

## Water (Amendment) Bill, 1927.

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### EXPLANATORY NOTE.

THIS Bill provides for—

- (1) defining more clearly the rights of riparian occupiers of land to take and use water ;
  - (2) simplifying the procedure with regard to the issue of licenses to use water ;
  - (3) giving effect to the doctrine of prior appropriation of water according to the order in which applications for licenses and authorities to use water are received ;
  - (4) power to enable the boundaries of trust districts to be amended to meet varying circumstances ;
  - (5) enlarging the powers of trusts constituted under the Act ;
  - (6) validating reductions and lessening liability approved in favour of certain trusts ;
  - (7) the general amendment of the Act shown to be necessary as the result of experience in administration.
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Walter (Antoine) Hill, Esq.

EXHIBIT

1. The first page of the report...

2. The second page of the report...

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10. The tenth page of the report...

No. , 1927.

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## A BILL

To amend the law relating to water rights, water and drainage, and artesian wells; to make better provision for the control of the waters of rivers and lakes; to provide for the granting of priority of right to appropriate such waters; to validate certain remissions of payments in connection with or by certain Trusts constituted under the Water Act, 1912; to amend the said Act and certain other Acts; and for purposes connected therewith.

[CAPTAIN DUNN;—4 *February*, 1927.]

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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:—

5

Short title.

**1.** This Act may be cited as the "Water (Amendment) Act, 1927."

Construction and citation.

**2.** (1) In this Act the expression the "Principal Act" means the Water Act, 1912, as amended by the Crown Lands and Irrigation (Amendment) Act, 1914, the 10 Water (Amendment) Act, 1916, the Irrigation (Amendment) Act, 1918, the Water (Amendment) Act, 1919, the Water (Amendment) Act, 1924, and the Water (Costs Declaratory and Flood Prevention) Act, 1924.

(2) The Principal Act, as amended by this Act, 15 may be cited as the Water Act, 1912-1927.

Amendment  
of Act  
No. 44, 1912.  
Sec. 5.

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

(i) Section five:—

By adding to the definition of "occupier" the words "and includes a municipal council or 20 shire council, any Department of the State, or corporate body other than the Commission acting on behalf of the State."

By adding at the end of the definition of "work to which this Part extends" the words "and 25 includes an excavation or well which affects the flow of a river or the quantity of water in a lake."

Sec. 6.

(ii) Section six:—

Subsection one: By omitting where firstly and 30 secondly occurring the word "Crown" and substituting therefor the word "Commission."

Subsection two:—

By omitting the words "It shall not be exercised in contravention of" and adding at 35 the end of paragraph (a) "shall be preserved to the extent hereinafter provided."

By inserting after the word "licenses" the words "or of authorities for private irrigation schemes."

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(iii)

(iii) Section seven : By omitting section seven and substituting the following section :— Sec. 7.

5           7. (1) The occupier of land on the bank of a river or lake shall subject as hereinafter mentioned have the right to use the water then being in the river or lake for— Rights of occupiers of riparian land.

10           (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

(ii) domestic purposes ; and

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

15           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.

20           Any occupier 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 *one* pound for each day he uses the work without giving the said notice :

25           Provided that in respect of any work existing at the date of the passing of the Water (Amendment) Act, 1927, this penalty shall not be incurred until a period of twelve months has elapsed from such date.

(2) This section shall not be construed so as to give an occupier the right to construct—

35           (a) a work obstructing the flow of a river ; or

(b) a dam in a lake.

(iv) 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 Sec. 8.

