



Western Australia.

ANNO SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

PRIVATE ACT.

AN ACT to authorise William Dalgety Moore, or his assigns, to lay down Water Mains and Pipes, and to do all other necessary Acts for the Supply of Water throughout the Roads Board Districts of Peppermint Grove, Cottesloe, and Buckland Hill.

[Assented to, 16th December, 1899.]

WHEREAS William Dalgety Moore, of Fremantle, merchant, is now duly seised and possessed of, or otherwise well entitled to, certain hereditaments situate at Claremont, being portion of Swan Location 699, and in respect of which he is duly registered as the proprietor under the Transfer of Land Act, 1893;

Preamble.

And whereas there are erected upon the said land waterworks known as "The Osborne Waterworks," which are now used for the purpose of supplying water throughout parts of the surrounding districts;

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And whereas the Roads Board Districts of Peppermint Grove, Cottesloe, and Buckland Hill are within the area which it is desired to supply by the said waterworks ;

And whereas the Roads Boards of the said districts are not within the application of the Water Works Act, 1889, and have no power to authorise the said William Dalgety Moore to extend the supply of water within the said districts ;

And whereas the said William Dalgety Moore, his heirs and assigns, desire to have conferred upon him and them rights, powers, and privileges to enable him to supply the said water throughout the said districts: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

- Short title of Act. **1.** THIS Act may be cited as “The Peppermint Grove, Cottesloe, and Buckland Hill Water Supply (Private) Act, 1899.”
- Interpretation clause. **2.** IN the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several words and expressions hereinafter mentioned shall have or include the meanings following, that is to say,—
- “ Proprietor.” (a.) The expression “the proprietor” shall mean the said William Dalgety Moore, his heirs and assigns.
- “ Owner ” or “ Occupier.” (b.) The words “owner” or “occupier” shall respectively mean and include any person who shall for the time being be the owner or occupier, or have the charge of any land, street, road, or place affected or to be affected by the waterworks.
- “ Street.” (c.) The word “street” shall include not only streets commonly so called, but also any street, market-place, court, highway, lane, public road, wharf, thoroughfare, or public passage or place within the limits of the Act.
- “ Waterworks.” (d.) The expression “waterworks” shall mean the waterworks and all other works connected therewith by this Act authorised to be constructed.
- “ Building.” (e.) The word “building” shall include places of public worship, places of public amusement, public institutions, public and private offices, dwelling-houses, mills, manufactories, stores, shops, stables, sheds, and other similar erections, with any premises appurtenant thereto, and also public and private gardens and enclosed courts and yards.

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- (f.) The expression "local authority" shall mean the Roads Board or other bodies or body having the care and charge of any of the streets or roads within the limits of this Act and for their respective jurisdiction. "Local authority."
- (g.) The word "district" in relation to a local authority shall mean the area within the jurisdiction of such local authority. "District."
- (h.) The expression "main" includes a pipe. "Main."

3. THE limits of this Act shall extend to and include the area that at the date of its coming into operation is comprised within the districts of the Peppermint Grove, Cottesloe, and Buckland Hill Roads Boards. Limits of Act.

4. SUBJECT to the consent of the local authority and to the terms imposed by such consent and to the provisions of this Act, it shall be lawful for the proprietor from time to time— Proprietor may open streets.

- (1.) To open and break up the soil of any street within the limits of this Act, and to open and break up any sewers, drains, or tunnels within or under any such streets, and lay down and place within the same limits mains, conduits, service pipes, and other works for the distribution of water; and from time to time to repair, alter, or remove the same for the purpose aforesaid, and to remove and use all earth and materials in and under such street.
- (2.) To lay down any pipe, branch, or other apparatus for the distribution of water from any main or branch pipes into, through, or against any building for the purpose of supplying the same with water, and to provide and set up any such apparatus necessary for securing to any building a proper and complete supply of water, or for measuring and ascertaining the extent of such supply: Provided always, that nothing herein contained shall authorise the proprietor to lay down or place any pipes or other works into, through, or against any building or land not dedicated to public use, without the consent of the owner or occupier thereof, except that the proprietor may at any time enter upon any land for the purpose of laying or placing any new pipe or apparatus in the place of an existing pipe or apparatus in any land wherein any pipe or apparatus shall have been lawfully laid down or placed, or for the purpose of repairing or altering any pipe or apparatus so laid down. Not to enter on private land without consent.

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Consent of local authority must first be obtained, and plans lodged.

