

No. , 1923.

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## A BILL

To amend the law relating to Irrigation Water Rights, Water and Drainage, and Artesian Wells; to amend the Irrigation Act, 1912, the Water Act, 1912, the Crown Lands Consolidation Act, 1913, the Wentworth Irrigation Act, the Hay Irrigation Act, 1902, and certain other Acts; and for purposes consequent thereon or incidental thereto.

[CAPTAIN CHAFFEY;—20 December, 1923.]

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

*Preliminary.*

**1.** This Act may be cited as the "Irrigation Short title, and Water (Amendment) Act, 1923."

6043

4—A

**2.**



Principal Act,  
No. 73 of  
1912, as  
amended.

**2.** In this Act the expression "the Principal Act" means the Irrigation Act, 1912, as amended by the Crown Lands and Irrigation (Amendment) Act, 1914, the Irrigation (Amendment) Act, 1916, and the Irrigation (Amendment) Act, 1918.

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*Amendments of the Principal Act.*

Amendments  
of Principal  
Act, No. 73  
of 1912.

**3.** The Principal Act is amended as follows:—

(i) Section three:—

By omitting the word "conservation" from the definition of "The Commission." 10

By inserting in their appropriate alphabetical order the following definitions:—

"Murray Basin" means the catchment area of the Murray River and its tributaries.

"Murrumbidgee irrigation areas" where used 15 in this Act or in any proclamation, notification, or regulation thereunder means the irrigation areas which have been constituted under the Murrumbidgee Irrigation Act, 1910, the Irrigation Act, 20 1912, and under the last-mentioned Act as amended by subsequent Acts, and any irrigation area which may be constituted of lands adjacent to or adjoining such areas. 25

"Murrumbidgee irrigation scheme" includes the irrigation areas which have been constituted under the Murrumbidgee Irrigation Act, 1910, the Irrigation Act, 1912, or the last-mentioned Act as 30 amended by subsequent Acts, and any irrigation area which may be constituted of lands adjoining or adjacent to such irrigation areas, and all works, services, and operations in connection with the 35 said areas and any such area, including all works constructed under the Barren Jack Dam and Murrumbidgee Canals Construction Act, 1906.

"Sewer"



“Sewer” means any work for carrying off sewage, and “sewage” includes any foul, polluted, or objectionable water, wastes, or refuse.

5 (ii) Section four :—

By omitting the section and substituting the following section :—

10 (1) The Governor shall constitute a Water and Irrigation Commission of three commissioners, two of whom shall be the commissioners holding office under the Act at the date of the passing of the Irrigation and Water (Amendment) Act, 1923. The Governor may appoint one of such three commissioners to be president of the Commission and another to be the deputy president of the Commission, and whenever a vacancy occurs in the office of president or deputy president the Governor may appoint one of the commissioners to fill such vacancy. At all meetings of the Commission the president, or in his absence the deputy president, shall preside. The president or deputy president so presiding shall have a deliberative vote only.

20 (2) On the occurrence of any vacancy, howsoever arising, in the office of commissioner, the Governor shall appoint a commissioner to fill such vacancy.

30 (3) Each commissioner shall, subject to this Act, hold office during ability and good behaviour, but shall retire from office at the age of sixty-five years or any time thereafter, if called upon so to do by the Governor.

35 The commissioners shall be paid such salaries as are fixed by the Governor from time to time, provided that the president's rate of salary shall not be less than pounds per annum, and the rate of salary of each of the other commissioners not less than pounds per annum, and such salaries are hereby charged upon the Consolidated Revenue Fund, which to the extent so charged is hereby permanently appropriated.

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(4)



(4) Any commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in the following mode. The Minister shall cause to be laid before both Houses of Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament is in session, and if not in session, within seven days after the commencement of its next session or sitting. The commissioner so suspended shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before it, declares by resolution that the commissioner ought to be removed from office, and if it be so declared, the commissioner shall be so removed by the Governor.

(5) At any time considered necessary, either on account of the absence from duty of a commissioner or other sufficient cause, the Governor may appoint a deputy commissioner, who shall for the period of such absence exercise the powers and functions of such commissioner.

Such deputy commissioner may be paid such salary or remuneration as the Governor may think fit.

(6) The commissioners may be granted by the Minister such leave of absence as may be prescribed. Any rights as to leave of absence, contribution to any Superannuation Fund, and payment of any pension or gratuity accrued or accruing to a commissioner in respect of previous employment in the service of the State are hereby preserved and shall continue in respect of service as such commissioner.

(7) Any two commissioners shall be a quorum, and subject to the next following provision, shall have all the powers and authority by this Act conferred upon the Commission.

(8)



5 (8) If at any meeting of the Commission, at which two commissioners only are present, such commissioners differ in opinion upon any matter, the determination of such matter shall be postponed until the three commissioners are present.

(9) The Commission shall keep minutes of its proceedings in such manner and form as the Governor may from time to time direct.

10 (10) In any Act and in any proclamation, notification, regulations or by-laws made thereunder, and any instrument, references to the Commissioner for Water Conservation and Irrigation or to the Water Conservation and  
15 Irrigation Commission shall be read as references to the Commission constituted under this section.

20 Any action or proceeding and any cause of action or proceeding pending or existing at the commencement of the Irrigation and Water (Amendment) Act, 1923, by or against the Water Conservation and Irrigation Commission, may be continued by or against the Commission.

25 (iii) Section 4E: By inserting after the section new section 4F as follows:—

30 4F. The Commission as constituted prior to the commencement of the Irrigation and Water (Amendment) Act, 1923, shall continue in office pending the constitution of a Commission under the terms of this Act as amended by the said Act, and shall have and be empowered to exercise all the powers and functions exercisable by the Commission under this Act as so amended.

Continuance  
of present  
Commission.

35 (iv) Section five: By adding at the end of the section the following new subsections four, five, six, seven, and eight:—

40 (4) Officers, servants, and workmen appointed under subsections one and two shall be subject to the sole control and governance of the Commission. (5)



- (5) The Commission may, with the approval of the Governor, make regulations—
- (a) for the control, supervision, and guidance of all officers, servants, and workmen employed by it, irrespective of the rate of salary or remuneration of such officers, servants, or workmen mentioned in the preceding subsection, and for the control and management of all property vested in or belonging to the Commission; 5
  - (b) for the imposition of—
    - (a) fines, not exceeding *fifty* pounds; and
    - (b) penalties, including— 15
      - (i) reduction in salary or wages or to a lower grade;
      - (ii) forfeiture of salary during any period;
      - (iii) deprivation of leave of absence; 20
      - (iv) enforcement of resignation; and
      - (v) dismissal,
- for any breach of any such regulations.
- (6) On proof to its satisfaction of a breach of any such regulations, the Commission may impose the prescribed fine or penalty, provided that no officer appointed under subsection one shall be reduced to a lower salary, be forced to resign, or be dismissed except with the approval of the Governor. 30
- (7) Every officer who has had fifteen years service shall be entitled to three months leave on full pay, or six months on half pay, and on the completion of twenty years service shall be entitled to a further three months leave on full pay or six months on half pay. After completion of further service after twenty years and up to a total service of forty years in all, he shall be entitled to a further proportionate amount of leave on full pay or half pay calculated on the basis of six months or twelve 40



5 twelve months respectively for twenty years  
service: Provided that nothing in this sub-  
section shall affect any other provisions of this  
section, and service with any department of,  
or corporation acting for, the State, prior to  
transfer by appointment under this section to  
the service of the Commission, shall be deemed  
to be service with the Commission for the  
purposes of this section.

10 (8) Where an officer has acquired a right  
under this Act to extended leave with pay and  
dies before entering upon it, or after entering  
upon it dies before its termination—

- 15 (a) his widow; or  
(b) in the case of a widower leaving children,  
his children, or their guardian; or  
(c) other dependent relative; or  
(d) his or their legal representative,

20 shall be entitled to receive the money value of  
the leave not taken, or not completed, computed  
at the rate of salary the officer received at the  
time of his death. Such payment shall be in  
addition to any payment due under the provision  
of the Superannuation Acts.

25 (9) The provisions of the foregoing subsections  
seven and eight shall be deemed to apply  
to any commissioner appointed under this Act.

(v) Section six:—

30 By omitting the words "vary the boundaries of"  
and substituting the words "may by similar  
proclamation add to or reduce."

By adding at the end of the section the following  
paragraphs:—

35 Any proclamation made under this section  
or heretofore made under the Murrumbidgee  
Irrigation Act, 1910, may be corrected,  
amended, modified, or revoked, whether as to  
the whole or any part thereof, by the Governor,  
by



by proclamation in the Gazette, and this provision shall be deemed to have been in force from the date of the commencement of the Irrigation (Amendment) Act, 1918. For the purpose of this section the expression "land of the Crown" shall be deemed to include any land vested in the Commission. 5

(vi) Section seven: By omitting the following words and figures at the end of the section: "granted after the passing of the Irrigation (Amendment) Act, 1918," and substituting the words "and may in like manner and from time to time alter by way of augmenting or lessening the number of water rights which are a fixed charge on any farm." 10 15

(vii) Section 7A: By inserting after the section new section 7B as follows:—

Power to  
purchase or  
resume land.

7B. (1) The Governor, on the recommendation of the Commission and with the approval of the Minister, may, under the Public Works Act, 1912, and with such moneys as may be made available by Parliament for the purpose, from time to time purchase or resume any land or appropriate any Crown land for any purposes in connection with irrigation settlement, and such purchase, resumption, or appropriation shall be deemed to be made for an authorised work under the said Act. 20 25

(2) In determining the value of the land for the purpose of any such purchase, resumption, or appropriation, there shall be excluded any added value which may accrue, or have accrued, to the land from the construction of any works of water conservation, water supply, or irrigation, or for the control of flood-waters, or for the prevention of floods, or of drainage by the State. 30 35

(3) The Commission shall be the Constructing Authority under the said Act for the purposes of this section. 40

(viii)



(viii) Section eight:—

Subsection one: By omitting paragraph (d) and substituting the following:—

5 (d) have exclusively, so far as relates to the prevention of floods or the control of flood waters in the Murray Basin, or to water supply, water conservation, irrigation, and artesian wells, the powers of the Minister under Part III of the  
10 Water Act, 1912; and shall exclusively be the Constructing Authority for the purpose of constructing any works for the prevention of floods or the control of  
15 flood waters in the Murray Basin, or works of water supply, water conservation or irrigation, or any artesian wells under that Act.

20 Subsection three: By omitting the subsection and substituting the following new subsection three:—

25 (3) Provided that such matters as the Governor may from time to time direct shall be submitted by the Commission to the Minister, and shall be subject to the latter's approval.

(ix) Section 8A: By omitting the section and substituting the following new section:—

8A. The Commission may—

30 (a) for the purposes of better administration delegate to respective commissioners or to any two of them any of its powers, duties, or functions, either absolutely or with modifications. Such delegations shall be by documents which shall  
35 define the powers, duties, and functions so delegated and the respective period during which the delegations are to remain in force. Such delegations may be altered or revoked by the Commission in like manner.

Power to delegate.

(b)



- (b) for the purposes of giving formal effect to approvals of the Commission—
- (i) empower the secretary to the Commission to sign and execute documents on its behalf, and to affix the seal of the Commission thereto; 5
  - (ii) direct the secretary or other officers to exercise such of its powers, functions, or duties other than those mentioned in preceding paragraph, 10 as it or any of its members under the delegation may determine.
- (x) Section nine :—
- By inserting the figure “1” in parentheses at the commencement of the section. 15
- By inserting at the end of paragraph (e) the words :—“and notwithstanding anything contained in any Act to the contrary, may in the carrying on of any such trade, business, factory, service or industry, grant a share in and profits therefrom or bonuses to occupiers supplying to the Commission dairy, farm, or agricultural produce, or live stock in connection with such trade, business, factory, service or industry. The Commission may sell, transfer, or otherwise dispose of to any person or company such improvements, trade, business, factory, service, industry, works, or buildings on such terms and conditions as the Commission may deem proper.” 30
- By inserting after paragraph (g) the following new paragraphs (h), (i), and (j) :—
- (h) impose charges for orchard and dairy inspection. The charge for orchard inspection shall be in the form of a general rate per annum on each acre of land in the irrigation area planted to fruit trees or vines, and the dairy inspection charge shall be in the form of an annual fee in respect of each registered dairyman’s holding on the area. 40  
Where



Where an occupier conducts both fruit-growing and dairying operations, both the rate and fee shall be payable in respect of his holding.