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- 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.”
- Sec. 10. (v) Section ten: By adding subsection two as follows:— 5
- Deposit to be lodged with application.
- (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 10 of the license fee payable by the applicant. In the event of the applicant withdrawing or abandoning the application, such deposit or any part thereof may in the discretion of the Commission be retained by it. 15
- Secs. 11, 12. (vi) Sections eleven and twelve: By omitting the sections and substituting the following new sections:—
- Notification of application for license.
11. (1) On application being made for a license under the last preceding section, the 20 Commission shall cause to be advertised once in the Gazette and once in a public newspaper circulating in the district where the work is situate, a notice—
- (i) acknowledging receipt of the applica- 25 tion; and
- (ii) requesting all persons interested to advise the Commission whether they support the application or object thereto and the reasons for so doing; 30 and
- (iii) stating the last day on which such advice will be received and the name or official designation and address of the person to whom it shall be sent. 35
- (2) In the event of—
- (a) objections to the granting of the application being received by the Commission on or before the said date; or
- (b) the Commission being of opinion that 40 the application should not be granted, the

5 the Commission shall, and in any other case  
the Commission may, direct the local land  
board or some person to hold a public inquiry  
as to the desirability of granting the application.  
The holding of the inquiry shall be notified as  
prescribed, and all persons whose interests  
appear to be affected by the granting of the  
application shall be permitted to attend at  
10 the inquiry and be heard in support of, or in  
opposition to, the granting of the application.  
The local land board or person, as the case  
may be, holding the inquiry shall report in  
writing to the Commission.

15 (3) Where any inquiry is held under  
this section by a person as aforesaid, the appli-  
cant or any person so interested as aforesaid  
shall have a right of appeal from the report of  
such person to the local land board.

20 12. (1) A short summary of— License.

- (a) the report of—  
(i) the person or the local land board  
holding the inquiry; or  
(ii) the local land board or Land and  
Valuation Court on appeal; or

25 (b) of the decision of the Commission as to  
the granting or otherwise of the appli-  
cation when no public inquiry is held,  
shall be published in the Gazette, and the  
Commission shall, where the report recom-  
30 mends, or the decision of the Commission, as  
the case may be, 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  
35 recommended in such report or contained in  
such decision.

(2) Provided that—  
(a) if an inquiry be held by a person or  
40 local land board as aforesaid, no license  
shall be issued until after the expiration  
of thirty days subsequent to the said  
publication

publication of such summary of the report of such person or local land board; and

- (b) no license shall be issued under this section pending any appeal or reference; and 5
- (c) 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 10
- (d) before granting a license the Commission may require such alterations to be made to or in connection with the work, or to the plans and specifications of the work, as may be recommended in the said report or required by the said decision as the case may be. 15

(3) Except in the case of a license granted to a Department of, or a corporate body acting for, the State, or to a municipal council or shire council, no license shall be granted for a period exceeding ten years.

Sec. 14.

- (vii) Section fourteen: By omitting the section and substituting the following new sections fourteen and 14A:— 25

Renewal.

14. Subject to the provisions of this Part with regard to the renewal of licenses, a license shall, subject to such limitations and conditions as the Commission may decide, be renewed from time to time by the Commission on payment of the prescribed fee, provided that such payment be made before the expiration of the period for which the license was granted or last renewed, as the case may be: 30  
 Provided further that no renewal, except in respect of a license granted to a Department of, or a corporate body acting for, the State or to a municipal council or shire council, shall be for a longer period than ten years. 40

14A.



5 14A. For the purpose of sections twelve and 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. Fees.

(viii) Section fifteen: By omitting the section and substituting the following new section:— Sec. 15.

10 15. A separate application for a license may 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 may be included as a combined work in an application for a license shall rest with the Commission. Separate applications.

(ix) Section seventeen:— Sec. 17.

20 By inserting after the word "Crown" the words "and the Commission."

(x) By inserting after the section the following new sections 17A, 17B, and 17C:— New ss. 17A, 17B, 17C.

25 17A. (1) 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— Revocation or suspension of license or authority.

