This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, March, 1978.

New South Wales



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Act No. , 1978.

An Act to constitute the Dams Safety Committee and to confer and impose on the Committee functions relating to the safety of certain dams.

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44698B 431-A

Act No. , 1978.

Dams Safety.

BE it enacted by the Queen'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 :----

PART I.

PRELIMINARY.

This Act may be cited as the "Dams Safety Act, 1978". 1. Short title.

2. (1) This section and section 1 shall commence on the Commencedate of assent to this Act. ment.

10 (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :---

Division of Act.

PART I.—PRELIMINARY—ss. 1-6.

PART II.—CONSTITUTION OF THE COMMITTEE—ss. 7-13.

PART III.—FUNCTIONS OF THE COMMITTEE—ss. 14-26.

PART IV.—GENERAL—ss. 27-32.

SCHEDULE 1.—PRESCRIBED DAMS.

20 SCHEDULE 2 .- PROVISIONS RELATING TO THE CONSTITU-TION AND PROCEDURE OF THE COMMITTEE.

4. (1) In this Act, except in so far as the context or subject- Interpretamatter otherwise indicates or requirestion.

"chairman" means the chairman of the Committee appointed under section 9:

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"Committee" means the Dams Safety Committee constituted under section 7:

"functions" includes powers, authorities and duties;

"member" means a member of the Committee;

"owner", in relation to a dam, means any person or public authority who, whether solely or with some other person or public authority, owns, controls, operates, manages or maintains the dam and includes any person or public authority who, whether solely or with some other person or public authority, proposes to build a dam;

"prescribed dam" means a dam, or proposed dam, for the time being specified or described in Schedule 1;

"public authority" means any public or local authority constituted by or under an Act other than this Act;

"regulation" means a regulation made under this Act.

(2) A reference in this Act to the exercise of a function includes, where the function is a duty, the performance of that duty.

This Act, section 30 excepted, binds the Crown not only in Act binds
 right of New South Wales but also, so far as the legislative power Crown.
 of Parliament permits, the Crown in all its other capacities.

6. Nothing in this Act derogates from or affects the liability Liability of any person arising from any act or omission of that person, of certain persons not his servants or agents with respect to a prescribed dam.

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Act No. , 1978.

Dams Safety.

PART II.

CONSTITUTION OF THE COMMITTEE.

7. (1) There is hereby constituted a corporation under the The corporate name of the "Dams Safety Committee".

5 (2) The Committee is, for the purposes of any Act, a statutory body representing the Crown.

(3) In the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister or any other person), the Committee shall be subject in 10 all respects to the control and direction of the Minister.

8. (1) The Committee shall consist of 8 part-time members Members. appointed by the Minister.

(2) The members shall be—

- (a) a person nominated by the Electricity Commission of New South Wales constituted under the Electricity Commission Act, 1950;
- (b) a person nominated by the Metropolitan Water Sewerage and Drainage Board constituted under the Metropolitan Water, Sewerage, and Drainage Act, 1924;
- (c) a person nominated by the Water Resources Commission constituted under the Water Resources Commission Act, 1976;
 - (d) a person nominated by the Hunter District Water Board constituted under the Hunter District Water, Sewerage and Drainage Act, 1938;
 - (e) a person nominated by the Minister administering the Public Works Act, 1912;
 - (f) 2 persons nominated by the Federal Council of the Institution of Engineers, Australia; and
- (g) a person nominated by the Minister administering the Mining Act, 1973.

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(3) A person shall not be nominated for appointment as a member unless he is an engineer who, in the opinion of the person making the nomination, is experienced in dam engineering.

(4) Where, for the purposes of subsection (2), a nomi-5 nation of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint any engineer who, in the opinion of the Minister, is experienced in dam engineering to be a 10 member instead of the person required to be appointed on that nomination.

(5) Nothing in subsection (3) or (4) prevents the nomination or appointment of a person who is not an engineer and who is not, in the opinion of the person making the nomination or 15 appointment, experienced in dam engineering as the member referred to in subsection (2) (g).

9. The Minister shall appoint one of the members as chairman Chairman. of the Committee.

10. Schedule 2 has effect.

Provisions relating to the constitution and procedure of the Committee.

20 11. For the purpose of exercising its functions, the Committee Committee may, with the approval of the Minister and of the Department or may make use of public authority concerned and on such terms as may be arranged, facilities make use of the facilities, or the services of any officers, employees and employees of or servants, of any Department of the Government or of any public Crown, etc. 25 authority.

12. (1) The Committee may establish standing or special Subsub-committees for the purpose of advising the Committee in the committees. exercise of its functions under this Act and may appoint as a

member of any such sub-committee any person who, in its opinion, appears to be qualified to be a member of that sub-committee, whether or not he is a member of the Committee.

(2) The Committee shall appoint one of the members of5 a sub-committee established under subsection (1) to be chairman of the sub-committee and any such sub-committee may, subject to subsection (3) and to any directions of the Committee, regulate its procedure in such manner as it thinks fit.

(3) The Committee may specify the number of persons10 who shall constitute a quorum of a sub-committee established under this section.

13. (1) There shall be established in the Special Deposits Dams Safety Account in the Treasury a Dams Safety Committee Account into Committee Account. which shall be deposited all money received by the Committee
 15 and from which shall be paid all amounts required to meet expenditure incurred in accordance with the provisions of this Act.

(2) The Treasurer may, out of money provided by Parliament, from time to time make such contributions to the funds of the Committee as may be determined by the Treasurer.

PART III.

FUNCTIONS OF THE COMMITTEE.

14. The functions of the Committee are—

Functions of Com-

- (a) to maintain a surveillance of prescribed dams, the of Comenvirons under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams to ensure the safety of prescribed dams;
- (b) to examine and investigate the location, design, construction, reconstruction, extension, modification, operation and maintenance of prescribed dams, the environs under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams:

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- (c) to obtain information and keep records on matters relating to the safety of dams;
- (d) to formulate measures to ensure the safety of dams;
- (e) to make such reports or recommendations to the Minister or any other person in relation to the safety of prescribed dams as the Committee considers necessary or appropriate;
- (f) to make reports and recommendations with respect to the prescription of dams for the purposes of this Act;
- (g) to exercise such other functions as are conferred or imposed on the Committee by or under this or any other Act or the regulations; and
 - (h) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions.

15. (1) The Committee may, by notice in writing, require the Keeping and furnishowner of a prescribed dam specified in the notice to do either or and furnishoth of the following things :—

- (a) make such observations, take such measurements and keep such records of or in respect of the prescribed dam, the environs over, under and surrounding the prescribed dam and the water or other material impounded by the prescribed dam as may be specified in the notice;
- (b) furnish to the Committee in respect of the prescribed dam such information and such books, plans, documents or other papers and such films, tapes or other records as may be specified or described in the notice,

and the owner shall comply with the requirement.

(2) Where an owner of a prescribed dam fails to comply30 with the requirement of a notice under subsection (1), the Committee may exercise the functions referred to in subsection (1) (a) in respect of the prescribed dam and recover the costs and expenses of or incidental thereto from the owner as a debt in any court of competent jurisdiction.

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16. (1) In this section, a reference to land comprising a dam Entry, inincludes a reference to the water or other material impounded by spection, the dam.

(2) The Committee may authorise a person, in writing,5 to carry out inspections, for the purposes of this Act, of any dam.

(3) A person authorised under subsection (2) may enter any land or any place on any land comprising any dam or the environs over, under or surrounding any dam and may thereon or therein carry out such inspections, tests, investigations, surveys,
10 experiments, boring, drilling and exploration, and take such samples and such photographs, as he considers necessary in connection with the administration of this Act.

(4) A person authorised under subsection (2) shall not, in relation to any land or any place on any land, exercise any of 15 the functions conferred by subsection (3) unless reasonable notice has been given to the owner or occupier of the land or place of the intention to exercise those functions.

(5) In addition to the requirements of subsection (4), a person authorised under subsection (2) shall not exercise any of 20 the functions conferred by subsection (3)—

- (a) in relation to any land or any place on any land which comprises a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act unless—
 - (i) reasonable notice has been given to the Chief Inspector of Coal Mines appointed as referred to in that Act of the intention to exercise those functions; and
 - (ii) the person is accompanied by the Chief Inspector of Coal Mines or a person nominated by that Chief Inspector in the exercise of those functions; or

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- (b) in relation to any land or any place on any land which comprises a mine within the meaning of the Mining Act, 1973, unless-
 - (i) reasonable notice has been given to the Chief Inspector of Mines within the Department of Mines of the intention to exercise those functions; and
 - (ii) the person is accompanied by the Chief Inspector of Mines or a person nominated by that Chief Inspector in the exercise of those functions.

(6) In the exercise of a function conferred by subsection (3), the Committee shall ensure that no more damage than may be necessary in the circumstances is inflicted and shall fully compensate any person who sustains damage in the course of the 15 exercise of that function.

(7) A person authorised under subsection (2), in exercising a function conferred by subsection (3) in relation to any land or any place on any land, shall, if so required by a person apparently in charge of that land or place produce the instrument 20 of his authority to that person.

17. A person shall not obstruct, hinder or interfere with a Obstruction person authorised under section 16 (2) in the exercise of his of authorised functions under section 16. person.

(1) Where it appears to the Committee that a prescribed Giving of 18. 25 dam is unsafe or is in danger of becoming unsafe, the Committee notices to may, by notice in writing, require the owner of the prescribed dam safety of to do such things as are specified or described in the notice as may prescribed dams. be reasonably necessary to ensure the safety of the prescribed dam.

(2) Where it appears to the Committee that anything 30 done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by the owner of the prescribed dam or any other person may endanger the safety of the prescribed

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dam, the Committee may, by notice in writing, require the owner or other person, as the case may be, to do such things as are specified or described in the notice as may be reasonably necessary to ensure the safety of the prescribed dam and the owner or other5 person shall comply with the requirement.

(3) A notice under subsection (2) requiring the cessation of any work or activity being done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by a person other than the owner of the prescribed dam shall 10 not be given without the approval of—

(a) except as provided by paragraph (b), the Minister; or

(b) where the work or activity relates to the operation of—

- (i) a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act; or
- (ii) a mine within the meaning of the Mining Act, 1973,

the Premier.

19. (1) The Committee may, and if directed to do so by the Inquiries.20 Minister shall, conduct an inquiry into any matter relating to the safety of a prescribed dam.

(2) The Committee may, by order in writing, authorise, on such terms and conditions as are specified in the order—

(a) a sub-committee established under section 12; or

(b) with the approval of the Minister, any other person,

to examine, and report to the Committee on, any matter in connection with an inquiry (including an inquiry that the Minister has directed to be conducted).

(3) Nothing in this section shall be construed as limiting the power of the Committee to conduct an examination in connection with an inquiry under this section and the Committee may conduct such an examination notwithstanding that it has authorised 5 another body or person to do so.

20. (1) A body or person conducting an inquiry or exami-Evidence at nation under section 19 may require a person, by notice in inquiry. writing—

(a) within such reasonable time as may be specified in the notice, to furnish to that body or person such information and to produce to that body or person such books, plans, documents or other papers and such films, tapes or other records in his possession or under his control as may be required for the purpose of the inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise; or

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(b) to attend, at a time and place specified in the notice, before that body or person and thereafter from time to time as required by that body or person to give evidence concerning any matter the subject of the inquiry or examination, as the case may be, and to produce all such books, plans, documents or other papers and such films, tapes or other records in his possession or under his control as may be required for the purpose of that inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise.

(2) A body or person conducting an inquiry or examination under section 19 may, subject to section 13 of the Oaths Act, 1900, require any evidence referred to in subsection (1) (b)
30 to be given on oath, and either in writing or orally, and for that purpose—

(a) where the inquiry or examination is being conducted by a body, the person presiding at the inquiry or examination; or

(b) where the inquiry or examination is being conducted by a person, that person,

may administer an oath.

(3) A person shall not neglect or refuse to comply with 5 the requirements of a notice served on him under this section.

(4) A person shall not—

- (a) furnish any information referred to in subsection (1)
 (a) required of him pursuant to a notice served on him under subsection (1) that is false or misleading in a material particular; or
- (b) give any evidence referred to in subsection (1) (b) that is false or misleading in a material particular.

(5) It is a sufficient defence to a prosecution arising under subsection (4) if the defendant proves that he believed the truth15 of the information or evidence given by him and that it was given in good faith.

21. (1) Where—

State of emergency.

- (a) a prescribed dam has collapsed or failed, in whole or in part; or
- 20 (b) the Minister, whether or not any recommendation in that behalf has been made to him by the Committee, is of the opinion that a prescribed dam is liable to collapse or failure, in whole or in part,

the Minister may, by order in writing, declare that a state of 25 emergency exists in respect of the prescribed dam.

(2) An order made under subsection (1) shall take effect from the making thereof or from a later date specified in the order and shall, unless sooner revoked, continue in force for such period as is specified in the order.

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(3) An order made under subsection (1) shall be published in the Gazette as soon as practicable.

22. Without limiting or restricting the functions conferred or Functions of imposed on the Committee under the other provisions of this Act, Committee in state of
5 where an order made under section 21 (1) is in force, the emergency. Committee shall, at the direction or with the approval of the Minister, do any one or more of the following things in relation to the prescribed dam to which the order applies :---

- (a) take full charge and control of the prescribed dam, the environs under, over and surrounding the prescribed dam and the water or other material impounded by the prescribed dam;
- (b) release or discharge the whole or such part as the Committee thinks fit of the water or other material impounded by the prescribed dam;
- (c) carry out all such works and do all such things as, in the opinion of the Committee, are necessary to render the prescribed dam safe;
- (d) demolish or remove the whole or any part of the prescribed dam or any work or structure on the prescribed dam, the water or other material impounded by the prescribed dam or the environs under, over or surrounding the prescribed dam;
- (e) take such other action as the Minister directs or approves.

23. The Committee may recover the costs and expenses Recovery incurred by it in the exercise of its functions under section 22 in of costs and expenses. respect of a prescribed dam from the owner of the prescribed dam as a debt in any court of competent jurisdiction.

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(1) The Committee may make and enter into contracts Contracts. 24. with any person for the carrying out of works, the performance of services or the supply of goods or materials in connection with the exercise by the Committee of its functions.

(2) A contract under this section shall be deemed for 5 the purposes of the Constitution Act. 1902, to be a contract for or on account of the Public Service of New South Wales.

25. (1) The Committee may enter into an arrangement or Arrangements with agreement with any public authority that-

public authorities.

- (a) the public authority shall act as agent of the Committee for the purposes of this Act: or
 - (b) the Committee shall act as agent of the public authority for the purposes of this Act,

on such terms and conditions as may be agreed upon between the 15 Committee and the public authority.

(2) Notwithstanding anything in any other Act, any public authority is hereby authorised and empowered to enter into arrangements or agreements referred to in subsection (1) and may do or suffer anything necessary or expedient for carrying out any 20 such arrangements or agreements.

26. The Committee may enter into arrangements with-

(b) a university or another tertiary institution; or

Arrangements for

- (a) a Minister of the Crown of any State, a Minister of investiga-State of the Commonwealth or a Department or instrumentality of the Commonwealth or of any State;
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(c) any other body or person,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

PART IV.

GENERAL.

27. (1) The Governor may, by proclamation published in the Amend-Gazette, amend Schedule 1—

- (a) by omitting therefrom the name of a prescribed dam and any matter relating to the description or location of the prescribed dam;
 - (b) by inserting therein the name of a dam and matter relating to the description or location of that dam; or
- (c) by altering the name of a prescribed dam or any other matter appearing in Schedule 1.

(2) The Governor may, by proclamation published in the Gazette, amend this Act by omitting Schedule 1 and by inserting instead a Schedule containing the names and locations of dams.

