

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

What lands shall be assessed.

71. In each assessment made by the Commissioner for the purposes of this Act, he shall assess all lands and premises situated within the

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the water district, and not being such lands or buildings as are described in the thirty-second section of this Act.

72. So soon in each year as any such assessment has 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, interested persons may inspect.

73. Whenever any lands or premises which, in the opinion of the Commissioner, ought to have been, or ought to be, assessed for the purposes of this Act are not so assessed, the Commissioner may cause the same to be so assessed, and after they 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 water 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 be charged with only such proportionate part of that year's water rate as to the Commissioner shall seem just.

Certain lands may be assessed after general yearly assessment has been made.

74. 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 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.

Assessment-book may be corrected.

75. 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 of assessment to be published.

76. 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 such assessment upon the ground that any land or premises are assessed above their full and fair annual value, or are omitted from the assessment, or are not assessable

Appeals against assessments.

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Appeals against
alteration of assess-
ment.

77. Any person rated or liable to be rated under this Act may, within one month after 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 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 Courts to be
Courts of Appeal.

78. In the Adelaide water district the Adelaide Local Court of Full Jurisdiction, and for every other water district the nearest Local Court of Full Jurisdiction thereto, 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 in the form prescribed by any by-law, or as near thereto as circumstances will permit, 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 (if any) of the costs ordered to be paid. The amount so fixed shall be a debt due by the party ordered to pay it to the other party to such appeal.

Hearing of appeal.

79. 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 summary jurisdiction.

Local Court may
state case for Supreme
Court.

80. 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, 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

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forced in manner provided for the enforcement of orders of Justices under the Ordinance No. 6 of 1850.

81. The right of the Commissioner to recover water 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 water 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 water rates not to be suspended by appeal.

82. The Commissioner may make and levy water rates on all lands and premises comprised in the said assessment, and the scale of water rates in the Adelaide water district, described in the Second Schedule hereto, shall be as follows, viz.:—On all tenements assessed at or below Fifteen Pounds a year, Fifteen Shillings; on all tenements assessed above Fifteen Pounds and not above One Hundred and Twenty-three Pounds a year, five per centum on the whole assessed annual value; on all tenements assessed above One Hundred and Twenty-three Pounds, one and a half per centum additional on the assessed annual value above One Hundred and Twenty-three Pounds; and on unoccupied land or vacant land, two and one-quarter per centum on the assessed annual value; and the scale of water rates for every other water district shall be such as the Commissioner shall in each year, by notice in the *Government Gazette*, fix and determine. All such water rates shall be levied and taken as payment for water supplied by the Commissioner from the waterworks; but the Commissioner may, whenever he deems it expedient so to do, in lieu of making and levying rates as aforesaid, sell or supply water to consumers, who shall pay according to the quantity of water consumed, such quantity to be ascertained by a meter on the land or premises of the consumer, and the Commissioner may fix the price of the water, the scale of charges to be paid, and the conditions upon which water shall be supplied.

Scale of water rates.

83. By notice published in the *Government Gazette* the Commissioner may, from time to time, reduce, throughout the whole or any part of any water district, the scale of water rates on every or any description of property assessed under this Act; and he may, by the like notice, reduce the price of water supplied by him under agreement.

Power to reduce scale of water rates.

84. So soon as conveniently may be, after each water rate has been made by the Commissioner, the collector of water rates shall deliver to each owner or occupier who is liable to pay such water rate, or shall leave on and in the assessed lands and premises for such owner or occupier, written or printed particulars of the water 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 number and description of such lands and premises as set forth in the

Collector to leave particulars of water rate.

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the assessment-book, and the consequence of not paying such water rate.

Property exempted from rates.

85. No lands and buildings or other property used exclusively for charitable purposes, or any church, chapel, or buildings used exclusively for public worship, nor any State school shall be subject to any rates on assessments to be levied in respect of such lands and buildings.

Land to be subject to water rates whenever main laid.