5 The aforesaid rates and fees shall be payable irrespective of the number of inspections, if any, made during any particular year or years.

10 The amount due for any such rate or fee shall bear interest at the rate prescribed from the due date until payment is made, and shall be a charge upon the land, and may be recovered from and shall bind the occupier of the land for the time being ;

- 15 (i) control and regulate the hawking and peddling of fruit and vegetables ;
- 20 (j) prevent the defacing, marking, or injuring of any building, wall, post, or fence fronting any road, or of any pavement, kerbing, carriage-way, tree, or part of a road, or any fence, post, bridge, culvert, or monument by the affixing of any paper or placard thereto,
- 25 or by painting, chalking, or writing thereon : Provided that this power shall not apply to the affixing of any lawful advertisement or sign to or upon any building, fence, post, or monument
- 30 by or with the authority of the owner of the building, fence, post or monument.

By omitting the letter "h" in parentheses and substituting the figure "2" in parentheses.

- 35 (xi) Section 9A : By inserting after the section new sections 9B and 9C as follow :—

40 9B. The Commission may prohibit the introduction or consignment into any irrigation area, either within the meaning of this Act or of the Wentworth Irrigation Act or the Hay Irrigation Act, 1902, respectively, and enforce the removal therefrom of any trees, vines, plants, grass,

Power to prohibit introduction of plants, &c.



Power to  
levy sewer-  
age rates.

grass, fruit, fruit cases, packages, seeds, bees, live stock, poultry, pigeons, and any animals, and the meat or flesh of any animal.

9c. (1) The Commission may levy by rating a sum sufficient to provide for the maintenance and management of, and for payment of the capital cost and interest on, works of sewerage established and maintained by it, and may prescribe a minimum amount payable in respect of such rate, and such minimum amount shall apply to each separate parcel of land: Provided that in the case of land not built upon and not connected with the sewers, a lower minimum amount may be prescribed than for other lands.

(2) The rate may be levied upon all land except—

- (a) land which is distant more than two hundred and fifty feet from any sewer of the Commission, and is not connected thereto;
- (b) land from which sewage could not be drained into any sewer of the Commission.

(3) The Commission may exempt from the payment of the rate land which is occupied by and used directly in connection with a church, or other building which is used or occupied solely for public worship. The Commission may exempt from the rate any reserve and such other lands as the Commission may from time to time see fit.

(xii) Section ten: By inserting after the section new section 10A as follows:—

10A. The Commission, on application by any council of any municipality or shire, or of any person occupying lands not within the boundaries of an irrigation area, may supply for the use of such council or person respectively electricity generated by works of the Commission on such terms and conditions as the Commission may deem proper.

Power to  
supply  
electricity.

(xiii)



(xiii) Section eleven :—

By adding at the end of the section the following new paragraph (e) :—

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(e) The said Acts shall be read as if they did not require the Commission to obtain any approval or sanction of the Minister where the said trusts were required to obtain same; and this provision shall be deemed to have been in force from the first day of January, one thousand nine hundred and thirteen.

By inserting after the section new sections 11A, 11B, 11C, and 11D as follows :—

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11A. The following sections shall be deemed to apply to lands within the irrigation areas constituted under the provisions of the Wentworth Irrigation Act and the Hay Irrigation Act, 1902. Application of ss. 11B, 11C, 11D.

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11B. The Commission may from time to time dispose of by sale on such terms and conditions as it finds fit for an estate in fee-simple any lands not demised or assigned by it. The Commission shall apply the purchase money arising from such sales in such manner as the Governor shall direct. Power to sell lands in fee simple.

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11C. (1) The lessee of any land the lease of which is not at the time liable to forfeiture, may apply to the Commission on the prescribed form to sell such land to him for an estate in fee-simple. With any application to purchase land there shall be forwarded to the Commission a deposit as prescribed, which may be applied by the Commission on behalf of the lessee towards payment of the purchase money. If the application be withdrawn or not proceeded with after the granting thereof, the deposit may at the discretion of the Commission be forfeited. Conversion of leaseholds.

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(2) If the lease of the land is mortgaged, the application for purchase shall not be entertained



entertained unless the mortgagee signifies his consent to the application by endorsement thereon.

- (3) The sale shall be subject to—
- (a) the applicant for the purchase executing 5  
a contract of sale in form approved  
by the Commission and entering into  
such covenants as the Commission may  
consider necessary or as may be pre-  
scribed, and where the lease of the land 10  
is mortgaged such covenants shall  
include a covenant to execute a mort-  
gage over the land to the mortgagee.  
The contract may, with the concurrence  
of the Commission, provide also for the 15  
transfer of the title to the land either  
after payment of the whole of the  
purchase money and interest or before  
such payment, and in the latter case the  
contract shall contain provisions for— 20
- (i) performance of any covenant speci-  
fied to be performed prior to such  
transfer of the title; and
- (ii) a mortgage of the land to the Com-  
mission to secure the payment of 25  
the said purchase money and  
interest;
- (b) the applicant covenanting to comply  
with the provisions of the Wentworth  
Irrigation Act and regulations and 30  
by-laws thereunder in the case of land  
within the irrigation area constituted  
under that Act, and with the provisions  
of the Hay Irrigation Act, 1902, and  
regulations and by-laws thereunder in 35  
the case of land within the irrigation  
area constituted under that Act, and  
to pay all rates and taxes imposed under  
the Wentworth Irrigation Act in respect  
of land purchased in the one case and 40  
under the Hay Irrigation Act, 1902, in  
the other case; (c)



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- (c) the applicant executing a surrender of his lease of the land in the prescribed form if required by the Commission;
  - (d) the purchase money being paid as follows:—Five per centum being paid within thirty days of notification of granting of the application for purchase, and the balance by seventy-three equal half-yearly consecutive instalments including principal and interest at the prescribed rate, the first of such instalments to be due and payable on or before the thirtieth day of June or thirty-first day of December next following the date of notification of such granting: Provided, however, that it shall be lawful for the purchaser to pay off the whole or any number of such instalments at any time;
  - (e) the purchase money being such sum as the Commission and the applicant agree upon, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by the Land and Valuation Court:
    - Provided, however, that such sum shall be—
    - (i) the fair market value of the lease at the date of application for conversion irrespective of the value of any improvements owned by the applicant for conversion;
    - (ii) determined with due regard being given to the additional value given the land by reason of the works constructed for irrigation or other purposes, and to the benefits derived or to be derived therefrom, and shall not be less than twenty



twenty times the annual rental of the lease for the first period thereof; and

Provided further—

- (iii) that where the value of the land has become reduced by any acts, defaults, or neglects of the lessee thereof, the purchase money of such land shall be determined as if such reduction in the value had not taken place.

Transfer.

11D. The granting of an application for purchase made under section 11C of this Act shall be notified by the Commission to the applicant when and as prescribed, and the Commission shall transfer the title to the lot to the applicant when and as provided by the contract of sale referred to in the said section.

- (xiv) Section twelve: By omitting subsections two and three, and substituting the following subsection:—

(2) The charge in respect of such water rights at the price fixed shall commence to be payable from the date of notification by the Commission to the occupier of the granting of his land to him: Provided that the date from which any such charge became payable prior to the passing of the Irrigation and Water (Amendment) Act, 1923, shall remain unaltered.

- (xv) Section thirteen: By omitting the proviso to subsection four.
- (xvi) Section fifteen: By omitting the words "of five per centum per annum" and substituting the word "prescribed."
- (xvii) Section eighteen: By inserting after the section new section 18A as follows:—

Interest, how calculated.

18A. The sum which hitherto has been or may hereafter be chargeable as interest under the Special Deposits (Industrial Undertakings) Act, 1912, on the capital cost of the Murrumbidgee Irrigation Scheme shall be calculated on the



the actual capital cost of such scheme as at the thirtieth day of June in each year, reduced by the total cost incurred—

- 5 (a) in the construction of—  
(i) the dam across the Murrumbidgee River at Burrinjuck;  
(ii) the diversion weir across the said river at Berembed; and  
10 (iii) the main canal (inclusive of its enlargement) from such weir; [and  
(b) of land acquisition for the purpose of such construction;

15 and there shall be a further deduction each year from the balance of interest-bearing capital cost of such a percentage of such balance as is represented by the proportion which the unallotted water rights bears to two hundred and twenty-five thousand water rights, the total water rights which the Murrumbidgee Irrigation Scheme is estimated  
20 to ultimately provide.

“Capital cost” in this section shall mean the capital cost as fixed by the capital cost committee constituted under the Special Deposits (Industrial Undertakings) Act, 1912, or any  
25 Act amending the same.

(xviii) Section nineteen :—

Subsection one :—

30 By inserting after paragraph (a) the following new paragraph (aa) :—

(aa) Make advances of money to occupiers for the purpose of purchasing shares in co-operative societies, and may also make advances of money  
35 to co-operative societies.

By omitting the word “four” in paragraph (b) and substituting the word “five.”

By adding at the end of the subsection the following new paragraph (f) :—

40 (f) in the case of an occupier of lands set apart for disposal under section three  
three



three of the Returned Soldiers Settlement Act, 1916, fix a period not exceeding twenty years in lieu of the maximum period of sixteen years mentioned in paragraphs (c) and (d) of this subsection. 5

(xix) Section 19A: By inserting the words "refund or" before the word "remit" and by inserting at the end of the section the following words:—  
"All refunds of any such payments made before 10  
the passing of the Irrigation and Water  
(Amendment) Act, 1923, are hereby validated."

(xx) Section twenty: By omitting section twenty and substituting the following section:—

20. (1) Any land— 15

- (a) occupied by works vested in the Commission; or
- (b) within an irrigation area; or
- (c) covered by water which is used or intended to be used for the purposes 20  
of this Act; or
- (d) used for the purposes of the railway from Goondah to Barren Jack; or
- (e) purchased, resumed, or appropriated under the Murrumbidgee Irrigation 25  
Area Resumption Act, 1910, or the Murrumbidgee Irrigation Act, 1910, or this Act,

shall be exempted from all rates under the Local Government Act, 1919, or any Act 30  
amending the same, and the provisions of the said Acts shall not, except as hereinafter provided, apply within an irrigation area:

Provided that the Governor may, on the recommendation of the Minister for the time 35  
being administering the Acts relating to irrigation, by proclamation in the Gazette, constitute as a shire all or any portion of the land comprised in one or more of such irrigation areas, and may from time to time upon a 40  
similar recommendation alter, amend, or extend the  
the

Exemption  
from rates  
under Local  
Government  
Act, 1919, &c.



5 the boundaries of such shire, and thereupon  
the Local Government Act, 1919, and the Acts  
amending it, and any ordinances thereunder  
shall to the extent and on the terms and  
conditions mentioned in the proclamation  
apply to the shire. Such proclamation may  
vary or amend the provisions of the said Acts  
and ordinances in their application to the shire:

10 Provided also that if any lands purchased,  
resumed, or appropriated under the Murrumbidgee Irrigation Area Resumption Act, 1910,  
or the Murrumbidgee Irrigation Act, 1910, the  
Public Works Act, 1912, or this Act, be sub-  
sequently alienated and are not within an  
15 irrigation area the provisions of this section  
shall cease to apply to such lands:

20 Provided further that where any land under  
the control of the Commission is not within  
the boundaries of an irrigation area and is in  
occupation by any party except the Crown or  
the Commission for any definite purpose and  
the Commission derives a benefit from such  
occupation, such land shall, whilst such occupa-  
tion continues, be ratable under the Local  
25 Government Act, 1919, or any Act amending  
the same. Any rates so imposed shall be  
payable by the occupier.

30 The said Minister shall exercise, in relation  
to shires constituted by virtue of this section,  
the powers and functions which under the  
Local Government Acts are exercised by the  
Minister for Local Government in relation to  
all other shires.

35 (2) The Commission may construct roads  
and works of domestic water supply, sewerage,  
drainage, and lighting for any such shire, and  
the Governor may, on the recommendation of  
the Minister for the time being administering  
the Acts relating to irrigation, direct the shire  
40 council to take over such roads and works and  
any of such roads and works existing at the  
time



time of such direction, subject to such terms and conditions as the Governor deems fit, and thereupon the shire council shall manage and maintain such roads and works so taken over. Each such direction shall be notified in the 5  
Gazette.