15 28. (1) The Committee may, by resolution, delegate to—

Delegation.

(a) a member; or

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(b) an officer, employee or servant of a Department of the Government or of a public authority,

the exercise of such of the Committee's functions (other than this 20 power of delegation) as may be specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

(2) A function, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the 25 delegation.

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise of any of the functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Committee may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while5 acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Committee and shall be deemed to have been done or suffered by the Committee.

(6) An instrument purporting to be signed by a delegate10 of the Committee in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Committee under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Committee under this15 section.

29. A notice or other document requiring authentication by the Authenti-Committee may be sufficiently authenticated without the seal of documents. the Committee if signed by the chairman.

30. A person who contravenes or fails to comply with any pro- Offences.20 vision of this Act or a notice given by the Committee under this Act shall be guilty of an offence and liable to a penalty not exceeding \$1,000.

31. Any penalty imposed by this Act or the regulations may be proceed-recovered in a summary manner before a court of petty sessions ings for offences.
 25 constituted by a stipendiary magistrate sitting alone.

32. (1) The Governor may make regulations, not inconsistent Regulawith this Act, for or with respect to any matter that by this Act is ^{tions.} required or permitted to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the procedure for the calling of, and for the conduct of business at, meetings of the Committee;
 - (b) the travelling expenses and the compensation to be paid to persons attending or giving evidence at an inquiry or examination as referred to in section 20; and
- (c) the remuneration, travelling and subsistence allowances to be paid to members, not being members of the Committee, of a sub-committee established under section 12.

(2) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person 15 specified therein, either generally or for any class of cases or in a particular case.

(3) A regulation may be made so as to apply differently according to such factors as may be specified in the regulation.

(4) A regulation may impose a penalty not exceeding 20 \$500 for any offence against the regulation.

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Act No. , 1978.

Dams Safety.

SCHEDULE 1.

PRESCRIBED DAMS.

PART 1.

DAMS OTHER THAN CERTAIN LICENSED DAMS.

5	Name of L	Dam	Location of Dam
10	Aberdare South Abermain No. 2 Avon Back Creek Bargo Weir Barraba	··· ·· ·· ··	Deep Creek near Cessnock Avon River near Bargo. Back Creek near Crookwell. Bargo River near Bargo. Connors Creek near Barraba.
15	Beardy Waters Beargamil Ben Boyd Ben Chifley Bendeela Pondage Bethungra		Beargamii Creek near Parkes. Off-stream storage near Eden. Campbells River near Bathurst. Off-stream storage near Nowra. Wandalybengle Creek near Bethungra.
	Blowering Blue Creek		Tumut River near Tumut. Blue Creek near Wauchope.
20	Bogan River Wein		Bogan River near Nyngan.
20	Bogolong Bootawa Borenore Creek	··· ·· ·· ··	Bogolong Creek near Grenfell. Off-stream storage near Taree. Borenore Creek near Molong.
25	Brogo Broughtons Pass Bumberry Bundanoon	·· ·· ·· ··	Brogo River near Bega. Cataract River near Wilton. Goobang Creek near Parkes. Bundanoon Creek near Moss Vale.
30	Burrendong Burrinjuck Captains Flat Carcoar Cascade No. 1	·· ·· ·· ·· ·· ·· ·· ·· ·· ·· ·· ·· ··	Macquarie River near Wellington. Murrumbidgee River near Yass. Molonglo River near Captains Flat. Belubula River near Carcoar. Cascade Creek near Katoomba.
35	Cascade No. 2 Cascade No. 3 Cataract Centennial Park No. 1.		Cascade Creek near Katoomba. Cascade Creek near Katoomba. Cataract River near Bulli. Centennial Park.
40	Cessnock No. 1 Chaffey Chichester Cobar Cochrane	··· ·· ·· ·· ·· ··	Wollombi Creek near Cessnock. Peel River near Tamworth. Chichester River near Dungog. Off-stream storage near Cobar. Bemboka River near Bemboka.
45	Coeypolly Creek N Coeypolly Creek N Colongra Creek A Cootamundra Copeton	No. 2 sh	Coeypolly Creek near Werris Creek. Coeypolly Creek near Quirindi. Colongra Creek near Doyalson. Off-stream storage near Cootamundra. Gwydir River near Inverell.
50	Cordeaux . Cullen Bullen Curringham . Danjerra Dumaresq	··· ·· ·· ··	Cordeaux River near Wilton. Delhuntys Creek near Cullen Bullen. Harden. Danjerra Creek near Nowra. Dumaresq Creek near Armidale.

Secs. 4 (1), definition of "prescribed" dam", 27.

SCHEDULE 1—continued.

PRESCRIBED DAMS—continued.

	Name of Dan	m		Location of Dam	
_	Dungowan			Dungowan Creek near Nundle.	241 -
3	Emigrant Creek	• •		Emigrant Creek near Ballina.	
				Yarrunga Creek near Moss Vale.	
				Flat Rock Creek near Nowra.	
	Fountandale Creek			Fountandale Creek near Kiama.	
0	Foybrook Open Cu	t		Singleton.	
U	Gara		· ·	Gara River near Armidale.	
	Glenbawn	• •		Hunter River near Scone.	
	Glenquarry Cut	• •	• •	Off-stream storage near Moss Vale.	
	Grahamstown	••		Off-stream storage near Raymond Terrace.	
_	Greaves Creek	••		Greaves Creek near Blackheath.	
5	Guyra	• •	• •	Gara River near Guyra.	
			• •	Illalong Creek near Binalong.	
	Imperial	••		Willa-Willyong Creek near Broken Hill.	
	* **	••			
~	Inverell	•••		Macintyre River near Inverell.	
)	Jerrara Creek	••		Jerrara Creek near Kiama.	
	Junction Reef	••			
		••		Off-stream storage near Coff's Harbour.	
		• •	• •	Namoi River near Gunnedah,	
_	Kentucky Creek	••			
5	Koorawatha		• •	Bang Bang Creek near Koorawatha.	
		••	• •	Molong Creek near Orange.	
	* 1 ** 11	••		Billabong Creek near Parkes.	
		• •		Wall's Creek near Medlow Bath.	
				Coombing Rivulet near Carcoar.	
0	Liddell Ash Disposa	al	• •	Saltwater Creek near Muswellbrook.	
	Liddell Cooling Water			Gardiners Creek near Muswellbrook.	
	Liddell Water Supp	ly	• •	Tinkers Creek near Muswellbrook.	
	Lithgow No. 1	• •	• •	Farmer's Creek near Lithgow.	
	Lithgow No. 2	••		Farmer's Creek near Lithgow.	
5			• •	Off-stream storage near Liverpool.	
	Maldon weir	••	• •	Nepean River near Picton.	
		••		Gara River near Armidale.	
		• :	• •	Curl Curl Creek near Manly Vale.	
	Mannering Creek A		• •	Mannering Creek near Wyee.	
0	Mardi		• •	Off-stream storage near Wyong.	
~	Medway	••	• •	Medway River near Berrima.	
	Mooney No. 2			Mooney Mooney Creek near Gosford.	
	THE OTHER OTHER	••	• •	Moores Creek near Tamworth.	
	Narrara	••	• •	Gosford.	
5	Nattai Creek		• •	Nattai Creek near Mittagong.	
-	Nepean	••	• •	Nepean River near Bargo.	
	Newston Washery	••		Wakefield.	
	Oaky River	••	••		
	Oberon	••	••	Fish River near Oberon.	
0	Pejar	••		Wollondilly River near Goulburn.	
1	Pheasants Nest		• •		
	Pindari	••	• •		
	Port Macquarie Porters Creek	••	• •	Off-stream storage near Port Macquarie. Porters Creek near Milton.	

SCHEDULE 1—continued.

PRESCRIBED DAMS-continued.

	Name of Dam	Location of Dam					
5	Potts Hill Reservoir No. 1 Potts Hill Reservoir No. 2 Pressure No. 1 Prospect	Off-stream storage near Lidcombe. Off-stream storage near Lidcombe. Emmaville. Prospect Creek at Prospect.					
10	Puddledock Creek Redbank Creek Rocky Creek Rydal	Puddledock Creek near Armidale. Redbank Creek near Mudgee. Rocky Creek near Lismore. Off-stream storage near Rydal.					
15	Ryistone Seaham Sooley Spring Creek Stanwell No. 2 Stephens Creek	Cudgegong River near Rylstone. Williams River near Raymond Terrace. Sooley Creek near Goulburn. Spring Creek near Orange. Stanwell Creek near Stanwell Park. Stephens Creek near Broken Hill.					
20	Suma Park	Summerhill Creek near Orange. Dapto. Shoalhaven River near Nowra. Tenterfield Creek near Tenterfield.					
25	Thornleigh Reservoir Three Mile Timor Toonumbar Tumbarumba	Off-stream storage at Thornleigh. Three Mile Creek near Kiandra. Castlereagh River near Coonabarabran. Iron Pot Creek near Kyogle. Off-stream storage near Tumbarumba.					
	Umberumberka Upper Cordeaux No. 1 Upper Cordeaux No. 2 Upper Mooney Wallerawang Ash Wangi Ash Warragamba	Umberumberka Creek near Silverton. Cordeaux River near Wollongong. Cordeaux River near Wollongong. Mooney Mooney Creek near Gosford. Wallerawang. Crooked Creek near Wangi. Warragamba River near Warragamba.					
33	Warragamba Balance Reservoir. Warragamba Weir Welcome Reef Wilson River Weir	Off-stream storage near Warragamba. Warragamba River near Wallacia. Shoalhaven River near Braidwood.					
40	WinburndaleWindamereWingecarribeeWoodford	Wilson River near Mullumbimby. Winburndale Rivulet near Bathurst. Cudgegong River near Mudgee. Wingecarribee River near Moss Vale. Woodford Creek near Woodford.					
45	WoolgoolgaWoronoraWyangalaWyee(Unnamed)	Off-stream storage near Woolgoolga. Woronora River near Waterfall. Lachlan River near Cowra. Mannering Creek near Wyee. Quart Pot Creek near Thornton.					

PART 2.

DAMS CONSTRUCTED OR USED PURSUANT TO A LICENSE ISSUED UNDER PART II OF THE WATER ACT, 1912.

5	License No.	Licensee	Location of Dam		
10	30400 36940 37572 38404 38780	 Red Gable Pty. Limited Ranges Valley Cattle Station Pty. Limited. The New Zealand Australian Land Co. Limited. Coal Cliff Colliery Pty. Limited No. 2 Fleurs Pty. Limited 	Glen Innes.		

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SCHEDULE 2.

Sec. 10.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE.

1. A person who is of or above the age of 70 years shall not be appointed Age of as a member or to act in the office of a member under clause 5.

20 2. (1) A member shall, subject to this Act, be appointed for such term, Term of not exceeding 4 years, as is specified in the instrument of his appointment. office of member.

(2) A member shall, if otherwise qualified, be eligible for reappointment from time to time for such term, not exceeding 4 years, as is specified in the instrument of his re-appointment.

3. (1) Where, by or under any Act, provision is made requiring the Member holder of an office specified therein to devote the whole of his time to the holding duties of his office, that provision shall not operate to disqualify him from office under holding that office and also the office of a member or from accepting and other retaining any remuneration, travelling or subsistence allowance payable to Acts.
 30 a member under clause 4.

(2) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

SCHEDULE 2-continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

4. Each member is entitled to be paid such remuneration (including Remuner-5 travelling and subsistence allowances) as the Minister may from time to ation of time determine in respect of him. and allowances for

5. (1) The Minister may appoint any person to act in the office of a Appointmember while the member is absent from his office through illness or any ment of other cause, and that person while so acting-

substitutes to act (a) shall have and may exercise the functions of the member in whose during period of absence of member.

members.

office he is apointed to act: and (b) shall be deemed to be the member.

(2) A member is, for the purposes of subclause (1) of this clause. deemed to be absent from his office if there is a vacancy in that office 15 which has not been filled in accordance with clause 8.

(3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences 20 as if they had been done or omitted to be done by that member.

6. (1) A deputy chairman of the Committee shall be elected by the Deputy members at the first meeting held after 1st January in each year, or chairman. whenever there is a vacancy in the office of the deputy chairman, and the deputy chairman shall hold office until the first meeting in the year follow-25 ing that in which he was elected.

(2) A deputy chairman is eligible for re-election from time to time.

(3) Where the chairman is absent from his office through illness or any other cause the deputy chairman shall act as the chairman.

(4) Where a member who is deputy chairman is absent from his 30 office through illness or any other cause the Minister may appoint some other member to act as deputy chairman during that absence.

7. (1) A member shall be deemed to have vacated his office-

Vacation of office.

- (a) if he dies;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;

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SCHEDULE 2—continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

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(c) if he is absent from 4 consecutive ordinary meetings of the Committee of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or, unless before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;

- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
 - (f) if he resigns his office by writing under his hand addressed to the Minister;
 - (g) if he declines office;
 - (h) if he is removed from office by the Minister; or
 - (i) upon his attaining the age of 70 years.

(2) The Minister may, for any cause which to him seems sufficient, 25 remove any member from office.

8. (1) On the occurrence of a vacancy in the office of a member, Filling the Minister may appoint a person to the vacant office for the balance of casual of his predecessor's term of office.

(2) A person appointed under subclause (1) of this clause shall be 30 a person who holds the same qualifications, and is nominated in the same manner, if any, as the member whose office has become vacant was qualified and nominated.

 The number of members which shall constitute a quorum at any Quorum. meeting of the Committee is 4, of whom one shall be the chairman or the
 deputy chairman.

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SCHEDULE 2—continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

10. (1) Any duly convened meeting of the Committee at which a Meetings.5 quorum is present shall be competent to transact any business of the Committee.

(2) Questions arising at a meeting of the Committee shall be determined by a majority of votes of the members present and voting.

(3) The chairman shall preside at all meetings of the Committee 10 at which he is present.

(4) If the chairman is not present at a meeting of the Committee, the deputy chairman shall preside.

(5) The person presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting 15 vote.

11. The Committee shall cause full and accurate minutes to be kept of Minutes. its proceedings at meetings, and submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

20 12. The procedure for the calling of, and for the conduct of business General at, meetings of the Committee shall, subject to any procedure that is procedure. specified in this Act or is prescribed, be as determined by the Committee.

13. (1) No matter or thing done, and no contract entered into, by the Protection Committee, and no matter or thing done by a member or by any other from
25 person acting under the direction or as delegate of the Committee shall, liability. if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the member or person personally to any action, liability, claim or demand.

(2) Nothing in subclause (1) of this clause exempts any member30 or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Committee and which the member or other person authorised or joined in authorising.

SCHEDULE 2-continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

14. In proceedings by or against the Committee no proof shall be Presump-5 required (until evidence is given to the contrary) of—

(a) the constitution of the Committee;

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- (b) any resolution of the Committee;
- (c) the appointment of any member; or
- (d) the presence of a quorum at any meeting of the Committee.

BY AUTHORITY D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES-1978



This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

Legislative Assembly Chamber, Sydney, March, 1978.

New South Wales

ANNO VICESIMO SEPTIMO ELIZABETHÆ II REGINÆ

Act No. , 1978.

An Act to constitute the Dams Safety Committee and to confer and impose on the Committee functions relating to the safety of certain dams.

44698B 431—A

Act No. , 1978.

Dams Safety.

BE it enacted by the Queen'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 :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Dams Safety Act, 1978". Short title.

2. (1) This section and section 1 shall commence on the Commencedate of assent to this Act.

10 (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :---

Division of Act.