30 (a) a licensee or the holder of the authority has conserved, diverted, taken, or used any quantity of water in excess of the quantity expressly authorised by his license or authority; or

35 (b) the licensee or the holder of the authority 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

40 (c) any water diverted, taken, or used by any licensee or the holder of the authority is being wasted,

the

the Commission may give the licensee or such holder, 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. 5

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. 15

(2) If by reason of an actual or threatened shortage of water the Commission considers a license or authority for a private irrigation scheme should be suspended or modified, or that the quantity of water authorised by the license or authority to be taken thereunder should be reduced, the Commission may in a similar manner give the licensee or holder of the authority notice to that effect, and thereupon the license or authority shall be suspended or modified or the quantity of water reduced according to the tenor of the notice: Provided always that nothing in this subsection contained shall enable the Commission to take any action prejudicial to any priority of right conferred under and by virtue of this Act. 30

Offences

17B. Every person who is guilty of—

- (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 in contravention of any priority of right conferred under and by virtue of this Act; or 35
- (b) using such a work when the license or authority therefor is suspended, or revoked 40

revoked, or has expired, or using a work in contravention of any priority of right conferred under and by virtue of this Act; or

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

10 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

15 day during which the offence is continued.

17c. (1) The Commission may by any of its officers or servants enter upon any land and—

Power to enter and remove works.

- 20 (a) remove any dam, weir, or any other 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; and
- 25 (b) by dismantling a pump, blocking 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.

30 (2) The Commission may recover in any court of competent jurisdiction as a debt due to it from the occupier or occupiers of the lands wherefrom the work is removed or whereon the stoppage of the diversion is effected, the costs and expense incurred by it in carrying out such removal or stopping such diversion.

35 (xi) Section eighteen :—

Sec. 18.

- By omitting the word "amended" and substituting the word "additional."
- By omitting the word "hereinafter" and substituting the word "hereinbefore."
- 40 By omitting the word "operations" and substituting the word "alterations."

(xii)

New ss. 18A,  
18B, 18C, 18D,  
and 18E.

Classification  
of river and  
lake systems.

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

18A. The Commission may—

- (i) divide the rivers and lakes of the State into River and Lake Systems and give each System a name and number; and **5**
- (ii) determine from time to time—
  - (a) the quantity of water within each River or Lake System which the Commission estimates should be reserved for works undertaken by the State (and thereupon such water shall be deemed to be reserved for such purposes); and **10**
  - (b) the allotment for all requirements other than the said works undertaken by the State, to each River or Lake System, of the balance of water of any such river or lake. **15**

The Commission may from time to time **20** thereafter, as it deems expedient, alter, amend, or vary any division into Systems or reservation or allotment.

Determina-  
tion o  
priorities.

18B. The Commission may determine the order of precedence of rights under licenses **25** under this Part and authorities for private irrigation schemes, and the licensee or person holding the authority having first priority shall be entitled to have his rights under his license or authority, as the case may be, **30** satisfied before those of the licensee or person holding the authority having second priority or third priority, and the licensee or person holding the authority having second priority shall be entitled to have his rights under his **35** license or authority satisfied before those of the licensee or person holding the authority having third priority, and so on, according to the numerical order of the priorities. In determining priorities, no distinction shall be **40** made between (a) licenses and (b) authorities  
for

for private irrigation schemes. Separate priorities shall obtain in each River and Lake System.

5 18c. (1) In determining the order of pre-<sup>Order of</sup>cedence referred to in the next preceding <sup>precedence.</sup> section the purposes for which are used works to which this Part extends shall be deemed to be of the following classes :—

- 10 Class I: (i) conserving and obtaining water for domestic purposes; and  
(ii) town and village water supplies; and  
(iii) Government railway purposes.

15 Class II: purposes other than those mentioned in Class I or Class III.

Class III: irrigating pasture land.

20 All rights in respect of purposes within Class I shall take precedence over those in respect of purposes within Class II and Class III. All rights in respect of purposes within Class II shall take precedence over those in respect of purposes within Class III. 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  
25 irrigation schemes.

