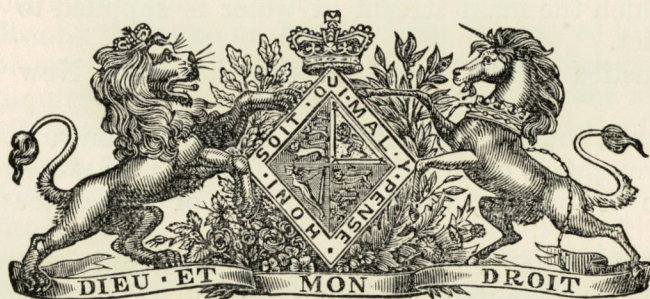


This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council Chamber,  
Sydney, 20th December, 1888. }

JOHN J. CALVERT,  
Clerk of the Parliaments.

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

## VICTORIÆ REGINÆ.

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An Act to enable the "Broken Hill and District Water Supply Company (Limited)" to construct works, and use the waters of the Speculation and Menindie Lakes and the Darling River for the purpose of supplying Broken Hill and District with fresh water, and to give power to purchase land.

WHEREAS it is expedient and for the public benefit that the town and district of Broken Hill, in the Colony of New South Wales, should be provided with a supply of fresh water. And whereas a Company has been formed, called the "Broken Hill and District Water Supply Company (Limited)," for the purpose of supplying the said town and district with fresh water. And whereas the said Company desire to establish and carry out works for such purpose and other purposes incidental thereto in the said town and district. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Broken Hill and District Water Supply Act of 1888." Its provisions are arranged into Four Parts, embracing the following subjects:—

PART I.—Powers and duties of the Company as to Water Supply.

PART II.—Special provisions as to Water Supply.

c 24—A

PART



*Broken Hill and District Water Supply Company.*

PART III.—*The acquisition and occupation by the Company of lands for the purpose of water supply—ascertainment of compensation in respect thereof.*

PART IV.—*Miscellaneous provisions—Legal procedure.*

- 5 And in the construction of this Act the following words and expressions in inverted commas, unless there shall be something in the context repugnant thereto or inconsistent therewith, shall bear the meanings and include the persons or things hereby respectively set against such words and expressions, that is to say:—
- 10 “Governor”—The Governor, with the advice of the Executive Council.
- “Conduit”—The canals, tunnels, aqueducts, cuttings, or pipes, by means of which the main stream of water is supplied to the water district.
- 15 “Justice”—Any Justice of the Peace for the Colony of New South Wales.
- “Street”—Any square, court, alley, highway, railway, tramway, lane, road, thoroughfare or other passage, footpath, or place, whether public or private, within the limits of the water district.
- 20 “Owner”—Any person who is in the receipt of the rents and profits of any house, manufactory, or building of whatsoever kind, or of any land.
- “Water District”—The area within which water is authorized to be supplied to the inhabitants of the said town and district.
- 25 “Company”—The said “Broken Hill and District Water Supply Company (Limited),” or their assigns, owners for the time being of the Broken Hill Waterworks.

## PART I.

30 *Powers and duties of the Company as to Water Supply.*

2. Before the Company shall put into force any of the provisions contained in this Part with respect to the acquisition of land otherwise than by agreement, the following conditions and provisions shall be observed:—

- 35 (I) The Company shall publish once at least in each of three consecutive weeks in some local newspaper circulating in the town and district of Broken Hill, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land that has been alienated from the Crown, naming some central place at Broken Hill where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of such lands required.
- 40 (II) The Company shall serve a notice on every owner or reputed owner, or reputed lessee or occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer, stating whether the person so served dissents, or is neutral, in respect of taking such land.
- 45 (III) On compliance with the provisions of this section with respect to notices the Company may, if they think fit, present a petition to the Governor under their Common Seal, and such petition shall state the lands as aforesaid intended to be
- 50

Conditions prior to acquisition of land.



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- 5 be taken, and the purposes for which they are required,  
and the names of the owners, lessees, and occupiers of lands  
who have assented, dissented, or are neutral, in respect  
of the taking of such lands, or who have returned no answer  
to the notice. And it shall pray that the Company may,  
with reference to such lands, be allowed to put in force  
the powers contained in Part III of this Act with respect to  
the acquisition of such lands otherwise than by agreement,  
and such prayer shall be supported by such evidence as the  
10 Governor may require.
- (IV) On receipt of such petition, and on due proof of the  
proper notices having been published and served, the Governor  
shall take such petition into consideration, and may either  
dismiss the same or direct a local inquiry as to the propriety  
15 of assenting to the prayer of such petition, but until such  
inquiry has been made no provisional order shall be made  
affecting any such lands without the consent of the owners,  
lessees, and occupiers thereof.
- (V) After the completion of such inquiry the Governor may, by  
20 provisional order, empower the Company to put in force with  
reference to the lands referred to in such order, the powers of  
the said Part, with respect to the acquisition of lands, other-  
wise than by agreement or any of them, and either absolutely  
or with such conditions and modifications as the Governor  
25 may think fit; and it shall be the duty of the Company to  
serve a copy of any order so made in the manner and on the  
persons in which and on whom notices in respect of such lands  
are required to be served.

## PART II.

30 *Special Provisions as to Water Supply.*

3. Subject to the provisions of this Act, the Company may Powers of the Com-  
exercise any of the powers in this Part contained for the construction pany.  
of waterworks for the supply of water from the Speculation and  
Menindie Lakes and Darling River to the Municipal District of  
35 Broken Hill, including therein the district between the town of Broken  
Hill and the said Lakes and River, more particularly described in the  
Third Schedule to this Act, and for the purpose of carrying out the  
provisions of this Act the Company may
- (I) Enter upon any lands and take levels of the same, and set out  
40 such parts thereof as they shall think necessary.
- (II) Enter upon, take, and hold such land as they may from time  
to time deem necessary for the construction and maintenance  
of any of the works authorized by this Act, or for obtaining  
or enlarging the supply of water, or for improving the quality  
45 thereof for the purpose of this Act.
- (III) Enter upon any Crown or private lands, or streets, and lay  
or place therein any pipes, and may repair, alter or cut off, or  
remove the same, and may enter upon any such lands, or  
streets, for the purpose of repairing any watercourses, or other  
50 works being their property or under their control.
- (IV) Take water from the lakes and river aforesaid. Provided  
that not more than seven hundred thousand gallons of water  
daily shall be taken by the Company from the said lakes or  
river, and the supply at any time drawn shall be such as not  
to



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to interfere with the navigation of the said river, and the Company shall, if required by the Government, erect and maintain to the satisfaction of the Minister for Mines, a meter or gauge for the purpose of ascertaining the quantity of water drawn daily from the said lakes or river, and the measurement of water shown by such meter or gauge to have been drawn shall be taken as correct for the purposes of this Act.

5 Provided always that in the exercise of any of the powers hereby conferred, the Company shall inflict as little damage as may be, and  
10 in all cases where it can be done, shall provide other watering-places, drains, and channels, for the use of adjoining lands in place of any taken away or interrupted by them, and shall make full compensation to all parties interested, for all damage sustained by them through the exercise of such powers. Provided nevertheless that the Company shall  
15 not be liable to make compensation in respect of any damage sustained by reason of the taking of water from the said river or lakes or either of them.

4. Any person who shall wilfully obstruct any person acting under the authority of the Company in setting out the line of any  
20 works undertaken under the authority of this Part, or pull up, or remove, any poles or stakes driven into the ground for the purpose of setting out the line of such works, or destroy or injure any works so undertaken as aforesaid, shall incur a penalty not exceeding five pounds for every such offence.

25 5. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any reservoir, dam, tank, tunnel, watercourse, sluice, main, pipe, aqueduct, bridge, roadway, or engine, or other part whatever of the works of the Company, every such offender shall be guilty of felony, and shall be liable to be imprisoned  
30 for any term not exceeding ten years.

6. The Company may open and break up the soil and pavement of the several streets and bridges within the limits of its water district, and make, open, and break up any sewers, drains, or tunnels within or under such streets, and lay down and place within the same limits,  
35 pipes, conduits, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the Company shall from time to time deem necessary for supplying water to the inhabitants  
40 of the district in the fourth section of this Act described and hereafter referred to as the "Water District."

7. When the Company shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the  
45 same shall be broken up, and fill in the ground and reinstate and make good the road or pavement or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And shall at all times whilst any such pavement or road shall be so open or broken up cause the same to be fenced and guarded, and shall  
50 cause light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up.

8. The Company shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any  
55 penalty or damages for not supplying such water if the want of such supply arises from unusual drought or other unavoidable cause or accident.

9. The Company may supply any person with water for domestic or other purposes, by measure or otherwise, at such rates,  
to

Penalty for obstructing construction of works.

Penalty for destroying works.

Power to open streets, &c.

Reinstatement of streets, &c.

Company not liable for accidental failure to supply water.

Agreements to supply water.



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to be declared fixed and published by them (subject to the provisions hereinafter contained), upon such terms, and subject to such conditions as may be agreed upon by the Company and the person requiring to be supplied.

- 5 10. The Company may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money as may be agreed upon between the Company and  
10 the consumer, which shall be recoverable in the same manner as rates due to the Company for water.

Company may let meters.

11. Such meters, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or to be attached or taken in execution under any process of any Court  
15 of Law or Equity, or under or in pursuance of any sequestration or order in bankruptcy or other legal proceedings against or affecting the consumer of the water, or the occupier of the premises, or other the person in whose possession the meters, pipes, instruments, and apparatus may be.

Meters of Company not distrainable.

- 20 12. Every person who shall have agreed with the Company for a supply of water by measure shall, at his own expense, unless he hire a meter from the Company, provide a meter, and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Company; and in the event of any repairs  
25 being required, notice in writing shall be immediately given by such person to the Company, and a registration of the quantity of water used shall be taken before such repairs are effected.

Meters to be supplied and maintained by consumer.

13. Every person requiring to remove or alter the position of any meter shall leave six days notice in writing to that effect at the  
30 registered or local office of the Company, hereinafter mentioned, and a registration of the quantity of water shall be taken before such removal or alteration is made.

Notice of removal, &c. of meter.

14. If any person shall neglect or delay to have such meter properly repaired and put in correct working order, after having been  
35 required by any officer of the Company so to do, the Company may shut off the supply of water from the premises of such person, either by cutting the service pipe or otherwise, until such meter shall have been properly repaired and certified by some officer of the Company as being in proper working order.

