



ANNO VICESIMO SEXTO ET VICESIMO SEPTIMO

# VICTORIÆ REGINÆ.

A.D. 1863.

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## No. 17.

*An Act to provide for the Water Supply of the Town of Port Adelaide.*

[Assented to, 12th November, 1863.]

**W**HEREAS it is expedient that provision should be made for Preamble.  
introducing a supply of pure water for the use of the inhabitants of the Town of Port Adelaide, and for raising the necessary funds for the said purpose, in manner hereinafter mentioned: And whereas plans showing the source of supply, and the works connected therewith, and the direction of the main and branch pipes, and the streets and grounds through which they are to be laid, have been deposited in the office of the Surveyor-General—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. This Act may be cited and referred to, for all purposes, as Short title of Act.  
“The Port Adelaide Waterworks Act, 1863.”

2. In the construction of and for the purposes of this Act, when Interpretation of terms.  
not inconsistent with the context, the expression “The undertaking” shall mean the waterworks and the works connected therewith hereby authorized to be constructed; the expression “The Commissioner” shall mean the Commissioner of Public Works for the time being, until the powers and duties hereby conferred and imposed shall be transferred to the Municipal authorities of the said Town in manner hereinafter provided; and from and after such transfer the expression “Commissioner” shall mean the Municipal authorities for the time being of the said Town; and the expression “Municipal authorities” shall mean the Corporation or other Municipal authorities

rities for the time being empowered by any Act in force in that behalf to have the control and management of the municipal affairs of the said Town; the expression "Justices" shall mean Justices of the Peace of the Province of South Australia; the expression "Owners" shall include the agent or other person authorized to act or usually acting in the owner's behalf; the word "Lands" shall include messuages, lands, tenements, and hereditaments of any tenure; the word "Street" shall include any square, court, or alley, highway, land, road, thoroughfare, or public passage or place; the expression "Water-rate" shall include any rent reserved or payment to be made to the Commissioner for a supply of water; the expression "Cattle" shall include neat cattle, horses, asses, and mules; the expression "Carriages" shall include all such vehicles as are usually cleansed by the use of water; the expression "Vacant lands" shall mean unoccupied lands not built upon, or used in connection with any building; and the expression "Unoccupied lands" shall mean lands other than vacant lands, which shall be declared to be unoccupied in the manner hereinafter provided.

Treasurer to raise  
£36,000.

3. It shall be lawful for the Treasurer, for the time being, of the said Province, from time to time, to issue bonds, not exceeding in the whole the sum of Thirty-six Thousand Pounds, for such amounts as he may deem expedient; and such bonds shall be in the form following, that is to say—

No.	£	.	No.	£	.
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I,                      Treasurer of the Province of South Australia, in consideration of the sum of                      Pounds paid to me for the purposes of the Port Adelaide Waterworks, do hereby bind myself to pay to the holder, for the time being, of this present obligation, the sum of                      Pounds, and interest thereon after the rate of six per cent. per annum; such interest to be payable on the first day of January and the first day of July in every year, and the principal to be paid on the first day of                      , in the year one thousand eight hundred and                      . Sealed with my seal. Dated the                      day of                      , one thousand eight hundred and                     

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

NOTE.—*Interest*, payable at the Treasury in Adelaide, South Australia, or [in London or in any other agreed place] at such place as may be appointed, by notice to be given in the *South Australian Government Gazette* [and in the *London Gazette*].

Principal payable at the Treasury, in Adelaide, or, at the option of the holder [in London or other agreed place], if six months' notice of desire to that effect be given to the Treasurer in South Australia.

**Bonds to bear interest  
at six per cent.**

4. The said bonds shall bear interest at the rate of Six Pounds per .

*Port Adelaide Waterworks Act.—1863.*

per centum per annum, and the interest and principal upon such bonds shall be payable and paid to the holder thereof, at such place and time as may be specified or provided therein: Provided that the principal shall not be payable or paid before the expiration of twenty years, and the time appointed for payment thereof shall not extend beyond forty-five years.

*Financial Provisions.*

When payable.

5. All sums of money raised and received by the Treasurer upon the security of the said bonds shall be carried by the said Treasurer to the credit of the Commissioner, for the construction, completion, and management of the said undertaking, and shall be by him paid to the said Commissioner, in such amount and manner as the Governor, by any warrant under his hand, may from time to time authorize and direct.

Moneys raised by bonds, how applied.

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

Sum to be set apart annually for payment of principal and interest.

7. The Governor may from time to time, by warrant under his hand, authorize the Treasurer to advance and pay to the said Commissioner, for the purposes of this Act, any sums of money not exceeding in the whole the sum herein authorized to be raised; and any sums of money so advanced and paid shall be retained by the Treasurer out of any moneys raised by him under authority hereof.

Governor may advance moneys to be repaid.

