

ANNO OCTAVO

EDWARDI VII REGIS.

A.D. 1908.

No. 963.

An Act to authorise the carrying out of a Certain Scheme of Drainage in the South-East of the State, and for other purposes.

[*Assented to, December 23rd, 1908.*]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The South-Eastern Drainage Scheme Act, 1908." Short title.

2. This Act is incorporated with "The South-Eastern Drainage Act, 1878," "The South-Eastern Drainage Act Amendment Act, 1895," and "The South-Eastern Drainage Amendment Act, 1900," and any Acts for the time being in force incorporated with, amending, or substituted for any of those Acts. Incorporation.

From the time of the coming into operation of "The South-Eastern Drainage Act Amendment Act, 1908," the last-mentioned Act shall be deemed to be substituted for "The South-Eastern Drainage Amendment Act, 1900." Interpretation.

3. In this Act—

"Commissioner" means the Commissioner of Public Works for the time being of the said State, or the Minister of the Crown for the time being discharging the duties of such Commissioner:

"Council"

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“Council” means a District Council whose district or part of whose district is included in the Drainage District:

“Engineer-in-Chief” means the person for the time being holding the office of Engineer-in-Chief or discharging the duties of such office:

“Gazette” means *The South Australian Government Gazette*:

“Land” does not include any land situated within the boundary of any Municipal Corporation or town or township:

“Landholder” means the owner of any freehold estate in land, the holder of land under agreement with the Crown for the sale of such land upon credit, the lessee of land under lease from the Crown; and as to unleased Crown lands, the Commissioner of Crown Lands:

“The District Councils Act” means “The District Councils Act, 1887,” and all Acts amending or substituted for that Act:

“The drainage district” means and includes the land situated within the area defined in the plan in the Third Schedule hereto and enclosed by the green line shown on such plan.

Scheme may be carried out subject to poll.

4. Subject to the provisions hereinafter contained as to a poll, the Commissioner shall call for tenders for the construction of the drains mentioned in the First Schedule hereto (in this Act called “the drains”) out of loan moneys to be provided by Parliament for the purpose, which shall not exceed in the total the sum of Three Hundred Thousand Pounds. Should no tender or tenders be accepted, or should a tender or tenders be accepted and the contractor or contractors fail to begin or to complete the work, or any part thereof, in accordance with the contract or contracts, the Commissioner may, according to the circumstances, construct or complete the drains and construct or complete all such drainage and other works and do all such other things in connection with the drains (in this Act called “the drainage works”) as he thinks proper. The drains and the drainage works are in this Act called “the scheme.”

South-Eastern Drainage Acts to apply to construction, etc.

5. Subject to the provisions of sections 6 to 10 hereof, the provisions of the Acts incorporated herewith shall apply to all matters preliminary to, connected with, incidental to, and consequent upon the construction of the scheme, including the apportionment of the cost thereof, the payment of the proportions of the cost thereof with interest to the Commissioner, the dates for payment of the first and other instalments of such proportions, the computation of the amounts of such instalments, the charge of such proportions upon the land, the enforcement of such charge, the recovery of instalments by the Commissioner, and the proportions of instalments to be paid by lessees to landholders: Provided that the express reference to specified matters in this section shall not be held to limit the meaning of this section, or to diminish its effect in any way.

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6. No request of landholders shall be necessary before the construction of the scheme or any part thereof.

No request of landholders necessary.

7. The positions shown in the plan in the Third Schedule hereto are approximately the contemplated positions of the drains. In constructing the drains such positions may be altered as found to be necessary or expedient, and such alteration shall not affect the validity of anything done under this Act.

Positions of drains in plan may be altered.

8. A copy of the said plan, or an enlargement thereof, shall be deposited in the office of the Surveyor-General in Adelaide before the construction of the scheme is commenced.

Copy of plan to be deposited.

9. (1) Upon the completion of the construction of the scheme the Engineer-in-Chief shall furnish the Commissioner with a certificate, stating the date of completion, the cost of the construction of the scheme, and what lands will be benefited by the scheme.

Engineer-in-Chief's certificate.

(2) The Commissioner shall, by notice in the *Gazette*, publish such certificate; and such notice shall be conclusive as to the date of completion, the cost of the construction of the scheme, and what lands will be benefited by the scheme, notwithstanding that it differs from any previous estimate of the cost or from anything in or indicated by the said plan.