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PART I.—PRELIMINARY—SS. 1–6. PART II.—CONSTITUTION OF THE COMMITTEE—SS. 7–13. PART III.—FUNCTIONS OF THE COMMITTEE—SS. 14–26. PART IV.—GENERAL—SS. 27–32. SCHEDULE 1.—PRESCRIBED DAMS.

20 SCHEDULE 2.—Provisions Relating to the Constitution and Procedure of the Committee.

4. (1) In this Act, except in so far as the context or subject-Interpretamatter otherwise indicates or requires—

"chairman" means the chairman of the Committee appointed under section 9;

"Committee" means the Dams Safety Committee constituted under section 7;

"functions" includes powers, authorities and duties;

"member" means a member of the Committee;

"owner", in relation to a dam, means any person or public authority who, whether solely or with some other person or public authority, owns, controls, operates, manages or maintains the dam and includes any person or public authority who, whether solely or with some other person or public authority, proposes to build a dam;

"prescribed dam" means a dam, or proposed dam, for the time being specified or described in Schedule 1;

"public authority" means any public or local authority constituted by or under an Act other than this Act;

"regulation" means a regulation made under this Act.

(2) A reference in this Act to the exercise of a function includes, where the function is a duty, the performance of that duty.

This Act, section 30 excepted, binds the Crown not only in Act binds
 right of New South Wales but also, so far as the legislative power Crown.
 of Parliament permits, the Crown in all its other capacities.

6. Nothing in this Act derogates from or affects the liability Liability of any person arising from any act or omission of that person, of certain persons not his servants or agents with respect to a prescribed dam.

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Act No. , 1978.

Dams Safety.

PART II.

CONSTITUTION OF THE COMMITTEE.

7. (1) There is hereby constituted a corporation under the The corporate name of the "Dams Safety Committee".

5 (2) The Committee is, for the purposes of any Act, a statutory body representing the Crown.

(3) In the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister or any other person), the Committee shall be subject in 10 all respects to the control and direction of the Minister.

8. (1) The Committee shall consist of 8 part-time members Members. appointed by the Minister.

(2) The members shall be—

- (a) a person nominated by the Electricity Commission of New South Wales constituted under the Electricity Commission Act, 1950;
- (b) a person nominated by the Metropolitan Water Sewerage and Drainage Board constituted under the Metropolitan Water, Sewerage, and Drainage Act, 1924;
- (c) a person nominated by the Water Resources Commission constituted under the Water Resources Commission Act, 1976;
 - (d) a person nominated by the Hunter District Water Board constituted under the Hunter District Water, Sewerage and Drainage Act, 1938;
 - (e) a person nominated by the Minister administering the Public Works Act, 1912;
 - (f) 2 persons nominated by the Federal Council of the Institution of Engineers, Australia; and
- (g) a person nominated by the Minister administering the Mining Act, 1973.

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(3) A person shall not be nominated for appointment as a member unless he is an engineer who, in the opinion of the person making the nomination, is experienced in dam engineering.

(4) Where, for the purposes of subsection (2), a nomi-5 nation of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint any engineer who, in the opinion of the Minister, is experienced in dam engineering to be a 10 member instead of the person required to be appointed on that nomination.

(5) Nothing in subsection (3) or (4) prevents the nomination or appointment of a person who is not an engineer and who is not, in the opinion of the person making the nomination or 15 appointment, experienced in dam engineering as the member referred to in subsection (2) (g).

9. The Minister shall appoint one of the members as chairman Chairman. of the Committee.

10. Schedule 2 has effect.

Provisions relating to the constitution and procedure of the Committee.

20 11. For the purpose of exercising its functions, the Committee Committee may, with the approval of the Minister and of the Department or may make use of public authority concerned and on such terms as may be arranged, facilities make use of the facilities, or the services of any officers, employees and employees of or servants, of any Department of the Government or of any public Crown, etc.
 25 authority.

12. (1) The Committee may establish standing or special Subsub-committees for the purpose of advising the Committee in the committees. exercise of its functions under this Act and may appoint as a

member of any such sub-committee any person who, in its opinion, appears to be qualified to be a member of that sub-committee, whether or not he is a member of the Committee.

- (2) The Committee shall appoint one of the members of5 a sub-committee established under subsection (1) to be chairman of the sub-committee and any such sub-committee may, subject to subsection (3) and to any directions of the Committee, regulate its procedure in such manner as it thinks fit.
- (3) The Committee may specify the number of persons10 who shall constitute a quorum of a sub-committee established under this section.

13. (1) There shall be established in the Special Deposits Dams Safety Account in the Treasury a Dams Safety Committee Account into Committee Account into Account. which shall be deposited all money received by the Committee
 15 and from which shall be paid all amounts required to meet expenditure incurred in accordance with the provisions of this Act.

(2) The Treasurer may, out of money provided by Parliament, from time to time make such contributions to the funds of the Committee as may be determined by the Treasurer.

PART III.

FUNCTIONS OF THE COMMITTEE.

14. The functions of the Committee are—

Functions of Com-

- (a) to maintain a surveillance of prescribed dams, the of Committee. environs under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams to ensure the safety of prescribed dams;
- (b) to examine and investigate the location, design, construction, reconstruction, extension, modification, operation and maintenance of prescribed dams, the environs under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams;

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- (c) to obtain information and keep records on matters relating to the safety of dams;
- (d) to formulate measures to ensure the safety of dams;
- (e) to make such reports or recommendations to the Minister or any other person in relation to the safety of prescribed dams as the Committee considers necessary or appropriate;
- (f) to make reports and recommendations with respect to the prescription of dams for the purposes of this Act;
- (g) to exercise such other functions as are conferred or imposed on the Committee by or under this or any other Act or the regulations; and
 - (h) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions.

15. (1) The Committee may, by notice in writing, require the Keeping and furnishowner of a prescribed dam specified in the notice to do either or and furnishoth of the following things :—

(a) make such observations, take such measurements and

- keep such records of or in respect of the prescribed dam, the environs over, under and surrounding the prescribed dam and the water or other material impounded by the prescribed dam as may be specified in the notice;
- (b) furnish to the Committee in respect of the prescribed dam such information and such books, plans, documents or other papers and such films, tapes or other records as may be specified or described in the notice,

and the owner shall comply with the requirement.

(2) Where an owner of a prescribed dam fails to comply30 with the requirement of a notice under subsection (1), the Committee may exercise the functions referred to in subsection (1) (a) in respect of the prescribed dam and recover the costs and expenses of or incidental thereto from the owner as a debt in any court of competent jurisdiction.

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16. (1) In this section, a reference to land comprising a dam Entry, inincludes a reference to the water or other material impounded by spection, testing, etc.

(2) The Committee may authorise a person, in writing,5 to carry out inspections, for the purposes of this Act, of any dam.

(3) A person authorised under subsection (2) may enter any land or any place on any land comprising any dam or the environs over, under or surrounding any dam and may thereon or therein carry out such inspections, tests, investigations, surveys,10 experiments, boring, drilling and exploration, and take such samples and such photographs, as he considers necessary in connection with the administration of this Act.

(4) A person authorised under subsection (2) shall not, in relation to any land or any place on any land, exercise any of 15 the functions conferred by subsection (3) unless reasonable notice has been given to the owner or occupier of the land or place of the intention to exercise those functions.

(5) In addition to the requirements of subsection (4), a person authorised under subsection (2) shall not exercise any of 20 the functions conferred by subsection (3)—

- (a) in relation to any land or any place on any land which comprises a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act unless—
 - (i) reasonable notice has been given to the Chief Inspector of Coal Mines appointed as referred to in that Act of the intention to exercise those functions; and
 - (ii) the person is accompanied by the Chief Inspector of Coal Mines or a person nominated by that Chief Inspector in the exercise of those functions; or

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- (b) in relation to any land or any place on any land which comprises a mine within the meaning of the Mining Act, 1973, unless—
 - (i) reasonable notice has been given to the Chief Inspector of Mines within the Department of Mines of the intention to exercise those functions; and
 - (ii) the person is accompanied by the Chief Inspector of Mines or a person nominated by that Chief Inspector in the exercise of those functions.

(6) In the exercise of a function conferred by subsection(3), the Committee shall ensure that no more damage than may be necessary in the circumstances is inflicted and shall fully compensate any person who sustains damage in the course of the 15 exercise of that function.

(7) A person authorised under subsection (2), in exercising a function conferred by subsection (3) in relation to any land or any place on any land, shall, if so required by a person apparently in charge of that land or place produce the instrument 20 of his authority to that person.

17. A person shall not obstruct, hinder or interfere with a Obstruction person authorised under section 16 (2) in the exercise of his of authorised functions under section 16.

18. (1) Where it appears to the Committee that a prescribed Giving of
 25 dam is unsafe or is in danger of becoming unsafe, the Committee notices to ensure may, by notice in writing, require the owner of the prescribed dam safety of to do such things as are specified or described in the notice as may prescribed dams.

(2) Where it appears to the Committee that anything30 done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by the owner of the prescribed dam or any other person may endanger the safety of the prescribed

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dam, the Committee may, by notice in writing, require the owner or other person, as the case may be, to do such things as are specified or described in the notice as may be reasonably necessary to ensure the safety of the prescribed dam and the owner or other 5 person shall comply with the requirement.

(3) A notice under subsection (2) requiring the cessation of any work or activity being done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by a person other than the owner of the prescribed dam shall 10 not be given without the approval of—

(a) except as provided by paragraph (b), the Minister; or

(b) where the work or activity relates to the operation of—

- (i) a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act; or
- (ii) a mine within the meaning of the Mining Act, 1973,

the Premier.

19. (1) The Committee may, and if directed to do so by the Inquiries.20 Minister shall, conduct an inquiry into any matter relating to the safety of a prescribed dam.

(2) The Committee may, by order in writing, authorise, on such terms and conditions as are specified in the order—

(a) a sub-committee established under section 12; or

(b) with the approval of the Minister, any other person,

to examine, and report to the Committee on, any matter in connection with an inquiry (including an inquiry that the Minister has directed to be conducted).
(3) Nothing in this section shall be construed as limiting the power of the Committee to conduct an examination in connection with an inquiry under this section and the Committee may conduct such an examination notwithstanding that it has authorised 5 another body or person to do so.

20. (1) A body or person conducting an inquiry or exami- Evidence at nation under section 19 may require a person, by notice in ^{inquiry}. writing—

(a) within such reasonable time as may be specified in the notice, to furnish to that body or person such information and to produce to that body or person such books, plans, documents or other papers and such films, tapes or other records in his possession or under his control as may be required for the purpose of the inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise; or

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(b) to attend, at a time and place specified in the notice, before that body or person and thereafter from time to time as required by that body or person to give evidence concerning any matter the subject of the inquiry or examination, as the case may be, and to produce all such books, plans, documents or other papers and such films, tapes or other records in his possession or under his control as may be required for the purpose of that inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise.

(2) A body or person conducting an inquiry or examination under section 19 may, subject to section 13 of the Oaths Act, 1900, require any evidence referred to in subsection (1) (b)
30 to be given on oath, and either in writing or orally, and for that purpose—

(a) where the inquiry or examination is being conducted by a body, the person presiding at the inquiry or examination; or

(b) where the inquiry or examination is being conducted by a person, that person,

may administer an oath.

(3) A person shall not neglect or refuse to comply with 5 the requirements of a notice served on him under this section.

(4) A person shall not—

- (a) furnish any information referred to in subsection (1)
 (a) required of him pursuant to a notice served on him under subsection (1) that is false or misleading in a material particular; or
- (b) give any evidence referred to in subsection (1) (b) that is false or misleading in a material particular.

(5) It is a sufficient defence to a prosecution arising under subsection (4) if the defendant proves that he believed the truth15 of the information or evidence given by him and that it was given in good faith.

21. (1) Where—

State of emergency.

- (a) a prescribed dam has collapsed or failed, in whole or in part; or
- 20 (b) the Minister, whether or not any recommendation in that behalf has been made to him by the Committee, is of the opinion that a prescribed dam is liable to collapse or failure, in whole or in part,

the Minister may, by order in writing, declare that a state of 25 emergency exists in respect of the prescribed dam.

(2) An order made under subsection (1) shall take effect from the making thereof or from a later date specified in the order and shall, unless sooner revoked, continue in force for such period as is specified in the order.

(3) An order made under subsection (1) shall be published in the Gazette as soon as practicable.

22. Without limiting or restricting the functions conferred or Functions of imposed on the Committee under the other provisions of this Act, Committee in state of 5 where an order made under section 21 (1) is in force, the emergency. Committee shall, at the direction or with the approval of the Minister, do any one or more of the following things in relation to the prescribed dam to which the order applies :—

(a) take full charge and control of the prescribed dam, the environs under, over and surrounding the prescribed dam and the water or other material impounded by the prescribed dam;

- (b) release or discharge the whole or such part as the Committee thinks fit of the water or other material impounded by the prescribed dam;
- (c) carry out all such works and do all such things as, in the opinion of the Committee, are necessary to render the prescribed dam safe;
- (d) demolish or remove the whole or any part of the prescribed dam or any work or structure on the prescribed dam, the water or other material impounded by the prescribed dam or the environs under, over or surrounding the prescribed dam;
- (e) take such other action as the Minister directs or approves.

23. The Committee may recover the costs and expenses Recovery incurred by it in the exercise of its functions under section 22 in of costs and expenses. respect of a prescribed dam from the owner of the prescribed dam as a debt in any court of competent jurisdiction.

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24. (1) The Committee may make and enter into contracts Contracts. with any person for the carrying out of works, the performance of services or the supply of goods or materials in connection with the exercise by the Committee of its functions.

(2) A contract under this section shall be deemed for 5 the purposes of the Constitution Act. 1902, to be a contract for or on account of the Public Service of New South Wales.

(1) The Committee may enter into an arrangement or Arrange-25. ments with agreement with any public authority that-

public authorities.

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- (a) the public authority shall act as agent of the Committee for the purposes of this Act; or
 - (b) the Committee shall act as agent of the public authority for the purposes of this Act.

on such terms and conditions as may be agreed upon between the 15 Committee and the public authority.

(2) Notwithstanding anything in any other Act, any public authority is hereby authorised and empowered to enter into arrangements or agreements referred to in subsection (1) and may do or suffer anything necessary or expedient for carrying out any 20 such arrangements or agreements.

The Committee may enter into arrangements with-26.

Arrangements for

- (a) a Minister of the Crown of any State, a Minister of investiga-State of the Commonwealth or a Department or instrumentality of the Commonwealth or of any State;
- (b) a university or another tertiary institution; or 25

(c) any other body or person,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

PART IV.

GENERAL.

27. (1) The Governor may, by proclamation published in the Amend-Gazette, amend Schedule 1—

- (a) by omitting therefrom the name of a prescribed dam and any matter relating to the description or location of the prescribed dam;
 - (b) by inserting therein the name of a dam and matter relating to the description or location of that dam; or
- (c) by altering the name of a prescribed dam or any other matter appearing in Schedule 1.

(2) The Governor may, by proclamation published in the Gazette, amend this Act by omitting Schedule 1 and by inserting instead a Schedule containing the names and locations of dams.

15 28. (1) The Committee may, by resolution, delegate to— r

Delegation.

- (a) a member; or
- (b) an officer, employee or servant of a Department of the Government or of a public authority,

the exercise of such of the Committee's functions (other than this 20 power of delegation) as may be specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

(2) A function, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the 25 delegation.

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise of any of the functions delegated, or as to time or circumstance. 15

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Act No. , 1978.

Dams Safety.

(4) Notwithstanding any delegation under this section, the Committee may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while 5 acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Committee and shall be deemed to have been done or suffered by the Committee.

(6) An instrument purporting to be signed by a delegate 10 of the Committee in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Committee under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Committee under this 15 section.