Water may be cut off if meter not in order.

- 40 15. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Company without having first obtained a certificate from the Company that the said meter has been examined and found in correct working order, he shall, for such offence forfeit a sum not exceeding ten pounds.

Penalty for fixing uncertified meter.

- 45 16. If any person remove or alter the position of, or in any way interfere with any meter without giving such notice as aforesaid, he shall, for such offence, forfeit a sum not exceeding twenty pounds. Provided that the Company shall always have an office in the district of Broken Hill and shall register the same at the Council Chambers of  
50 the Municipal Council at Broken Hill.

For removing or altering meter without notice.

17. The officers of the Company may enter any house, building, or lands, to, through, or into which water is supplied by the Company by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water,  
55 or for the purpose of ascertaining the quantity of water supplied or consumed; and may from time to time enter any house, buildings, or lands for the purpose of removing any meter, instrument, pipe, or apparatus the property of the Company; and if any person hinders any such officer from entering or making such inspection or effecting such

Power of officers of Company to inspect meter.



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such removal, he shall for each such offence be liable to a penalty not exceeding five pounds, but except with the consent of a Justice a power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

5 18. In all the pipes to which any fire-plug is fixed, the Com- Supply of water for  
pany shall provide and keep constantly laid on for use, unless prevented public purposes.  
by unusual drought or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes (that is to say), for cleansing the sewers and drains, for cleansing and  
10 watering the streets, and for supplying any public hospitals or charitable institutions, or any public pumps, baths, and wash-houses that may be established for the use of the inhabitants, and paid for out of any municipal rates; and such supply shall be provided at such rates and charges and upon such terms and conditions as may be agreed  
15 on by the said Municipal Council and the Company, or, in case of disagreement, as shall be settled by arbitration in the manner provided by the Arbitration Act.

19. The Company, at the request of the said Municipal Council Company to place  
shall fix proper fire-plugs in the main and other pipes belonging to them public fire-plugs in  
20 at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire that may break out within the said District, and shall from time to time renew and keep in effective order every such fire-plug; and shall put up a public notice on some conspicuous place in each street  
25 on which such fire-plug is situated, showing its situation, and such notice may be put up on any house or building in such street; and as soon as such fire-plug is completed they shall deposit a key thereof in each place where any public fire engine is kept. The cost of such fire-plugs and the expense of fixing, placing, and maintaining the same in  
30 repair, and of supplying such keys as aforesaid shall be defrayed by the said Municipal Council.

20. The Company shall at the request and expense of the owner Fire-plugs for  
or occupier of any manufactory or works situated in or near any street manufactories, &c.  
or road in which or within two hundred yards of which there shall  
35 be a pipe of the Company, place and maintain a fire-plug (to be used only for extinguishing fires) as near as conveniently may be to such manufactory or works.

21. The Company shall at all times keep charged with water all Pipes to be kept  
their pipes to which fire-plugs are fixed unless prevented by drought charged, and water  
40 or other unavoidable cause or accident or during necessary repairs, and taken for fires.  
shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire without making compensation for the same.

22. If, except when prevented as aforesaid, the Company Penalty for refusal  
45 neglect or refuse to fix or repair such fire-plug, or to furnish to the to fix, &c. fire-plugs,  
said Municipal Council a sufficient supply of water for the public pur- or failure to supply  
poses aforesaid, on such terms as shall have been agreed or settled as water.  
aforesaid, or if, except as aforesaid, they neglect to keep the pipes charged as aforesaid, or neglect or refuse to furnish any owner or  
50 occupier liable to be rated under this Act during any part of the time for which such rates have been paid or tendered, they shall be liable to a penalty of twenty pounds, and shall also forfeit to the said Municipal Council, or to every person having paid or tendered the rate, the sum of twenty shillings for every day during which such  
55 refusal shall continue after notice in writing shall have been given to the Company of the want of supply.

23. Any owner or occupier of any dwelling-house, or part of a Pipes laid by owners  
dwelling-house, situate within the water district who shall wish to or occupiers. Power  
have water from the water-works of the Company brought on to his to inhabitants to lay  
premises, service p pes.



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premises, and who shall have paid or tendered to the Company the portion of water rate or charge in respect of such premises by this Act directed to be paid in advance, may open the ground between the pipes of the Company and his premises, having first obtained the  
 5 consent of the owners and occupiers of such ground, and lay any pipes from such premises to communicate with the pipes of the Company.

24. Such pipes shall be of a strength and material approved of  
 by some officer of the Company, and every such owner or occupier shall, before he begins to lay any such pipe, give to the Company two  
 10 days notice of his intention so to do.

Notice to Company of laying pipes.

25. Before any pipe is made to communicate with the pipes  
 of the Company the person intending to lay such pipes shall give two  
 days notice to the Company of the day and hour when such pipe is  
 intended to be made to communicate with the pipes of the Company,  
 15 and every such pipe shall be so made to communicate under the  
 superintendence and according to the directions of the surveyor,  
 engineer, or other officer appointed for that purpose by the Company,  
 and the bore of such pipe shall not exceed three-quarters of an inch,  
 except with the consent of the Company.

Communication with pipes of Company to be made under Superintendence of Surveyor.

26. Any person who shall have laid down any pipe or other  
 works, or who shall have become the proprietor thereof, may remove  
 the same after having first given six days notice to the Company of his  
 intention so to do and of the time of such proposed removal, and every  
 such person shall make compensation to the Company for any injury  
 25 or damage to their pipes or works which may be caused by such  
 removal.

Service pipes may be removed after giving notice.

27. Any such owner or occupier may open or break up so  
 much of the pavement of any street as shall be between the pipes of  
 the Company and his house, building, or premises, and any sewer or  
 30 drain therein for any such purposes as aforesaid (doing as little damage  
 as may be and making compensation for any damage done in the execu-  
 tion of such work). Provided always that every such owner or occupier  
 desiring to break up the pavement of any street, or any sewer, or drain  
 therein, shall be subject to the same necessity of giving previous notice,  
 35 and shall be subject to the same control, restrictions, and obligations in,  
 and during the time of breaking up the same, and also reinstating the  
 same, and to the same penalties for any delay in regard thereto as the  
 Company are subject to under the provisions of this Act.

Power to break up pavements.

28. If any person supplied with water by the Company wrong-  
 40 fully does, or causes or permits to be done, anything in contravention  
 of any of the provisions of this part, or wrongfully fails to do any-  
 thing which under any of these provisions ought to be done for the  
 prevention of the waste, misuse, undue consumption, or contamination  
 of the water of the Company, the Company may (without prejudice to  
 45 any remedy against him in respect thereof) cut off any of the pipes by  
 or through which water is supplied to him or for his use, and may cease  
 to supply him with water so long as the cause of injury remains or is  
 not remedied.

In case of any breach of this part of the Act water may be cut off.

29. If any person supplied with water by the Company wilfully  
 50 or negligently causes or suffers any pipe, valve, cock, cistern, bath,  
 soil-pan, water-closet, or other apparatus or receptacle to be out of  
 repair, or to be so closed or contrived that the water supplied to him by  
 the Company is or is likely to be wasted, misused, unduly consumed  
 or contaminated, or so as to occasion or allow the return of foul air or  
 55 other noisome or impure matter into any pipe belonging to or  
 connected with the pipes of the Company, he shall for every such  
 offence be liable to a penalty not exceeding five pounds.

Penalty for waste of water.

30. If any person having from the Company a supply of water  
 use such water for any purpose other than that for which he is entitled

Penalty for misappi- cation of water,

to



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to use the same he shall for every such offence be liable to a penalty not exceeding forty shillings without prejudice to the right of the Company to recover from him the value of the water misused.

31. It shall not be lawful for the owner or occupier of any premises supplied with water by the Company, or any consumer of the water of the Company, or any other person, to affix, or cause, or permit to be affixed, any pipe or apparatus to a pipe belonging to or used by such owner, occupier, or consumer, or any other person, or to make any alteration in any such communication or service pipe, or in any apparatus connected therewith, without the consent in every such case of the Company; and if any person acts in any respect in contravention of the provisions of the present section, he shall, for every such offence, be liable to a penalty not exceeding five pounds, without prejudice to the right of the Company to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed.

No pipe to be fixed to consumer's pipe without permission of Company.

32. If any person, not being supplied with water by the Company, wrongfully takes or uses any water from any reservoir, water-course, conduit, or pipe belonging to the Company, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the Company, or supplied by them for the use of any consumer of the water of the Company, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for unlawfully taking water.

33. The surveyor, engineer, or other person appointed for that purpose by the Company, may, between the hours of ten o'clock in the forenoon, and four o'clock in the afternoon, enter into any house or premises supplied with water by the Company, in order to examine if there be any waste or misuse of such water; and if such surveyor, engineer, or other person, at any such time be refused admittance into such house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the Company may turn off the water supplied by them from such house or premises.

Inspection of water.

34. If any person bathe in any channel, reservoir, or other water-works belonging to the Company, or wash, throw, or cause to enter therein, any dog or other animal, he shall for every such offence forfeit a sum not exceeding five pounds.

Polluting the water.  
Penalty for bathing.

35. If any person throw or convey, or permit or cause to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing, into any such channel, reservoir, aqueduct, or other water-works as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing, he shall for each offence forfeit a sum not exceeding ten pounds.

Penalty for throwing dirt therein.

36. If any person cause the water of any sink, sewer, or drain, steam-engine, boiler, or other filthy water belonging to him or under his control to be run or to be brought into any channel, reservoir, aqueduct, or other water-works belonging to the Company, or shall do any other act whereby the water of the Company shall be fouled, he shall for each offence forfeit a sum not exceeding twenty pounds, and a further sum of twenty shillings for each day (if more than one) that such offence continues.

Penalty for letting foul water flow thereinto.

37. Any person making or supplying gas within the limits of the water district, who shall at any time cause or suffer to be brought to the water of the Company, or into any drain communicating therewith, any substance which shall be produced in the making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such reservoir, aqueduct, or other water-works shall be fouled, or the pipes or conduits thereof

Penalty for permitting substances produced in making gas to flow into the water.

injured



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injured, shall forfeit to the Company a sum not exceeding twenty pounds, to be recovered with full costs of suit for each day during which such substance shall be brought or shall flow as aforesaid, or during which the act shall continue by which such water is fouled, 5 after the expiration in either case of twenty-four hours from the time when the notice of the offence has been served on such person by the Company.