The Governor may on a like recommendation similarly direct the shire council to take over any sanitary or municipal services conducted by the Commission or any municipal plant 10 held by it, and upon such direction the council shall manage and maintain such services and plant.

On any such roads or works of water supply, sewerage, drainage, or lighting, or municipal 15 services or plant being so taken over, the shire council shall, in relation to the shire, but subject to the provisions of this Act, have, in connection with the management of such roads or works, or services or plant, such of the 20 powers and perform such of the duties conferred and imposed on the council of a shire under the Local Government Act, 1919, and any Act amending it in relation to its shire as notified in the Gazette under this subsection. 25

(3) The fee simple of the land on which roads are situate shall remain with the Crown at all times, and no alteration of the levels or alignments of any roads shall be made by the shire council except with the approval of the 30 Commission.

(4) A shire council shall not construct in its shire, except with the approval of the Commission, any new roads or works of water supply, sewerage, drainage, and lighting, or 35 other engineering works, not being works of maintenance or repair.

(5) Where any land is taken out of an irrigation area and not included in another irrigation area, the Governor, on the recom- 40 mendation of the Minister for the time being administering  
administering



5 administering the Acts relating to local government matters, may declare such land to be part of any adjoining shire or municipality, and thereupon such land shall form part of such shire or municipality and shall be subject in all respects to the Local Government Act, 1919.

10 (6) Any proclamation or notification under this section may at any time and from time to time be corrected, amended, enlarged, modified, or otherwise varied, or revoked, whether as to the whole or any part thereof, by proclamation or notification, as the case requires, in the Gazette.

15 (7) On the revocation or variation of any notification in respect of transfer of roads, works, services, or plant to a shire council, such roads, works, services, or plant shall revert to the Commission or be otherwise dealt with as provided in the notification of revocation or variation.

20 (8) The Commission may by notification in the Gazette make and levy a general rate and special or local rates on any land within an irrigation area (or any portion thereof) not constituted a shire or part of a shire under the provisions of this Act. The general rate shall be made and levied for the purpose of meeting the cost of local government services generally, and the special or local rates for street lighting, sewerage, and other similar particular services.

30 The Commission may from time to time by notice in the Gazette define the lands on which such rates are levied. The amount due for any such rates shall be a charge upon the land upon which it is levied, and may be recovered from and shall bind the occupier of the land for the time being.

35 The Commission may in its discretion exempt any lands either wholly or partially from rates imposed by it.

40  
By



(xxi) Section twenty-five: By substituting "Water Act, 1912," for "Water Rights Act, 1902."

(xxii) Section twenty-six:—

By omitting "(r) for the regulation and control of the Commission's officers and servants;" 5

By adding at the end of subsection (x) the following words:—"and for determining, making, and levying the rate mentioned in section 9c, and for carrying out the provisions of that section." 10

By adding at the end of the section new paragraphs (dd), (ee), and (ff) as follow:—

(dd) for the regulation and control of hoardings and bills, placards and advertisements in any irrigation area; for the licensing of hoardings and prescribing fees for such licenses; and for the prevention of the erection of unsafe or unsightly hoardings, or hoardings which may be considered by the Commission to be unsatisfactory; 15 20

(ee) with respect to the licensing, control, and regulation of peddlers and hawkers of fruit and vegetables;

(ff) to prescribe and regulate the destruction of noxious weeds or plants on roads and streets within the irrigation areas within the meaning of the Wentworth Irrigation Act and the Hay Irrigation Act, 1902, respectively (other than roads and streets vested in the Wentworth and Hay Municipal Councils, as the case may be), reserves, and lands designed or reserved or used for drainage or supply channels in the said irrigation areas, and enforcing such destruction by occupiers of land fronting such first-mentioned roads and streets, reserves, or lands, and for the suppression and destruction of noxious animals within the said irrigation areas. 25 30 35 40

"Noxious



5                   “ Noxious animal,” “ noxious weed,”  
                  or “ noxious plant,” where used in the  
                  foregoing paragraph (ff), or in any  
                  regulations made in pursuance thereof,  
10                   or in any notification published in the  
                  Gazette in respect of any land within  
                  either of the said irrigation areas, means,  
                  for the purposes of the said respective  
                  areas, any animal, weed, plant, grass  
                  or growth which the Commission may  
                  from time to time notify for the said  
                  purposes in the Gazette to be noxious,  
                  and includes any part and seeds of any  
                  such weed, plant, grass, or growth.

15           By further inserting the following paragraph :—

                  “ The Commission may, in connection with  
                  any regulations in pursuance of this section,  
                  prescribe in addition to any fees and charges  
                  specifically mentioned therein such other fees  
20                   or charges as it may deem appropriate and  
                  proper.”

4. The Water Act, 1912, as amended by the Crown Amendments  
of Act No.  
44 of 1912.  
Lands and Irrigation (Amendment) Act, 1914, the  
Water (Amendment) Act, 1916, the Irrigation (Amend-  
25 ment) Act, 1918, the Water (Amendment) Act, 1919,  
and the Water (Amendment) Act, 1923, is further  
amended as follows :—

(i) Section four: By omitting the definition of  
30                   “ The Commission ” and substituting the fol-  
                  lowing definition :—

                  “ The Commission ” means the Water and  
                  Irrigation Commission constituted  
                  under the Irrigation Act, 1912, as  
                  amended by the Irrigation and Water  
35                   (Amendment) Act, 1923.

(ii) Section five :—

                  By adding at the end of the section the words  
                  “ and includes any excavation or well which  
                  affects the flow in such river or the quantity of  
40                   water in any such lake.”

By



By adding to the definition of "occupier" the following words: "and includes a municipal or shire council, and any department of the State or corporate body acting on behalf of the State other than the Commission." 5

By omitting the definition of "Local Land Board."

(iii) Section six:—

Subsection (1): By omitting where firstly and secondly occurring the word "Crown" and substituting therefor the word "Commission." 10

Subsection (2): By omitting paragraph (a).

(iv) Section seven: By omitting section seven and substituting the following section:—

7. (1) The occupier of land on the bank of a river or lake shall have the right to use the water then being in the river or lake for— 15

(i) stock watering (but not by means of a work other than one pumping plant with a motive power not exceeding five brake horse-power); and 20

(ii) domestic purposes; and

(iii) watering a garden not exceeding three acres in extent, used solely in connection with a dwelling-house: 25

Provided that the occupier shall not be entitled to use or erect and use any work under the said right until he shall first have given the Commission notice of his intention to do so, and particulars of the proposed work. 30

Any occupier erecting and using a work under the provisions of this section without first giving the prescribed notice to the Commission shall, on conviction, be liable to a penalty not exceeding *ten* pounds, and to a further penalty not exceeding *five* shillings for each day he uses the work, without giving the said notice: 35

Provided that no person shall in respect of any work existing at the date of the passing of the Irrigation and Water (Amendment) Act, 1923, 40

Rights of  
occupiers of  
riparian land.



1923, be deemed to have incurred this penalty until a period of three months has elapsed from such date.

5 (2) This section shall not be construed so as to give any occupier the right of constructing any work forming an obstruction of the flow of water in a river or being a dam in a lake.

10 (v) Section eight: By omitting all words after the word "work" where secondly occurring and inserting the words "and the water contained therein or conserved or obtained thereby as against all persons whomsoever, and shall be entitled to make such charges for the supply or use of the said water as may be prescribed."

15 (vi) Sections ten, eleven, and twelve: By omitting the sections and substituting the following new sections:—

20 10. (1) Any occupier of land whereon any work to which this Part extends is constructed or used, or is proposed to be constructed or used, for the purpose of water conservation, irrigation, water supply, or drainage, or the prevention of inundation of land and overflow of water thereon, or changing the course of a river, may apply to the Commission and in the form prescribed for a license to construct and use the said work, and to take and use for the purposes (including, if the applicant so intends, the disposal of water to other persons) to be mentioned in the application the water, if any, conserved or obtained thereby, and to dispose of such water for the use of occupiers of land for any of the said purposes other than irrigation.

Application  
for license to  
construct  
works.

35 (2) The application shall be accompanied by the prescribed deposit as security for the cost of investigation and inquiry into the application, and such deposit may be applied by the Commission in payment or part payment of the license fee payable by the applicant. In the event of the applicant withdrawing or  
40 abandoning



abandoning the application, such deposit or any part thereof may in the discretion of the Commission be forfeited.

Notification  
of application  
for license.

11. On application being made for a license under the last preceding section, the Commission shall cause to be advertised once in the Gazette and twice in a public newspaper circulating in the district where the work is situate, a notice—

- (i) acknowledging receipt of the application ;
- (ii) requesting all persons interested to advise the Commission whether they support or object thereto, and the reasons for so doing ; and
- (iii) stating the last day on which such advice will be received.

License.

12. (1) The decision of the Commission as to the granting or otherwise of the application shall be final, and shall be published in the Gazette, and the Commission shall as soon as practicable after such publication, where the decision of the Commission is in favour of the issue of a license, issue a license to the applicant in the prescribed form, subject to such terms, limitations, and conditions, if any, as may be contained in such decision, and for a period not exceeding five years.

(2) Provided that—

- (a) a license shall be issued only upon payment of a fee calculated in the manner and according to the scale prescribed by regulations under this Act ; and
- (b) before granting a license the Commission may require such alterations to be made in or in connection with the work, or in the plans and specifications of the work, as may be required in the said decision.

(vii)



(vii) Section fourteen : By omitting the section and substituting the following new sections :—

35 14. The license, if granted, shall (subject to <sup>Renewal.</sup> the provisions of this Part with regard to the renewal of licenses) be renewed from time to time by the Commission on payment of the fee prescribed by regulations under this Act : Provided that such payment be made before the expiration of the period for which license was granted or last renewed, as the case may be :  
10 Provided further that no renewal, except in respect of a license granted to a department of the State or a corporate body acting for the State, shall be for a longer period than five  
15 years.

14A. For the purpose of sections twelve and <sup>Fees.</sup> fourteen different fees may be prescribed differentiating according to the class of the work, the object or purpose of the work, the river or lake on which it is situate, and the benefit (if any) received from works constructed by the Crown.

20 (viii) Section fifteen : By omitting the section and substituting the following new section :—

25 15. A separate application for a license may <sup>Separate applications.</sup> be required in respect of each work except in such cases where, in the opinion of the Commission, two or more works form a combined work ; and the determination as to what works  
30 may be included in each license shall rest with the Commission.

(ix) Section seventeen : By omitting all words  
35 after the word "Crown" and substituting therefor the words "and the Commission and shall be entitled to take, use, and dispose of any water contained therein or conserved or obtained thereby, to the extent, and in respect of the land, and in the manner specified in the license."

(x)



Revocation  
or suspension  
of license.

- (x) Section seventeen: By inserting after the section the following new sections 17A, 17B, and 17C:—

17A. If at any time during the currency of any license or authority for a private irrigation scheme it is proved to the satisfaction of the Commission that—

- (a) a licensee or the person authorised has conserved, diverted, taken, or used any quantity of water in excess of the quantity expressly authorised by his license or authority; or
- (b) the licensee or such person has failed to observe and perform any of the limitations or conditions subject to which the license or authority respectively was issued and is held; or
- (c) any water diverted, taken, or used by any licensee or person authorised is being wasted,

the Commission may give the licensee or the said person, as the case may be, notice by registered letter addressed to the licensee or such person respectively at his address last known to the Commission that after the expiration of a period specified in the notice it is the intention of the Commission to revoke, suspend, or modify the license or authority.

At the expiration of the period mentioned in the notice, the license or authority shall be revoked, suspended, or modified as stated in the notice unless the Commission shall have annulled or withdrawn the notice in the meantime.

If by reason of an actual or threatened shortage of water the Commission considers a license should be suspended or modified, or that the quantity of water authorised by the license to be taken thereunder should be reduced, the Commission may in a similar manner



manner give the licensee notice to that effect, and thereupon the license shall be suspended or modified or the quantity of water reduced according to the tenor of the notice.

5 17B. Every person who is guilty of—

Offences.

(a) constructing, erecting, or using without a license or authority a work to which this Part extends and for which a license or authority should be obtained; or

10 (b) using such a work when the license or authority therefor is suspended, or revoked, or has expired; or

15 (c) failing to remove such a work (if unlawful) from lands occupied by him in accordance with the direction of the Commission,

shall, upon conviction, be liable for the first offence to a penalty not exceeding *twenty* pounds, and for a subsequent offence to a penalty not exceeding *one hundred* pounds, or where the offence is a continuing one, to a penalty not exceeding *five* pounds for every day during which the offence is continued.