(2) Subject to this Act, and except as <sup>Existing</sup> hereinafter provided in this subsection, all <sup>licenses, &c.</sup> licenses and authorities held under this Part and all rights to conserve, take, and use water in rivers and lakes existing at the date of the commencement of the Water (Amendment) Act, 1927, shall cease and be determined at such date as may be notified by the Commission in the Gazette, and no compensation shall be payable to any person by reason of this determination:

30 Provided that all rights—  
35 (i) conferred under and by virtue of the provisions of the Metropolitan Water,  
40 Sewerage

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- Sewerage, and Drainage Acts, and the Hunter District Water Supply and Sewerage Acts; and
- (ii) existing at the said date of any municipal council, shire council, or county council, to use and maintain existing works to which this Part extends, and similar works in course of construction, and to take and use the water conserved and obtained thereby; and
- (iii) granted to any person under and by virtue of the provisions of any Act dealing with mining and existing at the date of the commencement of the Water (Amendment) Act, 1927, and
- (iv) existing at the date of the notification made by the Commission under this subsection of Trusts constituted under Part III of this Act,
- shall—
- (a) be preserved as if the Water (Amendment) Act, 1927, had not been passed, and shall rank as of Class I, Class II, and Class III respectively, according to the purpose for which is used the work in respect of which rights have accrued, and
- (b) shall further rank *pari passu* in each respective class with those of persons holding licenses or authorities for private irrigation schemes at the date of notification made by the Commission under this subsection, and who consequent upon the provisions of subsection three of this section apply for licenses or authorities under this Act.

(3) All applications for licenses and authorities for private irrigation schemes lodged within twelve months after the date of the notification made by the Commission under the next preceding subsection, in substitution

5 tion of licenses and authorities and rights determined under the provisions of the said subsection shall be deemed to have been received simultaneously, and the rights of such applicants shall upon the granting of their applications rank *pari passu inter se* and have priority as against all other rights granted for the purposes of Class I, Class II, or Class III as the case may be.

10 (4) The Commission may, however, credit any licensee or the holder of an authority for a private irrigation scheme whose license or authority is determined under this section, and who obtains a fresh license or authority, 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 license or authority as the case may be so determined as the unexpired portion of such current period at the date of the determination of the license or authority bears to the whole of such period. The fee payable in respect of the fresh license or authority shall be reduced by the amount of such credited payment.

25 (5) No work to which this Part extends shall commence to be constructed by the Crown after the date of the commencement of the Water (Amendment) Act, 1927, for or on behalf of any municipal council, shire council, or county council, or any person unless such council or person shall first have obtained a license under this Part for the work: Provided that any such work in course of construction by such council or by the Crown on behalf of such council at the said date may be completed.

35 18D. Where the provisions of any statute, <sup>Repeals.</sup> including the Local Government Acts and any Act dealing with mining, are inconsistent with the provisions of this Part the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid. 18E.

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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. Such compensation shall be assessed by the Land Board of the Land District in which the work licensed or authorised is situate.

(xiii) Section nineteen, subsection six: By omitting the word "amended" and substituting the word "additional."

Further  
amendment  
of Act No. 44,  
1912, s. 28.

4. The Principal Act is further amended as follows:—

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

"Cost of the works" includes expenditure incurred in construction, the cost of land proposed to be taken, the cost of existing works to be utilised and acquired, the cost of designing the work (including survey), the expense incurred in supervising the construction of the work, and in respect of the period during which Government plant is used in such construction a sum to be fixed by the Minister, but not exceeding the rate of ten per centum per annum of the original cost to the Government of such plant.

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

(ii) Section twenty-nine: By adding new section 29A as follows:—

29A. The Commission shall have exclusively, so far as relates to the prevention of floods or the control of flood waters in the Murray Basin, the powers of the Minister under this Part, and shall exclusively be the constructing authority

News. 29A.

Flood  
prevention  
in Murray  
Basin.



authority for the purpose of constructing under this Part any works for the prevention of floods or the control of flood waters in the Murray Basin.