38. Whenever the water supplied by the Company shall be fouled by the gas of any person making or supplying gas within the 10 water district, such person shall forfeit to the Company for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

15 39. For the purpose of ascertaining whether the water of the Company be fouled by the gas of any person making or supplying gas within the water district, the Company may dig up the ground and examine the pipes, conduits, and works of the person making or supplying gas. Provided that before proceeding so to dig and 20 examine, the Company shall give twenty-four hours notice in writing to the person so making or supplying gas, of the time at which such digging and examining is intended to take place, and shall give the like notice to the person having the control or management of the pavement or place where such digging shall take place, and shall 25 be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay or any nonfeasance or misfeasance therein, as hereinafter provided, with respect to roads and pavements broken up by the Company for laying their pipes; and if upon such examination it appears that such water has been fouled by any gas 30 belonging to such person the expenses of digging, examination, and repairs of the street, or place disturbed in any such examination shall be paid by the person making or supplying gas; but if upon such examination it appears that the water has not been fouled by the gas of such person then the Company shall pay all the expenses of the 35 examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

40. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Company from all impurities from closets and other receptacles of faecal matter 40 or urine:—

- (i) It shall not be lawful for any person to connect with the main any pipe delivering water directly into the closet-pan or other receptacle for faecal matter or urine without the intervention of a cistern, into which the water from the main shall first be received, and any person so offending shall 45 forfeit and pay a penalty not exceeding fifty pounds.
- (ii) The Company may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention 50 of a cistern (hereinafter termed "directly connected"), and which in the opinion of the Company may endanger the purity of the water by the absorption of noxious gases or suction of faecal matter or urine into such pipe, or into the main or otherwise. For the purpose of effecting such disconnection the Company's artificers and workmen may enter 55 into and upon the premises of any person or corporation whatsoever, to do, or cause to be done, anything in his opinion requisite or necessary in relation thereto.

Penalty on gas-makers causing water to be fouled.

Power to examine gas-pipes to ascertain cause of water being fouled.

Provisions as to connection of closet and other pipes with mains, and as to cisterns, &c.

No closet pipes hereafter to connect directly with the main.

Company may disconnect pipes in certain cases.



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- (III) Whenever the Company shall have caused any pipe to be cut off or disconnected, or other work to be done in relation thereto, they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such owner or occupier shall pay the amount to the Company, and if the amount be paid by an occupier only he may deduct the same from the rent owing or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid, the Company may sue for and recover the same with full costs of suit.
- (IV) The owner of every dwelling-house, or premises which shall have therein or thereon any closet with a pipe or branch pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet, and every cistern shall be made of such materials and dimensions, and of such model or plan of construction, and with such ball-cock, stop-cocks, waste-pipes, and other appliances as shall be deemed requisite and have been approved by the officers of the Company for securing the water from pollution through any noxious gases or matter evolved or derived from such closets, or otherwise every owner neglecting to comply with the provisions of this subsection shall forfeit and pay a penalty not exceeding five pounds.
- (v) Whenever any owner shall have neglected to fix and erect a cistern, with its appliances, as in the last preceding subsection provided for, the tenant or occupier is hereby authorized and required, after receiving a written notice thereof from the Company on that behalf, to fix and erect such cistern, with its appliances before mentioned, within fourteen days after the receipt of such notice; and the said tenant or occupier shall, upon payment by him of the charges and expenses of such fixing and erection, be entitled to deduct the amount so paid from the rent then due or accruing, or, at his option, to sue for and recover the same, with full costs of suit, from the owner as for money paid to his uses.
- (vi) Any person who shall, without the authority of the Company, re-establish any such connection which may have been cut off, removed, or severed by him, or who shall in any manner wilfully injure or tamper with any connection-pipe, cistern, ball-cock, stop-cock, or waste-pipe, which may have been approved by the Company, so as to destroy, diminish, or endanger its efficiency, may be summoned for such an offence before two Justices, and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the Company may have incurred (and which they are hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall forfeit and pay a penalty not exceeding ten pounds, and the amount of charges and expenses and penalty respectively shall, when recovered, be paid over to the Company.
41. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, or where water is supplied to courts, alleys, and right-of-ways by stand-pipes, the several owners or occupiers of such houses or parts of houses, or of the several houses or parts of houses in every such court, alley, or right-of-way, shall be liable to the payment of the same rates
- The expense occurred by any disconnection to be paid by the tenant and deducted from his rent.
- Owners of premises shall fix closet cisterns, or be liable to a penalty.
- Upon neglect of owner, tenant, or occupier, after fourteen days' notice, to fix cistern and deduct the expenses from the rent.
- Any person re-establishing any connection with the main, unless authorized, or wilfully injuring any pipe, &c., liable to a penalty.
- Where several houses supplied by one pipe, each to pay.
- or



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or charges for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Company by a separate pipe.

42. The rates and charges for water and all sums due to the Company under this part shall be paid by, and be recoverable from, the person agreeing with the Company for the supply of water, and all rates and charges shall be payable in advance by equal payments on the first day of January, the first day of April, the first day of July, and the first day of October in each year; and the first payment shall be made at the time when such person shall become liable to pay such rates and charges.

Water rates to be recoverable from either landlord or tenant.

43. The charge to be made by the Company for the supply of water by meter shall not exceed the sum of one shilling and sixpence per one hundred gallons, and no rate to be made by the Company shall exceed in amount the sum of two shillings in the pound on the value of lands or tenements within the water district, as assessed for rating purposes by the said Municipal Council.

Rating powers.

## PART III.

*The Acquisition and occupation by the Company of lands for the purposes of water supply—ascertainment of compensation in respect thereof.*

44. After the notification in the *Gazette*, as hereinbefore provided, of the approval of the Governor of a scheme for the supply of water to the said town and district, but not before the Company shall be empowered to acquire or occupy lands for the purposes of such water supply in manner hereinafter provided; and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided.

Lands required for water supply, how acquired.

45. It shall be lawful for the Company, by notification to be published in the *Gazette* and in one or more newspapers published or circulated in the said town and district to declare that the land described in such notification is required for the purposes therein expressed.

How and when lands can be taken.

46. Upon the publication of the notification to be in the *Gazette* declaring that the lands therein described are so required, such lands shall, upon compliance with the requirements and provisions hereinafter contained, be vested in the Company for the purposes of this Act for an estate of inheritance in fee-simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way, or other easements whatsoever, and to the intent that the legal estate therein, together with all powers incident thereto or conferred by this Act, shall, subject to the provisions thereof, be vested in the Company.

Vesting, &c., of lands.

47. Where the land required is Crown Land at the date of such publication, or is vested in any corporation or person on behalf of Her Majesty, or for public purposes by virtue of any statute, or is within the limits with reference to centres of population prescribed by the Act next hereinafter cited, the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or license or promise thereof, and to cancel to the like extent any dedication or reservation of the said land made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending the same, and to vest the said land in the Company for a term not exceeding fifty years, at a rental not exceeding twopence per acre per

Effect of publication upon Crown Lands.



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per annum for the purposes mentioned. Provided, however, that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

5 48. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown, or is not Crown Land as defined by this Act, the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or  
10 otherwise ascertained under the provisions hereinafter contained.

Compensation for private lands.

49. The estate and interest of every person entitled to lands required under this Act, or any portion thereof, and whether to the legal or equitable estate therein, shall upon due payment of the amount of compensation tendered by the Company, or assessed by the  
15 jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Company as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall upon asserting his claim, as hereinafter provided, and making out his title  
20 in respect of any portion of the said resumed lands, be entitled to compensation on account of such resumption in manner hereinafter provided.

Conversion of estate of proprietor of resumed land into a claim.

50. Every person claiming compensation in respect of any land so required, or in respect of any work or other matter done under the  
25 authority of this Act, shall, within ninety days from the publication of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall, upon the application, and at the cost of the claimant, appoint in that behalf, serve a notice in writing upon the Company, by leaving the same at the office of the  
30 Company, which notice shall set forth the nature of the estate or interest of the claimant in such land, together with an abstract of his title, and if he claims, in respect of damage, the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid, and such notice may  
35 be in the form of the First Schedule hereto, but with any modifications required by the nature of the claim.

Notice of claim for compensation.

51. Within sixty days after the receipt of every such notice of claim the Company shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the  
40 provisions of this Act, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Second Schedule hereto.

Claim and report thereon.

52. If within ninety days after the service of notice of claim the claimant and the Company shall not agree as to the amount of  
45 compensation, the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the Company. And any such action may be tried before a Judge of the said Court or in any Circuit Court and a special jury of four persons. Provided always that, upon proper application either of  
50 the Company or of the claimant, a special jury of twelve may be summoned for the trial of each action. Provided also with the consent in writing of the Company and the claimant, any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation, but not within fourteen days from service of the notice of  
55 valuation on such claimant.

Compensation by action in Supreme Court.

53. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the Company and notified to  
the

Issue in action of compensation verdict and costs.



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the claimant as aforesaid, and if so, to what sum. And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation, then the costs of the action shall be borne by the Company, but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant.

54. All moneys payable under this Act by way of compensation to any claimant, whether under the verdict of a jury or otherwise, shall be paid, together with costs (if any) and interest at the rate of six pounds per centum, reckoned from the date of the notifications aforesaid, within one month after the determination of such compensation to the person lawfully entitled thereto, or to his agent duly authorized in that behalf in writing, but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land. Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply, no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed, or the support to such surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

55. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," have jurisdiction to try any such action of compensation at the nearest District Court in any case where the whole amount of the claim in respect to such land served in pursuance of the fifty-first section of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Company and the claimant by a memorandum signed by the Secretary of the said Company and such claimant or by the respective attorneys of the Company and the claimant agree thereto. For the purposes of this section, the provisions of the said District Courts Act and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in the said District Court hereunder.

Where claim may be prosecuted in District Court.

56. In estimating or assessing the compensation to be paid under this Act, regard shall be had by the valutors and by the jury (on any issue) not only to the value of the land taken by the Company, but also to the damage (if any) to be sustained by the claimant by reason of the severing of the land taken from other lands, or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act, and they shall assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time of the resumption thereof, or the extent of the damage or injury sustained.