20 17c. The Commission may by any of its officers or servants enter upon any land and—

Power to enter and remove works.

25 (a) remove any dam, weir, or other artificial work forming an unlawful obstruction to the flow of water in a river or any unlawful levee for the prevention of the overflow of the water of a river or lake;

30 (b) dismantle a pump, block the offtake of a race, or by such other means as may be necessary stop any unlawful diversion of water from a river or lake.

35 The Commission may recover in any court of competent jurisdiction the costs and expense incurred by it in carrying out such removal or stopping such diversion from the occupier or occupiers of the lands wherefrom the work is removed or whereon the stoppage of the diversion is effected.

40



## (xi) Section eighteen :—

By omitting the word "amended" and substituting the word "additional."

By omitting the word "hereinafter" and substituting the word "hereinbefore." 5

By omitting the word "operations" and substituting the word "alterations."

By inserting after the section the following new sections 18A, 18B, 18C, 18D, and 18E :—

18A. So soon as possible after the passing 10  
of the Irrigation and Water (Amendment) Act, 1923, the Commission shall—

- (i) divide the rivers and lakes of the State into river and lake systems and give each such system a name and number; 15
- (ii) notify in the Gazette the quantities of water within each such system respectively which the Commission estimates will be appropriated for works undertaken by the State. 20

Any priority of right granted within the meaning of shall be subject to such appropriation. The Commission may from time to time thereafter, as it finds expedient, amend or vary any system and 25  
make new systems.

18B. After the passing of the Irrigation and Water (Amendment) Act, 1923, the Commission shall determine the order of precedence of rights under licenses under this Part and 30  
authorities for private irrigation schemes granted to occupiers, and the occupier having first priority shall be entitled to have his rights under his license or authority, as the case may be, satisfied before those of the 35  
occupier having second priority, and the latter shall be entitled to have his rights under his license or authority satisfied before those of the occupier having third priority, and so on, according to the numerical order of the 40  
priorities.

Classification  
of river and  
lake systems.

Determina-  
tion of  
priorities.



5 priorities. In determining priorities, no distinction shall be made between licenses and authorities for private irrigation schemes. Separate priorities shall obtain in each river and lake system.

10 18c. In determining the order of precedence referred to in the next preceding section, works to which this Part extends shall be respectively divided into first class and second class, and such works used for—

(i) conserving and obtaining water for domestic purposes; and

(ii) town and village water supplies; and

15 (iii) Government railway purposes,

shall be of the first class, and such works used for all other purposes, including works in connection with private irrigation schemes, shall be of the second class. All rights in respect of works of the first class shall take precedence over those in respect of works of the second class. Priority of right shall be decided by the order in time of receipt by the Commission of the applications for licenses and for authorities for private irrigation schemes: Provided that all applications for licenses lodged within twelve months after the passing of the Irrigation and Water (Amendment) Act, 1923, by occupiers holding at such commencement licenses or rights to conserve and use the water of rivers and lakes shall be deemed to have been received simultaneously, and the rights of such occupiers so lodging applications shall rank pari passu inter se and have priority as against all other rights granted within either the first

35 18d. All statutes, including the Local Government Acts and Mining Acts, in so far as they conflict with the provisions of this Part are repealed.

40 (iii) All licenses held under this Part and all rights to conserve, take, and use water in rivers

Order of precedence.

Repeals.

Existing licenses, &c.



rivers and lakes at the date of the commencement of the Irrigation and Water (Amendment) Act, 1923, except the rights of the Crown under the Metropolitan Water and Sewerage Acts and the Hunter District Water Supply and Sewerage Acts, shall cease and be determined at the expiration of twelve months from such date, and no compensation shall be payable to any person by reason of this determination. The Commission may, however, credit any licensee whose license is determined under this section, and who obtains a fresh license or authority for a private irrigation scheme under this Part, with payment of such proportion of the amount of the fee and charge for water paid by him in respect of the current period of the determined license as the unexpired portion of such current period at the date of the determination of the license bears to the whole of such period. The fee payable in respect of the fresh license or the authority shall be reduced by the amount of such credited payment. No work to which this Part extends shall be commenced or be constructed by the Crown after the date of the commencement of the Irrigation and Water (Amendment) Act, 1923, for or on behalf of any municipal or shire council or any person unless such council or person respectively shall first have obtained a license under this Part for the work: . Provided that any work in course of construction by the Crown at the said date may be completed.

Power to terminate license.

18E. The Commission may determine at any time any license or authority for a private irrigation scheme on payment of fair compensation to the person entitled to the benefit of same. The Commission shall thereupon become the holder of the number of the priority held by such person.



(xii) Section twenty-eight: By inserting in the appropriate alphabetical positions the following definitions:—

5           “Cost of work” includes the cost of the land proposed to be taken, the cost of any existing works to be utilised and acquired, and the cost of designing the work (including survey), administration expenses, and the expense incurred in supervising the carrying out of the work.

          “Murray Basin” means the catchment area of the Murray River and its tributaries.

15 (xiii) Section thirty: By omitting the section and substituting the following section:—

20           30. With respect to matters which relate to the prevention of floods or the control of flood waters at places other than in the Murray Basin and to drainage, there shall be a Board consisting of such officers of the Department of Public Works as the Governor may appoint, and with respect to matters which relate to the prevention of floods or the control of flood waters in the Murray Basin and to water supply, water conservation, irrigation, and artesian wells, there shall be a Board consisting of such commissioners and officers of the Water and Irrigation Commission as the Governor may appoint.

25           Where any of such matters (other than irrigation) also relates to the Western Division of the State the respective Boards shall include the members of the Western Land Board constituted under the Western Lands Act, 1901.

30           32. Any such proposal shall contain—

35 (xiv) Section thirty-two: By omitting section thirty-two and substituting the following section:—

40           (a) a short general description of the purpose for which it is proposed to constitute the trust;

Contents of proposals.

(b)



- (b) a plan and description of the works and of the land, whether covered with water or not, proposed to be taken or acquired for the purposes of such works, and of their cost or estimated cost; 5
- (c) rate of interest which shall be paid by the trust on the actual cost of the works, or on the estimated cost thereof plus ten per centum, whichever is the less sum; 10
- (d) the charges to be paid by the trust for water to be supplied by the Crown, and the conditions of such supply;
- (e) a statement of the terms upon which the trust shall repay the cost of the works and interest specifying— 15
- (i) whether the trust shall repay the cost and interest by payment of the charges for water; or
- (ii) whether by a sinking fund and payment of interest. 20
- The interest shall be paid by the trust on the actual cost or estimated cost plus ten per centum, whichever is the less sum; 25
- (f) the maximum rate which may be assessed by the trust;
- (g) a description of the trust district;
- (h) the number of trustees, being either three or five; 30
- (i) the number of years within which the cost of the works shall be extinguished by a sinking fund, if such fund be required under the proposal;
- (j) any other provision not being inconsistent with this Part. 35
- (xv) Section thirty-four: By inserting in lieu of the word "modifications," wherever occurring, the word "amendments."



(xvi) Section thirty-seven: By omitting section thirty-seven and substituting the following section:—

5           37. (1) The completion, acquisition, or the <sup>Transfer to</sup> trust. transfer to the trust of any works in respect of which a trust is constituted under this Part shall be notified in the Gazette, and thereupon the trust shall take over, administer, and manage the said works, upon the terms and conditions prescribed, and shall exercise all the powers contained in this Part except such as are conferred solely upon the Minister: Provided that the interest and charges payable by the trust shall commence to run from a date to be set out in such notification.

10           (2) Where the cost of the works is to be repaid by a sinking fund, the cost of such works may be determined by the Minister, and notified in the Gazette, at any time after the works have been completed and taken over as aforesaid, and the cost of the works as so notified shall in such case be the cost repayable by the trust. This subsection shall apply whether the works were completed before or after the commencement of the Irrigation and Water (Amendment) Act, 1923.

15           (xvii) Section thirty-nine: By omitting all the words after the word "Board," where first occurring, and substituting the words "with a statement of the additional charge for any increased quantity of water to be supplied, and of the estimated cost of the works, if any, required to be constructed, utilised, or acquired in connection with the proposed alteration to the boundaries of the district. Such proposed alteration and statement shall be supplied to the trustees by the Board. Upon the receipt from the trustees of an intimation that the proposed alteration and statement have been approved by a special general meeting of the voters of the trust, of which not less than fourteen days' notice shall

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shall be given in the prescribed manner, the Board shall report to the Minister whether, in the opinion of the Board, the petition ought to be granted with or without amendments, whereupon the Minister may, by notification in the Gazette, alter the boundaries of such district accordingly and may increase the quantity of water supplied, and construct or acquire and transfer to the trust the required works. 5

On the completion, acquisition, or transfer to the trust of the works, a notification with the Governor's approval shall be sent to the trustees and shall be published in the Gazette directing that the charge payable in respect of additional water supplied and the interest on the cost of such works shall be paid by the trust, and determining the number of years within which the cost of the works shall be extinguished by a sinking fund. The charge for additional water, interest, and payments to sinking fund shall commence to run from the date of such notification; and such interest and payments into the sinking fund shall be calculated on a sum not exceeding the estimated cost of the works, plus ten per centum: 25

Provided that notwithstanding anything contained in this section the trust shall, subject to the approval of the Minister, have the option of repaying the cost of the work by a lump sum or in a less number of years than the period determined for extinguishing the cost of such work by a sinking fund. 30

(xviii) Section forty:—

By adding the following paragraph to the section:— 35

Nothing contained in this Act shall prevent lands within one trust district which in the opinion of the Minister are or will be also benefited by the works of another trust being included in the trust district of the last-mentioned trust also. The provisions of this paragraph 40



paragraph shall be deemed to have been in force from the twenty-sixth day of November, one thousand nine hundred and twelve.

By adding new section 40A as follows :—

5           40A. On the joint application of trustees of <sup>Union of</sup>  
any two adjoining trust districts, duly approved <sup>trusts.</sup>  
by a majority of the voters of each district at  
10       separate meetings, of which at least fourteen  
days' notice has been given, the Minister may,  
by notification in the Gazette, unite any part  
of one such trust district to the other trust  
district.

(xix) Section forty-one: By the repeal of section  
forty-one, and the substitution of the following  
15       section :—

41. (1) If the trustees, by request in writing, <sup>Extension or</sup>  
desire the Minister to improve or extend any <sup>improvement</sup>  
works under their charge or increase the <sup>of works.</sup>  
20       quantity of water supplied, the Minister may  
prepare an estimate of the cost of the comple-  
tion, utilisation, or acquisition of the proposed  
work and the interest and charges thereon  
payable by the trust, and a statement of the  
25       additional charge to be paid by the trust in  
respect of the increase of the quantity of water  
supplied. Such estimate and statement shall  
be supplied to the trustees.

Upon the receipt from the trustees of an in-  
30       timation that the estimate and statement have  
been approved by a special general meeting of  
the voters in the trust, of which not less than  
fourteen days' notice shall be given in the pre-  
scribed manner, the Minister may proceed with  
35       the construction or acquisition of the proposed  
work, or transfer same to the trust as the case  
requires, or may increase the quantity of water  
supplied.

On the completion or acquisition or transfer  
40       to the trust of the work, or upon the increased  
quantity of water being supplied, a notification  
with



with the Governor's approval, shall be sent to the trustees, and shall be published in the Gazette, directing that the interest on the cost of such work and the charge for the increase of water supplied shall be paid by the trust, and determining whether the trust shall repay the cost of the work and interest by payment of the charge for the increase of water supplied or the number of years within which the cost of the work shall be extinguished by a sinking fund. 5 10

The charge for the increase of water, interest, and payments to sinking fund shall commence to run from the date of such notification, and such interest shall be calculated on a sum not exceeding the estimated cost, plus ten per centum: 15

Provided that notwithstanding anything contained in this section the trust shall, subject to the approval of the Minister, have the option of repaying the cost of the work by a lump sum or in a less number of years than the period determined for extinguishing the cost of such work by a sinking fund. 20

(2) The repayment by trusts by means of a sinking fund of the cost of all improvements or extensions of trust works carried out prior to the passing of the Irrigation and Water (Amendment) Act, 1923, is hereby validated. 25 30

(xx) Section forty-two: By omitting section forty-two and substituting the following section:—

42. (1) After the constitution of the trust, but before the completion, acquisition, or transfer to the trust of the works proposed to be constructed, acquired, or utilised, the Minister shall, by notice in the Gazette, appoint trustees and direct the first election of trustees in pursuance of this Part. 35

(2)

Appointment  
of trustees,  
&c.