8. All moneys received by the said Commissioner, for or on account of the rates hereinafter authorized to be imposed, after deducting the necessary costs and charges of and attending the collection of the same, and also of the management and maintenance of the said Undertaking, and of keeping up the supply of water, shall be paid by the said Commissioner to the Treasurer, until the whole of the money so to be raised by the sale of bonds, together with interest thereon at the rate aforesaid, and also a further sum of Twenty Thousand Pounds, with interest as hereinafter mentioned, shall be fully paid and satisfied.

Net proceeds of rates to be paid to Treasurer.

9. So soon as the whole of the money so to be raised by the sale of bonds, together with interest thereon at the rate aforesaid, and also such further sum of Twenty Thousand Pounds with interest thereon at the rate aforesaid shall have been paid by means of the rates hereby authorized, the said undertaking and the powers and duties hereby or hereafter conferred and imposed, shall vest in the Municipal authorities for the said Town of Port Adelaide: Provided that it shall be lawful for the Governor with the advice of the Executive Council, at any time after the construction of the said undertaking is completed, to appoint the Municipal authorities as aforesaid to be Commissioners for the purposes of this Act, and such appointment from time to time to revoke.

Undertaking to vest in Corporation when money raised, and £20,000 additional is paid.

10. The

*Port Adelaide Waterworks Act.—1863.**Commissioner.*

Commissioner to  
appoint officers.

10. The Commissioner shall, from time to time, appoint and employ such manager, secretary, solicitor, engineers, clerks, messengers, and other officers, at such reasonable salary, pay, or reward, as to him may seem meet; and shall also, from time to time, at his discretion dismiss and discharge such officers, or any of them, and appoint others in their place.

Commissioner may  
purchase land, &c.

11. The Commissioner may, for the purposes of this Act, and under the name, style, or title of "The Commissioner of the Port Adelaide Waterworks," purchase, take, or acquire, any lands and other hereditaments, goods, chattels, and things, and contract and agree for the same, and become a party to any instrument for giving effect to such purchase, taking, or acquisition, or for the performance or construction of any works, or delivery or removal of any materials, and may take security by way of bonds or obligations, or otherwise, by such name as aforesaid; and by that name may implead and be impleaded, defend and be defended, answer and be answered.

Commissioner may  
make roads, &c.

12. The Commissioner may make such roads over or to any of the lands authorized to be taken as may be considered necessary for carrying into effect the said undertaking, and for communicating with and maintaining the works which may be constructed; and may repair, amend, and fence in such roads, and use the same exclusively for the purposes of the said undertaking, or permit the public or any person or persons to make use of the same, upon such terms and conditions as he shall from time to time think proper.

"The Lands Clauses  
Consolidation Act"  
incorporated with  
this Act.

13. For the purpose of enabling the Commissioner to obtain any land, or any right or easement, in or over any land which he may require for the purposes of this Act, "The Land Clauses Consolidation Act" shall, subject to the provisions herein contained, be incorporated with this Act, and the provisions of the said Act so incorporated with this Act shall be applicable in the case of the purchase of a right or easement in or over any land; and for the purposes of this Act the expression "The Promoters of the Undertaking," whenever used in the said Lands Clauses Consolidation Act, shall mean "The Commissioner."

Commissioner to serve  
notice, &c., before  
taking lands.

14. The Commissioner, before taking land or any right or easement in or over land otherwise than by agreement with the parties interested therein, or enabled to sell and convey the same, shall deposit in the office of the Surveyor-General a plan, showing the quantity of land or the particulars of the right or easement which he may require for the purposes of this Act.

Commissioner may  
sell land purchased  
under this Act.

15. The Commissioner may sell and dispose of any land purchased under this Act, or any property whatever vested in him under this Act, which it may appear to him may be properly sold or disposed of, and may transfer or convey the land or other property sold and disposed of unto the purchaser, or as he shall direct; and his receipt shall be a sufficient discharge to the purchaser for the purchase money in such receipt expressed to be received, and the money accruing from the sale of such property shall be applied for the purposes of this Act.

16. The

*Port Adelaide Waterworks Act.—1863.*

16. The water supply shall be on the principle of constant supply at high service, and shall be derived from the main of the Adelaide Waterworks, as shown in the plans so deposited with the Surveyor-General, as aforesaid.

*Construction of waterworks.*

Principle of the waterworks.

17. If any omission, misstatement, or wrong description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands described in the plans or deposited in the office of the Surveyor-General as aforesaid, the Commissioner, after giving ten days' notice to the owners and occupiers of the lands affected by such proposed correction, may apply to two Justices of the Peace for the correction thereof; and if it shall appear to such Justices that such omission, mis-statement, or wrong description arose from mistake, they shall certify the same accordingly, and shall in such certificate state the particulars of any such omission, mis-statement, or wrong description; and such certificate, with the documents to which it relates, shall be deposited with the other documents to which they relate, in the office of the Surveyor-General, and thereupon such plan shall be deemed to be corrected according to such certificate; and the Commissioner may make the works in accordance with such certificate as if such omission, misstatement, or wrong description had not been made.

Errors and omissions in plans, &c., may be corrected by Justices, &c., who shall certify the same.

Certificates, &c., to be deposited.