- 5 (iii) Section thirty: By omitting the section and New s. 30. substituting the following section:—

10 30. (1) With respect to matters which relate Constitution of Boards. to the prevention of floods or the control of flood waters (except at places in the Murray Basin) and to drainage, there shall be a Board consisting of the Under Secretary of the Department of Public Works, the Chief Engineer for Water Supply and Drainage, and the Executive Engineer appointed by the Governor to administer this Part, and such officer or officers of the Department of Public Works as the Governor may appoint, and including, where any work is situate in the Western Division, the Western Land Board constituted under the Western Lands Act of 1901.

25 (2) 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 officers of the Commission as the Governor may appoint, and where any of such matters also relate to the Western Division of the State a member of the said Western Land Board or a representative of that Board.

- 30 (iv) Section thirty-two: By omitting section thirty- New s. 32. two and substituting the following section:—

35 32. Any such proposal shall contain— Contents of proposals.  
(a) a short general description of the purpose for which it is proposed to constitute the trust;  
(b) a plan and description of the works and of the land, whether covered with water  
or

- or not, proposed to be taken or acquired for the purposes of such works, and of their cost or estimated cost;
- (c) the 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; 5
  - (d) the charges to be paid by the trust for water to be supplied by the Crown, and the conditions of such supply; 10
  - (e) a statement of the terms upon which the trust shall repay the cost of the works and interest, specifying—
    - (i) whether the trust shall repay the cost and interest by payment of the charges for water; or 15
    - (ii) whether by a sinking fund and payment of interest.

The interest shall be paid by the trust on the actual cost or estimated cost plus ten per centum, whichever is the less sum;

- (f) the maximum rate which may be assessed by the trust; 25
- (g) a description of the trust district;
- (h) the number of trustees, being either three or five;
- (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; 30
- (j) any other provision not being inconsistent with this Part.

Sec. 34. (v) Section thirty-four: By inserting in lieu of the word "modifications," wherever occurring, the word "amendments." 35

Sec. 35 (vi) Section thirty-five: By omitting the word "modification" and substituting the word "amendments." 40

(vii)

(vii) Section thirty-seven: By omitting section New s. 37.  
thirty-seven and substituting the following  
section:—

5           37. (1) The completion, acquisition, or the Transfer to  
transfer to the trust of any works in respect of trust.  
which a trust is constituted under this Part shall  
be notified in the Gazette, and thereupon the  
trust shall take over, administer, and manage  
10           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 or Com-  
mission: Provided that the interest and charges  
15           payable by the trust shall commence to run  
from a date to be set out in such notification.

(2) Where the cost of the works is to be  
repaid by a sinking fund, the cost of such works  
shall be ascertained by the Minister, and notified  
20           in the Gazette so soon as practicable 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  
25           whether the works were completed before or  
after the commencement of the Water  
(Amendment) Act, 1927.

(viii) Section thirty-nine: By omitting the section New s. 39;  
and substituting the following section:—

30           39. (1) If two-thirds in number of the Alteration of  
occupiers of Crown lands, including homestead trust  
selectors, conditional lessees and settlement districts;  
lessees, and owners of other lands within any  
area, sign and forward to the Minister a petition  
35           that such area be included in a trust district,  
the Minister shall refer the proposed alteration  
to the board with a statement—

(a) of the additional charge for any increased  
quantity of water to be supplied; and  
40           (b) (in the case where the cost of the original  
works taken over by the trust is being  
paid by a sinking fund) of the estimated  
cost

cost of the additional works, if any, required to be constructed, utilised, or acquired in connection with the proposed alteration to the boundaries of the district.

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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 meeting not less than fourteen days notice shall be given in the prescribed manner, the Board shall report to the Minister whether, in its opinion, 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.