10. (1) One half of the cost of construction of the scheme shall be deemed to be an advance from the Commissioner to all the landholders of the lands which will be benefited by the scheme; and such advance shall be repaid to the Commissioner by such landholders, with interest thereon at the rate of Four Pounds per centum per annum, in the proportions to be ascertained and apportioned in manner provided by "The South-Eastern Drainage Amendment Act, 1900," and any Act for the time being in force amending or substituted for that Act: Provided that the apportionment shall be of one half and not the whole of the cost of construction.

One half of the cost to be paid by landholders.

(2) A notice of such apportionment published in the *Gazette*, pursuant to "The South-Eastern Drainage Amendment Act, 1900," and any Act for the time being in force amending or substituted for that Act, shall be conclusive evidence of the amount of the proportion to be paid to the Commissioner by each landholder mentioned in such notice, the amount of the yearly instalments to be paid to the Commissioner, the date upon which the first instalment will be due, and the validity of all matters stated in such notice.

11. When the construction of the drains and the drainage works is completed the same shall be and continue under the care, control, and management of the drainage authorities or authority having the care, control, and management of other drains and drainage works in the districts within which the said drains and drainage works respectively are situated; and such authorities or authority shall have, exercise, perform, and enjoy the same rights, powers, functions, obligations, duties, and immunities in respect thereof as in respect

Scheme to be under care, &c., of drainage authority.

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respect of other drains and drainage works situated within their respective districts or its district, including (but without limiting the effect of this section) powers to make assessments for rates and to levy and recover rates, and the duty to cleanse, repair, and maintain the drains and drainage works.

Other drains not affected by this Act.

12. Nothing in this Act contained shall affect any drain or drainage works constructed before the passing of this Act, in course of construction at the time of the passing of this Act, or (except the scheme) hereafter to be constructed within the drainage district, or any matter or thing preliminary to, connected with, incidental to, or consequent upon the construction of such drain or drainage works.

Poll to be taken whether the scheme to be carried out.

Cf. Gawler to Angaston Railway Act 942, 1907, s. 10.

13. On a date to be fixed by the Governor by Proclamation published in the *Gazette* the question whether the scheme shall be carried out in pursuance of this Act shall be submitted by each Council to a poll of the landholders of land (other than unleased Crown lands) which is included in the drainage district, and is situated in the district of such Council.

Provision for poll.
Cf. *ibid.*, s. 11.

14. Every poll of landholders under this Act shall be taken by ballot—

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- i. The Council shall appoint a Returning Officer, who shall, *mutatis mutandis*, have all the powers conferred by the District Councils Act, or “The Ballot Act of 1862,” on a Returning Officer in case of an election, including the power to appoint deputies, and shall preside at the taking of the poll:
- ii. The Council shall appoint a polling-place for such poll, and where the district is divided into wards shall appoint a polling-place in each ward. The taking of the poll shall commence at eight o'clock in the forenoon, and shall continue open until all the voters present in the polling-booth at seven o'clock in the afternoon shall have had an opportunity of voting, and shall then close:
- iii. Two scrutineers, to be present at the voting at each polling-place, shall be appointed by the Council:
- iv. At every poll the Returning Officer, if it appears to him expedient, may cause booths to be erected, or rooms to be hired and used as booths, at the several polling-places of the district; and the same shall be so divided and allotted into compartments as to the Returning Officer seems most convenient, and the Returning Officer shall, before the day fixed for taking the votes, cause to be furnished for use at each polling-place a list of the landholders entitled to vote at such polling-place, which shall show how many votes each landholder is entitled to according to the scale in the next succeeding subsection, and the land in respect of which each landholder is qualified to vote, and the Returning Officer shall, under his hand, certify such list to be correct:
- v. Each