29. A notice or other document requiring authentication by the Authenti-Committee may be sufficiently authenticated without the seal of documents. the Committee if signed by the chairman.

30. A person who contravenes or fails to comply with any pro- Offences.
20 vision of this Act or a notice given by the Committee under this Act shall be guilty of an offence and liable to a penalty not exceeding \$1,000.

31. Any penalty imposed by this Act or the regulations may be Proceed-recovered in a summary manner before a court of petty sessions ings for offences.
 25 constituted by a stipendiary magistrate sitting alone.

32. (1) The Governor may make regulations, not inconsistent Regulawith this Act, for or with respect to any matter that by this Act is ^{tions.} required or permitted to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- 5 (a) the procedure for the calling of, and for the conduct of business at, meetings of the Committee;
 - (b) the travelling expenses and the compensation to be paid to persons attending or giving evidence at an inquiry or examination as referred to in section 20; and
 - (c) the remuneration, travelling and subsistence allowances to be paid to members, not being members of the Committee, of a sub-committee established under section 12.

(2) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person15 specified therein, either generally or for any class of cases or in a particular case.

(3) A regulation may be made so as to apply differently according to such factors as may be specified in the regulation.

(4) A regulation may impose a penalty not exceeding 20 \$500 for any offence against the regulation.

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SCHEDULE 1.

PRESCRIBED DAMS.

PART 1.

DAMS OTHER THAN CERTAIN LICENSED DAMS.

5	Name of Dam	Location of Dam
	Aberdare South	. Deep Creek near Cessnock.
	Abermain No. 2	. Deep Creek near Cessnock
		. Avon River near Bargo.
		. Back Creek near Crookwell.
10		. Bargo River near Bargo.
		. Connors Creek near Barraba.
		. Beardy Waters near Glen Innes.
		. Beargamil Creek near Parkes.
		. Off-stream storage near Eden.
15		. Campbells River near Bathurst.
		. Off-stream storage near Nowra.
		. Wandalybengle Creek near Bethungra.
		. Tumut River near Tumut.
	Blue Creek	. Blue Creek near Wauchope.
20		. Bogan River near Nyngan.
-	Bogolong	. Bogolong Creek near Grenfell.
		. Off-stream storage near Taree.
	Borenore Creek	. Borenore Creek near Molong.
		. Brogo River near Bega.
25	Broughtons Pass	. Cataract River near Wilton.
	Desmals	. Goobang Creek near Parkes.
	Bundanoon	. Bundanoon Creek near Moss Vale.
	Burrendong	. Macquarie River near Wellington.
	Burrinjuck	. Murrumbidgee River near Yass.
30	Captains Flat	. Molonglo River near Captains Flat.
	Canada	. Belubula River near Carcoar.
	Cascade No. 1	. Cascade Creek near Katoomba.
	0 1 1 1 0	. Cascade Creek near Katoomba.
	Cascade No. 3	. Cascade Creek near Katoomba.
35	Cataract	. Cataract River near Bulli.
55	Centennial Park Reservo	r Centennial Park.
	No. 1.	
	Cessnock No. 1	. Wollombi Creek near Cessnock.
	Chaffey	Peel River near Tamworth.
40	C1 1 1	. Chichester River near Dungog.
10	Calan	. Off-stream storage near Cobar.
	C 1	.] Bemboka River near Bemboka.
	C	. Coeypolly Creek near Werris Creek.
	G 11 G 1 11 A	. Coeypolly Creek near Quirindi.
15	G 1 G 1 4 1	. Colongra Creek near Doyalson.
	C	.) Off-stream storage near Cootamundra.
	0	. Gwydir River near Inverell.
	Condense	. Cordeaux River near Wilton.
	C-11- D-11-	. Delhuntys Creek near Cullen Bullen.
-0	a ' 1	Harden.
`		Danianna Creale agan Manua
0	Danierra	. Danierra Creek near Nowra.
00	D	 Danjerra Creek near Nowra. Dumaresq Creek near Armidale.

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Secs. 4 (1), definition of "prescribed" dam", 27.

SCHEDULE 1—continued.

PRESCRIBED DAMS—continued.

	Name of Dam		Location of Dam	o onad
-	Dungowan		Dungowan Creek near Nundle.	- 635 Th
3	Emigrant Creek	• • •	Emigrant Creek near Ballina.	
	Fitzroy Falls	• • •	Yarrunga Creek near Moss Vale.	
	Flat Rock Creek		Flat Rock Creek near Nowra.	
	Fountandale Creek		Fountandale Creek near Kiama.	
	Foybrook Open Cut		Singleton.	
10	Gara		Gara River near Armidale.	
	Glenbawn		Hunter River near Scone.	
	Glenquarry Cut		Off-stream storage near Moss Vale.	
	Grahamstown		Off-stream storage near Raymond Terrace.	
	Greaves Creek		Greaves Creek near Blackheath.	
15	Guyra		Gara River near Guyra.	
	Illalong Creek		Illalong Creek near Binalong.	
	Imperial		Willa-Willyong Creek near Broken Hill.	
	Ingleburn		Off-stream storage near Ingleburn.	
	Inverell		Macintyre River near Inverell.	
20	Jerrara Creek		Jerrara Creek near Kiama.	
20	Junction Reef	•••	Belubula River near Mandurama.	
	** *	•••	Off-stream storage near Coff's Harbour.	
	Tranit	•••	Namoi River near Gunnedah.	
	Keepit			
~ ~	Kentucky Creek		Kentucky Creek near Uralla.	
25	Koorawatha	••	Bang Bang Creek near Koorawatha.	
	Lake Canobolas	• •	Molong Creek near Orange.	
	Lake Endeavour	• •	Billabong Creek near Parkes.	
	Lake Medlow		Wall's Creek near Medlow Bath.	
	Lake Rowlands		Coombing Rivulet near Carcoar.	
30	Liddell Ash Disposal		Saltwater Creek near Muswellbrook.	
•••	Liddell Cooling Wate	r	Gardiners Creek near Muswellbrook.	
	Liddell Water Supply		Tinkers Creek near Muswellbrook.	
	Lithgow No. 1		Farmer's Creek near Lithgow.	
	Lithgow No. 2		Farmer's Creek near Lithgow.	
25	Liverpool		Off-stream storage near Liverpool.	
30	Maldon Weir		Nepean River near Picton.	
	Malpas		Gara River near Armidale.	
	Manly		Curl Curl Creek near Manly Vale.	
	Mannering Creek As	h		
4.0	Mandi		Mannering Creek near Wyee. Off-stream storage near Wyong.	
40	Madaman		Medway River near Berrima.	
	Manual Mar 0		Mooney Mooney Creek near Gosford.	
	Maria Carl			
	Narrara		Gosford.	
45	Nattai Creek		Nattai Creek near Mittagong.	
	Nepean		Nepean River near Bargo.	
	Newston Washery		Wakefield.	
	Oaky River		Oaky River near Armidale.	
	Oberon		Fish River near Oberon.	
50	Pejar			
50	Pheasants Nest .			
	Pindari		Comp Discourse Ashfaul	
	Port Macquarie .		Der the state of t	
	Porters Creek .		Porters Creek near Milton.	

SCHEDULE 1—continued.

PRESCRIBED DAMS-continued.

	Name of Dam	Location of Dam			
5	Potts Hill Reservoir No. 1 Potts Hill Reservoir No. 2 Pressure No. 1	Off-stream storage near Lidcombe. Off-stream storage near Lidcombe. Emmaville.			
	Prospect				
15	Rylstone Seaham Sooley Spring Creek Stanwell No. 2 Stephens Creek	Williams River near Raymond Terrace. Sooley Creek near Goulburn. Spring Creek near Orange.			
20	Suma Park				
25	Thornleigh Reservoir Three Mile Timor Toonumbar Tumbarumba	Three Mile Creek near Kiandra. Castlereagh River near Coonabarabran. Iron Pot Creek near Kyogle.			
	Umberumberka Upper Cordeaux No. 1 Upper Cordeaux No. 2 Upper Mooney Wallerawang Ash Wangi Ash	Umberumberka Creek near Silverton. Cordeaux River near Wollongong. Cordeaux River near Wollongong. Mooney Mooney Creek near Gosford. Wallerawang. Crooked Creek near Wangi.			
35	Warragamba	Warragamba River near Warragamba. Off-stream storage near Warragamba.			
40	Warragamba Weir Welcome Reef Wilson River Weir Winburndale Windamere	Warragamba River near Wallacia. Shoalhaven River near Braidwood. Wilson River near Mullumbimby. Winburndale Rivulet near Bathurst. Cudgegong River near Mudgee.			
	Wingecarribee	Wingecarribee River near Modgec. Woodford Creek near Woodford. Off-stream storage near Woolgoolga. Woronora River near Waterfall.			
	Wyangala Wyee	Lachlan River near Cowra. Mannering Creek near Wyee. Quart Pot Creek near Thornton.			

PART 2.

DAMS CONSTRUCTED OR USED PURSUANT TO A LICENSE ISSUED UNDER PART II OF THE WATER ACT, 1912.

5	License No.	Licensee	Location of Dam		
10	30400 36940 37572 38404 38780	 Red Gable Pty. Limited Ranges Valley Cattle Station Pty. Limited. The New Zealand Australian Land Co. Limited. Coal Cliff Colliery Pty. Limited No. 2 Fleurs Pty. Limited 	Cataract Creek near Oakville via Windsor. Cam Creek near Deepwater via Glen Innes. Unnamed watercourse near Bethungra. Brennan's Creek near Appin. Kemps Creek near St. Marys.		

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SCHEDULE 2.

Sec. 10.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE.

1. A person who is of or above the age of 70 years shall not be appointed Age of as a member or to act in the office of a member under clause 5.

20 2. (1) A member shall, subject to this Act, be appointed for such term, Term of not exceeding 4 years, as is specified in the instrument of his appointment. office of member.

(2) A member shall, if otherwise qualified, be eligible for reappointment from time to time for such term, not exceeding 4 years, as is specified in the instrument of his re-appointment.

25 3. (1) Where, by or under any Act, provision is made requiring the Member holder of an office specified therein to devote the whole of his time to the holding duties of his office, that provision shall not operate to disqualify him from under holding that office and also the office of a member or from accepting and other retaining any remuneration, travelling or subsistence allowance payable to Acts. 30 a member under clause 4.

(2) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

Act No. , 1978.

Dams Safety.

SCHEDULE 2-continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

4. Each member is entitled to be paid such remuneration (including Remuner-5 travelling and subsistence allowances) as the Minister may from time to ation of and allowtime determine in respect of him. ances for

5. (1) The Minister may appoint any person to act in the office of a Appointmember while the member is absent from his office through illness or any ment of other cause, and that person while so acting-

substitutes to act (a) shall have and may exercise the functions of the member in whose during period of absence of member.

members.

office he is apointed to act; and (b) shall be deemed to be the member.

(2) A member is, for the purposes of subclause (1) of this clause, deemed to be absent from his office if there is a vacancy in that office 15 which has not been filled in accordance with clause 8.

(3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences 20 as if they had been done or omitted to be done by that member.

6. (1) A deputy chairman of the Committee shall be elected by the Deputy members at the first meeting held after 1st January in each year, or chairman. whenever there is a vacancy in the office of the deputy chairman, and the deputy chairman shall hold office until the first meeting in the year follow-25 ing that in which he was elected.

(2) A deputy chairman is eligible for re-election from time to time.

(3) Where the chairman is absent from his office through illness or any other cause the deputy chairman shall act as the chairman.

(4) Where a member who is deputy chairman is absent from his 30 office through illness or any other cause the Minister may appoint some other member to act as deputy chairman during that absence.

7. (1) A member shall be deemed to have vacated his office---

(a) if he dies;

(b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;

Vacation of office.

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SCHEDULE 2—continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

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- (c) if he is absent from 4 consecutive ordinary meetings of the Committee of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or, unless before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
 - (f) if he resigns his office by writing under his hand addressed to the Minister;
 - (g) if he declines office;
 - (h) if he is removed from office by the Minister; or
 - (i) upon his attaining the age of 70 years.

(2) The Minister may, for any cause which to him seems sufficient, 25 remove any member from office.

8. (1) On the occurrence of a vacancy in the office of a member, Filling the Minister may appoint a person to the vacant office for the balance of casual of his predecessor's term of office.

(2) A person appointed under subclause (1) of this clause shall be 30 a person who holds the same qualifications, and is nominated in the same manner, if any, as the member whose office has become vacant was qualified and nominated.

9. The number of members which shall constitute a quorum at any Quorum. meeting of the Committee is 4, of whom one shall be the chairman or the 35 deputy chairman.

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Act No. , 1978.

Dams Safety.

SCHEDULE 2-continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

10. (1) Any duly convened meeting of the Committee at which a Meetings. 5 quorum is present shall be competent to transact any business of the Committee.

(2) Questions arising at a meeting of the Committee shall be determined by a majority of votes of the members present and voting.

(3) The chairman shall preside at all meetings of the Committee 10 at which he is present.

(4) If the chairman is not present at a meeting of the Committee, the deputy chairman shall preside.

(5) The person presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting 15 vote.

11. The Committee shall cause full and accurate minutes to be kept of Minutes. its proceedings at meetings, and submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

20 12. The procedure for the calling of, and for the conduct of business General at, meetings of the Committee shall, subject to any procedure that is procedure. specified in this Act or is prescribed, be as determined by the Committee.

13. (1) No matter or thing done, and no contract entered into, by the Protection Committee, and no matter or thing done by a member or by any other from
25 person acting under the direction or as delegate of the Committee shall, liability. if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the member or person personally to any action, liability, claim or demand.

(2) Nothing in subclause (1) of this clause exempts any member 30 or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Committee and which the member or other person authorised or joined in authorising.

SCHEDULE 2-continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

14. In proceedings by or against the Committee no proof shall be Presump-5 required (until evidence is given to the contrary) of—

(a) the constitution of the Committee;

(b) any resolution of the Committee;

(c) the appointment of any member; or

(d) the presence of a quorum at any meeting of the Committee.

BY AUTHORITY D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES-1978



DAMS SAFETY BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this bill as introduced into Parliament)

The object of this Bill is to constitute the Dams Safety Committee and to confer on the Committee functions relating to the safety of certain dams.

The Bill contains the following provisions:---

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Division of the proposed Act.

Clause 4. Interpretation.

Clause 5 provides that the proposed Act binds the Crown

Clause 6 provides that nothing in the proposed Act affects any liability imposed elsewhere by the law in relation to prescribed dams, being dams listed in Schedule 1 to the proposed Act.

Clause 7 constitutes a corporation to be known as the Dams Safety Committee.

Clause 8 provides for the appointment by the Minister of 7 part-time members of the Committee, being persons experienced in dam engineering.

Clause 9 empowers the Minister to appoint a member of the Committee as chairman.

Clause 10 provides that the provisions of Schedule 2 to the proposed Act relating to the constitution and procedure of the Committee have effect.

Clause 11 enables the Committee to make use of certain facilities and employees of the Crown.

Clause 12 enables the Committee to appoint sub-committees.

Clause 13 provides for the establishment in the Special Deposits Account in the Treasury of an account to be known as the Dams Safety Committee Account.

Clause 14 specifies the functions of the Committee.

Clause 15 empowers the Committee to require the owner of a prescribed dam to record and furnish to it information relating to the prescribed dam.

Clause 16 enables the Committee to authorise persons to enter land and carry out inspections of dams for the purposes of the proposed Act.

Clause 17 prohibits the obstruction of a person authorised under clause 16.

44698B 431—

Clause 18 authorises the Committee, by written notice, to require owners of prescribed dams and certain other persons to do things or to refrain from doing things to ensure the safety of prescribed dams.