(2) On the completion, acquisition, and transfer to the trust of the works, a notification shall be sent by the Minister to the trustees and shall be published by him in the Gazette—

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(a) directing that the trust shall pay the charge in respect of additional water supplied; and

(b) directing that—

(i) (in the case where the cost of the original works taken over by the trust is being paid by a sinking fund) the trust shall pay interest on the cost of the additional works hereinbefore mentioned in this section; and

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(ii) fixing 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

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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 additional works, plus ten per centum.

(3) 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.

(ix) Section forty :—

Sec. 40.

By adding new subsection two as follows :—

(2) Nothing contained in this Act shall prevent lands within one trust district being included in another or other trust districts. The provisions of this subsection shall be deemed to have been in force from the twenty-sixth day of November, one thousand nine hundred and twelve.

(x) By adding new sections 40A, 40B, and 40C as follow :—

New ss. 40A,  
40B, 40C.

40A. (1) On the joint application of trustees of any two adjoining trust districts, duly approved by a majority of the voters of each district at separate meetings, of which at least fourteen days notice has been given, the Minister on the recommendation of the Board may, by notification in the Gazette, excise any part of one such trust district and include such excised part within the other trust district.

Union of  
trusts.

(2) Where such excision and inclusion have been effected, and the excised and included part contains trust works the trust of the district from which the excision was made shall be relieved of any liability to the Crown accruing after the said excision in respect of such works, and the trust of the district within which the excised part has been included

included shall be liable for payment to the Crown of the value to the last mentioned trust of the said works.

The Minister shall determine the amount of the said liability and value. 5

Liabilities to Crown, apportionment of.

40B. In connection with any proposal for the constitution of a trust under this Act the Minister, subject to the approval of the trustees concerned, may include any part of an existing trust district in the proposed trust 10 district, and upon the constitution of the proposed trust such part shall be excluded from the trust district of which it had heretofore formed part, and shall form part of the district of the newly constituted trust; and where the 15 excluded part contains trust works the trust of the district from which it was excluded shall be relieved of any liability to the Crown in respect of such works accruing after the said exclusion. The Minister shall determine 20 the amount of the said liability.

Amendment of boundaries.

40c. On the application of the trustees of a trust district the Minister may in any case where he deems the circumstances so warrant amend by notification in the Gazette the 25 boundaries of such district to include in the district additional land, provided such additional land is not already included in another trust district.

New s. 41.

(xi) Section forty-one: By omitting section forty- 30 one, and substituting the following section:—

Extension or improvement of works.

41. (1) If the trustees, by request in writing, desire the Minister to improve or extend any works under their charge or increase the quantity of water supplied, the Minister may 35 supply to the trustees a statement—

(a) (in the case where the cost of the original works taken over by the trust is being paid by a sinking fund) of the estimated cost of the completion, 40 utilisation,

utilisation, or acquisition of the proposed work and the interest and charges thereon payable by the trust; and

5 (b) of the additional charge to be paid by the trust in respect of the increased quantity of water to be supplied.

10 (2) Upon the receipt from the trustees of an intimation that the statement has been approved by a special general meeting of the voters of the trust, of which meeting not less than fourteen days' notice shall be given in the prescribed manner, the Minister may proceed with the construction or acquisition of the proposed work, or transfer same to the trust, or increase the quantity of water supplied, as the case requires.

15 (3) On the completion or acquisition or transfer to the trust of the work, or upon the increased quantity of water being supplied, a notification shall be sent by the Minister to the trustees, and shall be published by him in the Gazette—

20 (a) directing that the trust shall pay interest on the cost of the work; and

25 (b) directing that—

30 (i) (in the case where the cost of the original works taken over by the trust is being paid by a sinking fund) the cost of the work shall be paid; and

(ii) fixing the number of years within which the cost of the work shall be extinguished by a sinking fund.

35 (4) 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.

40 (5)

(5) 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. 5

(6) 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 Water (Amendment) Act, 1927, is hereby validated. 10

New s. 42.

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

Appointment  
of trustees,  
&c.