Compensation how to be estimated.

57. Subject to the provisions of this Act, it shall be lawful for the Company and for any officer duly authorized in that behalf, and for all persons employed in the carrying out of any authorized works, and for any person authorized by the Company, to enter upon the lands of any person whomsoever which the Company may require to purchase or take, and to take possession and appropriate the same for the purposes of this Act, or of the execution of any such authorized works.

General power of entry.

58. Notwithstanding anything hereinbefore contained, it shall be lawful for the Company, if they think fit, to agree with the owners of any lands, the acquisition of which is authorized by this Act, and with all parties having any estate or interest in such lands, or by this Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or parts thereof as shall be thought proper, and of all estates and interests in such lands of what kind soever.

Power to purchase lands by agreement



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59. It shall be lawful for all parties being seized, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the Company, and to enter into all necessary agreements for that purpose, and particularly it shall be lawful for all or any of the following parties so seized, possessed, or entitled as aforesaid, so to sell, convey, or release, that is to say, all corporations, tenants entail, or for life, married women seized in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees, or feoffees, in trust for charitable or other purposes, executors, and administrators, and all parties for the time being entitled to the receipt of the rents and profit of any such lands in possession or subject to any estate in dower, or to any lease for life or for lives and years, or any less interest, and the power so to sell and convey, or lease as aforesaid, may lawfully be exercised by all such parties other than married women entitled to dower, or lessees for life or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians on behalf of their wards, and as to such committees on behalf of the lunatics and idiots, of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability, and as to such trustees, executors, or administrators, on behalf of their *cestui que* trusts whether infants, issue unborn, lunatics, *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability, and the power hereinafter given to release lands from any rent, charge, or encumbrance, and to agree to the apportionment of any such rent, charge, or encumbrance, shall extend to, and may lawfully be exercised by every party hereinbefore enabled to sell and convey, or release lands to the Company.

Parties under disability enabled to sell and convey and exercise other powers.

60. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified, together with the respective power, authorities, duties, liabilities, obligations, and other the provisions therein contained, notwithstanding the repeal of the said Act, are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein. And that wheresoever in a section so incorporated the word "Commissioner" occurs, there shall for the purposes of this Act be substituted in lieu of such word the expression "the Company," and whenever the word "Railway," or words implying works connected with a railway occur, there shall be substituted such words respectively as denote the nature of the work, undertaking, or purpose, in respect of which the land in question has been appropriated or resumed. The following are the sections so declared to be incorporated with this Act:—

Incorporation of provisions of Government Railways Act.

(I) As to the deposit of compensation money in certain cases with the Master in Equity, and the application and investment thereof. As to payment of such moneys in certain cases to trustees, or the parties themselves, and the exoneration of the Company in respect thereof after payment. Sections forty-seven to fifty-two, both inclusive.

(II) As to the deposit and application of compensation money on refusal of the owner to accept the same, or on his failing to make out a satisfactory title, and as to presumption of ownership. Sections fifty-three to fifty-six, both inclusive.

(III)



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- (III) As to the procedure by the Company in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof, or hinder the Company from entering upon or taking possession of the same. Section sixty-one.
- (iv) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage are taken. Sections sixty-five to seventy both inclusive.
- (v) As to the release of lands from rent, charges, and other encumbrances and procedure thereon. Sections seventy-one to seventy-four both inclusive.
- (vi) As to the apportionment of rent where lands taken are under lease, and as to compensation to tenants. Sections seventy-five to seventy-eight both inclusive.
- (vii) As to the entry upon or temporary occupation of lands, the crossing of roads and other highways, the making of bridges, and other works of accommodation, and the provisions consequent thereon. Section ten and sections eighty-four to ninety-seven both inclusive. Provided that compensation shall in all respects be ascertained in accordance with this Act.
61. It shall be lawful for the Company and all persons by them authorized to enter upon any lands not being a garden, orchard, or plantation attached, or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than one hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by this Act, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes, that is to say,—
- For the purpose of taking earth or soil by side cuttings therefrom ;
- For the purpose of depositing soil thereon ;
- For the purpose of obtaining materials therefrom for the construction or repair of waterworks or such accommodation works as aforesaid ; or
- For the purpose of forming roads thereon, to, or from, or by the side of the said works.
- And in exercise of such powers, it shall lawful for the Company and all other persons employed by them to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from out thereof any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid, and for the purposes aforesaid erect thereon workshops, sheds, and other buildings of a temporary nature. Provided always that nothing in this Act contained shall exempt the Company from an action for nuisance, or other injury (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid. Provided also that no stone or slate-quarry, brickfield, or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Company either wholly or in part for any of the purposes lastly hereinbefore mentioned.



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62. If any such lands shall be used for any of the purposes aforesaid the Company shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be necessary for the convenient occupation of such lands, and in case of any difference between the owners or occupiers of such lands and the Company as to the necessity of such fence and gates, then which said fences and gates as the Governor shall deem necessary for the purposes aforesaid.

Company to separate the lands before using them.

63. In any of the cases aforesaid where the Company shall take temporary possession of lands by virtue of the powers herein granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required to do so, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Company so taking possession of his lands.

Compensation to be made for temporary occupation.

64. If in the exercise of the powers hereby granted it be found necessary to cross cut through, raise, sink, or use any part of any road whether carriage-road, horse-road, or tram-road, or railway, either public or private, so as to render it impassable for, or dangerous, or more than usually inconvenient to passengers or carriages, or to the persons entitled to the use thereof the Company shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

65. If the road so interfered with can be restored compatibly with the due completion of any works authorized under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Company or as near thereto as may be, and if such road cannot be so restored, the Company shall cause the new or substituted road or some other sufficient substituted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow, and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition.

Period for restoration of roads interfered with.

66. If the conduit shall cross any highway other than a public carriage-way on the level the Company shall make and at all times maintain convenient approaches with hand-rails or other fences, and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates or stiles on each side of such conduit where the highway shall communicate therewith.

Company to make sufficient approaches and fences to bridle-ways and foot-paths crossing on the line.

67. The Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorized under this Act, that is to say—

Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and passages, over, under, or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made, and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof.

Gates, bridges, &c.

Also sufficient posts, rails, hedges, ditches, mounds or other fences, for separating the land taken for the use of such works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying

Fences, &c.



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5 straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands, and not towards the said works; and all necessary stiles, and such posts, rails, and other fences, shall be made forthwith after the taking of any such lands if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Also all necessary arches, tunnels, culverts, drains, or other passages, <sup>Drains.</sup> either over or under or by the side of such work, and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby.

10 Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply, nor to make any accommodation works in such a manner as would prevent or obstruct the using  
15 of any works for any water supply, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation.

68. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof  
20 or respecting the maintaining thereof, the same shall be determined by the Governor, who shall also appoint the time within which such works shall be commenced and executed. <sup>Differences as to accommodation works to be settled by Governor.</sup>

69. If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Com-  
25 pany, or directed by the Governor to be made by the Company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Company. <sup>Power to owners of lands to make additional accommodation works.</sup>

30 70. If the Company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of the Company's engineer, and according to plans and specifications to be submitted to and approved by the Company. But the Company shall not be entitled to require either that plans shall be adopted which will  
35 involve a greater expense than that incurred in the execution of similar works by the Company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Company. <sup>Such works to be constructed under the superintendence of the Promoter's engineer.</sup>

40 71. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds. <sup>Penalty on persons omitting to fasten gates.</sup>

## PART IV.

45 *Miscellaneous Provisions—Legal Procedure.*

72. Where any distress is made for any sum of money to be levied under this Act, the distress itself shall not be unlawful nor the persons making the same be deemed trespassers on account of any defect or want of form in the information, summons, conviction,  
50 warrant of distress, or other proceedings relating thereto, nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining, but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case. <sup>Distress not unlawful for want of form.</sup>



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73. If it shall be proved to the satisfaction of any Stipendiary or Police Magistrate that the Company or any of their officers have been guilty of any default under this Act not otherwise provided for, they shall be liable for each and every such default to a penalty not exceeding five pounds, to be recovered in a summary way.

Penalty for default not otherwise provided for.

74. Every penalty, forfeiture, charge, or sum of money imposed by or made payable under this Act, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before any Stipendiary or Police Magistrate, under the provisions of the Act or Acts in force for the time being, regulating summary proceedings before Justices.

Penalties, &c., to be summarily recovered before Stipendiary or Police Magistrate.

75. If any party shall feel aggrieved by any determination or adjudication of any Stipendiary or Police Magistrate with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the next Court of General Quarter Sessions, holden at or nearest to the place of such determination or adjudication, but no such appeal shall be entertained unless within ten days after such determination or adjudication notice in writing of such appeal, stating the nature and grounds thereof, be given to the party in whose favour such determination or adjudication shall have been made, nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice, conditioned duly to prosecute such appeal and to abide the order of the Court thereon. At the General Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn to the following Sessions, and upon the hearing of such appeal, the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant or levied by distress upon his goods to be returned to him, and also may order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may reasonably think fit.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

76. If through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to any conduit, main, pipe, sewer, or other property of the Company, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of such damages shall, in case of dispute, be determined by the Stipendiary or Police Magistrate by whom the party incurring such penalty shall have been convicted, and on non-payment of such damages on demand the same shall be levied by distress, and such Magistrate shall issue warrants accordingly.

Damage to be made good in addition to penalty.

77. Any notice required by this Act to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be in writing or partly in writing and partly printed, or may be wholly printed. And it shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last-known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier, or if there be no occupier if such notice be posted on some conspicuous part of such building or land. And any notice required to be given or served in respect of any public street, road, or lane, may be served on or sent by post as aforesaid, to the Council Clerk of the municipal district wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

Notices.



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78. In the event of the wrongful exercise of any powers given by this Act, nothing in this Act contained shall be construed to prevent any person from proceeding against the Company for nuisance or otherwise in respect of the work or means used or employed by the Company in the exercise of the privileges hereby conferred on the Company, or to prevent the Company or any person recovering any sum of money, or otherwise proceeding in any Court of competent jurisdiction; but the Company or any person, to whom any penalty or sum of money may, by the provisions of this Act, be awarded, may elect either to proceed in manner in this Act provided, or to proceed for and recover damages or otherwise, in any Court of competent jurisdiction.