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- v. Each landholder entitled to vote may vote on a scale according to the amount of value at which he is assessed in the assessment-book of the Council, as follows:—Twenty-five Pounds or under, one vote; over Twenty-five Pounds to Thirty-five Pounds, two votes; over Thirty-five Pounds to Forty-five Pounds, three votes; over Forty-five Pounds to Fifty-five Pounds, four votes; over Fifty-five Pounds to Sixty-five Pounds, five votes; over Sixty-five Pounds, six votes. No person shall have more than six votes: Landholders to vote according to scale.
- vi. In case of joint tenancy or tenancy in common, one person only shall vote unless the assessed value of the property exceeds Seventy-five Pounds, and then one other joint tenant, or tenant in common, may vote for each additional Seventy-five Pounds, or for any fractional part of Seventy-five Pounds, of assessed value, on the same scale as is allowed for the first Seventy-five Pounds, or the fractional part thereof, and joint tenants, or tenants in common entitled, may vote in the order in which they tender their votes, until votes have been taken for the whole assessed value, or all the joint tenants, or tenants in common, have voted:
- vii. Except as by this Act otherwise provided, no person shall have more than one vote:
- viii. Every person entitled to vote shall present himself to the Returning Officer, or his Deputy, at the polling-place for the district or for the ward in respect of which such person claims to vote, and state his Christian and surname, abode, profession, or occupation, the nature of his qualification, and the place where the property or qualification is situate. The Returning Officer, or Deputy, shall thereupon place a mark against the voter's name on the list of landholders in use at the polling-place, and hand such voter a voting-paper for every vote to which he is entitled, which voting-paper shall bear the initials of the Returning Officer, or Deputy, and the following sentences:—
- “ I approve of the drainage scheme being carried out in pursuance of ‘The South-Eastern Drainage Scheme Act, 1908’:
- “ I object to the drainage scheme being carried out in pursuance of ‘The South-Eastern Drainage Scheme Act, 1908’ ”:
- And shall have a square printed opposite each such sentence, and nothing else shall be inserted in, or placed on, such voting-paper:
- ix. There shall be provided one or more separate apartments or places forming part of the polling-booth, into which the voter shall, on receiving his voting paper or papers, immediately retire, and there alone and in private, without interruption, indicate his vote or votes by making a cross within

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within one of the squares on his voting-paper, or on each of his voting-papers, as the case may be, opposite the sentence which expresses his wish, and shall then fold the paper or papers and immediately deliver it or them so folded to the Returning Officer, or his Deputy, who shall forthwith publicly, and without opening the same, deposit it or them in a box to be provided for that purpose; and no voting-paper so deposited in any box shall on any account be taken therefrom unless in the presence of the scrutineers after the close of the poll. No voting-paper shall be received unless it is so folded as to render it impossible for the Returning Officer, his Deputy, or any other person to see which way the vote is given:

- x. Any voter wilfully infringing any of the provisions of this section, or obstructing the voting by any unnecessary delay in performing any act within the said polling-booth or room, shall be guilty of a misdemeanor:
- x1. Any voter may signify to the Returning Officer, or his Deputy, that, by reason of blindness or defective eyesight, he is unable to vote without assistance, and thereupon such officer or deputy, if satisfied of such inability, shall permit any agent named by such voter to accompany him into the apartment or place for voting to mark the voting-paper on such voter's behalf, and shall receive such paper from such agent and deposit it in the ballot-box:
- xii. The only persons who shall be allowed to remain in the polling-booth or room shall be the persons about to vote, the Returning Officer, the Deputy Returning Officer, and the scrutineers:
- xiii. No inquiry shall be permitted at any poll as to the right of any person to vote, except as follows, that is to say:—The Returning Officer, or his Deputy, may, or if required by any scrutineer shall, put to any person applying for a voting paper at the time of his so applying, but not afterwards, the following questions, or any of them, and no other:—
- (1) Are you the person whose name appears as
and as the owner (*or holder or lessee*) of
the property set opposite your name in the list of
landholders for this district?
 - (2) Have you already voted at the present poll?
 - (3) Are you the landholder within the meaning of
“The South-Eastern Drainage Scheme Act,
1908,” of the property in respect of which you
now claim to vote?

Provided that the Returning-Officer or Deputy may by reference to the list of landholders or otherwise give any information

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information necessary to explain the question or questions so put. No person shall be entitled to vote unless his answer to the first and third questions, or such of them as is put to him, is in the affirmative, and to the second, if put, in the negative; and any person who wilfully makes a false answer to either of such questions shall be guilty of a misdemeanor.