42. (1) After the constitution of a 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 notification in the Gazette, appoint a trustee or trustees, as the case may require, and direct the first election of trustees in pursuance of this Part. 15 20

(2) Where the trust district consists wholly of unoccupied lands, the property of the Crown, 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. 25

Thereafter, and in other cases where the number of the trustees is three, one shall be appointed by the Minister, and two shall be elected; and where the number of the trustees is five, two shall be appointed by the Minister, and the remaining three shall be elected. 30 35

(3) In connection with the appointment by the Commission and election of trustees for trusts relating to the prevention of floods or the control of flood-waters in the Murray Basin, water supply, water conservation, irrigation, and artesian wells, the trustee or 40



or one of the trustees appointed by the Commission shall also be appointed by it to be chairman.

5 (4) With respect to trusts existing at  
the date of commencement of the Water  
(Amendment) Act, 1927, other than trusts  
constituted in respect of works for the preven-  
10 tion of floods or the control of flood waters or  
drainage; where the number of the trustees is  
three, the appointed trustee shall be the chair-  
man of the trustees, and where the number of  
trustees is five, the Commission shall appoint  
one of the appointed trustees to be the chair-  
man.

15 (5) With respect to trusts existing at  
the time of the commencement of the Water  
(Amendment) Act, 1927, and situate within  
the Western Division, the Commission shall  
20 by notification in the Gazette, following upon  
such commencement, appoint a trustee or  
trustees, as the case may require, and the  
Commission shall direct the first election of  
trustees in pursuance of this Part for each of  
such trusts, and upon such appointment and  
25 election the Western Land Board shall cease  
to be the trustees.

(xiii) Section forty-five; By omitting the words "the Sec. 45.  
police magistrate having jurisdiction in" and  
substituting the words "a police magistrate  
30 having jurisdiction in any part of."

(xiv) Section fifty-three:— Sec. 53.  
By inserting at the end of paragraph (a) the  
following words:—"and renew such works  
where necessary."

35 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."

By

By adding new paragraph (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. 5

(2) A loan by way of limited overdraft may be obtained for the purpose of meeting necessary legitimate expenditure prior to the 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. 15

(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. 20 25

(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. 30 35

(xv) Section fifty-four: By adding new subsection two as follows:—

(2) Where a trust is constituted in respect of works of water supply or irrigation the trustees

trustees may for the more beneficial use or efficient distribution of the water supplied by such works—

- 5 (a) cease to supply water through any portion of the works in the trust district or to any lands within such district;
- (b) deviate the course of a drain or channel or otherwise alter in any way the works in the trust district:

10 Provided always that the trustees before taking any such action shall obtain the written consent of the ratepayer or ratepayers whose benefit of the trust works will be lessened or totally diminished by the action of the trustees or the supply of water or means of supply of water to whose lands will be affected and shall also obtain the written approval of the Commission of the trustees' proposed action.

(xvi) Section fifty-five :—

20 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."

25 (xvii) By adding new sections 55A and 55B as New ss. 55A, 55B follow :—

30 55A. If any rates or charges 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 seven per centum per annum from the date of the assessment, and the increase shall be deemed to be part of the rates or charges.

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.

(xviii)

- Sec. 57. (xviii) 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."
- Sec. 59. (xix) 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, 1927, shall have the said powers, duties, and obligations on and after that date."
- Sec. 60. (xx) Section sixty: By omitting the second <sup>20</sup>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 as 30  
 prescribed by regulations under this Act."
- New s. 63. (xxi) Section sixty-three: By omitting section sixty-three and substituting the following section:—  
 63. For the purpose of the construction or the maintenance and repair of any channel or 35  
 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 Minister or a trust having the control of or 40  
 carrying
- Powers incidental to powers to construct or maintain works.

carrying out such construction, maintenance, or repair, shall be deemed to have had and shall have power at any time—

(1) to enter—

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

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

20 notwithstanding that an easement or right so to enter or use such lands or sites may not have been granted or acquired.