5. IT shall not be lawful for the proprietor to exercise any of the powers or privileges conferred by the preceding section until he shall have first deposited with the local authority a plan or plans setting forth the extent to which, and the manner in which, the proprietor purposes to exercise such powers and the works he proposes to carry out, and unless and until he shall have received the consent in writing of the local authority so to do, which consent may or may not be given, as such local authority in its absolute discretion thinks fit: Provided that in cases of emergency arising from accidents to, or defects in any of the works already laid, such accidents or defects may be repaired without previous notice, so that such notice is given as soon as possible after the beginning of the work, or the necessity for the same has arisen.

No street to be opened unless under superintendence of local authority.

6. NO street, sewer, drain, or tunnel shall, except in case of emergency arising as aforesaid, be opened or broken up except under the superintendence of the local authority or its officer: Provided always, that if no officer of the local authority shall attend at the time fixed for the opening of any such street, road, sewer, drain, or tunnel, after having had notice of the proprietor's intention as aforesaid, or shall refuse or neglect to superintend the operation, the proprietor may, subject to the preceding section, perform the work without the superintendence of the local authority or its officer.

Streets when opened to be repaired.

7. (1.) WHEN the proprietor opens or breaks up any street, sewer, drain, or tunnel, he shall, with all convenient speed, complete the work for which the same shall be opened or broken up, and fill in the ground and re-instate and make good the said street, sewer, drain, or tunnel to the satisfaction of the local authority or its officer, and shall carry away the rubbish occasioned by the work; and shall at all times, whilst any such street shall be opened or broken up, cause the same to be properly guarded, and a light sufficient for the warning of passengers to be set up and maintained every night during which such street shall be continued open or broken up: And the proprietor, after replacing and making good the street so broken up by him, shall keep the same in repair to the satisfaction of the local authority for six months thereafter.

Local authority may require deposit.

(2.) The local authority may require the proprietor, before proceeding to open or break up any street, to deposit with them such reasonable sum of money as they may consider sufficient security for the carrying out by the proprietor of the provisions of this section.

Where breaking up without notice or delay in re-instating expenses occasioned may be recovered.

8. IF the proprietor makes any unnecessary delay in completing any work under the preceding section, or in filling in or re-instating and making good the street, sewer, drain, or tunnel so opened or

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broken up, or in carrying away the rubbish occasioned by the work, or if the proprietor neglect to cause the place where such street has been broken up to be properly guarded and lighted as aforesaid, then and in such case the local authority may cause the work so delayed or neglected to be executed and performed, and the expenses of executing and performing the same shall be repaid to such local authority by the proprietor, and shall be recoverable as hereinafter provided.

9. THE proprietor shall do as little damage as may be in the execution of the powers by this Act granted, and shall make compensation for any damage which may be done in the execution of such powers.

Proprietor to make compensation for any damage.

10. IF at any time any local authority shall deem it necessary or expedient to require the proprietor to raise or sink, or otherwise alter the situation of any of the pipes which shall have been laid down contrary to any of the provisions of this Act, or which need to be altered by reason of any adjustment or alteration of the level of any street or part, the proprietor shall, at his own cost and expense, with all convenient speed, after being required so to do by notice in writing, raise or sink or otherwise alter the situation of such pipes according to the notice: And in default of the proprietor so doing, it shall be lawful for the local authority to cause such pipes to be so raised or sunk, or the situation otherwise altered, and the expense of doing the work shall be repaid by the proprietor to the local authority, and shall be recoverable as hereinafter provided.

Power to local authority to alter situation of pipes, etc.

11. SUBJECT to the provisions of this Act, as hereinafter contained, the proprietor may from time to time enter into any contract with any person for supplying with water any public building or for providing any persons with, and for the repair of pipes, meters, fittings, or things for the supply of water; and may also from time to time enter into any contract, in writing, with the local authority for supplying such authority with water and all fittings or things necessary for such purpose: Provided always, that the price to be charged by the proprietor for water supplied to any person other than a local authority shall in no case exceed the rate of Two shillings per thousand gallons.

Power of proprietor to enter into contracts for the supply of water.

12. (1.) WHENEVER, and as often as required so to do by any local authority, the proprietor will, with all necessary despatch, lay down in such street or streets, as may be so required, a main for the supply of water to all persons in such street or streets, or within three hundred feet of such main: Provided that no extension shall be required at any one time for a greater distance than four hundred yards from the nearest main at the date of such request.

Proprietor to lay down mains if required by local authority.