Clause 19 empowers the Committee to hold inquiries relating to the safety of prescribed dams.

Clause 20 provides for the giving of evidence at an inquiry held under clause 19.

Clause 21 enables the Minister to declare a state of emergency in respect of a prescribed dam.

Clause 22 specifies the functions of the Committee where a state of emergency has been declared under clause 21.

Clause 23 enables the Committee to recover any costs and expenses incurred by it in the exercise of its functions under clause 22 in respect of a prescribed dam from the owner of the prescribed dam.

Clause 24 empowers the Committee to enter into contracts relating to the exercise of its functions.

Clause 25 authorises the Committee to enter into agency agreements with public authorities.

Clause 26 authorises the Committee to enter into arrangements with any person with respect to the conduct of any investigation, study or research necessary or desirable for the purposes of the proposed Act.

Clause 27 enables the Governor, by proclamation published in the Gazette, to amend Schedule 1 to the proposed Act which specifies prescribed dams.

Clause 28 enables the Committee to delegate its functions.

Clause 29 provides for the chairman of the Committee to authenticate documents of the Committee.

Clause 30. Offences.

Clause 31. Proceedings for offences.

Clause 32. Regulations.

Schedule 1 specifies prescribed dams.

Schedule 2 makes provisions relating to the constitution and procedure of the Committee.

DAMS SAFETY BILL, 1978

No. , 1978.

A BILL FOR

An Act to constitute the Dams Safety Committee and to confer and impose on the Committee functions relating to the safety of certain dams.

[MR FERGUSON-2 March, 1978.]

44698B 431—A

BE it enacted by the Queen'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 :—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Dams Safety Act, 1978". Short title.

2. (1) This section and section 1 shall commence on the Commencedate of assent to this Act.

10 (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :---

Division of Act.

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PART I.—Preliminary—ss. 1–6. PART II.—Constitution of the Committee—ss. 7–13. PART III.—Functions of the Committee—ss. 14–26. PART IV.—General—ss. 27–32. SCHEDULE 1.—Prescribed Dams.

20 SCHEDULE 2.—PROVISIONS RELATING TO THE CONSTITU-TION AND PROCEDURE OF THE COMMITTEE.

4. (1) In this Act, except in so far as the context or subject- Interpretamatter otherwise indicates or requires—

"chairman" means the chairman of the Committee appointed under section 9; 2

"Committee" means the Dams Safety Committee constituted under section 7;

"functions" includes powers, authorities and duties;

"member" means a member of the Committee;

"owner", in relation to a dam, means any person or public authority who, whether solely or with some other person or public authority, owns, controls, operates, manages or maintains the dam and includes any person or public authority who, whether solely or with some other person or public authority, proposes to build a dam;

"prescribed dam" means a dam, or proposed dam, for the time being specified or described in Schedule 1;

"public authority" means any public or local authority constituted by or under an Act other than this Act;

15 """ "regulation" means a regulation made under this Act.

(2) A reference in this Act to the exercise of a function includes, where the function is a duty, the performance of that duty.

This Act, section 30 excepted, binds the Crown not only in Act binds
 right of New South Wales but also, so far as the legislative power Crown.
 of Parliament permits, the Crown in all its other capacities.

6. Nothing in this Act derogates from or affects the liability Liability of any person arising from any act or omission of that person, of certain persons not his servants or agents with respect to a prescribed dam.

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PART II.

CONSTITUTION OF THE COMMITTEE.

7. (1) There is hereby constituted a corporation under the The corporate name of the "Dams Safety Committee".

5 (2) The Committee is, for the purposes of any Act, a statutory body representing the Crown.

(3) In the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister or any other person), the Committee shall be subject in 10 all respects to the control and direction of the Minister.

8. (1) The Committee shall consist of 7 part-time members Members. [appointed by the Minister.]

(2) The members shall be—

 (a) a person nominated by the Electricity Commission of New South Wales constituted under the Electricity Commission Act, 1950;

(b) a person nominated by the Metropolitan Water Sewerage and Drainage Board constituted under the Metropolitan Water, Sewerage, and Drainage Act, 1924;

 (c) a person nominated by the Water Resources Commission constituted under the Water Resources Commission Act, 1976;

- (d) a person nominated by the Hunter District Water Board constituted under the Hunter District Water, Sewerage and Drainage Act, 1938;
- (e) a person nominated by the Minister administering the Public Works Act, 1912; and
- (f) 2 persons nominated by the Federal Council of the Institution of Engineers, Australia.

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(3) A person shall not be nominated for appointment as a member unless he is an engineer who, in the opinion of the person making the nomination, is experienced in dam engineering.

(4) Where, for the purposes of subsection (2), a nomi-5 nation of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint any engineer who, in the opinion of the Minister, is experienced in dam engineering to be a 10 member instead of the person required to be appointed on that nomination.

9. The Minister shall appoint one of the members as chairman Chairman. of the Committee.

10. Schedule 2 has effect.

Provisions relating to the constitution and procedure of the Committee.

15 11. For the purpose of exercising its functions, the Committee Committee may, with the approval of the Minister and of the Department or may make use of public authority concerned and on such terms as may be arranged, facilities make use of the facilities, or the services of any officers, employees and employees of or servants, of any Department of the Government or of any public Crown, etc.
 20 authority.

12. (1) The Committee may establish standing or special Sub-sub-committees for the purpose of advising the Committee in the committees. exercise of its functions under this Act and may appoint as a member of any such sub-committee any person who, in its opinion, 25 appears to be qualified to be a member of that sub-committee,

whether or not he is a member of the Committee.

(2) The Committee shall appoint one of the members of a sub-committee established under subsection (1) to be chairman of the sub-committee and any such sub-committee may, subject to subsection (3) and to any directions of the Committee, regulate 5 its procedure in such manner as it thinks fit.

(3) The Committee may specify the number of persons who shall constitute a quorum of a sub-committee established under this section.

13. (1) There shall be established in the Special Deposits Dams Safety 10 Account in the Treasury a Dams Safety Committee Account into Committee which shall be deposited all money received by the Committee and from which shall be paid all amounts required to meet expenditure incurred in accordance with the provisions of this Act.

(2) The Treasurer may, out of money provided by15 Parliament, from time to time make such contributions to the funds of the Committee as may be determined by the Treasurer.

PART III.

FUNCTIONS OF THE COMMITTEE.

14. The functions of the Committee are—

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Functions of Com-

- (a) to maintain a surveillance of prescribed dams, the ^{mittee}. environs under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams to ensure the safety of prescribed dams;
 - (b) to examine and investigate the location, design, construction, reconstruction, extension, modification, operation and maintenance of prescribed dams, the environs under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams;

- (c) to obtain information and keep records on matters relating to the safety of dams;
- (d) to formulate measures to ensure the safety of dams;
- (e) to make such reports or recommendations to the Minister or any other person in relation to the safety of prescribed dams as the Committee considers necessary or appropriate;
- (f) to make reports and recommendations with respect to the prescription of dams for the purposes of this Act;
- (g) to exercise such other functions as are conferred or imposed on the Committee by or under this or any other Act or the regulations; and
- (h) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions.

15. (1) The Committee may, by notice in writing, require the Keeping owner of a prescribed dam specified in the notice to do either or and furnishboth of the following things :— mation.

- (a) make such observations, take such measurements and keep such records of or in respect of the prescribed dam, the environs over, under and surrounding the prescribed dam and the water or other material impounded by the prescribed dam as may be specified in the notice;
- (b) furnish to the Committee in respect of the prescribed dam such information and such books, plans, documents or other papers and such films, tapes or other records as may be specified or described in the notice,

and the owner shall comply with the requirement.

(2) Where an owner of a prescribed dam fails to comply30 with the requirement of a notice under subsection (1), the Committee may exercise the functions referred to in subsection (1) (a) in respect of the prescribed dam and recover the costs and expenses of or incidental thereto from the owner as a debt in any court of competent jurisdiction.

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Act No. , 1978.

Dams Safety.

16. (1) In this section, a reference to land comprising a dam Entry, inincludes a reference to the water or other material impounded by spection, the dam.

(2) The Committee may authorise a person, in writing,5 to carry out inspections, for the purposes of this Act, of any dam.

(3) A person authorised under subsection (2) may enter any land or any place on any land comprising any dam or the environs over, under or surrounding any dam and may thereon or therein carry out such inspections, tests, investigations, surveys, 10 experiments, boring, drilling and exploration, and take such samples and such photographs, as he considers necessary in connection with the administration of this Act.

(4) A person authorised under subsection (2) shall not, in relation to any land or any place on any land, exercise any of 15 the functions conferred by subsection (3) unless reasonable notice has been given to the owner or occupier of the land or place of the intention to exercise those functions.

(5) In addition to the requirements of subsection (4), a person authorised under subsection (2) shall not exercise any of 20 the functions conferred by subsection (3)—

- (a) in relation to any land or any place on any land which comprises a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act unless—
 - (i) reasonable notice has been given to the Chief Inspector of Coal Mines appointed as referred to in that Act of the intention to exercise those functions; and
 - (ii) the person is accompanied by the Chief Inspector of Coal Mines or a person nominated by that Chief Inspector in the exercise of those functions; or

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- (b) in relation to any land or any place on any land which comprises a mine within the meaning of the Mining Act, 1973, unless-
 - (i) reasonable notice has been given to the Chief Inspector of Mines within the Department of Mines of the intention to exercise those functions; and
 - (ii) the person is accompanied by the Chief Inspector of Mines or a person nominated by that Chief Inspector in the exercise of those functions.

(6) In the exercise of a function conferred by subsection (3), the Committee shall ensure that no more damage than may be necessary in the circumstances is inflicted and shall fully compensate any person who sustains damage in the course of the 15 exercise of that function.

(7) A person authorised under subsection (2), in exercising a function conferred by subsection (3) in relation to any land or any place on any land, shall, if so required by a person apparently in charge of that land or place produce the instrument 20 of his authority to that person.

A person shall not obstruct, hinder or interfere with a Obstruction 17. person authorised under section 16 (2) in the exercise of his of authorised functions under section 16. person.

(1) Where it appears to the Committee that a prescribed Giving of 18. 25 dam is unsafe or is in danger of becoming unsafe, the Committee notices to may, by notice in writing, require the owner of the prescribed dam safety of to do such things as are specified or described in the notice as may prescribed be reasonably necessary to ensure the safety of the prescribed dam.

(2) Where it appears to the Committee that anything 30 done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by the owner of the prescribed dam or any other person may endanger the safety of the prescribed

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dam, the Committee may, by notice in writing, require the owner or other person, as the case may be, to do such things as are specified or described in the notice as may be reasonably necessary to ensure the safety of the prescribed dam and the owner or other
5 person shall comply with the requirement.

(3) A notice under subsection (2) requiring the cessation of any work or activity being done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by a person other than the owner of the prescribed dam shall 10 not be given without the approval of—

(a) except as provided by paragraph (b), the Minister; or

(b) where the work or activity relates to the operation of-

- (i) a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act; or
- (ii) a mine within the meaning of the Mining Act, 1973,

the Premier.

19. (1) The Committee may, and if directed to do so by the Inquiries.20 Minister shall, conduct an inquiry into any matter relating to the safety of a prescribed dam.

(2) The Committee may, by order in writing, authorise, on such terms and conditions as are specified in the order—

(a) a sub-committee established under section 12; or

25 (b) with the approval of the Minister, any other person,

to examine, and report to the Committee on, any matter in connection with an inquiry (including an inquiry that the Minister has directed to be conducted).

(3) Nothing in this section shall be construed as limiting the power of the Committee to conduct an examination in connection with an inquiry under this section and the Committee may conduct such an examination notwithstanding that it has authorised 5 another body or person to do so.

20. (1) A body or person conducting an inquiry or exami-Evidence au nation under section 19 may require a person, by notice in inquiry. writing—

(a) within such reasonable time as may be specified in the notice, to furnish to that body or person such information and to produce to that body or person such books, plans, documents or other papers and such films, tapes or other records in his possession or under his control as may be required for the purpose of the inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise; or

(b) to attend, at a time and place specified in the notice, before that body or person and thereafter from time to time as required by that body or person to give evidence concerning any matter the subject of the inquiry or examination, as the case may be, and to produce all such books, plans, documents or other papers and such films, tapes or other records in his possession or under his control as may be required for the purpose of that inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise.

(2) A body or person conducting an inquiry or examination under section 19 may, subject to section 13 of the Oaths Act, 1900, require any evidence referred to in subsection (1) (b)
30 to be given on oath, and either in writing or orally, and for that purpose—

(a) where the inquiry or examination is being conducted by a body, the person presiding at the inquiry or examination; or

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(b) where the inquiry or examination is being conducted by a person, that person,

may administer an oath.

(3) A person shall not neglect or refuse to comply with 5 the requirements of a notice served on him under this section.

(4) A person shall not—

- (a) furnish any information referred to in subsection (1)
 (a) required of him pursuant to a notice served on him under subsection (1) that is false or misleading in a material particular; or
- (b) give any evidence referred to in subsection (1) (b) that is false or misleading in a material particular.

(5) It is a sufficient defence to a prosecution arising under subsection (4) if the defendant proves that he believed the truth15 of the information or evidence given by him and that it was given in good faith.

21. (1) Where—

State of emergency.

- (a) a prescribed dam has collapsed or failed, in whole or in part; or
- 20 (b) the Minister, whether or not any recommendation in that behalf has been made to him by the Committee, is of the opinion that a prescribed dam is liable to collapse or failure, in whole or in part,

the Minister may, by order in writing, declare that a state of 25 emergency exists in respect of the prescribed dam.

(2) An order made under subsection (1) shall take effect from the making thereof or from a later date specified in the order and shall, unless sooner revoked, continue in force for such period as is specified in the order.

(3) An order made under subsection (1) shall be published in the Gazette as soon as practicable.

22. Without limiting or restricting the functions conferred or Functions of imposed on the Committee under the other provisions of this Act, Committee in state of 5 where an order made under section 21 (1) is in force, the emergency. Committee shall, at the direction or with the approval of the Minister, do any one or more of the following things in relation to the prescribed dam to which the order applies :---

(a) take full charge and control of the prescribed dam, the environs under, over and surrounding the prescribed dam and the water or other material impounded by the prescribed dam;

- (b) release or discharge the whole or such part as the Committee thinks fit of the water or other material impounded by the prescribed dam;
- (c) carry out all such works and do all such things as, in the opinion of the Committee, are necessary to render the prescribed dam safe;
- (d) demolish or remove the whole or any part of the prescribed dam or any work or structure on the prescribed dam, the water or other material impounded by the prescribed dam or the environs under, over or surrounding the prescribed dam;

(e) take such other action as the Minister directs or approves.

23. The Committee may recover the costs and expenses Recovery incurred by it in the exercise of its functions under section 22 in of costs and expenses. respect of a prescribed dam from the owner of the prescribed dam as a debt in any court of competent jurisdiction.

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24. (1) The Committee may make and enter into contracts Contracts. with any person for the carrying out of works, the performance of services or the supply of goods or materials in connection with the exercise by the Committee of its functions.

5 (2) A contract under this section shall be deemed for the purposes of the Constitution Act, 1902, to be a contract for or on account of the Public Service of New South Wales.

25. (1) The Committee may enter into an arrangement or Arrangements with any public authority that—

ments with public authorities.

- (a) the public authority shall act as agent of the Committee for the purposes of this Act; or
 - (b) the Committee shall act as agent of the public authority for the purposes of this Act,

on such terms and conditions as may be agreed upon between the 15 Committee and the public authority.