18. The Surveyor-General shall keep the said plans, and all other documents deposited with him for the purposes of this Act, and shall allow all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same.

Surveyor-General to receive plans of alterations, &c., and allow inspection.

19. Copies of the said plans, or of any alteration or correction thereof, or of any other such documents as aforesaid, or extracts therefrom, certified by the Surveyor-General (which certificate such Surveyor-General shall give to all parties interested when required), shall be received in all Courts or elsewhere in the said Province as evidence of the contents thereof.

Copies of plans and alterations, &c., to be evidence.

20. Subject to the provisions hereinafter contained, the Commissioner may execute any of the following works for constructing the waterworks, that is to say:

Commissioner may execute the work herein named.

He may enter upon any lands required for the purposes of this Act and take levels of the same, and set out such parts thereof as he shall think necessary, and dig and break up the soil of such lands, and trench and sough the same, and remove or use all earth, stone, mines, minerals, trees, or other things dug or gotten out of the same:

He may, from time to time, sink such wells or shafts, and make, maintain, alter, or discontinue such waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect such buildings upon the lands authorized to be taken by him, as he shall think proper for supplying the inhabitants of Port Adelaide with water.

21. In

*Port Adelaide Waterworks Act.—1863.**Construction of Waterworks.*

Commissioner to make compensation for damages.

21. In the exercise of the said powers, the Commissioner shall do as little damage as can be, and in all cases where it can be done, shall provide other drains, and channels for the use of the land adjoining or near the undertaking, in place of any such as shall be taken away or interrupted by him, and shall make reasonable compensation to all parties interested for any damage actually sustained by them through the exercise of such powers; and the amount of such compensation shall, if no agreement shall have been come to between the Commissioner and the parties interested as aforesaid, be settled in the manner provided for the settlement of disputed claims for compensation in the said Lands Clauses Consolidation Act.

Penalty for obstructing construction of works.

22. Every person who shall wilfully obstruct any person acting under the authority of the Commissioner, in setting out the line of the works, 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 deface or destroy any works made for the same purpose, shall be liable to a penalty not exceeding Five Pounds for every such offence.

*Accommodation works.*

Differences as to the construction of accommodation works to be settled by Justices.

23. The Commissioner shall be required to erect all works for making good the interruption caused to any lands adjoining or near the undertaking, or otherwise for the accommodation of such lands; and if any difference shall arise respecting the construction of any such accommodation works, or the kind, or size, or sufficiency thereof, or respecting the maintenance thereof, the same shall be determined by two Justices of the Peace in a summary manner.

*Laying of pipes.*

Power to break up streets, &c., under superintendence, and to open drains.

24. The Commissioner, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several roads, streets, and bridges within the necessary limits, for the purpose of constructing the said undertaking, and of laying down, altering, cleansing, repairing, and removing any drains, pipes, conduits, service pipes, and other works and engines, and 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 carrying out the undertaking, doing as little damage as can be in the execution of the powers hereby granted, and making compensation as hereinbefore provided for any damage which may be done in execution of such powers.

Notice to be served on persons having control, &c., before breaking up street or opening drains.

25. Before the Commissioner opens or breaks up any street or bridge, he shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of his intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency, arising from defects in any of the pipes, or other works, and then as soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Streets or drains not to be broken up except under superintendence

26. No such street or bridge shall, except in the case of such emergency

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emergency as aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons, or their officer; or in case of any difference respecting such plan, then according to such plan as shall be determined by the Surveyor-General, or other competent officer, to be appointed by the Governor: and such Surveyor-General or other officer may, on the application of the persons having the control or management of any such street or bridge, or their officer, require the Commissioner to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such street or bridge: Provided always, that if the persons having such control or management, as aforesaid, or their officer, fail to attend at the time fixed for the opening of any such street or bridge, after having had such notice of the intention of the Commissioner as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the Commissioner may perform the work specified in such notice without the superintendence of such persons or their officer.

*Laying of pipes.*

of persons having control of the same.

If persons, having the control, &c., fail to superintend, Commissioner may perform the work without them.

27. When the Commissioner shall open or break up the road or pavement of any street or bridge, he shall with all convenient speed complete the works for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement so opened or broken up, and carry away the rubbish occasioned thereby; and shall, at all times whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept thereagainst every night during which such road or pavement shall continue open or broken up.

Streets, &c., broken up to be reinstated without delay.

28. If the Commissioner shall open or break up any street or bridge without giving such notice as aforesaid, or if the Commissioner make any unnecessary delay in completing any such work, or filling in the ground, or reinstating and making good the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he shall neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, he shall make compensation as hereinbefore provided for.

Penalty for delay in reinstating streets, &c.

29. If any such delay or omission as aforesaid shall take place, the persons having the control or management of the street or bridge in respect of which such delay or omission shall take place, may cause to be executed the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the Commissioner, and such expenses may be recovered in the same way as damages are recoverable under this Act.

In case of delay other parties may reinstate and recover the expenses.