5 (2) Where the trust district consists wholly of land acquired under the Closer Settlement Act, 1901, or any Act amending the same, or unoccupied Crown lands, all the trustees shall be appointed by the Minister, and shall, subject to the provisions of this Part, hold office until half the land in the district is occupied by persons who are liable to pay rates to the trust.

10 Thereafter, and in other cases where the number of the trustees is three, one, who shall be chairman, shall be appointed by the Minister, and two shall be elected; but where the number of the trustees is five, two shall be appointed by the Minister, one of whom he shall appoint also as chairman, and the remain-  
15 ing three shall be elected:

20 Provided that where the trust district is in the Western Division and the trust is not constituted in respect of a work of irrigation, the Western Land Board shall be sole trustees in lieu of the trustee or trustees hereinbefore mentioned:

25 Provided further that in respect of existing trusts, where the number of trustees is three, the trustee appointed by the Minister shall be chairman, and where the number of trustees is five, the Minister shall appoint one of the appointed trustees to be chairman.

30 (xxi) Section forty-five: By omitting the words "the police magistrate having jurisdiction in" and substituting the words "a police magistrate having jurisdiction in any part of."

35 (xxii) Section forty-nine: By omitting section forty-nine and substituting the following section:—

40 49. The Minister shall appoint the date of <sup>First election</sup> the first election and the polling-places; for any succeeding election, the returning officer shall appoint the date of election and polling-places. The Minister or the returning officer, as the case may be, shall notify the same in the Gazette and a local newspaper. (xxiii)



(xxiii) Section fifty-one: By adding at the end of the section the words—"Provided that notwithstanding anything contained in section forty-three of this Act the term of office of any person so elected shall only be for the remainder of the period for which his immediate predecessor was elected." 5

(xxiv) Section fifty-three:—

By inserting at the end of paragraph (a) the following words:—"and renew such works where necessary." 10

By inserting after the word "maintenance" in paragraph (b) the word "renewal."

By omitting the words "and make due provision for a sinking fund" and substituting the words "and where necessary make due provision for a sinking fund." 15

By inserting the following proviso after paragraph (d):—

Provided that the trustees of trusts constituted in respect of works of water supply, water conservation, irrigation, or for the prevention of floods and the control of flood waters in the Murray Basin, shall make all payments through the Commission, which shall remit the sums received by it to the Treasury. 20 25

By adding new paragraphs (f) (1), (2), (3), and (4) as follows:—

(f) (1) They may borrow money as provided in this section, but shall not have power to do so for any other purpose or in any other way whatsoever. 30

(2) A loan by way of limited overdraft may be obtained for the purpose of meeting necessary legitimate expenditure prior to the first collection of rates or for the purpose of carrying out urgent works of renewal, or replacement or other emergency for which sufficient funds are not immediately available. 35 40 (3)



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- 10
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- 20
- (3) On application by the trustees the Minister may issue a certificate of limit of overdraft, in which shall be named the purpose in respect of which the loan may be obtained and the limit of amount to be borrowed thereunder. The sum to be stated in the certificate as the limit of the overdraft shall be in the discretion of the Minister, but shall not exceed the estimated amount required for the purpose mentioned therein plus ten per centum of such amount.
- (4) The loan shall be subject to any conditions inserted by the Minister in the certificate; and the money borrowed shall be deemed to be secured upon the income of the trust and shall be repaid within the time fixed in the certificate.

(xxv) Section fifty-five :—

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Subsection three : By omitting the word “ the ” before the word “ police ” and substituting the letter “ a ” ; by inserting after the word “ in ” the words “ any part of.”

By adding new sections 55A and 55B as follow :—

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55A. If any rates are unpaid at the expiration of three months from the due date, the amount due shall be increased by a sum calculated at the rate of ten per centum per annum, and the increase shall be deemed to be part of the rates.

35

55B. If any person liable to pay rates under this Part transfers his estate or interest in or abandons any ratable land he shall within thirty days of such transfer or abandonment give notice thereof to the trustees, and until such notice is given he shall remain liable for all rates which become payable in respect of such land prior to the giving of such notice.

(xxvi)



- (xxvi) Section fifty-seven: By adding at the end of the section the words "or if such surplus water is not required for any ratepayer, the trust may sell such water to any person."
- (xxvii) Section fifty-nine: By omitting the words 5  
 "remove a trustee or trustees (if any) and assume all powers, duties, and obligations by this Part conferred or imposed on the trustees, and may appoint a manager of the affairs of the trust," and substituting the words "remove 10  
 a trustee or trustees (if any) and may appoint a manager of the affairs of the trust; and upon his appointment the manager shall have all the powers, duties, and obligations by this Part conferred or imposed on the trustees. Managers 15  
 of the affairs of trusts at the date of the passing of the Irrigation and Water (Amendment) Act, 1923, shall have the said powers, duties, and obligations on and after that date."
- (xxviii) Section sixty: By omitting the second 20  
 paragraph and substituting the following paragraph:—"If upon such inspection the Minister is of opinion that any of such works are not kept in repair and efficient working order, or any of such works need renewing, he 25  
 may cause such repairs or renewals as he may think necessary to be made at the cost of the trust, and for the purpose of effecting such repairs or renewals he shall have the powers of the trustees. Such cost shall be repaid in the 30  
 manner prescribed by regulations under this Act."
- (xxix) Section sixty-three: By omitting section sixty-three and substituting the following section:—  
 63. For the purpose of the construction or 35  
 the maintenance and repair of any channel or embankment or any works incidental thereto proposed to be constructed, or constructed, utilised, or acquired under the authority of this Part, or to which this Part applies, the 40  
 Minister

Powers incidental to powers to construct or maintain works.



Minister or a trust having the control of or carrying out such construction, maintenance, or repair, shall be deemed to have had and shall have power at any time—

5

(1) to enter—

(a) any land of a width of sixteen and a half feet on either side of the centre line of a distributing channel ;

10

(b) any land between lines distant sixty-six feet from the top of each bank of a water conservation, irrigation, or drainage channel, and including the site of such channel ;

15

(c) any land between lines distant sixty-six feet from either toe of embankment measured outwards therefrom and including the site of such embankment ; and

20

(2) use such lands or sites for the said purposes,

notwithstanding that no easement or right so to enter or use such lands or sites may have been granted or acquired.

25

(xxx) Section sixty-four: By omitting the word “cultivated” and substituting the words “which is at the time under cultivation.”

30

(xxxi) Section seventy-three: By omitting the words “the works to be constructed for the Thule Creek Water Trust” and substituting the words “such work.”

(xxxii) Section 73A:—

By adding at the end of the section new subsections four, five, six, and seven, as follows:—

35

(4) The reduction in the annual charge which, under this Act, the Dungle Ridge Bore Water Trust is liable to pay to the Crown for water supplied to such trust from the Dungle Ridge Bore from two hundred and ninety-one pounds to two hundred and sixteen pounds.

40

(5) The reduction by seventy-eight pounds five shillings and tenpence of the amount which the



the Lyndhurst Water Trust is liable to repay to the Crown under this Act in respect of the works for which the said trust was originally constituted, and the reduction by thirty-five pounds twelve shillings and sixpence of the amount which the said trust is liable to repay to the Crown under this Act in respect of additional works constructed for the trust. 5

(6) The reduction of the amount which the Burren Bore Water Trust is liable to repay to the Crown to six thousand three hundred and sixty-four pounds eight shillings and ninepence. 10

(7) The liability of the Yanko, Colombo and Billabong Creeks Water Trust to the Crown being fixed at half the cost in lieu of the whole cost of the proposed works payable by the trust under the provisions of this Act. 15

By inserting after the section the following new section 73B:— 20

73B. Notwithstanding anything in this Act contained, the following provisions will apply to and have effect in respect of the Barooga Water Trust:—

- (a) The cost of the original works repayable by the trust is reduced by the sum of two thousand two hundred and fifty-five pounds: provided that such reduction shall not affect any provision or payment already made by the trust in regard to such cost; 25 30
- (b) the liability of the trust to the Crown in respect of the amount of one thousand seven hundred and ninety-six pounds three shillings and fourpence for additional protection works in connection with the syphon is extinguished; 35
- (c) the maximum liability of the trust to the Crown in respect of the manufacture, supply, and installation of a new syphon is fixed at six thousand pounds; 40

(d)

Special provisions in respect of Barooga Water Trust.



5 (d) subject to the terms of the foregoing paragraphs (a) and (b) the arrears in the payments by the trust to the Crown at the time of the notification in the Gazette of the completion of the new syphon are to be consolidated with the unpaid debt of the trust to the Crown at such time. Such consolidated amount shall be extinguished by the trust by a sinking fund as in this Act provided for extinguishing the cost of the trust's works, but within a period of fifty years from the said notification of the completion of the new syphon, and the rate of interest payable by the trust shall be five and one-half per centum per annum. The said debt and interest shall commence to run from the date of the said notification.

20 (xxxiii) Section seventy-four :—

By omitting the following :—

“(b) the election by the trustees of a chairman.”

25 By inserting after paragraph (h) new paragraph (hh) as follows :—

(hh) prescribing the method or methods to be adopted to determine the quantity of water to be paid for by the trust.

30 (xxxiv) Section one hundred and five : By inserting in their appropriate alphabetical positions the following definitions :—

35 “Board” means the Board constituted under section thirty of this Act as amended by the Irrigation and Water (Amendment) Act, 1923, with respect to matters which relate to the prevention of floods or the control of flood-waters in the Murray Basin, and to water supply, water conservation, irrigation, and artesian wells.

40

“The



“The Commission” means the Water Conservation and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by the Irrigation and Water (Amendment) Act, 1923.

And by omitting the definition of “Minister.” 5

- (xxxv) Section one hundred and seven : By omitting the word “Minister” wherever occurring and substituting the word “Commission.”
- (xxxvi) Section one hundred and eight : By omitting 10 the word “Minister” wherever occurring and substituting the word “Commission.”
- (xxxvii) Section one hundred and nine : By omitting the words “Minister” and “he” wherever occurring and substituting the words “Com- 15 mission” and “it” respectively.
- (xxxviii) Section one hundred and ten : By omitting the word “Minister” wherever occurring and substituting the word “Commission.”
- (xxxix) Section one hundred and eleven : By omitting 20 the word “Minister” and substituting the word “Commission.”
- (xl) Section one hundred and thirteen:—  
By omitting the words “Commissioner for Water Conservation and Irrigation” and substituting 25 the word “Commission.”  
By omitting the word “Minister” and substituting the word “Commission.”  
And by adding the following paragraph at the end of the section:— 30  
Provided that the Commission, if in its opinion special circumstances so warrant, may notify the holding of such inquiry at a place other than within such land district.
- (xli) Section one hundred and fourteen : By omit- 35 ting the word “Minister” wherever occurring and substituting the word “Commission.”

(xlii)



(xlii) Section one hundred and fifteen : By omitting the section and substituting the following section :—

5

115. If the Board reports in favour of the issuing of a license, the same shall be notified by the Commission in the Gazette, and on payment by the applicant of the prescribed fee the Commission shall issue a license to the applicant in the prescribed form, subject to such terms, limitations, and conditions as it may deem proper :

10

Provided that before granting a license the Commission may require such alterations to be made in or in connection with the work, or in the plans and specifications of the same, as the Commission may think fit.

15

(xliii) Section one hundred and sixteen :—

By omitting the word "Minister" wherever occurring and substituting the word "Commission."

20

By inserting after the word "license" where secondly occurring the words "and on payment of the prescribed fee."

25

By adding at the end of the section the following paragraph :—

The license shall lapse if the sinking of the artesian well or the enlarging, deepening, or altering of the well licensed be not commenced and completed within such times or extended times as may be notified by the Commission to the licensee.

30

(xliv) Section one hundred and twenty, subsection two :—

By omitting the word "Minister" wherever occurring and substituting the word "Commission."

35

By omitting the word "him" where first occurring and substituting the word "it."

40

By omitting the word "he" and substituting the words "the Commission."