(xxii) Section sixty-four: By omitting the word Sec. 64. "cultivated" and substituting the words "which is at the time under cultivation."

25 (xxiii) Section seventy-three: By omitting the words Sec. 73. "the works to be constructed for the Thule Creek Water Trust" and substituting the words "such work."

30 (xxiv) Section 73A:— Sec. 73A.

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

35 (4) The reduction from two hundred and ninety-one pounds to two hundred and sixteen pounds 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.

40 (5) The reduction by seventy-eight pounds five shillings and tenpence of the amount which the Lyndhurst Water Trust is liable to repay to

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 5 to the Crown under this Act in respect of additional works constructed for the Trust.

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

(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 15 whole cost of the proposed works payable by the Trust under the provisions of this Act.

New s. 73B. (xxv) By inserting after the section the following new section 73B:—

Special provisions in respect of Barooga Water Trust.

73B. Notwithstanding anything in this Act 20 contained, the following provisions shall 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 25 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; 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 35 with the syphon is extinguished;
- (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)

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 (xxvi) Section seventy-four:—

Sec. 74.

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 5. The Principal Act is further amended as follows:—

Further amendment of Act No. 44, 1912.

(i) Section one hundred and five: By inserting in its appropriate alphabetical position the following definition:—

Sec. 105.

35 “Board” means the Board constituted under section thirty of this Act 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 By omitting the definition of “Minister.”

(ii)

- Sec. 107. (ii) Section one hundred and seven : By omitting the word "Minister" wherever occurring and substituting the word "Commission."
- Sec. 108. (iii) Section one hundred and eight : By omitting the word "Minister" wherever occurring and substituting the word "Commission." 5
- Sec. 109. (iv) Section one hundred and nine : By omitting the words "Minister" and "he" wherever occurring and substituting the words "Commission" and "it" respectively. 10
- Sec. 110. (v) Section one hundred and ten : By omitting the word "Minister" wherever occurring and substituting the word "Commission."
- Sec. 111. (vi) Section one hundred and eleven : By omitting the word "Minister" and substituting the word "Commission." 15
- Sec. 113. (vii) Section one hundred and thirteen :—  
 By omitting the words "Commissioner for Water Conservation and Irrigation" and substituting the word "Commission." 20  
 By omitting the word "Minister" and substituting the word "Commission."  
 By adding the following paragraph at the end of the section :—  
 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. 25
- Sec. 114. (viii) Section one hundred and fourteen : By omitting the word "Minister" wherever occurring and substituting the word "Commission." 30
- New s. 115. (ix) Section one hundred and fifteen : By omitting the section and substituting the following section :—  
 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 : 35  
 Provided 40
- Issue of license.



- 5 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.
- (x) Section one hundred and sixteen:— Sec. 116.  
 By omitting the word "Minister" wherever occurring and substituting the word "Commission."
- 10 By inserting after the word "license" where secondly occurring the words "and on payment of the prescribed fee."
- By adding at the end of the section the following paragraph:—
- 15 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.
- 20 (xi) Section one hundred and twenty, subsection two:— Sec. 120.  
 By omitting the word "Minister" wherever occurring and substituting the word "Commission."
- 25 By omitting the word "him" where first occurring and substituting the word "it."
- By omitting the word "he" and substituting the words "the Commission."
- 30 (xii) Section one hundred and twenty-three: By Sec. 123.  
 By omitting the words "Minister" and "he" wherever occurring and substituting the words "Commission" and "it" respectively.
- 35 (xiii) Section one hundred and twenty-four:— sub-Sec. 124.  
 By omitting the word "Minister" and substituting the word "Commission."
- By omitting the word "him" wherever occurring and substituting the word "it."
- 40 (xiv) Section one hundred and twenty-nine: By Sec. 120.  
 By inserting at the end of paragraph (d) the following words:—"the fees payable in respect of licenses and renewals thereof; and"