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(2.) If the proprietor neglects to carry out the terms of such request within a reasonable time, the local authority making such request may, at the cost and expense of the proprietor, lay down such main.

Proprietor bound to supply.

13. THE proprietor shall, unless prevented by unusual drought or other unavoidable cause or accident, supply to all persons within the limits of the Act and not in arrears with their payments to the proprietor for water previously supplied, lawfully requiring the same, a constant supply of good and potable water, notwithstanding any contract or agreement to the contrary: Provided always, that the proprietor shall not be liable to supply water to any person or to any premises beyond a distance of three hundred feet from any main.

Supply for public purposes.

14. THE proprietor shall, unless prevented by unusual drought or other unavoidable cause or accident, or during necessary repairs, supply all water required by a local authority for watering streets, and also for all other purposes of such local authority at a rate not exceeding one-half of the charge made for the time being to private consumers.

Fire-plugs for public purposes. Pipes to be kept charged with water.

15. THE proprietor shall, at the expense of the local authority, fix and keep in effective order proper fire-plugs in the mains at such distances and at such places as the local authority may consider proper and convenient for the supply of water for extinguishing fires; and the proprietor shall at all times, unless prevented by unusual drought or other unavoidable cause or accident, or during necessary repairs, keep charged with water the pipes to which the fire-plugs are fixed, and shall allow all persons at all times, without any charge, to take and use such water for the purpose only of extinguishing fires.

Penalty if proprietor fails to carry out provisions of Act.

16. IF the proprietor does, or fails to do, anything contrary to any of the provisions of sections eleven, twelve, thirteen, and fourteen, he shall forfeit and pay to the person or local authority (as the case may be) a penalty not exceeding Twenty shillings for every day during which said failure, act, or default shall continue.

Communication pipes from main to be laid.

17. THE proprietor, on receiving from the owner or occupier of any building situated within three hundred feet of any main a written request for a supply of water, shall, with all convenient speed, provide and lay down to the edge of the street nearest to such building, and fix in readiness for use and keep in repair, communication pipes and other fittings, and do such other acts as shall be necessary and proper therefor: And if the proprietor shall, for a period of seven days after the receipt of such request as aforesaid, fail or neglect to comply therewith, or shall not keep such pipes and fittings in repair, he shall

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forfeit and pay to the person making such request a penalty not exceeding Twenty shillings for every day thereafter during which such neglect shall continue.

18. THE proprietor may let for hire any meter and fittings at such rent as shall be agreed, provided that no such meters or fittings shall be subject to distress for rent or be taken in execution under any process of any court of law or equity whatever, nor be affected by any adjudication or other proceedings in bankruptcy or sequestration: Provided always, that the charge to be made by the proprietor for the hire of any such meters or fittings shall in no case exceed fifteen per cent. on the cost price fixed in Cottesloe of such meter or fittings.

Power to proprietor to let meters.

19. THE proprietor or his servant may, at all reasonable times, enter any building or place supplied with water in order to inspect the meters, pipes, or other apparatus therein, for regulating the supply of water, and for the purpose of ascertaining the quantity of water consumed or supplied.

Proprietor may enter buildings to ascertain quantity of water consumed.

20. IN all cases in which the proprietor is authorised to cut off the supply of water from any building or premises, the proprietor, his manager, agent, or workmen, after giving reasonable notice to the occupier, may enter such building or premises, and remove and carry away any pipe, meter, fittings, or other apparatus, the property of the proprietor: Provided that no damage whatever shall be occasioned by such removal to such building, save so far as may be necessarily incidental thereto.

Power to take away pipes when supply discontinued.

21. IF any person shall lay or cause to be laid any pipe to communicate with any pipe belonging to the proprietor without his consent, or shall wilfully or by culpable negligence injure any pipe, meter, or other apparatus belonging to the proprietor, or shall alter the index to any meter, or prevent any meter from duly registering the quantity of water supplied, or shall in any manner improperly use or dispose of any water contrary to the terms of this contract with the proprietor, then and in any such case the proprietor may, notwithstanding any contract, cut off the supply of water from the building and premises (if any) occupied by the person guilty of any such act, without prejudice to any other right or remedy of the proprietor.

Right to cut off supply in certain cases.

22. NO person shall fit up or affix, or keep fitted up or affixed, any apparatus, tap, stand-pipe, or fitting whereby water shall be obtained from any main or pipe belonging to the proprietor, without the consent in writing of the proprietor.

No connection with mains to be made without consent of proprietor.

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Penalty for breaking
valves, etc.