30. The Commissioner may, upon the written request of the owner or occupier of any tenement in any street (and upon payment

*Laying of pipes and drains.*

Communication pipes may be laid on request of owner or occupier.

*Port Adelaide Waterworks Act.—1863.*

or tender of the cost thereof), lay down communication pipes from such street, and also such other works as are necessary for the supply of such tenement with water.

*Supply of water.*

A constant supply of water to be kept for domestic purposes at high service.

31. The Commissioner shall provide and keep, in the pipes to be laid down by him a supply of pure and wholesome water, sufficient for the domestic use of the inhabitants of the said town, who, as hereinafter provided, shall be entitled to demand a supply, and shall be liable to pay water-rate for the same; and such supply shall be constantly laid on, unless prevented by drought or other unavoidable accident, or during necessary repairs.

Supply of water to be kept for cleansing sewers, drains, &c., and for other public purposes.

32. In all the pipes to which any fire-plug shall be fixed, the Commissioner shall provide and keep constantly laid on, unless prevented as aforesaid, or during necessary repairs, a sufficient supply of water for the following purposes, that is to say—for cleansing the drains, for cleansing and watering the streets, and for supplying any public baths or washhouses that may be established for the free use of the inhabitants, or paid for out of any rates levied within the said town; and such supply shall be provided at such rates, in such quantities, and upon such terms and conditions as may be fixed upon by the Commissioner and the Municipal or other proper authorities and parties concerned.

*Fire-plugs.*

Commissioner to affix public fire-plugs in the mains.

33. The Commissioner, at the request of the Municipal or other proper authorities or parties concerned, shall upon the laying of the main or other pipes belonging thereto, fix proper fire-plugs at such places as may be most proper and convenient for the supply of water for extinguishing any fire which may break out within the limits of the said town.

Commissioner to repair fire-plugs and deposit keys thereof at engine-houses, &c.

34. The Commissioner shall from time to time renew and keep in effective order every such fire-plug; and as soon as any such fire-plug is completed, shall deposit a key thereof at each place within the limits of the said town where any fire-engine is kept, and in such other places as may be appointed by the Municipal or other proper authorities, and shall put up a public notice in some conspicuous place in each street in which such fire-plug is situated, showing the situation, which notice the Commissioner may put up on any house or building in such street.

Fire-plugs to be placed near manufactories at request, &c., of owners.

35. The Commissioner shall, at the request and expense of the owner or occupier of any work or manufactory, situated in any street in which water shall have been laid on by the Commissioner, place and maintain in effective order a fire-plug (to be used only for extinguishing fires), as near as conveniently may be to such work or manufactory.

Penalty for refusing to fix, &c., fire-plugs, or occasional failure of supply of water.

36. If, except when prevented as aforesaid, the Commissioner neglect or refuse to fix, maintain, or repair such fire-plugs, or to furnish to the Municipal or other proper authorities a sufficient supply



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supply of water for the public purposes aforesaid, upon such terms as shall have been agreed on, or settled as aforesaid; or if, except as aforesaid, he neglect to keep his pipes charged under such service as aforesaid, or neglect or refuse to furnish to any owner or occupier entitled to receive a supply of water, during any part of the time for which the rates for such supply have been paid or tendered, he shall be liable to a penalty not exceeding Ten Pounds, and shall also forfeit to every person having paid or tendered the rate, the sum of Forty Shillings for every day during which such refusal or neglect shall continue, after notice in writing shall have been given to the Commissioner of the want of supply.

*Fire-plugs.*

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

*Protection of water.*

Persons using water to keep works in repair.

Penalty for neglect.

38. Every person supplied with water by the Commissioner, who shall suffer any such pipe or stop-cock to be out of repair, so that the water supplied to him by the Commissioner shall be wasted, shall forfeit to the Commissioner, for every such offence, a sum not exceeding Five Pounds.

Penalty for suffering pipe, &amp;c., to be out of repair.

39. The Commissioner may repair any such pipe, stop-cock, or other work, so as to prevent any such waste of water, and the expenses of such repair shall be repaid to him by the person so allowing the same to be out of repair, and may be recovered as damages.

Commissioner may repair pipes, &amp;c.

40. The surveyor, or any other person acting under the authority of the Commissioner, may, between the hours of eight of the clock in the forenoon and six of the clock in the afternoon, enter into any house or premises supplied with water by virtue of this Act, in order to examine if there be any waste or misuse of such water; and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purposes aforesaid, or be prevented from making such examination as aforesaid, the Commissioner may stop off the water supplied by him from such house or other premises.

Power to surveyor employed by Commissioner to enter house to inspect, &amp;c.

41. Every owner or occupier of any tenement supplied with water under this Act, who shall supply to any other person, or wilfully permit him to take any such water from any pipe in such tenement, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water by the Commissioner, and the pipes belonging to him be out of repair, shall forfeit to the Commissioner for every such offence, a sum not exceeding Five Pounds.

Penalty for allowing persons to use water.

42. Every

*Port Adelaide Waterworks Act.—1863.**Protection of  
water.*

Penalty for taking  
water without agree-  
ment.