86. Water rates under this Act shall be paid and payable in respect of all lands and premises which are situate in any street in the water district, provided that a main pipe has been laid down in such street for the purpose of supplying water to such lands and premises.

Water rates to be payable so soon as main laid down in future.

87. Whenever, after the passing of this Act, a main pipe shall have been laid down by the Commissioner in any street situate in any water district, he shall publish in the *Government Gazette* a notice that such main pipe has been laid down there, and that he is prepared to distribute 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, water rates shall be payable, according to the scale which shall then be in force in respect of lands and premises within such water districts, for the period which shall elapse between the first day of whatever month shall next follow the expiration of such seven days and the first of the half-yearly days of payment hereinafter mentioned, and thereafter the rates shall be payable 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.

Where several houses supplied by one pipe each to pay water rates.

88. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, or where water is supplied to courts, alleys, and rights-of-way by standpipes, the several owners or occupiers of such houses or parts of houses, or of the several houses or parts of houses in every such court, alley, or right-of-way, shall be liable to the payment of the same water rates as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Commissioner by a separate pipe.

Collector may give notice to tenants to pay rents when water rates payable by owner are in arrear.

89. In respect of water rates in arrear for the payment whereof the owner of the property assessed is liable, the collector may 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, pursuant to the requisitions thereof, to the collector; and until full satisfaction of such arrears by the receipt of rent as aforesaid, together with all costs, including a poundage of One Shilling

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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 a 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.

90. All water rates shall until payment be a continual charge upon the land and premises charged therewith, and no statute of limitations shall affect any action or other proceedings which shall be brought for the recovery or enforcement of such rates.

Water rates to be a charge on the land.

91. Water rates shall be paid by, and be recoverable from, the owner of the premises or the occupier thereof, or the person receiving or using the supply of water, and all rates (except those for water supplied by measure under agreement) shall be paid in advance by equal payments on the first day of January and first day of July in each year.

Water rates recoverable from owner or occupier.

92. If any water rates due to the Commissioner be unpaid, the Commissioner may recover the same with costs, or may order a warrant to be from time to time issued to some bailiff or other person named therein to levy such water rates by distress and sale of the goods and chattels of the person occupying the premises in respect of which such rates are due, or to which water shall have been supplied under agreement, at the time when the warrant of distress is executed; and in case no sufficient goods and chattels of such occupier shall be found in the premises to satisfy such distress the owner of the premises, or, if he be absent from the province, his agent, shall be liable for such water rates, and the same may be recovered from him.

Power to distrain for water rates in arrear.

93. When any owner or lessor of any property assessed shall, by contract or otherwise, be liable to payment of any water rates to be collected in respect thereof, and such water 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 water rates shall be a discharge of rent and evidence of payment to the amount specified therein. If the water rates so paid or satisfied shall exceed the rent due, such lessee or occupier may either set off such amount against accruing rent or recover the same by action as for money paid, and if any notice shall have been given by such lessee or occupier to the owner or lessor of the water rates having been demanded, and there shall be no rent due from him in respect of the property rated, and such lessee or occupier shall be compelled to pay such water rates, he may sue the owner or lessor for the amount as for money paid, and shall be entitled to recover the same with full

Tenant paying water rates due by his landlord may recover same.

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full costs as between attorney and client; but, if the goods of such lessee or occupier shall have been subjected to distress and sale for the satisfaction of such water rates and no rent shall at the time be due, then he may sue the owner or lessor for double the amount of the value of his goods so distrained and sold, and shall be entitled to recover the same with costs as aforesaid.

Tenant may recover portion of water rate in certain cases.

94. A tenant who pays water rates for a period prior to or extending beyond his term shall be entitled to recover from his landlord the amount so paid.

Lands may be sold when water rates are in arrear.

