An Act to amend "The Port Augusta Waterworks Act, 1862," to provide for the supply of Fresh Water to the Township of Stirling and other places, and for other purposes.

[Assented to, 3rd November, 1864.]

WHEREAS it is expedient to amend "The Port Augusta Waterworks Act, 1862," and to make provision for the supply of Fresh Water to the Township of Stirling and other places on the line of main of the Port Augusta Waterworks—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 for all purposes as the "Port Augusta Waterworks Amendment Act, 1864."

2. The Port Augusta Waterworks Act, 1862, shall be incorporated with this Act, and shall be read and construed herewith as forming one Act.

3. The Commissioner of Public Works may, from time to time, appoint and employ such manager and other officers, for the purposes of this Act, as to him may seem meet; and may also, in his discretion, from time to time, dismiss and discharge such officers, or any of them, and appoint others in their place.

4. The Commissioner may, from time to time in his discretion, erect one or more stand or delivery pipes at or near to Port Augusta, the said Township of Stirling, and other places on the line of the said main, for the purpose of supplying water from the said waterworks.

5. The Commissioner may erect stand pipes at Port Augusta, Stirling, and other places.
5. The said Commissioner may affix to each of such stand or delivery pipes such meter or meters as may be necessary for ascertaining the quantity of water supplied from such waterworks through each of such stand or delivery pipes respectively.

6. The Commissioner may, from time to time by notice to be published in the Government Gazette, invite tenders from persons willing to lease one or more of such stand or delivery pipes; and such notice shall state the maximum sum at per one thousand gallons, which the lessee is to be entitled to demand for any water to be supplied from such stand or delivery pipes to any person requiring the same; and generally the terms and conditions on which the lease is to be granted.

7. After the date fixed for receiving such tenders, the Commissioner may grant a lease, of any one or more of such stand or delivery pipes, with such quantity of land in connection therewith as he may consider necessary, to one or more of the persons tendering for any period not exceeding two years: Provided that the Commissioner shall not be obliged to grant such lease to any of the persons so tendering, and may in his discretion call for fresh tenders.

8. If no tenders be received in accordance with such notice, or to the satisfaction of the Commissioner, the Commissioner may in his discretion let the said stand or delivery pipes, or any of them, for a period of one year, by private contract, to such person or persons and upon such terms as to him may seem fit: Provided, that the maximum sum to be charged by the lessee for supplying water shall in no case be more than that mentioned in the notice inviting tenders.

9. The Commissioner shall provide and keep a sufficient supply of fresh water for such stand or delivery pipes, for the use of the inhabitants of Port Augusta, the said Township of Stirling, and other places, who shall be entitled to demand a supply from the lessee or person to whom the said stand or delivery pipes, or any part thereof, shall be let, on payment for the same as hereinbefore mentioned; and such supply shall be constantly laid on, unless prevented by drought or other unavoidable accident, or during necessary repairs.

10. Any lessee, or person to whom the said stand or delivery pipes, or any part thereof, shall be let, shall be entitled to make such charges for the water to be supplied by him at such stand or delivery pipes, to persons requiring the same as he shall think fit: Provided, that such charges do not exceed the maximum sum to be fixed in the notice calling for tenders as aforesaid.

11. Every lessee, or person to whom the said stand or delivery pipes, or any part thereof, shall be let, shall exhibit a board with a list of the rates authorized to be levied printed or painted thereon,
in words and figures of two inches in length, in some conspicuous situation adjacent to the stand pipe.

12. Any person shall be entitled to be supplied by any lessee or person to whom the said stand or delivery pipes, or any part thereof shall be let, with water at the said stand or delivery pipes between the hours of five o'clock in the morning and eight o'clock in the evening, on paying or tendering the sum so fixed as aforesaid.

13. If any lessee, or person to whom the said stand or delivery pipes, or any portion thereof, shall be let, either by himself, or any servant or agent, shall take from any person for any water supplied to him, at any of such stand or delivery pipes, a greater sum than such lessee or person to whom the said stand or delivery pipes, or any part thereof, shall be let, is legally authorized to demand; or shall on demand refuse to supply any person with water at such stand or delivery pipes, or shall fail to exhibit the rates he is entitled to charge under clause 10 of this Act, he shall for every such offence forfeit a sum of not less than One Pound nor more than Five Pounds, and the lease or agreement, as the case may be, shall, if the Commissioner think fit, become null and void: Provided that no lessee, or person to whom the said stand or delivery pipes, or any part thereof shall be let, shall be obliged to supply water in quantities less than thirty-six gallons.