42. Every person who, not having agreed to be supplied with water by the Commissioner, shall take any water from any pipe, or conduit, belonging to the Commissioner, or from any cistern or other like place containing water belonging to the Commissioner, other than such as may have been provided for the gratuitous use of the public, shall forfeit to the Commissioner, for every such offence, a sum not exceeding Ten Pounds.

Penalty for destroying  
valves, &c.

43. Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the Commissioner, or shall flush or draw off the water from any of the works of the Commissioner, or shall do any other wilful act whereby such water shall be wasted, shall forfeit to the Commissioner, for every such offence, a sum not exceeding Five Pounds, besides the amount of damage to which the Commissioner may be put in respect thereof.

Commissioner may  
make assessment.

44. The Commissioner shall, at least three calendar months before he shall commence to supply the said town with water, and every year thereafter, make and bring into force an assessment of all lands within the Town of Port Adelaide, not being the property of the Crown or of the Corporation of the said town, according to the full, fair, and average estimated annual value of the same, clear of all outgoings; and the assessment shall be written in a book, specifying in different columns the names of the respective occupiers and owners, or agents of owners, so far as the same can be ascertained, the estimated annual value of the several lands, and a description of the same, and showing which of the said lands are vacant lands.

If in any year no  
assessment made, the  
last assessment to be  
in force.

45. In case any yearly assessment shall not be duly made, and until the same shall be in force, the assessment then last made shall be in force.

Right of inspecting  
town assessments.

46. The Commissioner, or any person having an order for that purpose under his hand, may inspect any rate made or to be made for the said town, and the assessment book and other documents relating thereto, and may take copies or extracts from the same without payment of any fee or reward; and if any person having the custody of any such rate assessment book, or other document, shall wilfully neglect or refuse to permit the Commissioner, or such other person as aforesaid, to inspect the same, or to take copies or extracts from the same within two days after a demand in writing, or such order shall have been produced and shown to him, or a copy thereof left at his usual place of abode, such offender shall, on conviction thereof, forfeit and pay for every such offence a penalty not exceeding the sum of Ten Pounds.

Commissioner may  
adopt town assess-  
ment, and may  
appoint assessors.

47. The Commissioner may, in making the assessment, adopt any assessment made by authority of the Municipal authorities, or any previous assessment of the Commissioner, either wholly or in part,  
and

*Port Adelaide Waterworks Act.—1863.*

and may from time to time appoint any person or persons to assess the whole or any part of the said lands. *Assessment.*

48. The Commissioner may at any time, and from time to time, correct any error which may appear to him to exist in the assessment; but the annual value of any property shall not be altered after the first publication of the notice of assessment, except under the order of a Court, as hereinafter provided. *Commissioner may correct errors in assessment.*

49. 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. *Annual value of lands, how estimated.*

50. The assessment-book, or a true copy thereof, shall be deposited in the office of the Manager of the Waterworks, and also at the office of the Town Clerk, and the same shall be open to inspection between the hours of eleven o'clock ante meridian and three o'clock post meridian on every day except Sundays, Saturdays, and public holidays. *Assessment-book, a copy to be kept for inspection at the office of Manager.*

51. A notice of the making of such assessment, and of any alteration therein in the form Schedule A to this Act annexed, or as near thereto as circumstances will permit, shall be published once in the *South Australian Government Gazette*, three consecutive times, the last of which shall be in the same week as the publication in the *Gazette*, in at least one newspaper published in the City of Adelaide, and thereupon the assessment-book, or, as the case may be, so much thereof as depends upon the alteration, shall come into force. *Notice of assessment or alteration to be given.*

52. Any person may, within one month after the publication in the *South Australian Government Gazette* of the notice of the assessment, appeal therefrom upon the ground that any lands are assessed beyond or below their full and fair annual value, are omitted from the assessment, or are not rateable, and within a like period and upon the like ground, of the publication of the notice of any alteration in the *South Australian Government Gazette*, any person may appeal therefrom. *Appeal from assessment.*

*Assessment may be appealed against.*

53. The Local Court of Full Jurisdiction sitting in Port Adelaide shall be the Court of Appeal; and every appeal shall be commenced by a notice in the form in the Schedule B to this Act annexed, or as near thereto as circumstances will permit, delivered to the Clerk of the Court within the period allowed for appeals. *Local Court of Port Adelaide to be Court of Appeal.*

*Appeals, how commenced.*

54. The appeal shall be heard at the next sittings of the Court next after five weeks from the publication in the *Government Gazette* of the notice of assessment or alteration; and the assessment-book shall be produced by or on behalf of the Commissioner, and upon examining *Hearing of appeals.*

*Port Adelaide Waterworks Act.—1863.*

*Local Court of  
Port Adelaide to be  
Court of Appeal.*

examining upon oath any witnesses who may be tendered for examination 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 occasioned by the decision to be immediately made, which 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 of the Peace under his summary jurisdiction.

Special case may be  
stated for Supreme  
Court.