(2) Notwithstanding anything in any other Act, any public authority is hereby authorised and empowered to enter into arrangements or agreements referred to in subsection (1) and may do or suffer anything necessary or expedient for carrying out any 20 such arrangements or agreements.

26. The Committee may enter into arrangements with—

- Arrangements for investigation and
- (a) a Minister of the Crown of any State, a Minister of investiga-State of the Commonwealth or a Department or instru- tion and mentality of the Commonwealth or of any State;
- 25 (b) a university or another tertiary institution; or

(c) any other body or person,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

PART IV.

GENERAL.

27. (1) The Governor may, by proclamation published in the Amend-Gazette, amend Schedule 1—

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- (a) by omitting therefrom the name of a prescribed dam and any matter relating to the description or location of the prescribed dam;
- (b) by inserting therein the name of a dam and matter relating to the description or location of that dam; or
- (c) by altering the name of a prescribed dam or any other matter appearing in Schedule 1.

(2) The Governor may, by proclamation published in the Gazette, amend this Act by omitting Schedule 1 and by inserting instead a Schedule containing the names and locations of dams.

15 28. (1) The Committee may, by resolution, delegate to—

Delegation.

- (a) a member; or
- (b) an officer, employee or servant of a Department of the Government or of a public authority,

the exercise of such of the Committee's functions (other than this 20 power of delegation) as may be specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

(2) A function, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the 25 delegation.

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise of any of the functions delegated, or as to time or circumstance.

(4) Notwithstanding any delegation under this section, the Committee may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while 5 acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Committee and shall be deemed to have been done or suffered by the Committee.

(6) An instrument purporting to be signed by a delegate 10 of the Committee in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Committee under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Committee under this 15 section.

29. A notice or other document requiring authentication by the Authenti-Committee may be sufficiently authenticated without the seal of documents. the Committee if signed by the chairman.

30. A person who contravenes or fails to comply with any pro- Offences.20 vision of this Act or a notice given by the Committee under this Act shall be guilty of an offence and liable to a penalty not exceeding \$1,000.

31. Any penalty imposed by this Act or the regulations may be Proceedrecovered in a summary manner before a court of petty sessions offences. 25 constituted by a stipendiary magistrate sitting alone.

32. (1) The Governor may make regulations, not inconsistent Regulawith this Act, for or with respect to any matter that by this Act is ^{tions.} required or permitted to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the procedure for the calling of, and for the conduct of business at, meetings of the Committee;
 - (b) the travelling expenses and the compensation to be paid to persons attending or giving evidence at an inquiry or examination as referred to in section 20; and
 - (c) the remuneration, travelling and subsistence allowances to be paid to members, not being members of the Committee, of a sub-committee established under section 12.

(2) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person15 specified therein, either generally or for any class of cases or in a particular case.

(3) A regulation may be made so as to apply differently according to such factors as may be specified in the regulation.

(4) A regulation may impose a penalty not exceeding 20 \$500 for any offence against the regulation.

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SCHEDULE 1.

PRESCRIBED DAMS.

PART 1.

DAMS OTHER THAN CERTAIN LICENSED DAMS.

5	Name of Dam	Location of Dam	
10	Aberdare South Abermain No. 2 Avon Back Creek Bargo Weir	Deep Creek near Cessnock Avon River near Bargo.	
	Barraba Beardy Waters Beargamil	Connors Creek near Barraba. Beardy Waters near Glen Innes. Beargamil Creek near Parkes.	01
15	Ben Boyd Ben Chifley Bendeela Pondage Bethungra	Off-stream storage near Eden. Campbells River near Bathurst. Off-stream storage near Nowra. Wandalybengle Creek near Bethungra.	sulti ~
20	Blowering Blue Creek Bogan River Weir	Tumut River near Tumut. Blue Creek near Wauchope. Bogan River near Nyngan.	
	Bogolong Bootawa Borenore Creek Brogo	Bogolong Creek near Grenfell. Off-stream storage near Taree. Borenore Creek near Molong. Brogo River near Bega.	than da seri Stan da series 15 vecciñas decas
25	Brogo Broughtons Pass Bumberry Bundanoon	Cataract River near Wilton. Goobang Creek near Parkes. Bundanoon Creek near Moss Vale.	
30	Burrendong Burrinjuck Captains Flat Carcoar Cascade No. 1	Belubula River near Carcoar. Cascade Creek near Katoomba.	
35	Cascade No. 2	Cascade Creek near Katoomba. Cascade Creek near Katoomba. Cataract River near Bulli. Centennial Park.	
40	Cessnock No. 1 Chaffey	Wollombi Creek near Cessnock. Peel River near Tamworth. Chichester River near Dungog. Off-stream storage near Cobar. Bemboka River near Bemboka.	2000 - 100 A.
	Coeypolly Creek No. 1 Coeypolly Creek No. 2 Colongra Creek Ash Cootamundra Copeton	Gwydir River near Inverell.	
50	Cordeaux Cullen Bullen Curringham Danjerra Dumaresq	Cordeaux River near Wilton. Delhuntys Creek near Cullen Bullen. Harden. Danjerra Creek near Nowra. Dumaresq Creek near Armidale.	

Secs. 4 (1), definition

of "prescribed" dam", 27.
SCHEDULE 1—continued.

PRESCRIBED DAMS—continued.

Name of Dam	Location of Dam
Dungowan	Dungowan Creek near Nundle.
Emigrant Creek	Emigrant Creek near Ballina.
Fitzroy Falls	Yarrunga Creek near Moss Vale.
Flat Rock Creek	Flat Rock Creek near Nowra.
Fountandale Creek	Fountandale Creek near Kiama.
Foybrook Open Cut	Singleton.
Gara	Gara River near Armidale.
Glenbawn	Hunter River near Scone.
Glenquarry Cut	Off-stream storage near Moss Vale.
Grahamstown	Off-stream storage near Raymond Terrace.
Greaves Creek	Greaves Creek near Blackheath.
Guyra	Gara River near Guyra.
Illalong Creek	Illalong Creek near Binalong.
Imperial	Willa-Willyong Creek near Broken Hill.
Ingleburn	Off-stream storage near Ingleburn.
Inverell	Macintyre River near Inverell.
Jerrara Creek	Jerrara Creek near Kiama.
Junction Reef	Belubula River near Mandurama.
Karangi	Off-stream storage near Coff's Harbour.
Keepit	Namoi River near Gunnedah.
Kentucky Creek	Kentucky Creek near Uralla.
Koorawatha	Bang Bang Creek near Koorawatha.
Lake Canobolas	Molong Creek near Orange.
Lake Endeavour	Billabong Creek near Parkes.
Talas Madland	Wall's Creek near Medlow Bath.
Lake Rowlands	Coombing Rivulet near Carcoar.
Liddell Ash Disposal	Saltwater Creek near Muswellbrook.
Liddell Cooling Water	Gardiners Creek near Muswellbrook.
Liddell Water Supply	Tinkers Creek near Muswellbrook.
Lithgow No. 1	Farmer's Creek near Lithgow.
T tot and NT O	Farmer's Creek near Lithgow.
T 1	Off-stream storage near Liverpool.
Maldon Weir	Nepean River near Picton.
11.1	Gara River near Armidale.
Manle	Curl Curl Creek near Manly Vale.
1	Mannering Creek near Wyee.
Mannering Creek Ash	Off-stream storage near Wyong.
Mardi Medway	Medway River near Berrima.
	Mooney Mooney Creek near Gosford.
Mooney No. 2	
Moores Creek	Moores Creek near Tamworth. Gosford.
Narrara	
Nattai Creek	Nattai Creek near Mittagong.
Nepean	Nepean River near Bargo.
Newston Washery	Wakefield.
Oaky River	Oaky River near Armidale.
Oberon	Fish River near Oberon.
Pejar	Wollondilly River near Goulburn.
	Nenean River near Willon
Pheasants Nest	Nepean River near Wilton.
Pheasants Nest	Severn River near Ashford.
Pheasants Nest	Severn River near Ashford.

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SCHEDULE 1—continued.

PRESCRIBED DAMS—continued.

Name of Dam		Location of Dam	
5	Potts Hill Reservoir No. 1 Potts Hill Reservoir No. 2 Pressure No. 1	Off-stream storage near Lidcombe. Off-stream storage near Lidcombe. Emmaville.	2
10	Prospect Puddledock Creek Redbank Creek Rocky Creek Rydal Rylstone	Prospect Creek at Prospect. Puddledock Creek near Armidale. Redbank Creek near Mudgee. Rocky Creek near Lismore. Off-stream storage near Rydal. Cudgegong River near Rylstone.	()]
15	Seaham	Sooley Creek near Goulburn. Spring Creek near Orange. Stanwell Creek near Stanwell Park. Stephens Creek near Broken Hill. Summerhill Creek near Orange.	15
20	Tallawarrah Ash No. 2TallowaTenterfield Creek	Tenterfield Creek near Tenterfield.	20
25	Thornleigh ReservoirThree MileTimorToonumbarToonumbarTumbarumbaUmberumberka	Three Mile Creek near Kiandra. Castlereagh River near Coonabarabran. Iron Pot Creek near Kyogle.	25
30	Upper Cordeaux No. 1 Upper Cordeaux No. 2 Upper Mooney Wallerawang Ash	Cordeaux River near Wollongong. Cordeaux River near Wollongong. Mooney Mooney Creek near Gosford. Wallerawang.	30
35	Wangi Ash	Crooked Creek near Wangi. Warragamba River near Warragamba. Off-stream storage near Warragamba.	3.5
40	Warragamba Weir Welcome Reef Wilson River Weir Winburndale Wingecarribee	Warragamba River near Wallacia. Shoalhaven River near Braidwood. Wilson River near Mullumbimby. Winburndale Rivulet near Bathurst. Cudgegong River near Mudgee. Wingecarribee River near Moss Vale. Woodford Creek near Woodford.	
45	Woolgoolga Woolgoolga Woronora Wyangala Wyee (Unnamed)	Off-stream storage near Woolgoolga. Woronora River near Waterfall.	

PART 2.

DAMS CONSTRUCTED OR USED PURSUANT TO A LICENSE ISSUED UNDER PART II OF THE WATER ACT, 1912.

5	License No.	Licensee	Location of Dam
10	30400 36940 37572 38404 38780	 Red Gable Pty. Limited Ranges Valley Cattle Station Pty. Limited. The New Zealand Australian Land Co. Limited. Coal Cliff Colliery Pty. Limited No. 2 Fleurs Pty. Limited 	Glen Innes. Unnamed watercourse near Bethungra.

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SCHEDULE 2.

Sec. 10.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE.

1. A person who is of or above the age of 70 years shall not be appointed Age of as a member or to act in the office of a member under clause 5.

20 2. (1) A member shall, subject to this Act, be appointed for such term, Term of not exceeding 4 years, as is specified in the instrument of his appointment. office of

member.

(2) A member shall, if otherwise qualified, be eligible for reappointment from time to time for such term, not exceeding 4 years, as is specified in the instrument of his re-appointment.

25 3. (1) Where, by or under any Act, provision is made requiring the Member holder of an office specified therein to devote the whole of his time to the holding duties of his office, that provision shall not operate to disqualify him from office under holding that office and also the office of a member or from accepting and other retaining any remuneration, travelling or subsistence allowance payable to Acts.
 30 a member under clause 4.

(2) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

SCHEDULE 2-continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

4. Each member is entitled to be paid such remuneration (including Remuner-5 travelling and subsistence allowances) as the Minister may from time to ation of and allowtime determine in respect of him. ances for

5. (1) The Minister may appoint any person to act in the office of a Appointmember while the member is absent from his office through illness or any ment of other cause, and that person while so acting-

(a) shall have and may exercise the functions of the member in whose during office he is apointed to act; and

(b) shall be deemed to be the member.

(2) A member is, for the purposes of subclause (1) of this clause, deemed to be absent from his office if there is a vacancy in that office 15 which has not been filled in accordance with clause 8.

(3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences

20 as if they had been done or omitted to be done by that member.

6. (1) A deputy chairman of the Committee shall be elected by the Deputy members at the first meeting held after 1st January in each year, or chairman. whenever there is a vacancy in the office of the deputy chairman, and the deputy chairman shall hold office until the first meeting in the year follow-25 ing that in which he was elected.

ances or estate for their benefit;

(2) A deputy chairman is eligible for re-election from time to time.

(3) Where the chairman is absent from his office through illness or any other cause the deputy chairman shall act as the chairman.

(4) Where a member who is deputy chairman is absent from his 30 office through illness or any other cause the Minister may appoint some other member to act as deputy chairman during that absence.

7. (1) A member shall be deemed to have vacated his office-

Vacation of office.

- (a) if he dies;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allow-

substitutes to act period of absence of member.

members.

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SCHEDULE 2-continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

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(c) if he is absent from 4 consecutive ordinary meetings of the Committee of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or, unless before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;

- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
 - (f) if he resigns his office by writing under his hand addressed to the Minister;
 - (g) if he declines office;
 - (h) if he is removed from office by the Minister; or
 - (i) upon his attaining the age of 70 years.

(2) The Minister may, for any cause which to him seems sufficient, 25 remove any member from office.

8. (1) On the occurrence of a vacancy in the office of a member, Filling the Minister may appoint a person to the vacant office for the balance of casual of his predecessor's term of office.

(2) A person appointed under subclause (1) of this clause shall be 30 a person who holds the same qualifications, and is nominated in the same manner, if any, as the member whose office has become vacant was qualified and nominated.

 The number of members which shall constitute a quorum at any Quorum. meeting of the Committee is 4, of whom one shall be the chairman or the
 deputy chairman.

SCHEDULE 2—continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

10. (1) Any duly convened meeting of the Committee at which a Meetings.5 quorum is present shall be competent to transact any business of the Committee.

(2) Questions arising at a meeting of the Committee shall be determined by a majority of votes of the members present and voting.

(3) The chairman shall preside at all meetings of the Committee 10 at which he is present.

(4) If the chairman is not present at a meeting of the Committee, the deputy chairman shall preside.

(5) The person presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting 15 vote.

11. The Committee shall cause full and accurate minutes to be kept of Minutes. its proceedings at meetings, and submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

20 12. The procedure for the calling of, and for the conduct of business General at, meetings of the Committee shall, subject to any procedure that is procedure. specified in this Act or is prescribed, be as determined by the Committee.

13. (1) No matter or thing done, and no contract entered into, by the Protection Committee, and no matter or thing done by a member or by any other from
25 person acting under the direction or as delegate of the Committee shall, liability. if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the member or person personally to any action, liability, claim or demand.

(2) Nothing in subclause (1) of this clause exempts any member 30 or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Committee and which the member or other person authorised or joined in authorising.

SCHEDULE 2—continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

14. In proceedings by or against the Committee no proof shall be Presumptions. 5 required (until evidence is given to the contrary) of—

(a) the constitution of the Committee;

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(b) any resolution of the Committee;

(c) the appointment of any member; or

(d) the presence of a quorum at any meeting of the Committee.

BY AUTHORITY D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978 [32c]

DAMS SAFETY BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this bill as introduced into Parliament)

The object of this Bill is to constitute the Dams Safety Committee and to confer on the Committee functions relating to the safety of certain dams.

The Bill contains the following provisions:-

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Division of the proposed Act.

Clause 4. Interpretation.

Clause 5 provides that the proposed Act binds the Crown

Clause 6 provides that nothing in the proposed Act affects any liability imposed elsewhere by the law in relation to prescribed dams, being dams listed in Schedule 1 to the proposed Act.

Clause 7 constitutes a corporation to be known as the Dams Safety Committee.

Clause 8 provides for the appointment by the Minister of 7 part-time members of the Committee, being persons experienced in dam engineering.

Clause 9 empowers the Minister to appoint a member of the Committee as chairman.