(xlv)



- (xlv) Section one hundred and twenty-three: By omitting the words "Minister" and "he" wherever occurring and substituting the words "Commission" and "it" respectively.
- (xlvi) Section one hundred and twenty-four:— 5  
By omitting the word "Minister" and substituting the word "Commission."  
By omitting the word "him" wherever occurring and substituting the word "it."
- (xlvii) Section one hundred and twenty-nine: By 10  
inserting at the end of paragraph (d) the following words:—"the fees payable in respect of licenses and renewals thereof; and"

Amendment of Act 54 Vic No. 7. **5.** The Wentworth Irrigation Act as amended by subsequent Acts, is further amended as follows:— 15

- (i) Section four: By inserting in its proper alphabetical order the following definition:—  
"Irrigated lot" means any lot of the irrigation area classified by the Commission as an irrigated lot. 20

- (ii) Section twenty-two: By inserting after the section new section 22A as follows:—

Maximum area.

22A. The maximum area which may be leased or held at any one time as an irrigated holding or holdings, either by an individual 25  
lessee or by lessees in common or joint lessees, or husband and wife, except where the husband and wife are living apart under a decree for judicial separation, shall be thirty acres. This provision shall not be construed as requiring 30  
the reduction of any area held at the date of the passing of the Irrigation and Water (Amendment) Act, 1923, in excess of thirty acres.

Amendment of Act 1902 No. 57. **6.** The Hay Irrigation Act, 1902, as amended by 35  
subsequent Acts, is further amended as follows:—

- (i) Section five: By inserting in its proper alphabetical order the following definition:—  
"Irrigated lot" means any lot of the irrigation area classified by the Com- 40  
mission as an irrigated lot.

(ii)



(ii) Section seventeen :—

By inserting after the words "joint lessees" the words "or husband and wife except where the husband and wife are living apart under a decree for judicial separation."

By omitting subsection two.

(iii) Section twenty-seven : By adding to subsection four the following words :—"Such payment shall be made by the lessee whether the water is or is not taken by him, unless he proves that the water was not available."

7. The Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, is further amended as follows :—

Amendment  
of Act 1913  
No. 7.

(i) Section one hundred and thirty-nine : By omitting subsections one, two, three, and 3A and substituting the following subsection one :—

(1) Where any area is proclaimed an irrigation area the Commission shall from time to time notify in the Gazette and in a local newspaper that lands within such area are available for disposal by way of—

(i) purchase in fee-simple as irrigation farm purchases, non-irrigable farm purchases ; or

(ii) lease as irrigation farm leases, non-irrigable farm leases, or town lands leases,

and shall give particulars as to—

(a) acreage, capital values of, and rents, as the case may be, and the value of any improvements which are the property of the Crown other than improvements effected or provided by the Commission in pursuance of the Irrigation Act, 1912. In determining such capital values or rents due regard shall be had to the additional value given or to be given thereto by reason of the works constructed or to be constructed for irrigation or other purposes, and to the benefits derived or to be derived therefrom ;

(b)



- (b) the special conditions attaching to such purchases or leases as to improvements, cultivation, preservation or planting of timber, and such other matters as require to be regulated in the public interest; 5  
and specifying a date on and after which such purchases or leases may be applied for.
- (ii) Section one hundred and forty: By omitting the heading and section and substituting the following:— 10

*Applications for holdings.*Applications  
for holdings.

140. On or after the date notified for that purpose any person who is not incompetent by reason of his or her age, as provided in Part VII of this Act, or two or more of such 15  
persons jointly, may apply to the Commission for a purchase or lease of any lands notified for disposal in pursuance of section one hundred and thirty-nine of this Act.

Such application shall be made and lodged 20  
in the prescribed manner, and shall be accompanied by—

- (a) a deposit as prescribed;
- (b) a survey fee or instalment thereof in accordance with the provisions of section 25  
one hundred and sixty-one of this Act; and
- (c) such instalment of the value of improvements which are the property of the 30  
Crown as may be notified:
- (iii) Section one hundred and forty-one: By omitting the section and substituting the following new section:—

*Dealing with applications.* 35Applications,  
how dealt  
with.

141. (1) Applications for any holdings within an irrigation area shall be dealt with in the prescribed manner. The granting of any such application shall be entirely at the discretion of the Commission, which may give 40  
preference



preference to any applicant or to groups of applicants or to an applicant who does not hold any land.

5 (2) Where simultaneous applications are deemed to have equal claims to priority, the order of their priority may be determined in the manner provided by section one hundred and fifty-three hereof.

10 (3) The Commission may permit withdrawal of any application at any time: Provided that upon withdrawal or refusal of any application the Commission may retain either the whole of such portion of the moneys lodged with the application as may be deemed  
15 necessary by it to defray the cost of dealing therewith.

The Commission may permit any defect or error in any application lodged with it in  
20 pursuance of the provisions of this Act to be amended, or any omissions therefrom to be supplied, and any such amendment or omission shall be verified by the initials of such officer as may be so authorised by the Commission.

25 (iv) Section one hundred and forty-two: By omitting the section and heading thereof and substituting the following section and heading:—

*Irrigation farm purchases.*

30 142. The following provisions and con- Conditions, &c., of irrigation farm purchases.  
ditions shall apply to an irrigation farm purchase:—

35 (1) The holder shall effect on the holding to the satisfaction of the Commission improvements to the value specified in the Gazette notification setting the land apart for purchase, or any Gazette notification correcting, amending, or modifying the same.

40 (2) A condition of residence, which shall commence within six months after the granting



granting of application, shall attach to the purchase until the Commission by writing under its seal certifies in the prescribed form that improvements of the required value have been effected 5 thereon to its satisfaction: Provided, however, that the Commission may refuse to give such certificate if, in its opinion, the purchase is not being satisfactorily developed; or the purchase 10 does not, in the opinion of the Commission, provide sufficient security for any moneys owing to the Commission in respect thereof.

- (3) The balance of the purchase money after 15 payment of deposit shall be paid by seventy-three equal half-yearly consecutive instalments, including principal and interest at such rate as may be prescribed. Interest at such rate on 20 the balance of the purchase money from the date of granting of the application to the thirtieth day of June or the thirty-first day of December, whichever first follows such date of granting, shall 25 be due and payable on or before such thirtieth day of June or thirty-first day of December, and the first of such instalments shall be paid on or before the thirtieth day of June or thirty-first day 30 of December whichever first follows the date on which the said interest is due and payable: Provided that the holder may pay the whole or any number of such instalments at any time. 35
- (4) Upon payment of the purchase money and interest as provided in subsection three of this section, together with deed fee and stamp duty, and if the Commission be satisfied that all the conditions attaching 40 to the purchase have been duly complied with,



with, the Governor shall issue a Crown grant in the prescribed form to the holder of such purchase.

5 (5) The Crown grant shall be for an estate in fee-simple, and shall contain conditions securing upon the land all rates and charges for water imposed under the provisions of the Irrigation Act, 1912, and Acts amending the same.

10 (v) By adding new section 142A as follows :—

*Non-irrigable farm purchases.*

142A. (1) The following provisions and conditions shall apply to a non-irrigable farm purchase.

Conditions, &c., of non-irrigable farm purchases.

15 (2) The holder shall effect on the holding to the satisfaction of the Commission improvements to the value specified in the Gazette notification setting the land apart for purchase, or any Gazette notification correcting, amending, or modifying the same.

20 (3) A condition of residence, which shall commence within six months after the granting of application, shall attach to the purchase until the Commission by writing under its seal certifies in the prescribed form that improvements of the required value have been effected thereon to its satisfaction: Provided, however, that the Commission may refuse to give such certificate if, in its opinion, the purchase is not being satisfactorily developed, or the purchase does not, in the opinion of the Commission, provide sufficient security for any moneys owing to the Commission in respect thereof.

25 (4) The balance of the purchase money after payment of deposit shall be paid by seventy-three equal half-yearly consecutive instalments, including principal and interest at such rate as may be prescribed. Interest at such



such rate on the balance of the purchase money from the date of granting of the application to the thirtieth day of June or the thirty-first day of December, whichever first follows such date of granting, shall be due and payable on or 5 before such thirtieth day of June or thirty-first day of December, and the first of such instalments shall be paid on or before the thirtieth day of June or thirty-first day of December, whichever first follows the date on which the 10 said interest is due and payable: Provided that the holder may pay the whole or any number of such instalments at any time.

(5) Upon payment of the purchase money and interest as provided in paragraph 15 four of this section, together with deed fee and stamp duty, and if the Commission be satisfied that all the conditions attaching to the purchase have been duly complied with, the Governor shall issue a Crown grant, which 20 shall be for an estate in fee-simple, in the prescribed form to the holder of such purchase.

(vi) Section one hundred and forty-three: By omitting the heading and section and substituting the following section and heading:— 25

*Improvements and residence on leases within irrigation areas.*

143. (1) The following provisions and conditions shall apply to leases within irrigation areas under this Act. 30

(2) The title to an irrigation farm lease and town lands lease shall be a lease in perpetuity and the title to a non-irrigable lease shall be a lease in perpetuity or for such term as may be determined by the Commission. 35

(3) The holder of any lease within an irrigation area shall effect thereon to the satisfaction of the Commission improvements to the value and within such period specified in the Gazette notification setting the land apart 40  
or

Conditions,  
&c., of leases  
within  
irrigation  
areas.



5 or offering the land for disposal by auction or  
 10 tender, or any Gazette notification correcting,  
 amending, or modifying the same: Provided  
 that in the case of leases notified as available  
 for disposal in a Gazette notice which did not  
 specify any such value of improvements the  
 required improvements shall be of such value  
 and effected within such period as may be  
 determined by the Commission, which may  
 also decide that improvements already effected  
 of the required value shall be a compliance  
 with the provisions of this section.

15 (4) A condition of residence, which  
 shall commence within six months after the  
 granting of application, shall attach to the  
 lease other than a town lands lease until  
 the Commission, by writing under its seal,  
 certifies in the prescribed form that improve-  
 20 ments of the required value have been effected  
 thereon to its satisfaction: Provided, however,  
 that the Commission may refuse to give such  
 a certificate if, in its opinion, the lease is not  
 being satisfactorily developed or the lease does  
 not in the opinion of the Commission provide  
 25 sufficient security for any moneys owing to the  
 Commission in respect thereof. Such certifi-  
 cate may be registered upon the perpetual lease  
 grant, and any provision in a perpetual lease  
 grant requiring the performance by the grantee,  
 30 his heirs and assigns for ever, of an obligation  
 to live on the land leased and have his principal  
 place of abode there shall cease to have effect  
 upon the issue by the Commission of such  
 certificate.

35 (vii) By adding new sections 143A, 143B, and 143C  
 as follows:—

*Rent for perpetual leases.*

40 143A. (1) The first period of the lease, the  
 term of which is in perpetuity, shall expire  
 twenty-five years after the date of the granting  
 of the application therefor, and each succeeding  
 period shall be of twenty years. (2)

Rental of  
 perpetual  
 leases.



(2) The annual rental of the lease for the first period shall be the annual rental as notified in the Gazette in pursuance of the provisions hereinbefore contained.

(3) The annual rental of the lease for each succeeding period shall be such sum as may be agreed upon by the Commission and the lessee for each respective period, or, failing such agreement within the time allowed by the Commission (not being less than two months), as shall be determined by the Land and Valuation Court: Provided that—

(a) such annual rental shall be the fair market annual rental value of the lease irrespective of the value of any improvements owned by the applicant for conversion;

(b) such annual rental shall be determined with due regard being given to the additional value given the land by reason of the works constructed for irrigation or other purposes, and to the benefits derived or to be derived therefrom, and shall not in any case be less than the annual rental for the first period:

Provided further that—

(c) where the value of the land has become reduced by any acts, defaults, or neglects of the lessee thereof, the annual rental of such land shall be determined as if such reduction in the value had not taken place.

*Town lands leases.*

143B. (1) The following provisions and conditions shall apply to a town lands lease, the term of which is in perpetuity.

(2) The annual rental of a town lands lease during any period shall not be less than one pound.

(3)

Conditions,  
&c., of town  
lands leases.



(3) Town lands leases may be sold at auction or by tender to any person qualified as provided in section one hundred and forty-four.

5 (4) The Commission shall cause a notification to be published in the Gazette and any local newspaper, stating the time and place of sale, and such particulars of upset  
10 annual rentals for the first period of twenty-five years, value of improvements, if any, and the special conditions, which shall be the conditions attached to the leases, as to improvements, and such other matters as may be deemed desirable by it to regulate in the public interest.