Indictment for nuisances.

79. The Company shall not be entitled to any of the rights and privileges conferred upon them by this Act unless they shall have commenced the projected works within the period of twelve months and completed the same within the period of three years from the passing of this Act.

Limitation of time for erection of works.

80. It shall be lawful for the Minister for Mines on behalf of Her Majesty at any time after ten years, by notice in writing, to require the Company to sell, and thereupon the Company shall sell to the Minister for Mines on behalf of Her Majesty the Company's property and rights, upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said property and rights, or any compensation for compulsory sale or other consideration whatsoever) of the said property and rights, and all lands, buildings, works, materials, and plant of the Company suitable to and used by the Company, such value, in case of difference, to be ascertained by arbitration in the manner provided by the "Arbitration Act" thirty-one Victoria number fifteen; and when any such sale shall have been made to the said Minister for Mines on behalf of Her Majesty, the Company's property, lands, buildings, works, materials, plant, and premises shall vest in the Minister for Mines on behalf of Her Majesty, who shall have all the rights, powers, and authorities of the Company in respect to the said property, works, and rights so sold.

Power for Minister to purchase.

FIRST SCHEDULE.

Notice of Claim and Abstract.

To the Broken Hill and District Water Supply Company (Limited).

In pursuance of the "Broken Hill Water Supply Act of 1888," I (or we) hereby give you notice that I (or we) claim compensation in land hereunder described which has been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract.

Abstract.

Names and descriptions of parties claiming, and nature of their interests, whether tenants for life, in tail, or otherwise.	Situation and description of property.	Quit rents payable if leasehold, name of landlord, term of lease, and rent reserved.	Names of occupiers, distinguishing whether tenants-at-will or under lease, and rent reserved, terms, &c.	Particulars of claim, specifying separately the amount claimed for value of property, and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents, and place or places where the same may be inspected, and name of the claimant's solicitor or agent

(Signature)  
(Address)  
(Date)

SECOND



Broken Hill and District Water Supply Company.

SECOND SCHEDULE.

Notice of Valuation.

To A.B., claimant in respect of land hereunder described, resumed under the  
“Broken Hill Water Supply Act of 1888.”

5 TAKE notice that the land hereunder described, being that in respect of the resumption whereof under the authority of the aforesaid Act your claim or compensation has been lodged, has been valued at the sum of £

A.B.  
Manager of the Company.

10 Description of land in respect of which claim has been made.

ALL that piece or parcel of land, &c., &c., &c.

THIRD SCHEDULE.

The following is a description of the line of route of the proposed Water-works and of the district to be supplied:—

- 15 1. The Lakes Menindie and Speculation and the intervening country, being a strip of land about half-a-mile in width, situated in the Electoral District of Wentworth.
2. The river Darling at a point about half-a-mile above the town of Menindie, and thence to Lake Speculation and the country intervening, being a distance of about sixteen miles in length, in the Electoral District of Wentworth.
- 20 3. A line of country between Lake Speculation and the town of Broken Hill, being about fifty miles in length, in the said Electoral District of Wentworth, of a width along the whole route of three chains or thereabouts, except at the pumping stations and reservoir.
4. The following area of land at the reservoir near the town of Broken Hill,
- 25 viz., one thousand five hundred acres or thereabouts.
5. The following areas of land at the several pumping stations for timber supply and other purposes, viz.:—
1. At the first, second, third, fourth, and eighth pumping stations one thousand acres each or thereabouts.
- 30 2. At the fifth, sixth, and seventh pumping stations five hundred acres each or thereabouts.
3. At the point on Menindie Lake, known as the feeder to Lake Speculation, one thousand acres or thereabouts.
4. At the starting peg on the bank of Lake Speculation, one thousand acres or
- 35 thereabouts.
- The whole of the lands above referred to are leased from the Crown, and occupied by Herbert Bristow Hughes, and is included in the Kinchega Run, number two hundred and forty-four on the Government plans of resumed and leasehold areas.
6. The streets and lands in the township and municipal district of Broken Hill.

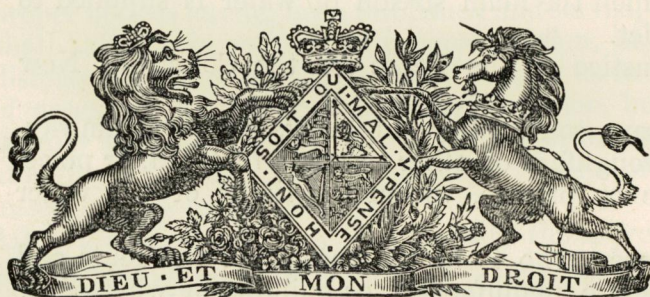


*This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council Chamber,  
Sydney, 20th December, 1888. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable the "Broken Hill and District Water Supply Company (Limited)" to construct works, and use the waters of the Speculation and Menindie Lakes and the Darling River for the purpose of supplying Broken Hill and District with fresh water, and to give power to purchase land.

**W**HEREAS it is expedient and for the public benefit that the town and district of Broken Hill, in the Colony of New South Wales, should be provided with a supply of fresh water. And whereas a Company has been formed, called the "Broken Hill and District Water Supply Company (Limited)," for the purpose of supplying the said town and district with fresh water. And whereas the said Company desire to establish and carry out works for such purpose and other purposes incidental thereto in the said town and district. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Broken Hill and District Water Supply Act of 1888." Its provisions are arranged into Four Parts, embracing the following subjects:—

PART I.—*Powers and duties of the Company as to Water Supply.*

PART II.—*Special provisions as to Water Supply.*

c 24—A

PART



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*Broken Hill and District Water Supply Company.*

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PART III.—*The acquisition and occupation by the Company of lands for the purpose of water supply—ascertainment of compensation in respect thereof.*

PART IV.—*Miscellaneous provisions—Legal procedure.*

- 5 And in the construction of this Act the following words and expressions in inverted commas, unless there shall be something in the context repugnant thereto or inconsistent therewith, shall bear the meanings and include the persons or things hereby respectively set against such words and expressions, that is to say:—
- 10 “Governor”—The Governor, with the advice of the Executive Council.
- “Conduit”—The canals, tunnels, aqueducts, cuttings, or pipes, by means of which the main stream of water is supplied to the water district.
- 15 “Justice”—Any Justice of the Peace for the Colony of New South Wales.
- “Street”—Any square, court, alley, highway, railway, tramway, lane, road, thoroughfare or other passage, footpath, or place, whether public or private, within the limits of the water district.
- 20 “Owner”—Any person who is in the receipt of the rents and profits of any house, manufactory, or building of whatsoever kind, or of any land.
- “Water District”—The area within which water is authorized to be supplied to the inhabitants of the said town and district.
- 25 “Company”—The said “Broken Hill and District Water Supply Company (Limited),” or their assigns, owners for the time being of the Broken Hill Waterworks.

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PART I.

30 *Powers and duties of the Company as to Water Supply.*

2. Before the Company shall put into force any of the provisions contained in this Part with respect to the acquisition of land otherwise than by agreement, the following conditions and provisions shall be observed:—

- 35 (I) The Company shall publish once at least in each of three consecutive weeks in some local newspaper circulating in the town and district of Broken Hill, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land that has been alienated from the Crown, naming some central place at Broken Hill where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of such lands required.
- 40 (II) The Company shall serve a notice on every owner or reputed owner, or reputed lessee or occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer, stating whether the person so served dissents, or is neutral, in respect of taking such land.
- 45 (III) On compliance with the provisions of this section with respect to notices the Company may, if they think fit, present a petition to the Governor under their Common Seal, and such petition shall state the lands as aforesaid intended to
- 50 be

Conditions prior to acquisition of land.



*Broken Hill and District Water Supply Company.*

- 5 be taken, and the purposes for which they are required,  
and the names of the owners, lessees, and occupiers of lands  
who have assented, dissented, or are neutral, in respect  
of the taking of such lands, or who have returned no answer  
to the notice. And it shall pray that the Company may,  
with reference to such lands, be allowed to put in force  
the powers contained in Part III of this Act with respect to  
the acquisition of such lands otherwise than by agreement,  
and such prayer shall be supported by such evidence as the  
10 Governor may require.
- (IV) On receipt of such petition, and on due proof of the  
proper notices having been published and served, the Governor  
shall take such petition into consideration, and may either  
dismiss the same or direct a local inquiry as to the propriety  
15 of assenting to the prayer of such petition, but until such  
inquiry has been made no provisional order shall be made  
affecting any such lands without the consent of the owners,  
lessees, and occupiers thereof.
- (V) After the completion of such inquiry the Governor may, by  
20 provisional order, empower the Company to put in force with  
reference to the lands referred to in such order, the powers of  
the said Part, with respect to the acquisition of lands, other-  
wise than by agreement or any of them, and either absolutely  
or with such conditions and modifications as the Governor  
25 may think fit; and it shall be the duty of the Company to  
serve a copy of any order so made in the manner and on the  
persons in which and on whom notices in respect of such lands  
are required to be served.

## PART II.

30 *Special Provisions as to Water Supply.*

3. Subject to the provisions of this Act, the Company may Powers of the Com-  
exercise any of the powers in this Part contained for the construction pany.  
of waterworks for the supply of water from the Speculation and  
Menindie Lakes and Darling River to the Municipal District of  
35 Broken Hill, including therein the district between the town of Broken  
Hill and the said Lakes and River, more particularly described in the  
Third Schedule to this Act, and for the purpose of carrying out the  
provisions of this Act the Company may
- (I) Enter upon any lands and take levels of the same, and set out  
40 such parts thereof as they shall think necessary.
- (II) Enter upon, take, and hold such land as they may from time  
to time deem necessary for the construction and maintenance  
of any of the works authorized by this Act, or for obtaining  
or enlarging the supply of water, or for improving the quality  
45 thereof for the purpose of this Act.
- (III) Enter upon any Crown or private lands, or streets, and lay  
or place therein any pipes, and may repair, alter or cut off, or  
remove the same, and may enter upon any such lands, or  
streets, for the purpose of repairing any watercourses, or other  
works being their property or under their control.
- 50 (IV) Take water from the lakes and river aforesaid. Provided  
that not more than seven hundred thousand gallons of water  
daily shall be taken by the Company from the said lakes or  
river, and the supply at any time drawn shall be such as not  
to



*Broken Hill and District Water Supply Company.*

to interfere with the navigation of the said river, and the Company shall, if required by the Government, erect and maintain to the satisfaction of the Minister for Mines, a meter or gauge for the purpose of ascertaining the quantity of water drawn daily from the said lakes or river, and the measurement of water shown by such meter or gauge to have been drawn shall be taken as correct for the purposes of this Act.