55. The Court, upon the hearing of any appeal, may state one or more special case or cases 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 of the Peace, or the Local Court of Port Adelaide, may make an order in respect of the matters referred to the Supreme Court in conformity with the certificate of the said Supreme Court or of any Judge thereof, which order shall be enforced in manner provided for the enforcement of orders of Justices of the Peace under the Ordinance No 6 of 1850.

Right to recover rates  
not suspended by  
appeal.

56. The right of the Commissioner to recover rates in respect of any land alleged in any notice of appeal to be assessed beyond its full and fair value shall not be suspended by the appeal.

*Rates.*

Scale of rates.

57. The Commissioner may make and levy rates on all lands included in the said assessment, and the scale of rates shall be as follows, viz.:—On all tenements assessed at or below Ten Pounds a year, Twenty-five shillings; on all tenements assessed above Ten Pounds and not above Forty Pounds a year, twelve and a-half per cent.; five per cent. additional on the assessed annual value above Forty Pounds and not above One Hundred Pounds; two and a-half per cent. additional on the assessed annual value above One Hundred Pounds, and on unoccupied tenements and vacant lands three per cent. on the assessed annual value.

Commissioner may  
reduce rates.

58. The Commissioner may, with the consent of the Governor in Executive Council, reduce the scale of rates by notice published in the *South Australian Government Gazette*, in the form in the Schedule C to this Act annexed; and any reduction shall take place on the first day of January, or the first day of July, as the case may be.

When several houses  
supplied by one pipe  
each to pay.

59. When several houses, or parts of houses, in the separate occupation of several persons are supplied by one common pipe, the several owners or occupiers of such houses, or parts of houses, shall be liable to the payment of the same water-rate 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.

60. The

*Port Adelaide Waterworks Act.—1863.*

60. The owner of any tenement which shall have been unoccupied for more than three months, may make a declaration to that effect in the form of Schedule F to this Act annexed; and the Manager shall, upon the receipt of such declaration, deduct from the rates which shall afterwards become due upon such tenement, a sum equal to half the rate paid for the period named in such declaration.

*Rates.*

Rates on land unoccupied for three months may be reduced.

61. When a main shall be laid down in any street or streets of the said town, and on the expiration of seven days from public intimation published in the *South Australian Government Gazette* and in at least one newspaper published in the City of Adelaide that the main has been laid down, and that the water is ready for distribution, then, whether service pipes shall be provided or not, rates, according to the scale then in force, shall be payable in respect of all lands which shall or can be supplied with the service pipes from the main aforesaid, for the period elapsing between the first day of the month following the expiration of the said seven days and the thirtieth day of June or the thirty-first day of December, as the case may be; 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 the payments shall respectively fall due.

Rates to commence when main laid, and to be payable half-yearly.

62. No water from the undertaking shall be used for manufacturing purposes, public baths, watering gardens, irrigation, or other than domestic or building purposes, except under a special agreement in writing, made by the person requiring the same with the Commissioner, and fixing the payment to be made therefor, under a penalty as hereinafter provided.

No water to be used except for domestic purposes, except under agreement.

63. The Commissioner may charge, in addition to the rate hereinbefore mentioned, at the rate of Ten Shillings by the year for every head of great or every five head of small cattle kept upon lands supplied with water from the waterworks, and at the rate of Ten Shillings by the year for every carriage having four wheels, and Five Shillings by the year for every carriage having two wheels, kept in like manner; but whenever the number of cattle or carriages usually kept upon land supplied with water from the waterworks shall, or are likely to, vary from time to time, the occupier shall make a declaration, in the form of the Schedule D to this Act annexed, of the average number of cattle or carriages kept or intended to be kept upon the land, and thereupon the Commissioner shall charge at the rate aforesaid for the average number of cattle or carriages so kept or intended to be kept.

Cattle, &c., to be charged extra.

64. If the Commissioner shall be dissatisfied with a declaration so made, or shall at any time consider that the average number of cattle or carriages kept by the declarant, or any person claiming under him, is greater than that stated in his declaration, or that he has, subsequently to any order made as hereinafter mentioned, kept a larger number than that fixed by such order, the matter shall be settled, on the information of the Commissioner or any collector, in

Commissioner may have dispute, as to average number of cattle, settled by Justices.

*Port Adelaide Waterworks Act.—1863.*Rates.

a summary manner, before one or more Justices of the Peace, who may make such order as shall be just as to the payment of any additional sum for the past supply of water to the cattle, or for cleaning the carriages, and as to the number of cattle or carriages which the defendant shall be charged for in future; and any Justice or Justices of the Peace may vary any order so made from time to time, in such manner as shall be just, on information of the Commissioner, or a collector, or any person interested.

When owner to pay rates, and when occupier.

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

Tenant entitled to recover portion of rate in certain cases.

66. If a tenant shall pay rates for a period extending beyond his term, he shall be entitled to recover from his landlord a fair proportionate part thereof.

Rates from whom recoverable.