15 (5) The Commission may grant any town lands lease which has been offered at auction or by tender under this section, and not sold, to any person who may tender for same, in the prescribed form, at not less than  
20 the upset annual rental.

(6) The provisions of this Act relating to the making and dealing with applications for town lands leases in other cases, and to the terms and conditions required to be  
25 performed before the issue of perpetual lease grants in respect thereof, shall not be taken to extend to town lands leases sold or acquired by after auction tender, as provided in this section.

30 *Issue of perpetual lease grants.*

143C. (1) If the Commission be satisfied that all the conditions attaching to a lease, the term of which is in perpetuity, have so far been duly  
35 complied with, the Governor shall issue a grant in the prescribed form to the lessee his heirs and assigns for ever, such grant being made subject to the conditions attaching to the lease.

(2) The perpetual lease grant shall contain provisions for the payment of rent and performance of residence as respectively  
40 required



required by this Act, and conditions securing upon the land all rates and charges for water imposed in respect of the land under the provisions of the Irrigation Act, 1912, and Acts amending the same, and shall also contain 5 such special conditions as have been duly notified in the Gazette as hereinbefore provided.

(viii) Section one hundred and forty-four: By omitting the section and heading thereof and substituting the following section and 10 heading:—

*Sale of irrigable or non-irrigable land by auction or tender.*

Sale by auction or tender.

144. (1) Areas of irrigable or non-irrigable land within an irrigation area may be sold at 15 public auction or by tender or by way of—

- (a) purchase in fee-simple as irrigable purchases or non-irrigable purchases; or
- (b) lease in perpetuity as irrigable leases or non-irrigable leases. 20

(2) The Commission shall cause a notification to be published in the Gazette and in a local newspaper, stating—

- (a) the time and place of sale or time and place for receipt of tenders, and giving 25 particulars of the areas, survey fees, upset prices, and upset annual rentals as the case may be of the land for the first period of twenty-five years, the value of Crown improvements (in the 30 case of a lease); and
- (b) the special conditions as to improvements which shall be conditions attached to the holdings and such other matters as may be deemed by the Minister 35 desirable to regulate in the public interest.

(3) A deposit of such portion of the purchase money bid as may be specified in the 40  
Gazette



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Gazette (in the case of a purchase) or one year's rent bid (in the case of a lease), together with the full amount of survey fee and such portion of the value of Crown improvements on the land (in the case of a lease), shall be paid at the time of sale: Provided that if the purchaser shall fail to pay such amounts at such time the purchase or lease shall be again offered for sale, and the bid of the person so failing to pay shall not be accepted for the land in question.

(4) In the case of a purchase the balance of purchase price, after payment of the deposit, shall be paid together with interest at the prescribed rate on such terms and conditions as may be notified in the Gazette: Provided that the purchaser may pay the whole or any number of instalments of the purchase price at any time.

(5) Purchase under this section shall be for an estate in fee-simple; the Crown grant may be issued by the Governor at any time after all conditions have been complied with and the balance of purchase money together with the prescribed deed fee and stamp duty have been paid, and in the case of an irrigable purchase such grant shall contain conditions securing on the land all moneys payable as rates or charges for water supplied under the provisions of the Irrigation Act, 1912, and any Acts amending the same.

(6) Any person or corporation may on the prescribed form and at not less than the upset price or rental, as the case may be, apply for the fee-simple or lease of any land which has been offered for sale or lease by auction or tender under this section, and not sold. The granting of any such application shall be at the entire discretion of the Commission.



- (ix) By adding new sections 144A, 144B, 144C, 144D, and 144E:—

*Additions to holdings.*

Additional  
holdings.]

144A. The Commission, subject to such conditions as it may deem fit to impose, may 5  
by notification in the Gazette in any case where it considers that an existing holding is less than a home maintenance area add to such holding after application by the holder thereof in the form and manner prescribed 10  
any Crown lands including reserves within an irrigation area either adjoining or separated from the original farm, and such original and additional areas shall be deemed to be one holding. 15

The Commission shall disallow any application for the addition of an area not adjoining the original holding if in its opinion such area is not within reasonable working distance of the holding. 20

The addition of reserves to existing holdings under the provisions of this section shall have the effect of revoking such reserves. This section as amended shall be deemed to have been in force from the date of passing of the 25  
Irrigation (Amendment) Act, 1918.

*Increases of irrigable area, surrender, &c.,  
of leases within an irrigation area.*

Alterations  
of area.

144B. If the irrigable area of a lease within an irrigation area be, or has been prior to the 30  
commencement of the Irrigation and Water (Amendment) Act, 1923, increased by the construction of additional works with the consent of the holder thereof, or otherwise increased, or additional facilities for watering 35  
are, or have been prior to the commencement of  
of



5 of that Act, provided by the Commission,  
or if the area of a lease be altered by  
addition thereto or surrender of part thereof,  
or if a lease be subdivided, the annual rental  
10 of the lease, the irrigable area of which is or  
has been increased, or in connection with  
which the additional facilities for watering  
are or have been provided, or the lease as  
added to remaining or of each portion of the  
subdivided lease shall be determined. Such  
15 annual rental shall be such sum as may be  
agreed upon by the Commission and the holder  
of the lease, or, failing such agreement within  
the time allowed by the Commission (not being  
less than two months), such sum as shall be  
determined by the Land and Valuation Court :  
Provided that—

- 20 (a) such annual rental shall be the fair  
market annual rental value of the lease  
exclusive of any value given by improve-  
ments thereon ;
- 25 (b) such annual rental shall be determined  
with due regard being given to the  
additional value given or to be given  
to the land by reason of the works  
constructed or to be constructed for  
irrigation or other purposes, and to the  
benefits derived or to be derived there-  
from.

30 The Commission shall adjust the amount, if  
any, owing on account of survey fee and the  
amount to be paid for Crown improvements  
and improvements effected or provided by the  
Commission, and shall fix the terms under  
35 which such payments are to be made. The  
annual rental so determined, the date such  
rental commences, the date the addition,  
surrender or subdivision takes effect, particulars  
of any adjustment made, terms fixed, and the  
40 date from which such payments shall be due  
and



and payable, shall be notified in the Gazette, and payments in accordance with such notification shall be a condition attached to the lease, and the non-performance or breach of such condition shall render it liable to forfeiture. Upon determination in pursuance of this section of the annual rental of the lease in connection with which an additional area has been granted for the purpose of making such lease a home maintenance area, the first period of the lease referred to in section one hundred and forty-three of this Act shall be extended to expire twenty-five years after the date such addition takes effect, and with this exception the provisions of section one hundred and forty-three shall apply to such lease.

When the annual rental of any lease has been determined in accordance with the provisions of this section other than where the area is increased for the purpose of making a home maintenance area, such determination shall be deemed to be for the unexpired portion of the then current period of the lease.

*Purchase price of a purchase the area of which is increased.*

Purchase price where area altered.

144c. If the area of any purchase within an irrigation area be increased under the provisions of section 144A of this Act, the purchase price of the additional land shall be determined as set out in section one hundred and thirty-nine of this Act, and the purchase price of the holding as added to shall be the purchase price of the additional land plus the balance of the purchase price outstanding in respect of the original holding at the date the increase in area takes effect. The Commission shall adjust the amount, if any, owing or to be paid on account of survey fee and Crown improvements, and improvements effected or provided by the Commission,



Commission, and shall fix the terms under which such payments and payment for the land are to be made.

5 Such addition shall be notified in the Gazette, which shall specify the purchase price determined as aforesaid, particulars of any adjustments made, terms fixed, the date on and from which payments in respect of purchase price, Crown improvements and survey fee shall be  
10 due and payable, the date the increase in area takes effect, the period within which improvements shall be effected on the holding as added to, and the value thereof. Payments and the effecting of improvements in accordance with  
15 such notification shall be conditions attached to the purchase, and non-performance or breach of any of such conditions shall render it liable to forfeiture.

20 Interest on the amount outstanding at the date the increase in area takes effect in respect of the purchase price of the original holding from the last due date of payment of an instalment of such purchase price to the  
25 former date shall be paid by the holder of the purchase within one month after the date the increase in area takes effect. Interest at the prescribed rate on the purchase price of the holding as added to from the date the increase  
30 in area takes effect to the thirtieth day of June or thirty-first day of December, whichever of these dates first follows the date such increase in area takes effect, shall be paid on such  
35 thirtieth day of June or thirty-first day of December as the case may be, and the purchase price shall then be paid by equal half-yearly consecutive instalments, including principal and interest at the prescribed rate extending  
40 over the balance of the period for payment of the purchase price which originally attached to the holding as increased in area, and the first of such instalments shall be paid on the  
thirtieth



thirtieth day of June or thirty-first day of December next following the date on which the last-mentioned interest is payable.

*Increase of irrigable area of a purchase.*

Increase of  
irrigable  
area.

144D. If the irrigable area of any purchase 5  
within an irrigation area is increased by the  
construction of additional works by the Com-  
mission, the added value given to the area so  
made irrigable shall be determined by the  
Commission in accordance with the provisions 10  
of section one hundred and thirty-nine, and  
shall be payable on such terms and conditions  
as the Commission may deem fit to impose,  
and the non-performance of any of such terms  
and conditions shall render the purchase liable 15  
to forfeiture.

*Subdivision of a purchase.*

Subdivision.

144E. In the case of a purchase within an  
irrigation area which has been subdivided in  
pursuance of section 258A of this Act, the 20  
purchase price of each subdivided portion shall  
be determined by the Commission: Provided,  
however, that the total of the purchase prices  
of all the subdivided portions shall not exceed  
the balance of the original purchase price of the 25  
holding so subdivided and outstanding at the  
date such subdivision takes effect. Interest at  
the prescribed rate from the last due date of  
payment of an instalment of the purchase  
price of the original holding to the date sub- 30  
division takes effect on the said balance, shall  
be paid by the holder of the purchase within  
one month after gazettal of the subdivision.

Interest at the prescribed rate on the  
purchase price of each subdivided portion 35  
from the date subdivision takes effect to the  
thirtieth day of June or the thirty-first day of  
December, whichever of these dates first  
follows



5 follows the date such subdivision takes effect,  
shall be paid on such thirtieth day of June or  
thirty-first day of December, as the case may  
be, and the purchase price shall then be paid  
by equal half-yearly consecutive instalments,  
including principal and interest at the pre-  
scribed rate, extending over the balance of the  
10 period for payment of purchase price which  
originally attached to the holding so sub-  
divided, and the first of such instalments shall  
be paid on the thirtieth day of June or thirty-  
first day of December next following the date  
on which the last-mentioned interest is pay-  
able. Each subdivided portion, upon gazettal,  
15 shall constitute a separate holding, and shall  
be subject to the conditions attaching to the  
original holding, and such Gazette shall specify  
the period within which improvements shall be  
effected, and the value on each such separate  
20 holding.

The cost of any additional works in connec-  
tion with subdivision constructed by the  
Commission shall be paid by the holder on  
such terms and subject to such conditions as  
25 the Commission may deem fit to impose.

The Commission shall adjust the amount, if  
any, owing or to be paid on account of survey  
fee, and the amount to be paid for Crown  
improvements and improvements effected or  
30 provided by the Commission, and shall fix the  
terms under which such payments are to be  
made.

The purchase prices determined as aforesaid,  
particulars of any adjustments made, terms  
fixed, and the date from which such payments  
shall be due and payable shall be notified in  
the Gazette, and payments in accordance with  
such notification shall be a condition of the  
purchase, and the non-performance or breach  
of such condition shall render it liable to  
40 forfeiture.

(x)



- (x) Section one hundred and forty-five: By omitting the section and heading thereof and substituting the following section and heading :—

*Conversion of an irrigation farm lease into an irrigation farm purchase.* 5

Conversion  
of I.F.L. to  
to I.F.P.

145. (1) The holder of an irrigation farm lease may, with the consent in writing of any mortgagee or person holding a security there- over, apply to convert it into an irrigation 10 farm purchase.

(2) Such application shall be made to the Commission in the prescribed form, and shall be accompanied by the prescribed deposit. If a perpetual lease grant has been 15 issued, the grant shall be lodged with the application, and such grant shall be surrendered upon the granting of the application: Provided, however, that the surrender of such grant shall not involve the surrender of the 20 holding to the Crown.

(3) The granting of any such applica- tion shall take effect from the date of such granting.