95. Whenever any water rates 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, in the form prescribed by the regulations made under this Act; and if, after one year from the last publication of the notice, all or any part of the water rates due at the time of the first publication thereof are still unpaid, the Commissioner may let such land or premises from year to year, and may receive the rents and apply the same towards the payment of the water rates and the 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, apply for a sale of the lands described in such notice, or of so much thereof as may be necessary, and the Court or Judge, on being satisfied by affidavit or otherwise that the arrears are lawfully due and were in arrear at the time of the first publication of such notice, and that all acts required by this clause to be done by the Commissioner have been done, shall order the sale of such lands, or so much thereof as shall be sufficient to pay all arrears due up to the 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 the proceeds to be paid into Court, and the Court or a Judge may order payment of the said water rates, interests, costs, and expenses to be made in preference to any mortgage or other security, and that the conveyance or deed of assurance, as the case may require, shall be executed by the Master, or other officer of the Court, to the purchaser, in such form as shall be approved by the Court or a Judge, and such conveyance or deed of assurance shall vest the legal estate (according to its nature) in the sold lands in the purchaser, free from all encumbrances, and the balance arising from the proceeds of such sale shall remain and be subject to any future or other orders of the Court, for behoof of the party or parties interested therein.

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

96. Any lessee, and the executors, administrators, and assigns of any lessee of lands assessed under this Act. who holds or who hold them under a lease for a term whereof a period less than five years remain unexpired, when the cost hereinafter mentioned is incurred, shall

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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 Commissioner for providing, laying down, and fixing in readiness for use, such service pipes or other prescribed fittings as are necessary for conveying the water from the main pipe to such lands, and may, in addition to any other remedy for recovering such costs, deduct such moiety from any rent due or to accrue due under such lease.

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97. All moneys received by the Commissioner under the authority of this Act shall, after deducting therefrom the necessary cost and charges of and attending the collection of the same, and also of the maintenance of the works and of keeping up the supply of water, and all such moneys which under the authority of this Act he has paid, be paid at least once in each year by the Commissioner to the Treasurer of the province for the time being, who shall thereout pay off such amount of capital and interest in respect of the moneys raised for the purposes of the works as may from time to time fall due.

Net proceeds of rates to be paid to Treasurer.

98. 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 water rates and other moneys levied or received by him for the purposes of the waterworks in each water district, 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.

Annual accounts to be published.

PART VI.

LEGAL PROCEDURE.

PART VI.

99. All fines, penalties, and other moneys levied or recovered by the Commissioner under this Act, or under any agreement made under it, shall, so far as not otherwise specially appropriated, 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.

100. Every offender against any of the foregoing enactments, or against any by-laws made thereunder, may be prosecuted, and every fine, forfeiture, or penalty incurred under this Act or such by-laws, may be imposed and recovered in manner provided in the Ordinance No. 6 of 1850; and every information for an offence committed against any of the foregoing enactments shall be heard and adjudicated upon by a Special Magistrate or two Justices of the Peace

Prosecutions and recovery of fines.

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Peace for the province; and all forfeitures under this Act may be declared, and all fines and penalties incurred under this Act may be imposed, and payment thereof enforced by him or them respectively, as the case may be.

Appeal from orders
of Justices.

101. There shall be an appeal in manner provided by the Ordinance No. 6 of 1850 from any order of a Justice or Justices under the provisions of this Act, and from any order of Justices dismissing an information laid under this Act, and no order of Justices or of a Local Court shall be removed by *certiorari* into the Supreme Court.

Register of meters to
be *prima facie*
evidence.

102. The register of every meter provided by the Commissioner, or a copy thereof, certified by the Commissioner or any officer appointed by him under this Act to be true, shall be *prima facie* evidence of the quantity of water consumed.

Persons liable for
penalties.

103. Every penalty imposed by this Act, or by any by-law made thereunder, 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.

Distress not unlawful
for want of form.

104. Where any distress is made for any sum of money to be levied under this Act, the distress itself shall not be unlawful, nor the persons making the same be deemed trespassers, on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceedings relating thereto; nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining, but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

As to proceedings
against persons acting
under this Act.

105. 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 three 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 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

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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 or Magistrate 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.

PART VI.