67. The Commissioner or any collector appointed by him, may recover rates from any person liable, or from the occupier at the time of any demand being made, and after demand on the occupier; and if no sufficient distress can be found on the premises to satisfy any rates for which the occupier is liable, together with all costs, the same rates may be recovered in like manner from the owner, and any person in actual receipt of the profits of any lands shall be liable as owner thereof.

Appointment and powers of collectors.

68. The Commissioner shall, from time to time, nominate one or more persons as collectors, for levying the said rates respectively, who shall proceed in the same manner, and shall have the same powers, remedies, and privileges, and shall be subject to the same regulations and penalties, with reference to the levying of such rates, as if they were collectors appointed by the Municipal authorities for collecting the town rates, and shall pay over the amount of such rates to the Commissioner, or to any person authorized by him, or, in default thereof, shall be proceeded against in the same manner as such Collectors, by any Act now or hereafter to be in force, are to be proceeded against for non-payment.

Collectors may sue.

69. It shall be lawful for any collector, to be appointed by the Commissioner, to sue for, recover, and receive of and from the person thereto liable, any rate, assessment, or other moneys payable under the provisions of this Act, before any Court of competent jurisdiction; and for the purposes of any action, suit, or other proceedings, such rate, assessment, or moneys, shall be deemed to be due and payable to such collector.

Rates unpaid twenty-one days after demand may be distrained for.

70. If any rates are unpaid for the space of twenty-one days after demand in writing shall have been served upon the occupier, or left at the house, land or tenement rated and assessed therefor, the Commissioner or collector or his assistant may thereupon, without

*Port Adelaide Waterworks Act.—1863.*

without any warrant, enter into any part of the premises, and distrain the goods and chattels found therein; or may enter into any other houses or land in the said town, occupied by any person liable to the same rates, and on whom notice to pay the same has been served personally or by leaving the same at his house for him, and distrain his goods and chattels therein and thereon; and if the sums for which the distress is taken be not paid for five days after the distress together with reasonable costs, then the said distress, or so much as shall be sufficient to pay the rates and costs aforesaid may be sold, and any overplus shall be returned to the owner of the goods.

*Rates.*

71. In any case in which rates, in respect of any lands shall be in arrear for the space of two years, it shall be lawful for the Commissioner to cause to be published three times in the *South Australian Government Gazette* a notice in the form of Schedule E to this Act annexed; and if after one year from the last publication of the notice, the rates due at the time of the first publication thereof are still unpaid, the Commissioner may let the same from year to year, and may receive the rents and apply the same towards the payment of the rates, and hold any surplus for the owners of the lands, or by petition to the Supreme Court or any Judge thereof, may 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 things required by this clause to be done have been done, shall order the sale of the said lands, or so much thereof as shall be sufficient to pay the arrears and interest at the rate of Five Pounds per centum per annum, from the time of the first publication of the notice, 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 rates, interests, costs, and expenses, in preference to any mortgage or other security; and that conveyance shall be executed by the master or other officer of the Court, to the purchaser, his heirs, and assigns, in such form as shall be approved by the Court or a Judge, which shall vest the legal estate in the said lands, in the purchaser, his heirs, and assigns 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.

Lands may be sold  
when rates are in  
arrear.

72. The Commissioner may cut off the water supply from any lands when the same shall remain unoccupied for three calendar months, or when any rates or charges for service-pipes and fittings in respect thereof shall remain unpaid for fourteen days after the same shall become due; and whenever the lands shall become occupied, and all rates and charges for service-pipes and fittings paid, the supply shall on demand be restored, upon payment of the cost of such cutting off and restoration.

Water supply may  
be cut off from un-  
occupied land.

73. Any

*Port Adelaide Waterworks Act.—1863.***Rates.**

Tenant may recover half cost of service-pipes when lease has less than five years to run.

73. Any tenant of lands under lease for a less period unexpired than five years, may recover from his landlord half the cost to which he or his undertenant may be put in causing service-pipes to be laid on to the said lands.

**Offences.**

Penalty for illegal use of water

74. Any person using or allowing to be used the water laid on to lands occupied by him for other than domestic or building purposes, except in cases of fire, or under an agreement with the Commissioner under clause 62 of this Act, shall be liable to a penalty of not less than Two Pounds and not more than Twenty Pounds for every day during which the offence shall be committed.

Penalty for false declaration of number of cattle kept.

75. Any person who shall make a false declaration of the average number of cattle kept by him upon his lands shall be liable to a penalty of not less than Five Pounds or more than Fifty Pounds.

**Accounts of receipt and expenditure.**

Annual account to be made up by Commissioner, and published in *Gazette*.

76. The Commissioner shall in each year cause an account in abstract to be prepared of the whole receipt and expenditure of all moneys advanced to him, and of all rates or other moneys levied under the powers of this Act, for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the Auditor-General; and a copy of such account shall, on or before the thirty-first day of December in each year following, be published in the *South Australian Government Gazette*.

**Recovery of damages and penalties.**

Provision for damages not otherwise provided for.