Clause 10 provides that the provisions of Schedule 2 to the proposed Act relating to the constitution and procedure of the Committee have effect.

Clause 11 enables the Committee to make use of certain facilities and employees of the Crown.

Clause 12 enables the Committee to appoint sub-committees

Clause 13 provides for the establishment in the Special Deposits Account in the Treasury of an account to be known as the Dams Safety Committee Account.

Clause 14 specifies the functions of the Committee.

Clause 15 empowers the Committee to require the owner of a prescribed dam to record and furnish to it information relating to the prescribed dam.

Clause 16 enables the Committee to authorise persons to enter land and carry out inspections of dams for the purposes of the proposed Act.

Clause 17 prohibits the obstruction of a person authorised under clause 16.

44698B 431-

Clause 18 authorises the Committee, by written notice, to require owners of prescribed dams and certain other persons to do things or to refrain from doing things to ensure the safety of prescribed dams.

Clause 19 empowers the Committee to hold inquiries relating to the safety of prescribed dams.

Clause 20 provides for the giving of evidence at an inquiry held under clause 19.

Clause 21 enables the Minister to declare a state of emergency in respect of a prescribed dam.

Clause 22 specifies the functions of the Committee where a state of emergency has been declared under clause 21.

Clause 23 enables the Committee to recover any costs and expenses incurred by it in the exercise of its functions under clause 22 in respect of a prescribed dam from the owner of the prescribed dam.

Clause 24 empowers the Committee to enter into contracts relating to the exercise of its functions.

Clause 25 authorises the Committee to enter into agency agreements with public authorities.

Clause 26 authorises the Committee to enter into arrangements with any person with respect to the conduct of any investigation, study or research necessary or desirable for the purposes of the proposed Act.

Clause 27 enables the Governor, by proclamation published in the Gazette, to amend Schedule 1 to the proposed Act which specifies prescribed dams.

Clause 28 enables the Committee to delegate its functions.

Clause 29 provides for the chairman of the Committee to authenticate documents of the Committee.

Clause 30. Offences.

Clause 31. Proceedings for offences.

Clause 32. Regulations.

Schedule 1 specifies prescribed dams.

Schedule 2 makes provisions relating to the constitution and procedure of the Committee.

PROOF

DAMS SAFETY BILL, 1978

No. , 1978.

A BILL FOR

An Act to constitute the Dams Safety Committee and to confer and impose on the Committee functions relating to the safety of certain dams.

[MR FERGUSON-2 March, 1978.]

44698B 431—A

BE it enacted by the Queen'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 :----

PART I.

PRELIMINARY.

1. This Act may be cited as the "Dams Safety Act, 1978". Short title.

(1) This section and section 1 shall commence on the Commence-2. date of assent to this Act. ment.

(2) Except as provided in subsection (1), this Act shall 10 commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division of Act.

PART I.—PRELIMINARY—ss. 1-6.

PART II.—CONSTITUTION OF THE COMMITTEE—ss. 7-13.

PART III.—FUNCTIONS OF THE COMMITTEE—ss. 14-26.

PART IV.—GENERAL—ss. 27-32.

SCHEDULE 1.—PRESCRIBED DAMS.

SCHEDULE 2.—PROVISIONS RELATING TO THE CONSTITU-TION AND PROCEDURE OF THE COMMITTEE.

4. (1) In this Act, except in so far as the context or subject- Interpretamatter otherwise indicates or requirestion.

"chairman" means the chairman of the Committee appointed under section 9:

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"Committee" means the Dams Safety Committee constituted under section 7;

"functions" includes powers, authorities and duties;

"member" means a member of the Committee;

"owner", in relation to a dam, means any person or public authority who, whether solely or with some other person or public authority, owns, controls, operates, manages or maintains the dam and includes any person or public authority who, whether solely or with some other person or public authority, proposes to build a dam;

"prescribed dam" means a dam, or proposed dam, for the time being specified or described in Schedule 1;

"public authority" means any public or local authority constituted by or under an Act other than this Act;

"regulation" means a regulation made under this Act.

(2) A reference in this Act to the exercise of a function includes, where the function is a duty, the performance of that duty.

This Act, section 30 excepted, binds the Crown not only in Act binds
 right of New South Wales but also, so far as the legislative power Crown.
 of Parliament permits, the Crown in all its other capacities.

6. Nothing in this Act derogates from or affects the liability Liability of any person arising from any act or omission of that person, of certain persons not his servants or agents with respect to a prescribed dam.

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Act No. , 1978.

Dams Safety.

PART II.

CONSTITUTION OF THE COMMITTEE.

7. (1) There is hereby constituted a corporation under the The corporate name of the "Dams Safety Committee".

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5 (2) The Committee is, for the purposes of any Act, a statutory body representing the Crown.

(3) In the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister or any other person), the Committee shall be subject in 10 all respects to the control and direction of the Minister.

8. (1) The Committee shall consist of 7 part-time members Members. appointed by the Minister.

(2) The members shall be—

- (a) a person nominated by the Electricity Commission of New South Wales constituted under the Electricity Commission Act, 1950;
- (b) a person nominated by the Metropolitan Water Sewerage and Drainage Board constituted under the Metropolitan Water, Sewerage, and Drainage Act, 1924;
- (c) a person nominated by the Water Resources Commission constituted under the Water Resources Commission Act, 1976;
 - (d) a person nominated by the Hunter District Water Board constituted under the Hunter District Water, Sewerage and Drainage Act, 1938;
 - (e) a person nominated by the Minister administering the Public Works Act, 1912; and
 - (f) 2 persons nominated by the Federal Council of the Institution of Engineers, Australia.

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(3) A person shall not be nominated for appointment as a member unless he is an engineer who, in the opinion of the person making the nomination, is experienced in dam engineering.

(4) Where, for the purposes of subsection (2), a nomi-5 nation of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint any engineer who, in the opinion of the Minister, is experienced in dam engineering to be a 10 member instead of the person required to be appointed on that nomination.

9. The Minister shall appoint one of the members as chairman Chairman. of the Committee.

10. Schedule 2 has effect.

Provisions relating to the constitution and procedure of the Committee.

15 11. For the purpose of exercising its functions, the Committee Committee may, with the approval of the Minister and of the Department or may make use of public authority concerned and on such terms as may be arranged, facilities make use of the facilities, or the services of any officers, employees and employees of or servants, of any Department of the Government or of any public Crown, etc.
 20 authority.

12. (1) The Committee may establish standing or special Sub-sub-committees for the purpose of advising the Committee in the committees. exercise of its functions under this Act and may appoint as a member of any such sub-committee any person who, in its opinion,

25 appears to be qualified to be a member of that sub-committee, whether or not he is a member of the Committee.

(2) The Committee shall appoint one of the members of a sub-committee established under subsection (1) to be chairman of the sub-committee and any such sub-committee may, subject to subsection (3) and to any directions of the Committee, regulate 5 its procedure in such manner as it thinks fit.

(3) The Committee may specify the number of persons who shall constitute a quorum of a sub-committee established under this section.

13. (1) There shall be established in the Special Deposits Dams Safety 10 Account in the Treasury a Dams Safety Committee Account into Committee which shall be deposited all money received by the Committee and from which shall be paid all amounts required to meet expenditure incurred in accordance with the provisions of this Act.

(2) The Treasurer may, out of money provided by15 Parliament, from time to time make such contributions to the funds of the Committee as may be determined by the Treasurer.

PART III.

FUNCTIONS OF THE COMMITTEE.

14. The functions of the Committee are—

Functions of Committee.

- (a) to maintain a surveillance of prescribed dams, the new revirons under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams to ensure the safety of prescribed dams;
 - (b) to examine and investigate the location, design, construction, reconstruction, extension, modification, operation and maintenance of prescribed dams, the environs under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams;

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- (c) to obtain information and keep records on matters relating to the safety of dams;
- (d) to formulate measures to ensure the safety of dams;
- (e) to make such reports or recommendations to the Minister or any other person in relation to the safety of prescribed dams as the Committee considers necessary or appropriate;
- (f) to make reports and recommendations with respect to the prescription of dams for the purposes of this Act;
- (g) to exercise such other functions as are conferred or imposed on the Committee by or under this or any other Act or the regulations; and
 - (h) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions.

15. (1) The Committee may, by notice in writing, require the Keeping and furnishowner of a prescribed dam specified in the notice to do either or and furnishboth of the following things :—

(a) make such observations, take such measurements and

- keep such records of or in respect of the prescribed dam, the environs over, under and surrounding the prescribed dam and the water or other material impounded by the prescribed dam as may be specified in the notice;
- (b) furnish to the Committee in respect of the prescribed dam such information and such books, plans, documents or other papers and such films, tapes or other records as may be specified or described in the notice,

and the owner shall comply with the requirement.

(2) Where an owner of a prescribed dam fails to comply 30 with the requirement of a notice under subsection (1), the Committee may exercise the functions referred to in subsection (1) (a) in respect of the prescribed dam and recover the costs and expenses of or incidental thereto from the owner as a debt in any court of competent jurisdiction.

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16. (1) In this section, a reference to land comprising a dam Entry, inincludes a reference to the water or other material impounded by spection, the dam.

(2) The Committee may authorise a person, in writing,5 to carry out inspections, for the purposes of this Act, of any dam.

(3) A person authorised under subsection (2) may enter any land or any place on any land comprising any dam or the environs over, under or surrounding any dam and may thereon or therein carry out such inspections, tests, investigations, surveys,
10 experiments, boring, drilling and exploration, and take such samples and such photographs, as he considers necessary in connection with the administration of this Act.

(4) A person authorised under subsection (2) shall not, in relation to any land or any place on any land, exercise any of 15 the functions conferred by subsection (3) unless reasonable notice has been given to the owner or occupier of the land or place of the intention to exercise those functions.

(5) In addition to the requirements of subsection (4), a person authorised under subsection (2) shall not exercise any of 20 the functions conferred by subsection (3)—

- (a) in relation to any land or any place on any land which comprises a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act unless—
 - (i) reasonable notice has been given to the Chief Inspector of Coal Mines appointed as referred to in that Act of the intention to exercise those functions; and
 - (ii) the person is accompanied by the Chief Inspector of Coal Mines or a person nominated by that Chief Inspector in the exercise of those functions; or

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- (b) in relation to any land or any place on any land which comprises a mine within the meaning of the Mining Act, 1973, unless-
 - (i) reasonable notice has been given to the Chief Inspector of Mines within the Department of Mines of the intention to exercise those functions: and
 - (ii) the person is accompanied by the Chief Inspector of Mines or a person nominated by that Chief Inspector in the exercise of those functions.

(6) In the exercise of a function conferred by subsection (3), the Committee shall ensure that no more damage than may be necessary in the circumstances is inflicted and shall fully compensate any person who sustains damage in the course of the 15 exercise of that function.

(7) A person authorised under subsection (2), in exercising a function conferred by subsection (3) in relation to any land or any place on any land, shall, if so required by a person apparently in charge of that land or place produce the instrument 20 of his authority to that person.

A person shall not obstruct, hinder or interfere with a Obstruction 17. person authorised under section 16 (2) in the exercise of his $\frac{\text{of}}{\text{authorised}}$ functions under section 16. person.

(1) Where it appears to the Committee that a prescribed Giving of 18. 25 dam is unsafe or is in danger of becoming unsafe, the Committee notices to may, by notice in writing, require the owner of the prescribed dam safety of to do such things as are specified or described in the notice as may prescribed dams. be reasonably necessary to ensure the safety of the prescribed dam.

(2) Where it appears to the Committee that anything 30 done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by the owner of the prescribed dam or any other person may endanger the safety of the prescribed

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dam, the Committee may, by notice in writing, require the owner or other person, as the case may be, to do such things as are specified or described in the notice as may be reasonably necessary to ensure the safety of the prescribed dam and the owner or other 5 person shall comply with the requirement.

lines of the intention to exercise those functions:

(3) A notice under subsection (2) requiring the cessation of any work or activity being done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by a person other than the owner of the prescribed dam shall 10 not be given without the approval of—

(a) except as provided by paragraph (b), the Minister; or

(b) where the work or activity relates to the operation of—

- (i) a mine within the meaning of the Coal Mines Regulation Act, 1912, or an open cut working within the meaning of that Act; or
- (ii) a mine within the meaning of the Mining Act, 1973,

the Premier.

19. (1) The Committee may, and if directed to do so by the Inquiries.20 Minister shall, conduct an inquiry into any matter relating to the safety of a prescribed dam.

(2) The Committee may, by order in writing, authorise, on such terms and conditions as are specified in the order—

(a) a sub-committee established under section 12; or

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(b) with the approval of the Minister, any other person,

to examine, and report to the Committee on, any matter in connection with an inquiry (including an inquiry that the Minister has directed to be conducted).

(3) Nothing in this section shall be construed as limiting the power of the Committee to conduct an examination in connection with an inquiry under this section and the Committee may conduct such an examination notwithstanding that it has authorised 5 another body or person to do so.

20. (1) A body or person conducting an inquiry or exami-Evidence at nation under section 19 may require a person, by notice in inquiry. writing—

(a) within such reasonable time as may be specified in the notice, to furnish to that body or person such information and to produce to that body or person such books, plans, documents or other papers and such films, tapes or other records in his possession or under his control as may be required for the purpose of the inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise; or

(b) to attend, at a time and place specified in the notice, before that body or person and thereafter from time to time as required by that body or person to give evidence concerning any matter the subject of the inquiry or examination, as the case may be, and to produce all such books, plans, documents or other papers and such films, tapes or other records in his possession or under his control as may be required for the purpose of that inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise.

(2) A body or person conducting an inquiry or examination under section 19 may, subject to section 13 of the Oaths Act, 1900, require any evidence referred to in subsection (1) (b)
30 to be given on oath, and either in writing or orally, and for that purpose—

(a) where the inquiry or examination is being conducted by a body, the person presiding at the inquiry or examination; or 11

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(b) where the inquiry or examination is being conducted by a person, that person,

may administer an oath.

(3) A person shall not neglect or refuse to comply with 5 the requirements of a notice served on him under this section.

(4) A person shall not—

- (a) furnish any information referred to in subsection (1)
 (a) required of him pursuant to a notice served on him under subsection (1) that is false or misleading in a material particular; or
- (b) give any evidence referred to in subsection (1) (b) that is false or misleading in a material particular.

(5) It is a sufficient defence to a prosecution arising under subsection (4) if the defendant proves that he believed the truth 15 of the information or evidence given by him and that it was given in good faith.

21. (1) Where—

State of emergency.

- (a) a prescribed dam has collapsed or failed, in whole or in part; or
- 20 (b) the Minister, whether or not any recommendation in that behalf has been made to him by the Committee, is of the opinion that a prescribed dam is liable to collapse or failure, in whole or in part,

the Minister may, by order in writing, declare that a state of 25 emergency exists in respect of the prescribed dam.

(2) An order made under subsection (1) shall take effect from the making thereof or from a later date specified in the order and shall, unless sooner revoked, continue in force for such period as is specified in the order.

(3) An order made under subsection (1) shall be published in the Gazette as soon as practicable.

22. Without limiting or restricting the functions conferred or Functions of imposed on the Committee under the other provisions of this Act, Committee 5 where an order made under section 21 (1) is in force, the emergency. Committee shall, at the direction or with the approval of the Minister, do any one or more of the following things in relation to the prescribed dam to which the order applies :---

(a) take full charge and control of the prescribed dam, the environs under, over and surrounding the prescribed dam and the water or other material impounded by the prescribed dam;

- (b) release or discharge the whole or such part as the Committee thinks fit of the water or other material impounded by the prescribed dam;
- (c) carry out all such works and do all such things as, in the opinion of the Committee, are necessary to render the prescribed dam safe;
- (d) demolish or remove the whole or any part of the prescribed dam or any work or structure on the prescribed dam, the water or other material impounded by the prescribed dam or the environs under, over or surrounding the prescribed dam;
- (e) take such other action as the Minister directs or approves.