106. 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 such person make tender to the person injured, his attorney or agent, of such amends as, in the opinion of the jury, Judge, or Magistrate at the trial were sufficient, such last-mentioned person shall not recover in any such action.

Tender of amends.

107. It shall be lawful for any officer or servant of the Commissioner, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act, and whose name and residence shall be unknown to such officer or servant, and convey him with all convenient dispatch before a Special Magistrate or two Justices, without any warrant or other authority than this Act, and such Special Magistrate or Justices shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender.

Transient offenders.

108. The production of the *Government Gazette* containing any notice or assessment 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 of any such notice or assessment.

Gazette to be evidence in certain cases.

PART VII.

PART VII.

POWER TO LEASE WATERWORKS IN OUTLYING DISTRICTS TO MUNICIPAL CORPORATIONS, DISTRICT COUNCILS, OR PERSONS.

109. The Commissioner may, with the consent of the Governor, lease to any Municipal Corporation or District Council or to any persons the whole or any part of any waterworks, and any property connected therewith, for such period, at such rent, upon such terms and conditions, and subject to such powers, reservations, restrictions, and provisions as he may think fit: And every Municipal Corporation or District Council may accept any such lease, and may from time to time apply all necessary portions of its revenue in paying the rent reserved thereby, and also in repairing and maintaining the waterworks so leased: Provided always, that the power to lease hereby conferred shall not apply to any waterworks within the water district of Adelaide described in the Second Schedule hereto.

Power to lease.

110. The

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PART VII.

Power to accept
surrenders.

110. The Commissioner may, with the consent of the Governor, accept a surrender of any such lease upon such terms and conditions, and may allow such concessions and remissions, as he shall think fit.

Powers of lessees.

111. Every such lessee shall, during the term of the lease, have and may exercise, with respect to the works so leased, all such rights, powers, and privileges vested in and exercisable by the Commissioner as the Governor may, from time to time by Proclamation to be published in the *Government Gazette*, declare: And notwithstanding any such lease, all felonies, misdemeanors, fines, penalties, and forfeitures for any crime or offence against the provisions of this Act, shall be punishable, payable, and recoverable against, by, and from the person committing or liable to the same, as if any such leases had not been made.

Commencement of
Act.

112. This Act shall come into operation on the first day of January, one thousand eight hundred and eighty-three.

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

WM. F. DRUMMOND JERVOIS, Governor.

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THE FIRST SCHEDULE.

ACTS REPEALED.

Reference to Act.	Title of Act.	Extent of Repeal.
No. 25 of 1862.	Port Augusta Waterworks Act, 1862.	The whole.
No. 4 of 1864.	Port Augusta Waterworks Amendment Act, 1864.	The whole.
No. 9 of 1874.	The Adelaide City, Port, and Suburban Waterworks Act.	The whole.
No. 84 of 1877.	An Act to extend the Provisions of the Adelaide City, Port, and Suburban Waterworks Act.	The whole.
No. 66 of 1877.	The Kapunda Waterworks Act, 1877.	The whole.
No. 99 of 1878.	The Waterworks Act, 1878.	The whole.
No. 108 of 1878.	The Waterworks Amendment Act, 1878.	The whole.
No. 110 of 1878.	The Waterworks Further Amendment Act, 1878.	The whole.
No. 115 of 1878.	The Glenelg Waterworks Act, 1878.	The whole.
No. 144 of 1879.	An Act to authorise the Construction of a Tank and other Works for the purpose of affording a Supply of Water to the District of Magill.	The whole.
No. 145 of 1879.	The Port Pirie Waterworks Act, 1879.	The whole.
No. 147 of 1879.	The Waterworks Act, 1879.	The whole.
No. 148 of 1879.	The Port Augusta Waterworks Act, 1879.	The whole.
No. 173 of 1880.	The Glenelg Waterworks Act, 1880.	The whole.
No. 175 of 1880.	The Glen Osmond Waterworks Act, 1880.	The whole.
No. 176 of 1880.	The Teatree Gully and Modbury Waterworks Act, 1880.	The whole.
No. 180 of 1880.	The Gawler Waterworks Act, 1880.	The whole.