5

Provided always that in the exercise of any of the powers hereby conferred, the Company shall inflict as little damage as may be, and in all cases where it can be done, shall provide other watering-places, drains, and channels, for the use of adjoining lands in place of any taken away or interrupted by them, and shall make full compensation to all parties interested, for all damage sustained by them through the exercise of such powers. Provided nevertheless that the Company shall not be liable to make compensation in respect of any damage sustained by reason of the taking of water from the said river or lakes or either of them.

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4. Any person who shall wilfully obstruct any person acting under the authority of the Company in setting out the line of any works undertaken under the authority of this Part, or pull up, or remove, any poles or stakes driven into the ground for the purpose of setting out the line of such works, or destroy or injure any works so undertaken as aforesaid, shall incur a penalty not exceeding five pounds for every such offence.

20

5. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any reservoir, dam, tank, tunnel, watercourse, sluice, main, pipe, aqueduct, bridge, roadway, or engine, or other part whatever of the works of the Company, every such offender shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

25

6. The Company may open and break up the soil and pavement of the several streets and bridges within the limits of its water district, and make, open, and break up any sewers, drains, or tunnels within or under such streets, and lay down and place within the same limits, pipes, conduits, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the Company shall from time to time deem necessary for supplying water to the inhabitants of the district in the fourth section of this Act described and hereafter referred to as the "Water District."

35

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7. When the Company shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the road or pavement or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And shall at all times whilst any such pavement or road shall be so open or broken up cause the same to be fenced and guarded, and shall cause light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up.

45

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8. The Company shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any penalty or damages for not supplying such water if the want of such supply arises from unusual drought or other unavoidable cause or accident.

55

9. The Company may supply any person with water for domestic or other purposes, by measure or otherwise, at such rates, to

Penalty for obstructing construction of works.

Penalty for destroying works.

Power to open streets, &c.

Reinstatement of streets, &c.

Company not liable for accidental failure to supply water.

Agreements to supply water.



*Broken Hill and District Water Supply Company.*

to be declared fixed and published by them (subject to the provisions hereinafter contained), upon such terms, and subject to such conditions as may be agreed upon by the Company and the person requiring to be supplied.

- 5 10. The Company may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money as may be agreed upon between the Company and  
 10 the consumer, which shall be recoverable in the same manner as rates due to the Company for water. Company may let meters.
- 15 11. Such meters, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or to be attached or taken in execution under any process of any Court  
 15 of Law or Equity, or under or in pursuance of any sequestration or order in bankruptcy or other legal proceedings against or affecting the consumer of the water, or the occupier of the premises, or other the person in whose possession the meters, pipes, instruments, and apparatus may be. Meters of Company not distrainable.
- 20 12. Every person who shall have agreed with the Company for a supply of water by measure shall, at his own expense, unless he hire a meter from the Company, provide a meter, and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Company; and in the event of any repairs  
 25 being required, notice in writing shall be immediately given by such person to the Company, and a registration of the quantity of water used shall be taken before such repairs are effected. Meters to be supplied and maintained by consumer.
- 30 13. Every person requiring to remove or alter the position of any meter shall leave six days notice in writing to that effect at the registered or local office of the Company, hereinafter mentioned, and a registration of the quantity of water shall be taken before such removal or alteration is made. Notice of removal, &c. of meter.
- 35 14. If any person shall neglect or delay to have such meter properly repaired and put in correct working order, after having been required by any officer of the Company so to do, the Company may shut off the supply of water from the premises of such person, either by cutting the service pipe or otherwise, until such meter shall have been properly repaired and certified by some officer of the Company as being in proper working order. Water may be cut off if meter not in order.
- 40 15. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Company without having first obtained a certificate from the Company that the said meter has been examined and found in correct working order, he shall, for such offence forfeit a sum not exceeding ten pounds. Penalty for fixing uncertified meter.
- 45 16. If any person remove or alter the position of, or in any way interfere with any meter without giving such notice as aforesaid, he shall, for such offence, forfeit a sum not exceeding twenty pounds. Provided that the Company shall always have an office in the district of Broken Hill and shall register the same at the Council Chambers of  
 50 the Municipal Council at Broken Hill. For removing or altering meter without notice.
- 55 17. The officers of the Company may enter any house, building, or lands, to, through, or into which water is supplied by the Company by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water, or for the purpose of ascertaining the quantity of water supplied or consumed; and may from time to time enter any house, buildings, or lands for the purpose of removing any meter, instrument, pipe, or apparatus the property of the Company; and if any person hinders any such officer from entering or making such inspection or effecting such



*Broken Hill and District Water Supply Company.*

such removal, he shall for each such offence be liable to a penalty not exceeding five pounds, but except with the consent of a Justice a power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

5 18. In all the pipes to which any fire-plug is fixed, the Com- Supply of water for  
pany shall provide and keep constantly laid on for use, unless prevented public purposes.  
by unusual drought or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes (that is to say), for cleansing the sewers and drains, for cleansing and  
10 watering the streets, and for supplying any public hospitals or charitable institutions, or any public pumps, baths, and wash-houses that may be established for the use of the inhabitants, and paid for out of any municipal rates; and such supply shall be provided at such rates and charges and upon such terms and conditions as may be agreed  
15 on by the said Municipal Council and the Company, or, in case of disagreement, as shall be settled by arbitration in the manner provided by the Arbitration Act.

19. The Company, at the request of the said Municipal Council Company to place  
shall fix proper fire-plugs in the main and other pipes belonging to them public fire-plugs in  
20 at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire that may break out within the said District, and shall from time to time renew and keep in effective order every such fire-plug; and shall put up a public notice on some conspicuous place in each street  
25 on which such fire-plug is situated, showing its situation, and such notice may be put up on any house or building in such street; and as soon as such fire-plug is completed they shall deposit a key thereof in each place where any public fire engine is kept. The cost of such fire-plugs and the expense of fixing, placing, and maintaining the same in  
30 repair, and of supplying such keys as aforesaid shall be defrayed by the said Municipal Council.

20. The Company shall at the request and expense of the owner Fire-plugs for  
or occupier of any manufactory or works situated in or near any street manufactories, &c.  
or road in which or within two hundred yards of which there shall  
35 be a pipe of the Company, place and maintain a fire-plug (to be used only for extinguishing fires) as near as conveniently may be to such manufactory or works.

21. The Company shall at all times keep charged with water all Pipes to be kept  
their pipes to which fire-plugs are fixed unless prevented by drought charged, and water  
40 or other unavoidable cause or accident or during necessary repairs, and shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire without making compensation for the same.

22. If, except when prevented as aforesaid, the Company Penalty for refusal  
45 neglect or refuse to fix or repair such fire-plug, or to furnish to the said Municipal Council a sufficient supply of water for the public purposes aforesaid, on such terms as shall have been agreed or settled as aforesaid, or if, except as aforesaid, they neglect to keep the pipes charged as aforesaid, or neglect or refuse to furnish any owner or  
50 occupier liable to be rated under this Act during any part of the time for which such rates have been paid or tendered, they shall be liable to a penalty of twenty pounds, and shall also forfeit to the said Municipal Council, or to every person having paid or tendered the rate, the sum of twenty shillings for every day during which such  
55 refusal shall continue after notice in writing shall have been given to the Company of the want of supply.

23. Any owner or occupier of any dwelling-house, or part of a Pipes laid by owners  
dwelling-house, situate within the water district who shall wish to or occupiers. Power  
have water from the water-works of the Company brought on to his to inhabitants to lay  
premises, service p pes.



*Broken Hill and District Water Supply Company.*

premises, and who shall have paid or tendered to the Company the portion of water rate or charge in respect of such premises by this Act directed to be paid in advance, may open the ground between the pipes of the Company and his premises, having first obtained the  
 5 consent of the owners and occupiers of such ground, and lay any pipes from such premises to communicate with the pipes of the Company.

24. Such pipes shall be of a strength and material approved of  
 by some officer of the Company, and every such owner or occupier  
 shall, before he begins to lay any such pipe, give to the Company two  
 10 days notice of his intention so to do.

Notice to Company  
of laying pipes.

25. Before any pipe is made to communicate with the pipes  
 of the Company the person intending to lay such pipes shall give two  
 days notice to the Company of the day and hour when such pipe is  
 intended to be made to communicate with the pipes of the Company,  
 15 and every such pipe shall be so made to communicate under the  
 superintendence and according to the directions of the surveyor,  
 engineer, or other officer appointed for that purpose by the Company,  
 and the bore of such pipe shall not exceed three-quarters of an inch,  
 except with the consent of the Company.

Communication with  
pipes of Company to  
be made under  
Superintendence of  
Surveyor.

26. Any person who shall have laid down any pipe or other  
 works, or who shall have become the proprietor thereof, may remove  
 the same after having first given six days notice to the Company of his  
 intention so to do and of the time of such proposed removal, and every  
 such person shall make compensation to the Company for any injury  
 25 or damage to their pipes or works which may be caused by such  
 removal.

Bore of service pipes.  
  
Service pipes may be  
removed after giving  
notice.

27. Any such owner or occupier may open or break up so  
 much of the pavement of any street as shall be between the pipes of  
 the Company and his house, building, or premises, and any sewer or  
 30 drain therein for any such purposes as aforesaid (doing as little damage  
 as may be and making compensation for any damage done in the execu-  
 tion of such work). Provided always that every such owner or occupier  
 desiring to break up the pavement of any street, or any sewer, or drain  
 therein, shall be subject to the same necessity of giving previous notice,  
 35 and shall be subject to the same control, restrictions, and obligations in,  
 and during the time of breaking up the same, and also reinstating the  
 same, and to the same penalties for any delay in regard thereto as the  
 Company are subject to under the provisions of this Act.

Power to break up  
pavements.