- xiv. Every person who votes a second time, or offers to vote a second time, at any poll, or who personates any other person for the purpose of voting at any such poll, shall be guilty of a misdemeanor.
- xv. Immediately before taking the votes the Returning Officer, or Deputy Returning Officer, shall exhibit the ballot-box empty; and shall, immediately upon the close of the voting, publicly close and seal the box containing the voting-papers which have been taken at the voting-place at which he presided, and each Deputy Returning Officer shall, with as little delay as possible, deliver, or cause his box to be delivered, to the Returning Officer; and any Returning Officer, or Deputy Returning Officer, who unlawfully tampers with any ballot-box or voting-paper shall be guilty of a misdemeanor.
- xvi. At the close of the poll the Returning Officer shall fix a time, as soon as conveniently may be, for examining the votes and declaring the result of the poll, and shall, in the presence of one at least of the scrutineers, and of as many more as choose to be present, open all the boxes containing voting-papers delivered at the taking of the poll, and shall examine such voting-papers, and shall reject all such as contain crosses against both of the above-mentioned sentences, or contain anything other than such matters as are hereinbefore prescribed for such voting-papers: And shall openly declare the general state of the votes at the close of the poll, as the same are made up by him from the voting-papers taken at the several voting-places: And shall declare the result of the poll:
- xvii. All voting-papers shall be preserved by the Returning Officer until three months after the declaration of the result of the poll.

Any person convicted of a misdemeanor under this section shall be liable to be imprisoned for a term not exceeding six months.

15. The result of each poll shall be embodied in a certificate under the hand of the Returning Officer in the form of the Second Schedule to this Act, or in a form to the like effect. The certificates shall be published in the *Gazette*, which shall, after the expiration of three months from the declaration of the result, be conclusive evidence of such result, and of the validity of the poll, and the performance of all conditions precedent thereto.

Certificate of result of poll.

Cf. *ibid.*, s. 12.

16. If

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Order for carrying
out scheme in
pursuance of this Act.
Cf. *ibid.*, sec. 14.

16. If the aggregate result of such polls is that two-thirds or more of the votes of all the landholders voting approve of the scheme being carried out in pursuance of this Act, the Governor may make an order that the scheme shall be carried out in pursuance of this Act, and the order shall be published in the *Gazette*. The scheme shall not be carried out unless and until such order is so published.

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

GEORGE R. LE HUNTE, Governor.

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THE SCHEDULES.

THE FIRST SCHEDULE.

LIST OF PROPOSED DRAINS.

1. Extension of Baker's Range Drain to Dismal Swamp.
2. Drain commencing at a point in the hundred of Penola, and running in a north-westerly direction to Baker's Range Drain, in or near Block 7, hundred of Joyce.
3. Drain from Lake Omerod, through the hundreds of Naracoorte and Spence, to Baker's Range Drain, in or near Block 4, hundred of Joyce.
4. Drain commencing at a point in the hundred of Joyce, and running in a north-westerly direction to near the western boundary of the hundred of Minecrow, thence westerly to the sea at a point about five miles north of Kingston, with a branch commencing near the said western boundary of the hundred of Minecrow, and running in a north-easterly direction.
5. Drain commencing at a point in the hundred of Fox, and running in a westerly direction to the sea at or near Boatswain's Point.
6. Drain commencing at Reedy Creek Drain, near Furner, and running in a westerly direction to Lake George, with an outlet from that lake to the sea, near Beachport.

NOTE.—The positions of the proposed drains, as above indicated, are approximately the contemplated positions of such drains, and may be altered as found to be necessary or expedient.

THE SECOND SCHEDULE.

THE SOUTH-EASTERN DRAINAGE SCHEME.

I, [*name of Returning Officer*], certify that a poll taken on the _____ day of _____, 19____, in the District of [*name of District Council District*], on the question whether the above-mentioned scheme should be carried out in pursuance of "The South-Eastern Drainage Scheme Act, 1908," resulted as follows:—

Number of votes in approval of the scheme being so carried out
 Number of votes in objection thereto
 Number of informal votes