THE SECOND SCHEDULE.

Adelaide Water District.

Commencing at a point on the sea-coast opposite the south-west corner of section 243, Hundred of Noarlunga; thence easterly to said corner, and along its south boundary to its south-east corner; thence northerly along the eastern boundaries of sections 243, 242, 241, and 240 to a point opposite the south-west corner of section 205; thence easterly along the southern boundaries of sections 205, 182, 142, and 119, and portion of preliminary section 79 to the River Sturt; thence north-westerly, following said river to the south boundary of section 148; thence easterly along portion of the south boundary of said section, and south boundary of section 115, Hundred of Adelaide, to the south-east corner of the latter section; thence northerly along its eastern boundary to a point opposite the south-west corner of section 86; thence easterly to said corner, and along the south boundaries of sections 86 and 58 to the south-east corner of the latter section; thence northerly along the eastern boundaries of sections 58, 57, 56, 55, 54, 53 and 52, across the road to the south-east corner of section 51; thence easterly along the northern side of road on the south boundaries of sections 49, 224, and 251, to the south-east

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south-east corner of the latter section; thence northerly along the eastern boundaries of preliminary sections 251 and 252 to the north-east corner of the latter section; thence easterly along the south boundary of preliminary section 265 to its south-east corner; thence northerly along eastern boundaries of preliminary sections 265, 264, 263, and 262 to the north-east corner of the latter section; thence easterly by the southern side of road to the north-east corner of section 275; thence southerly to the south-east corner of the said section; thence easterly to the south-east corner of section 290; thence northerly by the eastern sides of sections 290, 289, and 288 to a point on the eastern boundary of the latter section about 1,600 links south of its north-east corner; thence westerly by the northern boundary of Kensington North to a point two chains east of the eastern side of the road east of section 277; thence north-easterly by a straight line to a point on the northern boundary of section 288, about 1,700 links easterly from its north-west corner; thence north to the south boundary of section 287; thence easterly along northern side of road south of the said section to the south-west corner of preliminary section 302; thence northerly along the western boundaries of preliminary sections 302 and 303 to the north-west corner of the latter section; thence easterly along the south boundary of section 265 across the road to the west boundary of section 276; thence southerly to the south-west corner of said section; thence easterly to its south-east corner; thence northerly along the eastern boundaries of sections 276, 277A, and 313 across the road to the south-west corner of section 279; thence easterly to its south-east corner; thence northerly along eastern boundaries of sections 279 and 278 to a point opposite the south-west corner of section 296; thence easterly along its south boundary to its south-east corner; thence northerly to its north-east corner; thence easterly along the southern boundary of section 298 to a point 1,416 links from its south-east corner; thence northerly at right angles for about eight chains to the southern side of road south of allotment 19, Thorndon Park; thence westerly and northerly along the southern and western sides of roads south and west of Thorndon Park to the north boundary of section 298 aforesaid; thence westerly along said boundary to the north-west corner of said section; thence northerly across the road and along the eastern boundary of preliminary section 336 to the southern side of the River Torrens; thence westerly along said side of river to a point opposite the south-east corner of preliminary section 509; thence northerly across the river and along the eastern boundary of the said section to its north-east corner; thence westerly along the northern boundaries of preliminary sections 509, 508, 503, 500, and 495 across the road to the eastern boundary of section 317; thence northerly along the eastern boundaries of sections 317, 318, 319, and 320 to the north-east corner of the latter section; thence westerly by the southern side of road north of sections 320, 321, 336, 337, and portion of the southern boundary of the Hundred of Port Adelaide to a point opposite the south-east corner of section 1178 in said hundred; thence north-westerly and northerly along portion of the north-eastern boundary of section 1178, and western side of road on the eastern boundaries of sections 972, 970, 248, and the same line produced for about four miles fifty-five chains to a point east of Pelican Point, LeFevre's Peninsula; thence west to said point, and southerly along the sea-coast to the point of commencement.