14. Every lessee or person to whom the said stand or delivery pipes, or any part thereof, shall be let, who shall wilfully or carelessly break, or injure any meter, lock, cock, valve, pipe, work, or engine connected with the said Waterworks, or shall flush or draw off the water from the reservoirs, or other works of the Commissioner, or shall do any other wilful act whereby such water shall be wasted, shall forfeit for every such offence, a sum not exceeding Five Pounds, besides the amount of damage which may accrue to the Commissioner by reason thereof.

15. Every person who shall commit any of the offences next hereinafter enumerated, shall, for every such offence, forfeit to the Commissioner a sum not exceeding Five Pounds, that is to say—

Every person who shall bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the Commissioner, or any waters supplying or flowing into the same, or any part thereof, or wash, throw, or cause to enter therein any dog or other animal:

Every person who shall throw any rubbish, dust, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterworks, or any waters supplying or flowing into the same, or any part thereof, as aforesaid, or wash or cleanse therein any lead or other mineral, or any cloth, wool, leather, or skin of any animal, or any other thing:

Every person who shall cause the water of any sink, sewer, or drain,
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, or other waterworks belonging to the Commissioner, or any waters supplying or flowing into the same, or any part thereof, or shall do any act whereby the supply of water to the inhabitants shall be fouled:

And every such person shall forfeit a further sum of Twenty Shillings for each day, if more than one, that such last-mentioned offence shall be continued.

16. Any lessee or other person to whom the said stand or delivery pipes, or any part thereof, shall be let, who shall wilfully break or injure any such stand or delivery pipes, or meter, or any works connected therewith, or shall in any way put back or interfere with any such meter, so as to render the same in any way less fitted for ascertaining the true quantity of water supplied from such stand or delivery pipes, shall for every such offence forfeit a sum of not less than Ten Pounds, nor more than Fifty Pounds, besides any sums which may have been expended by the Commissioner in repairing the same.

17. The Commissioner, or any Manager or other of his officers, may at all times enter upon any premises, to be demised or let as aforesaid, on which any stand or delivery pipe is erected to inspect the state and condition thereof.

18. In case any lessee or person to whom the said stand or delivery pipes, or any part thereof, shall be let, shall neglect or refuse to perform the terms and conditions on which any such stand or delivery pipe shall be demised or let, or in case the rent or sum of money agreed to be paid by such lessee, or person as aforesaid, shall be in arrear for the space of thirty days next after any of the days on which the same ought to be paid pursuant to the terms of the lease or agreement, as the case may be, or in case any such lease or agreement shall in any manner become void, then and in any of such cases it shall be lawful for any Justice of the Peace, by warrant under his hand, to order a constable or other peace officer, with such assistance as may be necessary, to enter upon and take possession of such stand or delivery pipe and the buildings and appurtenances thereto belonging, and to remove and put out such lessee, or other persons who shall be found therein, together with their goods, out of and from the possession of the said stand or delivery pipe, buildings, and appurtenances, and to put the said Commissioner, or his officer, or other persons authorized, acting by or under his authority, into the possession thereof; and thereupon it shall be lawful for the said Commissioner, if he shall think fit, to vacate and determine the lease or agreement granted or entered into as aforesaid, and the same shall be from that time utterly void to all intents and purposes (save as to the covenants or agreements for payment up
up to that time of the rents or sums of money thereby reserved, or other covenants or agreements on the part of the lessee or other person to be performed, as if such lease or agreement had never been made, and it shall be lawful for the said Commissioner, in every such case, to let any such stand or delivery pipe again to any other person, as if no former demise, contract, or agreement had been made relative thereto, any rule of law or right to the contrary notwithstanding.

19. 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 moneys received by him under the provisions 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 Government Gazette.

20. All moneys received by the Commissioner, under the provisions of this Act, after deducting the necessary costs and charges of and attending the collection of the same, and also of the maintenance of the said undertaking, and of keeping up the supply of water, shall be paid by the said Commissioner to the Treasurer to be applied to the payment of the capital and interest in respect of the moneys raised for the construction of the said waterworks.

21. In all cases where any penalty is imposed, or 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, determined, and recovered in a summary way by and before two Justices of the Peace.

22. All fines and penalties, levied or recovered under this Act, shall be paid to the Treasurer on behalf of Her Majesty, Her heirs, and successors for the public uses of the said Province, and in support of the Government thereof.

23. 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 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.

24. All
24. 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 non-suited, 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.

25. There shall be an appeal from any order of Justices of the Peace under the provision of this Act, and from any order of Justices dismissing an information laid under this Act, which appeal shall be in manner provided for appeals to Local Courts by an Act of the Governor and Legislative Council, 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,” or in such manner as may be provided by any Act hereafter to be in force for regulating such appeals; and no conviction or order of Justices shall be removed by certiorari or otherwise into the Supreme Court.

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

D. DALY, Governor.