23. EVERY person who shall be guilty of any act or neglect contrary to the provisions of either of the two preceding sections shall, upon conviction thereof, forfeit and pay to the proprietor for every such offence a penalty not exceeding Five pounds, besides the amount of damage to which the proprietor may be put in respect thereof, as well for the value of the water wasted as in repairing such fittings or other parts of the works, and the amount of such damage shall be ascertained, determined, and recovered in the same manner and time as any forfeited penalty.

Pipes, etc., not sub-
ject to seizure, etc.

24. NO judgment or other special or simple contract creditor of the proprietor shall, by or under any law, title, or pretence whatever, levy, seize in execution, or in any way attempt to recover payment of any sum of money due to him from the proprietor by taking and removing any part of the waterworks whatever necessary or incidental to the pumping, storing, distribution, and supply of water within the limits of this Act, save and except so far as any such creditor shall be authorised by order of the Court to receive and manage such works by way of equitable execution.

How penalties
recoverable.

25. (1.) ALL forfeitures, damages, and expenses, and other sums of money by this Act made payable to or recoverable by the proprietor or local authority or person where the amount sought to be recovered does not exceed Twenty pounds, may be recovered in a Court of summary jurisdiction.

(2.) Where the amount payable or recoverable shall exceed Twenty pounds, the same shall be recoverable by action or proceeding in any Court of competent jurisdiction.

(3.) Every penalty imposed by this Act may be proceeded for and enforced, either against the person actually committing any breach of such Act, or the person in whose employment he is, or on whose behalf he is acting.

Application of
Interpretation Act,
1898.

26. (1.) PARAGRAPHS C, F, and G of the second schedule of the Interpretation Act, 1898, shall be incorporated herewith.

Appeal.

(2.) Any person aggrieved by any conviction or order of (including any order dismissing any information, complaint, or proceeding by) a Court of summary jurisdiction under this Act may, if the penalty imposed or sum awarded exceeds Two pounds, or, in case of a dismissal, if the penalty which might be imposed or the sum which might be awarded exceeds Two pounds, appeal from such conviction or order to the Supreme Court.

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Every such appeal shall be subject to the provisions of Part IX. of the Police Act, 1892, and of any Act amending such provisions.

27. NOTHING in this Act contained shall be deemed or construed to affect any right, title, or interest of Her Majesty, her heirs or successors.

Nothing herein contained to affect Her Majesty.

28. IF the proprietor, unless prevented by unusual drought or other unavoidable cause or accident, neglects or fails at any time for a period of thirty days—

If proprietor fails to carry out this Act it may be declared void.

- (1.) To supply good and potable water at a sufficient pressure to any person lawfully requiring the same, or entitled thereto; or
- (2.) To proceed to, and with reasonable despatch, carry out any terms or any request under section nine or section ten;

and such default continues for a longer period of sixty days after written notice thereof by any local authority, such local authority may apply to the Supreme Court or a Judge thereof for an order declaring this Act shall cease, and in such case, upon proof of the matters aforesaid, the Court or a Judge thereof shall declare this Act to have ceased, and thereupon the same shall cease and determine: Provided that no such application shall be made more than thirty days after the expiration of the period when the right to make the same first arose.

29. NOTHING in this Act contained shall confer upon or vest in the proprietor any exclusive right to supply water within the limits of this Act, nor in any way prejudice or affect the right of any local authority or any body corporate or other person in any district affected by this Act to obtain a supply of water from elsewhere, or to entitle the proprietor to claim any compensation, should similar rights and privileges be conferred upon any other person; and as regards all such matters, the rights of the local authorities shall be in all respects the same as if this Act had not been passed; and the local authority may themselves lay or grant to any other person the right to lay mains and pipes above, below, or alongside those of the proprietor.

Not to affect right to obtain supply of water elsewhere or create vested interests in proprietor.

30. NOTHING in this Act contained shall in any manner prejudice or affect the right of the Government, or any Board authorised by the Government, to establish and carry on waterworks or to distribute and supply water within the limits of the Act, nor entitle the proprietor to any compensation whatever by reason of any such matters.

Government may construct water-works without compensating proprietor.

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Deposit to be forfeited in certain cases.

31. THE sum of money deposited by the proprietor, in pursuance of the Joint Standing Orders of the Houses of Parliament relating to Private Bills, shall be held by the Colonial Treasurer until he has been satisfied that the estimated expense has, after the passing of this Act, been expended by the proprietor, whereupon the same shall be returned to the proprietor.

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

GERARD SMITH, Governor.