(4) The purchase money shall be such 25 sum as may be agreed upon by the Commission and the applicant for conversion, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by 30 the Land and Valuation Court: Provided, however, that such sum shall be—

- (a) the fair market value of the lease at date of application for conversion, irrespective of the value of any im- 35 provements owned by the applicant for conversion, and subject to the following conditions :—

- (i) Lands described as suitable for horticulture in the Gazette notify- 40 ing them as available for disposal, shall



shall not, without the written consent of the Commission, be used to depasture any stock in excess of that required for purely domestic and horticultural purposes ;

5

- (ii) Lands described as suitable for dairying in the Gazette notifying them as available for disposal, shall not, without the written consent of the Commission, be used to plant any areas of orchard or vineyard to a greater extent than one acre.

10

These conditions shall be deemed to be a covenant running with the land ;

15

- (b) determined with due regard being given to the additional value given the land by reason of the works constructed for irrigation or other purposes, and to the benefits derived or to be derived therefrom, and shall not be less than twenty times the annual rental of the lease for the current period thereof :

20

Provided further that—

25

- (c) where the value of the land has become reduced by any acts, defaults or neglects of the lessee thereof, the purchase money of such land shall be determined as if such reduction in the value had not taken place.

30

(5) The applicant may withdraw the application at any time within thirty days from the notification to him that the same has been granted if the Commission thinks that, under the circumstances, such withdrawal should be allowed.

35

(6) The purchase shall be subject to the following conditions :—

40

- (a) Lands described as suitable for horticulture in the Gazette notifying them as available for disposal, shall not, without



without the written consent of the Commission, be used to depasture any stock in excess of that required for purely domestic and horticultural purposes.

- (b) Lands described as suitable for dairying in the Gazette notifying them as available for disposal, shall not, without the written consent of the Commission, be used to plant any areas of orchard or vineyard to a greater extent than one acre.

These conditions shall be deemed to be a covenant running with the land.

(7) The provisions of this section shall, *mutatis mutandis*, apply to leases of irrigable land purchased in pursuance of the provisions of section one hundred and forty-four.

- (xi) By adding new section 145A as follows :—

*Conversion of a non-irrigable farm lease into a non-irrigable farm purchase.*

145A. (1) The holder of a non-irrigable lease may, with the consent in writing of any mortgagee or person holding a security thereover, apply to convert it into a non-irrigable purchase.

(2) Such application shall be made to the Commission in the prescribed form, and shall be accompanied by the prescribed deposit. If a perpetual lease grant has been issued, the grant shall be lodged with the application, and such grant shall be surrendered upon the granting of the application: Provided, however, that the surrender of such grant shall not involve the surrender of the holding to the Crown.

(3) The granting of any such application shall take effect from the date of such granting.

(4)

Conversion  
of N.I.F.L.  
to N.I.F.P.



5 (4) The purchase money shall be such sum as may be agreed upon by the Commission and the applicant for conversion, or, failing such agreement within the time allowed by the Commission (not being less than two months), such sum as shall be determined by the Land and Valuation Court: Provided, however, that such sum shall be—

10 (a) the fair market value of the lease at date of application for conversion, irrespective of the value of any improvements owned by the applicant for conversion;

15 (b) determined with due regard being given to the additional value given the land by reason of the works constructed for any purpose, and to the benefits derived or to be derived therefrom, and shall not be less than twenty times the annual rental of the lease for the then current period thereof:

20 Provided further that—

25 (c) where the value of the land has become reduced by any acts, defaults or neglects of the lessee thereof, the purchase money of such land shall be determined as if such reduction in the value had not taken place.

30 (5) The applicant may withdraw the application at any time within thirty days from the notification to him that the same has been granted, if the Commission thinks that, under the circumstances, such withdrawal should be allowed.

35 (6) Upon conversion the purchase shall be subject to the special conditions specified in the Gazette notifying the land as available for disposal by way of purchase; and in the case of conversion of a non-irrigable farm lease notified as available for granting or purchase  
40 prior to the coming into force of the  
Irrigation



Irrigation and Water (Amendment) Act, 1923, the special conditions in relation to the value and nature of improvements as notified in such Gazette notification shall attach to the non-irrigable farm purchase, if not already 5  
complied with.

(7) The provisions of this section shall, mutatis mutandis, apply to leases of non-irrigable land purchased in pursuance of the provisions of section one hundred and forty- 10  
four.

- (xii) Section one hundred and forty-six: By omitting the section and heading thereof and substituting the following section and heading:— 15

*Issue of certificates of conformity.*

Certificate of conformity.

146. The Commission may at any time, if it be satisfied that all conditions except the payment of balance of purchase money have been duly complied with, and on payment of 20  
the prescribed fee, issue a certificate of conformity in the prescribed form in respect of any purchase within an irrigation area, and may, upon satisfactory proof being given of the loss or destruction of any certificate, and 25  
upon payment of the prescribed fee, issue a fresh certificate to the person entitled thereto.

- (xiii) Section one hundred and forty-seven: By omitting the section and substituting the following:— 30

Breach of condition.

147. (1) The Commission shall report to the chairman of the special land board any non-performance or breach of the conditions attaching to a holding within an irrigation area, and thereupon the board shall proceed 35  
to inquire into the matter. If the special land board after due inquiry finds that any of the conditions attaching to a holding within an irrigation area have not been or are not being duly performed, and so reports to 40  
the



5 the Commission, it shall be lawful for the Commission by notification in the Gazette to declare the holding together with any moneys paid in respect thereof and all improvements on the land to be forfeited, and the same shall be forfeited accordingly.

10 (2) A holding within an irrigation area shall be liable to be forfeited if any sums payable as instalments of purchase price, rent, survey fee, payment for improvements, interest or otherwise, under or by virtue of the Crown  
15 Lands Acts or the special conditions attached to the holding by notification in pursuance of section one hundred and thirty-nine of this Act, or any rate or charge for water or interest thereon payable under the Irrigation Act, 1912, or any interest or instalment payable on account  
20 of any of the powers conferred under section nineteen of the Irrigation Act, 1912, having been exercised, be not paid within the period prescribed or allowed, and in such case forfeiture may be declared by the Commission as above provided, and without reference to the special land board. Such forfeiture shall not  
25 operate to extinguish the debt: Provided, however, that the Commission may defer or postpone payment of any of the said sums due, or to become due, for such period and subject to such terms and conditions as it may deem fit to impose; such terms and conditions shall be  
30 conditions attaching to the holding, and the breach or non-performance of any such conditions shall render the holding liable to forfeiture.

35 (3) Nothing in this section shall be taken to affect the power of the Commission to take possession under and subject to the provisions of section sixteen of the Irrigation Act, 1912, of any holding which has been abandoned  
40 or in respect of which charges for water or any interest thereon have been unpaid for four years.

(xiv)



(xiv) By adding new section 147A as follows:—

*Suspension or modification of conditions.*

Suspension,  
&c., of  
condition.

147A. (1) Where the holder of any holding within an irrigation area applies to the Commission for suspension of the condition of residence, the Commission may grant such application for such term, if any, as in the circumstances may to it seem warranted. 5

(2) Where the holder of such holding applies for— 10

(a) exemption either wholly or partly from compliance with, or extension of time for performance of, any special condition; or

(b) alteration, modification or cancellation of any such condition; 15

the Commission may grant such application with or without modification.

(3) The Commission in granting any application referred to in subsections one and two of this section may impose such terms and stipulations as it may deem fit, and the breach of any such term or stipulation shall render the holding liable to be forfeited. 20

(4) The condition of residence may, with the consent of the Commission, be performed by an employee or agent of the lessee, or by one or more of joint holders. 25

(xv) Section one hundred and fifty-three: By adding at the end of the section the following new paragraph:— 30

The provisions of subsections (a), (b) and (d) are extended to and shall govern all conflicting applications for holdings within irrigation areas made, tendered, or lodged to or with the Water Conservation and Irrigation Commission simultaneously except that in such cases the said Commission shall be substituted for the local land board. 35

(xvi)



- 5 (xvi) Section one hundred and sixty-one: By inserting after the words "irrigation areas" the words "except that payment of the whole amount of survey fee shall be made with an application for land other than land available to discharged soldiers exclusively."
- 10 (xvii) Section one hundred and sixty-four: By inserting after the words "Crown leases" the words "provided that in the cases of leases within irrigation areas no report shall be required from the special land board, and in such cases the first paragraph hereof shall be read as if in place of the word 'Minister' were read the words 'the Water Conservation and Irrigation Commission,' and the third paragraph hereof shall be read as if in place of the words 'local land board' were read the words 'Water Conservation and Irrigation Commission.'"
- 15 (xviii) Section one hundred and seventy-five: By adding at the end of the section the words "except that in such cases the Water Conservation and Irrigation Commission shall be substituted for the local land board."
- 20 (xix) Section one hundred and seventy-six:—
- 25 By inserting after the words "local land board" where first appearing the words "or in the case of holdings within an irrigation area the Water Conservation and Irrigation Commission."
- 30 By inserting after the words "local land board" where secondly appearing the words "or such Commission as the case may be."
- By inserting after the words "such board" the words "or such Commission."
- 35 (xx) Section two hundred and six, subsection two: By inserting after the words "notified in the Gazette" the words "except that such lands may be added to existing farms under the provisions of section 144A of this Act."



(xxi) Section two hundred and thirty-eight: By inserting at the end of the section the following:—

The provisions of this section shall not apply to holdings within irrigation areas, and a married woman shall be competent to apply for or otherwise acquire from the Crown, or to acquire from any private person, or to hold any such holding. 5

(xxii) Section two hundred and forty:—By inserting 10 after the words “such agreement” the words “and in the cases of holdings within an irrigation area shall be competent to mortgage his holding and to transfer his holding by way of mortgage.” 15

(xxiii) Section two hundred and seventy-three:—

By omitting the words “Crown leases and leases within irrigation areas” from the heading of the section and substituting the words “and Crown leases.” 20

By omitting subsections two, four, and five.

By inserting after the section new section 273A as follows:—

*Dealings with holdings within irrigation areas.* 25

273A. (1) A holding within an irrigation area other than a town lands lease shall not be capable of being transferred or otherwise dealt with in any manner whatsoever without the consent of the Commission. 30

(2) Application for permission to transfer or otherwise deal with such a holding shall be made in the prescribed form to the Commission. The granting or refusing of any application shall be entirely at the discretion 35 of the Commission.

(3) Where a lease within an irrigation area is transferred or otherwise dealt with within fifteen years from commencement of title thereto, the Commission may require the 40 rental

Restrictions  
on transfer of  
holdings.



rental value for the unexpired portion of the then current period to be determined in the manner provided in section 143A.

5 (4) No transfer of any holding within an irrigation area shall be registered or recognised if any payments due to the Commission are in arrear, and (or) until the transferee shall have signed an agreement that all amounts (if  
10 any) of principal and interest remaining owing to the Commission in respect of the holding, or any improvements thereon, or of any goods supplied to the transferor or his predecessors in title, shall be paid by such transferee, and shall be a charge on the land and until he  
15 executes, or at the option of the Commission, agrees to execute such security as the Commission may require for repayment of all moneys owing as aforesaid to it or the Crown and interest thereon.

20 (5) The provisions of this section shall not cease to apply after the issue of the perpetual lease grant, if any, and it shall be immaterial for the purpose of such provisions  
25 whether a transfer or other dealing whatsoever takes place before or after the passing of the Irrigation and Water (Amendment) Act of 1923, and no transfer or other dealing whatsoever in contravention of such provisions shall be valid for any purpose whatsoever.

30 (xxiv) Section two hundred and seventy-four:—  
By omitting the words "Crown leases and leases within irrigation areas" from the heading of the section and substituting the words "and Crown leases."

35 Subsection one: By omitting the words "Crown leases and holdings within irrigation areas other than town lands blocks" and substituting the words "and Crown leases."

40 Section one, paragraph (a): By omitting the words "in the case of a homestead farm or Crown lease" and the words "and in the case of a holding within an irrigation area of the Commissioner."  
Subsection



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Subsection two: By omitting the words "in the case of a homestead farm or Crown lease" and the words "and in the case of a holding within an irrigation area to the Commissioner" and the words "or of the Commissioner as the case may require", and by omitting the words "or Commissioner" wherever occurring in the second paragraph. 5

Subsection three: By omitting paragraph (b). 10

Subsection five: By omitting the subsection. 10

(xxv) Section two hundred and seventy-eight: By inserting after the words "per centum per annum" the words "and in the cases of holdings within an irrigation area such rate as the Commission may determine." 15