28. If any person supplied with water by the Company wrong-  
 40 fully does, or causes or permits to be done, anything in contravention  
 of any of the provisions of this part, or wrongfully fails to do any-  
 thing which under any of these provisions ought to be done for the  
 prevention of the waste, misuse, undue consumption, or contamination  
 of the water of the Company, the Company may (without prejudice to  
 45 any remedy against him in respect thereof) cut off any of the pipes by  
 or through which water is supplied to him or for his use, and may cease  
 to supply him with water so long as the cause of injury remains or is  
 not remedied.

In case of any breach  
of this part of the  
Act water may be cut  
off.

29. If any person supplied with water by the Company wilfully  
 50 or negligently causes or suffers any pipe, valve, cock, cistern, bath,  
 soil-pan, water-closet, or other apparatus or receptacle to be out of  
 repair, or to be so closed or contrived that the water supplied to him by  
 the Company is or is likely to be wasted, misused, unduly consumed  
 or contaminated, or so as to occasion or allow the return of foul air or  
 55 other noisome or impure matter into any pipe belonging to or  
 connected with the pipes of the Company, he shall for every such  
 offence be liable to a penalty not exceeding five pounds.

Penalty for waste of  
water.

30. If any person having from the Company a supply of water  
 use such water for any purpose other than that for which he is entitled

Penalty for misappli-  
cation of water.

to



*Broken Hill and District Water Supply Company.*

to use the same he shall for every such offence be liable to a penalty not exceeding forty shillings without prejudice to the right of the Company to recover from him the value of the water misused.

31. It shall not be lawful for the owner or occupier of any premises supplied with water by the Company, or any consumer of the water of the Company, or any other person, to affix, or cause, or permit to be affixed, any pipe or apparatus to a pipe belonging to or used by such owner, occupier, or consumer, or any other person, or to make any alteration in any such communication or service pipe, or in any apparatus connected therewith, without the consent in every such case of the Company; and if any person acts in any respect in contravention of the provisions of the present section, he shall, for every such offence, be liable to a penalty not exceeding five pounds, without prejudice to the right of the Company to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed.

No pipe to be fixed to consumer's pipe without permission of Company.

32. If any person, not being supplied with water by the Company, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the Company, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the Company, or supplied by them for the use of any consumer of the water of the Company, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for unlawfully taking water.

33. The surveyor, engineer, or other person appointed for that purpose by the Company, may, between the hours of ten o'clock in the forenoon, and four o'clock in the afternoon, enter into any house or premises supplied with water by the Company, in order to examine if there be any waste or misuse of such water; and if such surveyor, engineer, or other person, at any such time be refused admittance into such house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the Company may turn off the water supplied by them from such house or premises.

Inspection of water.

34. If any person bathe in any channel, reservoir, or other water-works belonging to the Company, or wash, throw, or cause to enter therein, any dog or other animal, he shall for every such offence forfeit a sum not exceeding five pounds.

Polluting the water. Penalty for bathing.

35. If any person throw or convey, or permit or cause to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing, into any such channel, reservoir, aqueduct, or other water-works as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing, he shall for each offence forfeit a sum not exceeding ten pounds.

Penalty for throwing dirt therein.

36. If any person cause the water of any sink, sewer, or drain, steam-engine, boiler, or other filthy water belonging to him or under his control to be run or to be brought into any channel, reservoir, aqueduct, or other water-works belonging to the Company, or shall do any other act whereby the water of the Company shall be fouled, he shall for each offence forfeit a sum not exceeding twenty pounds, and a further sum of twenty shillings for each day (if more than one) that such offence continues.

Penalty for letting foul water flow thereinto.

37. Any person making or supplying gas within the limits of the water district, who shall at any time cause or suffer to be brought to the water of the Company, or into any drain communicating therewith, any substance which shall be produced in the making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such reservoir, aqueduct, or other water-works shall be fouled, or the pipes or conduits thereof

Penalty for permitting substances produced in making gas to flow into the water.

injured



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injured, shall forfeit to the Company a sum not exceeding twenty pounds, to be recovered with full costs of suit for each day during which such substance shall be brought or shall flow as aforesaid, or during which the act shall continue by which such water is fouled, 5 after the expiration in either case of twenty-four hours from the time when the notice of the offence has been served on such person by the Company.

38. Whenever the water supplied by the Company shall be fouled by the gas of any person making or supplying gas within the 10 water district, such person shall forfeit to the Company for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gas-makers causing water to be fouled.

15 39. For the purpose of ascertaining whether the water of the Company be fouled by the gas of any person making or supplying gas within the water district, the Company may dig up the ground and examine the pipes, conduits, and works of the person making or supplying gas. Provided that before proceeding so to dig and 20 examine, the Company shall give twenty-four hours notice in writing to the person so making or supplying gas, of the time at which such digging and examining is intended to take place, and shall give the like notice to the person having the control or management of the pavement or place where such digging shall take place, and shall 25 be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay or any nonfeasance or misfeasance therein, as hereinafter provided, with respect to roads and pavements broken up by the Company for laying their pipes; and if upon such examination it appears that such water has been fouled by any gas 30 belonging to such person the expenses of digging, examination, and repairs of the street, or place disturbed in any such examination shall be paid by the person making or supplying gas; but if upon such examination it appears that the water has not been fouled by the gas of such person then the Company shall pay all the expenses of the 35 examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gas-pipes to ascertain cause of water being fouled.

40. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Company from all impurities from closets and other receptacles of fæcal matter 40 or urine:—

Provisions as to connection of closet and other pipes with mains, and as to cisterns, &c.

- (I) It shall not be lawful for any person to connect with the main any pipe delivering water directly into the closet-pan or other receptacle for fæcal matter or urine without the intervention of a cistern, into which the water from the main shall first be received, and any person so offending shall 45 forfeit and pay a penalty not exceeding fifty pounds.
- (II) The Company may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention 50 of a cistern (hereinafter termed "directly connected"), and which in the opinion of the Company may endanger the purity of the water by the absorption of noxious gases or suction of fæcal matter or urine into such pipe, or into the main or otherwise. For the purpose of effecting such disconnection the Company's artificers and workmen may enter 55 into and upon the premises of any person or corporation whatsoever, to do, or cause to be done, anything in his opinion requisite or necessary in relation thereto.

No closet pipes hereafter to connect directly with the main.

Company may disconnect pipes in certain cases.



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- (III) Whenever the Company shall have caused any pipe to be cut off or disconnected, or other work to be done in relation thereto, they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such owner or occupier shall pay the amount to the Company, and if the amount be paid by an occupier only he may deduct the same from the rent owing or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid, the Company may sue for and recover the same with full costs of suit.
- (IV) The owner of every dwelling-house, or premises which shall have therein or thereon any closet with a pipe or branch pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet, and every cistern shall be made of such materials and dimensions, and of such model or plan of construction, and with such ball-cock, stop-cocks, waste-pipes, and other appliances as shall be deemed requisite and have been approved by the officers of the Company for securing the water from pollution through any noxious gases or matter evolved or derived from such closets, or otherwise every owner neglecting to comply with the provisions of this subsection shall forfeit and pay a penalty not exceeding five pounds.
- (v) Whenever any owner shall have neglected to fix and erect a cistern, with its appliances, as in the last preceding subsection provided for, the tenant or occupier is hereby authorized and required, after receiving a written notice thereof from the Company on that behalf, to fix and erect such cistern, with its appliances before mentioned, within fourteen days after the receipt of such notice; and the said tenant or occupier shall, upon payment by him of the charges and expenses of such fixing and erection, be entitled to deduct the amount so paid from the rent then due or accruing, or, at his option, to sue for and recover the same, with full costs of suit, from the owner as for money paid to his uses.
- (vi) Any person who shall, without the authority of the Company, re-establish any such connection which may have been cut off, removed, or severed by him, or who shall in any manner wilfully injure or tamper with any connection-pipe, cistern, ball-cock, stop-cock, or waste-pipe, which may have been approved by the Company, so as to destroy, diminish, or endanger its efficiency, may be summoned for such an offence before two Justices, and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the Company may have incurred (and which they are hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall forfeit and pay a penalty not exceeding ten pounds, and the amount of charges and expenses and penalty respectively shall, when recovered, be paid over to the Company.
41. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, or where water is supplied to courts, alleys, and right-of-ways by stand-pipes, the several owners or occupiers of such houses or parts of houses, or of the several houses or parts of houses in every such court, alley, or right-of-way, shall be liable to the payment of the same rates

The expense occurred by any disconnection to be paid by the tenant and deducted from his rent.

Owners of premises shall fix closet cisterns, or be liable to a penalty.

Upon neglect of owner, tenant, or occupier, after fourteen days' notice, to fix cistern and deduct the expenses from the rent.

Any person re-establishing any connection with the main, unless authorized, or wilfully injuring any pipe, &c., liable to a penalty.

Where several houses supplied by one pipe, each to pay.

or



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or charges for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Company by a separate pipe.

42. The rates and charges for water and all sums due to the Company under this part shall be paid by, and be recoverable from, the person agreeing with the Company for the supply of water, and all rates and charges shall be payable in advance by equal payments on the first day of January, the first day of April, the first day of July, and the first day of October in each year; and the first payment shall be made at the time when such person shall become liable to pay such rates and charges.

Water rates to be recoverable from either landlord or tenant.

43. The charge to be made by the Company for the supply of water by meter shall not exceed the sum of one shilling and sixpence per one hundred gallons, and no rate to be made by the Company shall exceed in amount the sum of two shillings in the pound on the value of lands or tenements within the water district, as assessed for rating purposes by the said Municipal Council.

Rating powers.

## PART III.

*The Acquisition and occupation by the Company of lands for the purposes of water supply—ascertainment of compensation in respect thereof.*

44. After the notification in the *Gazette*, as hereinbefore provided, of the approval of the Governor of a scheme for the supply of water to the said town and district, but not before the Company shall be empowered to acquire or occupy lands for the purposes of such water supply in manner hereinafter provided; and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided.

Lands required for water supply, how acquired.

45. It shall be lawful for the Company, by notification to be published in the *Gazette* and in one or more newspapers published or circulated in the said town and district to declare that the land described in such notification is required for the purposes therein expressed.

How and when lands can be taken.