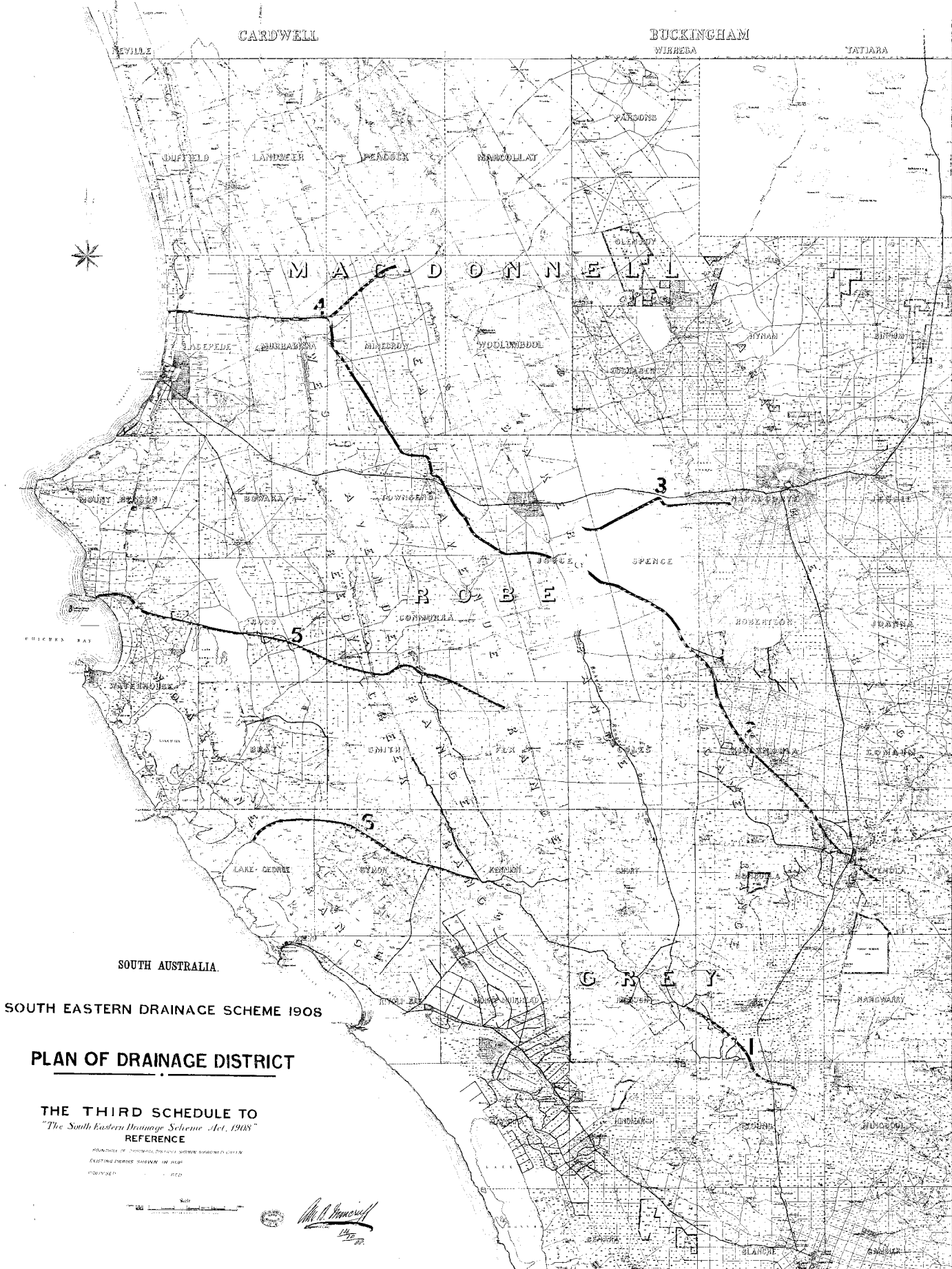
Total number of votes

Dated this _____ day of _____, 19____. _____
 [Signature] Returning Officer.

THE THIRD SCHEDULE.

[PLAN.]

PLAN.



CARDWELL

BUCKINGHAM

MACDONNELL

GREY

GREY

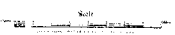
SOUTH AUSTRALIA

SOUTH EASTERN DRAINAGE SCHEME 1908

PLAN OF DRAINAGE DISTRICT

THE THIRD SCHEDULE TO
"The South Eastern Drainage Scheme Act, 1908"
REFERENCE

BOUNDARIES OF DRAINAGE DISTRICTS SHOWN BY DOTTED LINES
 EXISTING DRAINAGE SHOWN IN BLUE
 PROPOSED DRAINAGE SHOWN IN RED



W. A. General
 1908

VICTORIA