23. The Committee may recover the costs and expenses $_{Recovery}$ incurred by it in the exercise of its functions under section 22 in of costs and respect of a prescribed dam from the owner of the prescribed dam $^{expenses.}$ as a debt in any court of competent jurisdiction.

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(1) The Committee may make and enter into contracts Contracts. 24. with any person for the carrying out of works, the performance of services or the supply of goods or materials in connection with the exercise by the Committee of its functions.

(2) A contract under this section shall be deemed for 5 the purposes of the Constitution Act, 1902, to be a contract for or on account of the Public Service of New South Wales.

(1) The Committee may enter into an arrangement or Arrange-25. agreement with any public authority that-

ments with public

- (a) the public authority shall act as agent of the Committee ^{authorities.} for the purposes of this Act; or
 - (b) the Committee shall act as agent of the public authority for the purposes of this Act,

on such terms and conditions as may be agreed upon between the 15 Committee and the public authority.

(2) Notwithstanding anything in any other Act, any public authority is hereby authorised and empowered to enter into arrangements or agreements referred to in subsection (1) and may do or suffer anything necessary or expedient for carrying out any 20 such arrangements or agreements.

26. The Committee may enter into arrangements with-

Arrangements for

- (a) a Minister of the Crown of any State, a Minister of investiga-State of the Commonwealth or a Department or instru- tion and research. mentality of the Commonwealth or of any State;
- (b) a university or another tertiary institution; or 25

(c) any other body or person,

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with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

PART IV.

GENERAL.

27. (1) The Governor may, by proclamation published in the Amend-Gazette, amend Schedule 1—

- (a) by omitting therefrom the name of a prescribed dam and any matter relating to the description or location of the prescribed dam;
 - (b) by inserting therein the name of a dam and matter relating to the description or location of that dam; or
- (c) by altering the name of a prescribed dam or any other matter appearing in Schedule 1.

(2) The Governor may, by proclamation published in the Gazette, amend this Act by omitting Schedule 1 and by inserting instead a Schedule containing the names and locations of dams.

- 15 28. (1) The Committee may, by resolution, delegate to—(a) a member; or
 - (b) an officer, employee or servant of a Department of the Government or of a public authority,

the exercise of such of the Committee's functions (other than this 20 power of delegation) as may be specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

(2) A function, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the 25 delegation.

(3) A delegation under this section may be made subject to conditions or limitations as to the exercise of any of the functions delegated, or as to time or circumstance.

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(4) Notwithstanding any delegation under this section, the Committee may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while 5 acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Committee and shall be deemed to have been done or suffered by the Committee.

(6) An instrument purporting to be signed by a delegate 10 of the Committee in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Committee under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Committee under this 15 section.

29. A notice or other document requiring authentication by the Authenti-Committee may be sufficiently authenticated without the seal of cation of the Committee if signed by the chairman.

30. A person who contravenes or fails to comply with any pro-20 vision of this Act or a notice given by the Committee under this Act shall be guilty of an offence and liable to a penalty not exceeding \$1,000.

31. Any penalty imposed by this Act or the regulations may be Proceedrecovered in a summary manner before a court of petty sessions ings for 25 constituted by a stipendiary magistrate sitting alone.

32. (1) The Governor may make regulations, not inconsistent Regulawith this Act, for or with respect to any matter that by this Act is ^{tions.} required or permitted to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the procedure for the calling of, and for the conduct of business at, meetings of the Committee;
 - (b) the travelling expenses and the compensation to be paid to persons attending or giving evidence at an inquiry or examination as referred to in section 20; and
 - (c) the remuneration, travelling and subsistence allowances to be paid to members, not being members of the Committee, of a sub-committee established under section 12.

(2) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person 15 specified therein, either generally or for any class of cases or in a particular case.

(3) A regulation may be made so as to apply differently according to such factors as may be specified in the regulation.

(4) A regulation may impose a penalty not exceeding 20 \$500 for any offence against the regulation.

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Act No. , 1978.

Dams Safety.

SCHEDULE 1.

PRESCRIBED DAMS.

PART 1.

DAMS OTHER THAN CERTAIN LICENSED DAMS.

5	Name of Dam	Location of Dam	
	Aberdare South Abermain No. 2 Avon Back Creek	Avon River near Bargo.	
10	Back Creek Bargo Weir Barraba Beardy Waters Beargamil		
15	Ben Boyd Ben Chifley Bendeela Pondage Bethungra	Off-stream storage near Eden. Campbells River near Bathurst. Off-stream storage near Nowra. Wandalybengle Creek near Bethungra.	
20	Blowering	Bogan River near Nyngan. Bogolong Creek near Grenfell. Off-stream storage near Taree.	
25	Borenore Creek Brogo Broughtons Pass Bumberry Bundanoon	Brogo River near Bega. Cataract River near Wilton. Goobang Creek near Parkes. Bundanoon Creek near Moss Vale.	
30	Burrendong Burrinjuck Captains Flat Carcoar Cascade No. 1	Murrumbidgee River near Yass. Molonglo River near Captains Flat. Belubula River near Carcoar. Cascade Creek near Katoomba.	
35	Cascade No. 2 Cascade No. 3	Cascade Creek near Katoomba. Cascade Creek near Katoomba. Cataract River near Bulli.	
40	Cessnock No. 1 Chaffey	Wollombi Creek near Cessnock. Peel River near Tamworth. Chichester River near Dungog. Off-stream storage near Cobar. Bemboka River near Bemboka.	
	Coeypolly Creek No. 1 Coeypolly Creek No. 2 Colongra Creek Ash Cootamundra Copeton	Gwydir River near Inverell.	
50	Cordeaux	Cordeaux River near Wilton. Delhuntys Creek near Cullen Bullen. Harden. Danjerra Creek near Nowra. Dumaresq Creek near Armidale.	

Secs. 4 (1), definition of "prescribed" dam", 27.

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SCHEDULE 1—continued.

PRESCRIBED DAMS—continued.

	Name of Dam		Location of Dam	
5	Dungowan Emigrant Creek Fitzroy Falls		Dungowan Creek near Nundle. Emigrant Creek near Ballina. Yarrunga Creek near Moss Vale.	
	Flat Rock Creek Fountandale Creek Foybrook Open Cut		Flat Rock Creek near Nowra. Fountandale Creek near Kiama. Singleton.	
10	Gara Glenbawn Glenquarry Cut Grahamstown	 	Gara River near Armidale. Hunter River near Scone. Off-stream storage near Moss Vale. Off-stream storage near Raymond Terrace.	
15	Greaves Creek Guyra Illalong Creek	 	Greaves Creek near Blackheath. Gara River near Guyra. Illalong Creek near Binalong.	
20	Imperial Ingleburn Inverell Jerrara Creek	 	Willa-Willyong Creek near Broken Hill. Off-stream storage near Ingleburn. Macintyre River near Inverell. Jerrara Creek near Kiama.	
20	Junction Reef Karangi Keepit	 	Belubula River near Mandurama. Off-stream storage near Coff's Harbour. Namoi River near Gunnedah.	
25	Kentucky Creek Koorawatha Lake Canobolas Lake Endeavour	 	Kentucky Creek near Uralla. Bang Bang Creek near Koorawatha. Molong Creek near Orange. Billabong Creek near Parkes.	
30	Lake Medlow Lake Rowlands Liddell Ash Disposal Liddell Cooling Water	 	Wall's Creek near Medlow Bath. Coombing Rivulet near Carcoar. Saltwater Creek near Muswellbrook. Gardiners Creek near Muswellbrook.	
	Liddell Water Supply Lithgow No. 1	 	Tinkers Creek near Muswellbrook. Farmer's Creek near Lithgow. Farmer's Creek near Lithgow.	
35	Liverpool Maldon Weir Malpas Manly	 	Off-stream storage near Liverpool. Nepean River near Picton. Gara River near Armidale. Curl Curl Creek near Manly Vale.	
40	Mannering Creek Ash Mardi Medway Mooney No. 2	· · · · ·	Off-stream storage near Wyong. Medway River near Berrima. Mooney Mooney Creek near Gosford.	
45	Moores Creek Narrara Nattai Creek Nepean		Gosford. Nattai Creek near Mittagong.	
	Newston Washery Oaky River Oberon Pejar Becentra Nest		Oaky River near Armidale. Fish River near Oberon.	
50	Pheasants Nest Pindari Port Macquarie Porters Creek		Nepean River near Wilton. Severn River near Ashford. Off-stream storage near Port Macquarie.	

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SCHEDULE 1—continued.

PRESCRIBED DAMS—continued.

	Name of Dam	Location of Dam
5	Potts Hill Reservoir No. 1 Potts Hill Reservoir No. 2 Pressure No. 1	Off-stream storage near Lidcombe. Off-stream storage near Lidcombe. Emmaville.
10	Prospect	Prospect Creek at Prospect. Puddledock Creek near Armidale. Redbank Creek near Mudgee. Rocky Creek near Lismore. Off-stream storage near Rydal. Cudgegong River near Rylstone.
15	Seaham Sooley Spring Creek Stanwell No. 2 Stephens Creek	Williams River near Raymond Terrace. Sooley Creek near Goulburn. Spring Creek near Orange. Stanwell Creek near Stanwell Park. Stephens Creek near Broken Hill. Summerhill Creek near Orange.
20	Suma Park	Dapto. Shoalhaven River near Nowra. Tenterfield Creek near Tenterfield.
25	Thornleigh Reservoir Three Mile	Off-stream storage at Thornleigh. Three Mile Creek near Kiandra. Castlereagh River near Coonabarabran. Iron Pot Creek near Kyogle. Off-stream storage near Tumbarumba.
30	Umberumberka Upper Cordeaux No. 1 Upper Cordeaux No. 2 Upper Mooney Wallerawang Ash	Umberumberka Creek near Silverton. Cordeaux River near Wollongong. Cordeaux River near Wollongong. Mooney Mooney Creek near Gosford. Wallerawang.
35	Wangi Ash	Crooked Creek near Wangi. Warragamba River near Warragamba. Off-stream storage near Warragamba.
	Warragamba WeirWelcome ReefWilson River WeirWinburndaleWindamereWingecarribeeWoodfordWoolgoolgaWoronoraWyangala	Warragamba River near Wallacia. Shoalhaven River near Braidwood. Wilson River near Mullumbimby. Winburndale Rivulet near Bathurst. Cudgegong River near Mudgee. Wingecarribee River near Moss Vale. Woodford Creek near Woodford. Off-stream storage near Woolgoolga. Woronora River near Waterfall. Lachlan River near Cowra.
	Wyee (Unnamed)	Mannering Creek near Wyee. Quart Pot Creek near Thornton.

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PART 2.

DAMS CONSTRUCTED OR USED PURSUANT TO A LICENSE ISSUED UNDER PART II OF THE WATER ACT, 1912.

5	License No.	Licensee	Location of Dam
10	30400 36940 37572 38404 38780	 Red Gable Pty. Limited Ranges Valley Cattle Station Pty. Limited. The New Zealand Australian Land Co. Limited. Coal Cliff Colliery Pty. Limited No. 2 Fleurs Pty. Limited 	Glen Innes.

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SCHEDULE 2.

Sec. 10.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE.

1. A person who is of or above the age of 70 years shall not be appointed Age of member or to act in the office of a member under clause 5.

20 2. (1) A member shall, subject to this Act, be appointed for such term, Term of not exceeding 4 years, as is specified in the instrument of his appointment. office of

member.

(2) A member shall, if otherwise qualified, be eligible for reappointment from time to time for such term, not exceeding 4 years, as is specified in the instrument of his re-appointment.

25 3. (1) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the holding duties of his office, that provision shall not operate to disqualify him from office under holding that office and also the office of a member or from accepting and retaining any remuneration, travelling or subsistence allowance payable to other Acts.

(2) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

SCHEDULE 2-continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

4. Each member is entitled to be paid such remuneration (including Remuner-5 travelling and subsistence allowances) as the Minister may from time to ation of time determine in respect of him. and allowances for

5. (1) The Minister may appoint any person to act in the office of a Appointmember while the member is absent from his office through illness or any ment of other cause, and that person while so acting-

substitutes to act (a) shall have and may exercise the functions of the member in whose during period of absence of member.

members.

office he is apointed to act; and (b) shall be deemed to be the member.

(2) A member is, for the purposes of subclause (1) of this clause, deemed to be absent from his office if there is a vacancy in that office 15 which has not been filled in accordance with clause 8.

(3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences 20 as if they had been done or omitted to be done by that member.

6. (1) A deputy chairman of the Committee shall be elected by the Deputy members at the first meeting held after 1st January in each year, or chairman. whenever there is a vacancy in the office of the deputy chairman, and the deputy chairman shall hold office until the first meeting in the year follow-25 ing that in which he was elected.

(2) A deputy chairman is eligible for re-election from time to time.

(3) Where the chairman is absent from his office through illness or any other cause the deputy chairman shall act as the chairman.

(4) Where a member who is deputy chairman is absent from his 30 office through illness or any other cause the Minister may appoint some other member to act as deputy chairman during that absence.

7. (1) A member shall be deemed to have vacated his office— (a) if he dies:

Vacation of office.

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(b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;

SCHEDULE 2—continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

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(c) if he is absent from 4 consecutive ordinary meetings of the Committee of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Minister or, unless before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;

 (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

(e) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;

- (f) if he resigns his office by writing under his hand addressed to the Minister;
- (g) if he declines office;
- (h) if he is removed from office by the Minister; or
- (i) upon his attaining the age of 70 years.

(2) The Minister may, for any cause which to him seems sufficient, 25 remove any member from office.

8. (1) On the occurrence of a vacancy in the office of a member, Filling of casual of his predecessor's term of office.

(2) A person appointed under subclause (1) of this clause shall be 30 a person who holds the same qualifications, and is nominated in the same manner, if any, as the member whose office has become vacant was qualified and nominated.

The number of members which shall constitute a quorum at any quorum.
 guorum at any quorum.
 deputy chairman.

Act No. , 1978.

Dams Safety.

SCHEDULE 2—continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

10. (1) Any duly convened meeting of the Committee at which a Meetings.5 quorum is present shall be competent to transact any business of the Committee.

(2) Questions arising at a meeting of the Committee shall be determined by a majority of votes of the members present and voting.

(3) The chairman shall preside at all meetings of the Committee 10 at which he is present.

(4) If the chairman is not present at a meeting of the Committee, the deputy chairman shall preside.

(5) The person presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting 15 vote.

11. The Committee shall cause full and accurate minutes to be kept of Minutes. its proceedings at meetings, and submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

20 12. The procedure for the calling of, and for the conduct of business General at, meetings of the Committee shall, subject to any procedure that is procedure. specified in this Act or is prescribed, be as determined by the Committee.

13. (1) No matter or thing done, and no contract entered into, by the Protection Committee, and no matter or thing done by a member or by any other from
25 person acting under the direction or as delegate of the Committee shall, liability. if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the member or person personally to any action, liability, claim or demand.

(2) Nothing in subclause (1) of this clause exempts any member 30 or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Committee and which the member or other person authorised or joined in authorising.

SCHEDULE 2—continued.

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COMMITTEE—continued.

14. In proceedings by or against the Committee no proof shall be Presump-5 required (until evidence is given to the contrary) of—tions.

- (a) the constitution of the Committee;
- (b) any resolution of the Committee;
- (c) the appointment of any member; or
- (d) the presence of a quorum at any meeting of the Committee.

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