77. In all cases where any damages, costs, or expenses are by this Act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined and recovered in a summary way by and before two Justices of the Peace for the said Province.

**Appropriation of moneys.**

78. All fines, penalties, and arrears of money, levied or recovered under this Act, shall, so far as not otherwise specially appropriated, be paid to the Treasurer, to be by him carried to the credit of the said Commissioner for the purposes of this Act.

**Tender of amends.**

79. If any person shall have committed any irregularity, trespass, or other wrongful proceeding in execution of this Act, or by virtue of any power or authority hereby given, and if, before action brought in respect thereof, such person shall make tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action; and if no such tender have been made, the defendant may, by leave of the Court where such action is pending, at any time before issue joined, pay into Court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.



*Port Adelaide Waterworks Act.—1863.*

80. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within six calendar months after the fact was committed, and not otherwise, and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of such action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, together with the costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited, or discontinue any such action on issue joined, or if upon demurrer, or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases, and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

*Tender of amends  
and protection of  
Persons.*

As to proceedings  
against persons acting  
under this Act.  
Notice of action.  
General issue.

Tender of amends.

If judgment be  
against plaintiff.

81. There shall be an appeal, in manner provided by the Ordinance No. 6 of 1850, to facilitate the performance of the duties of Justices of the Peace out of Sessions, with respect to summary convictions and orders from any order of a Justice or Justices, under the provision of this Act, and from any order of Justices dismissing an information laid under this Act, and no order of Justices or of the Local Court shall be removed into the Supreme Court by *certiorari* or otherwise.

*Appeal.*

In the name and on behalf of the Queen I hereby assent to  
this Act.

D. DALY, Governor.

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*Port Adelaide Waterworks Act.—1863.*


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## SCHEDULES REFERRED TO.

### A

#### *Notice of Assessment.*

##### PORT ADELAIDE WATERWORKS.

Notice is hereby given, that I, the Commissioner of Waterworks, have caused to be made an assessment of all rateable lands within the Town of Port Adelaide, showing the names of the owners or occupiers, so far as the same can be ascertained, the estimated annual value of the several lands, and a description of the same, showing which of the said lands are vacant lands, and that the same, or a copy thereof, can be inspected at the office of the Manager of Waterworks, or at the office of the Town Clerk, Port Adelaide, between the hours of 11 a.m. and 3 p.m., on every day but Sundays, Saturdays, and public holidays; and any one intending to appeal against the assessment must serve the notices required by the Port Adelaide Waterworks Act, 1863, within one month from the publication of this notice in the *South Australian Government Gazette*.

Dated, &c.

### B

#### *Notice of Appeal from Assessment.*

##### PORT ADELAIDE WATERWORKS.

*In the Local Court of Port Adelaide.* } To the Commissioner of Waterworks, and to all whom it may concern.

Take notice, that I appeal against the assessment [or alteration, notice whereof appears in the *South Australian Government Gazette* of the                      day of 18                      ], on the ground that

Dated, &c.

### C

#### *Notice of Reduction of Scale of Rates.*

##### PORT ADELAIDE WATERWORKS.

Notice is hereby given, that the scale of rates for this undertaking has been reduced by [one-tenth, or the like], and this reduction will take effect on the [31st January, 18                      , or 30th June, 18                      .]

Dated, &c.

Commissioner.

### D

##### PORT ADELAIDE WATERWORKS.

I,                      , of                      , do hereby declare that the average number of [carriages, or of cattle and carriages, as the case may be] which I intend to keep at the [livery stables in, &c.], situate in                      street, Port Adelaide, is as follows, viz. [horses, cows, carriages, as the case may be].

Dated, &c.

NOTE.—If the premises have been occupied for the preceding six months, insert clause to this effect:—[And I do further declare that the average number kept by me at the aforesaid during the preceding six months has not exceeded                      ].

*Port Adelaide Waterworks Act.—1863.***E**

## PORT ADELAIDE WATERWORKS.

## DISTRICT OF

Notice is hereby given that there is now due, and has been due for two years, in respect of the lands mentioned in the schedule hereto, the sum of [or respective sums] set opposite to the description of such land in the schedule of ; and the owners of such land are required to take notice that, unless the amount so due, together with the costs of and attending this notice, be paid in one year from the first publication of this notice, the Commissioner may let the same from year to year, in manner provided by the Port Adelaide Waterworks Act, 1863, or an application will be made to the Supreme Court of this Province, or a Judge thereof, for an order for the sale of the said lands, or so much as may be necessary to produce the rates so due and costs, as aforesaid, and also the costs of and attending the said application.

Dated

Commissioner.

## THE SCHEDULE.

Exact Description of Land.	Name of Owner or Reputed Owner, as far as known.	Amount of Rates due.

**F***Declaration that Tenement is Unoccupied.*

## PORT ADELAIDE WATERWORKS.

I, , of , do hereby declare that the building owned by me, in , street, and numbered , on the notice of rate for the half-year ending , 18 , was unoccupied during clear months, commencing , and ending , 18 .

Dated

(Signed)