46. Upon the publication of the notification to be in the *Gazette* declaring that the lands therein described are so required, such lands shall, upon compliance with the requirements and provisions hereinafter contained, be vested in the Company for the purposes of this Act for an estate of inheritance in fee-simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way, or other easements whatsoever, and to the intent that the legal estate therein, together with all powers incident thereto or conferred by this Act, shall, subject to the provisions thereof, be vested in the Company.

Vesting, &c., of lands.

47. Where the land required is Crown Land at the date of such publication, or is vested in any corporation or person on behalf of Her Majesty, or for public purposes by virtue of any statute, or is within the limits with reference to centres of population prescribed by the Act next hereinafter cited, the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or license or promise thereof, and to cancel to the like extent any dedication or reservation of the said land made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending the same, and to vest the said land in the Company for a term not exceeding fifty years, at a rental not exceeding twopence per acre per

Effect of publication upon Crown Lands.



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per annum for the purposes mentioned. Provided, however, that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

5 48. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown, or is not Crown Land as defined by this Act, the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or  
10 otherwise ascertained under the provisions hereinafter contained.

Compensation for private lands.

49. The estate and interest of every person entitled to lands required under this Act, or any portion thereof, and whether to the legal or equitable estate therein, shall upon due payment of the amount of compensation tendered by the Company, or assessed by the  
15 jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Company as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall upon asserting his claim, as hereinafter provided, and making out his title  
20 in respect of any portion of the said resumed lands, be entitled to compensation on account of such resumption in manner hereinafter provided.

Conversion of estate of proprietor of resumed land into a claim.

50. Every person claiming compensation in respect of any land so required, or in respect of any work or other matter done under the  
25 authority of this Act, shall, within ninety days from the publication of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall, upon the application, and at the cost of the claimant, appoint in that behalf, serve a notice in writing upon the Company, by leaving the same at the office of the  
30 Company, which notice shall set forth the nature of the estate or interest of the claimant in such land, together with an abstract of his title, and if he claims, in respect of damage, the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid, and such notice may  
35 be in the form of the First Schedule hereto, but with any modifications required by the nature of the claim.

Notice of claim for compensation.

51. Within sixty days after the receipt of every such notice of claim the Company shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the  
40 provisions of this Act, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Second Schedule hereto.

Claim and report thereon.

52. If within ninety days after the service of notice of claim the claimant and the Company shall not agree as to the amount of  
45 compensation, the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the Company. And any such action may be tried before a Judge of the said Court or in any Circuit Court and a special jury of four persons. Provided always that, upon proper application either of  
50 the Company or of the claimant, a special jury of twelve may be summoned for the trial of each action. Provided also with the consent in writing of the Company and the claimant, any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation, but not within fourteen days from service of the notice of  
55 valuation on such claimant.

Compensation by action in Supreme Court.

53. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the Company and notified to  
the

Issue in action of compensation verdict and costs.



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the claimant as aforesaid, and if so, to what sum. And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation, then the costs of the action shall be borne by the Company, but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant.

54. All moneys payable under this Act by way of compensation to any claimant, whether under the verdict of a jury or otherwise, shall be paid, together with costs (if any) and interest at the rate of six pounds per centum, reckoned from the date of the notifications aforesaid, within one month after the determination of such compensation to the person lawfully entitled thereto, or to his agent duly authorized in that behalf in writing, but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land. Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply, no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed, or the support to such surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

55. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," have jurisdiction to try any such action of compensation at the nearest District Court in any case where the whole amount of the claim in respect to such land served in pursuance of the fifty-first section of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Company and the claimant by a memorandum signed by the Secretary of the said Company and such claimant or by the respective attorneys of the Company and the claimant agree thereto. For the purposes of this section, the provisions of the said District Courts Act and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in the said District Court hereunder.

Where claim may be prosecuted in District Court.

56. In estimating or assessing the compensation to be paid under this Act, regard shall be had by the valutors and by the jury (on any issue) not only to the value of the land taken by the Company, but also to the damage (if any) to be sustained by the claimant by reason of the severing of the land taken from other lands, or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act, and they shall assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time of the resumption thereof, or the extent of the damage or injury sustained.

Compensation how to be estimated.

57. Subject to the provisions of this Act, it shall be lawful for the Company and for any officer duly authorized in that behalf, and for all persons employed in the carrying out of any authorized works, and for any person authorized by the Company, to enter upon the lands of any person whomsoever which the Company may require to purchase or take, and to take possession and appropriate the same for the purposes of this Act, or of the execution of any such authorized works.

General power of entry.

58. Notwithstanding anything hereinbefore contained, it shall be lawful for the Company, if they think fit, to agree with the owners of any lands, the acquisition of which is authorized by this Act, and with all parties having any estate or interest in such lands, or by this Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or parts thereof as shall be thought proper, and of all estates and interests in such lands of what kind soever.

Power to purchase lands by agreement



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59. It shall be lawful for all parties being seized, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the Company, and to enter into all necessary agreements for that purpose, and particularly it shall be lawful for all or any of the following parties so seized, possessed, or entitled as aforesaid, so to sell, convey, or release, that is to say, all corporations, tenants entail, or for life, married women seized in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees, or feoffees, in trust for charitable or other purposes, executors, and administrators, and all parties for the time being entitled to the receipt of the rents and profit of any such lands in possession or subject to any estate in dower, or to any lease for life or for lives and years, or any less interest, and the power so to sell and convey, or lease as aforesaid, may lawfully be exercised by all such parties other than married women entitled to dower, or lessees for life or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians on behalf of their wards, and as to such committees on behalf of the lunatics and idiots, of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability, and as to such trustees, executors, or administrators, on behalf of their *cestui que* trusts whether infants, issue unborn, lunatics, *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability, and the power hereinafter given to release lands from any rent, charge, or encumbrance, and to agree to the apportionment of any such rent, charge, or encumbrance, shall extend to, and may lawfully be exercised by every party hereinbefore enabled to sell and convey, or release lands to the Company.

Parties under disability enabled to sell and convey and exercise other powers.

60. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified, together with the respective power, authorities, duties, liabilities, obligations, and other the provisions therein contained, notwithstanding the repeal of the said Act, are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein. And that wheresoever in a section so incorporated the word "Commissioner" occurs, there shall for the purposes of this Act be substituted in lieu of such word the expression "the Company," and whenever the word "Railway," or words implying works connected with a railway occur, there shall be substituted such words respectively as denote the nature of the work, undertaking, or purpose, in respect of which the land in question has been appropriated or resumed. The following are the sections so declared to be incorporated with this Act:—

Incorporation of provisions of Government Railways Act.

(I) As to the deposit of compensation money in certain cases with the Master in Equity, and the application and investment thereof. As to payment of such moneys in certain cases to trustees, or the parties themselves, and the exoneration of the Company in respect thereof after payment. Sections forty-seven to fifty-two, both inclusive.

(II) As to the deposit and application of compensation money on refusal of the owner to accept the same, or on his failing to make out a satisfactory title, and as to presumption of ownership. Sections fifty-three to fifty-six, both inclusive.

(III)



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- (III) As to the procedure by the Company in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof, or hinder the Company from entering upon or taking possession of the same. Section sixty-one.
- (iv) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage are taken. Sections sixty-five to seventy both inclusive.
- (v) As to the release of lands from rent, charges, and other encumbrances and procedure thereon. Sections seventy-one to seventy-four both inclusive.
- (vi) As to the apportionment of rent where lands taken are under lease, and as to compensation to tenants. Sections seventy-five to seventy-eight both inclusive.
- (vii) As to the entry upon or temporary occupation of lands, the crossing of roads and other highways, the making of bridges, and other works of accommodation, and the provisions consequent thereon. Section ten and sections eighty-four to ninety-seven both inclusive. Provided that compensation shall in all respects be ascertained in accordance with this Act.
61. It shall be lawful for the Company and all persons by them authorized to enter upon any lands not being a garden, orchard, or plantation attached, or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than one hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by this Act, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes, that is to say,—
- For the purpose of taking earth or soil by side cuttings therefrom; For the purpose of depositing soil thereon; For the purpose of obtaining materials therefrom for the construction or repair of waterworks or such accommodation works as aforesaid; or
- For the purpose of forming roads thereon, to, or from, or by the side of the said works.
- And in exercise of such powers, it shall lawful for the Company and all other persons employed by them to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from out thereof any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid, and for the purposes aforesaid erect thereon workshops, sheds, and other buildings of a temporary nature. Provided always that nothing in this Act contained shall exempt the Company from an action for nuisance, or other injury (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid. Provided also that no stone or slate-quarry, brickfield, or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Company either wholly or in part for any of the purposes lastly hereinbefore mentioned.



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62. If any such lands shall be used for any of the purposes aforesaid the Company shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be necessary for the convenient occupation of such lands, and in case of any difference between the owners or occupiers of such lands and the Company as to the necessity of such fence and gates, then which said fences and gates as the Governor shall deem necessary for the purposes aforesaid.

Company to separate the lands before using them.

63. In any of the cases aforesaid where the Company shall take temporary possession of lands by virtue of the powers herein granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required to do so, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Company so taking possession of his lands.

Compensation to be made for temporary occupation.

64. If in the exercise of the powers hereby granted it be found necessary to cross cut through, raise, sink, or use any part of any road whether carriage-road, horse-road, or tram-road, or railway, either public or private, so as to render it impassable for, or dangerous, or more than usually inconvenient to passengers or carriages, or to the persons entitled to the use thereof the Company shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

65. If the road so interfered with can be restored compatibly with the due completion of any works authorized under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Company or as near thereto as may be, and if such road cannot be so restored, the Company shall cause the new or substituted road or some other sufficient substituted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow, and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition.

Period for restoration of roads interfered with.

66. If the conduit shall cross any highway other than a public carriage-way on the level the Company shall make and at all times maintain convenient approaches with hand-rails or other fences, and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates or stiles on each side of such conduit where the highway shall communicate therewith.

Company to make sufficient approaches and fences to bridle-ways and foot-paths crossing on the line.

67. The Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorized under this Act, that is to say—

Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and passages, over, under, or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made, and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof.

Gates, bridges, &c.

Also sufficient posts, rails, hedges, ditches, mounds or other fences, for separating the land taken for the use of such works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying

Fences, &c.



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- straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands, and not towards the said works; and all necessary stiles, and such posts, rails, and other fences, shall be made forthwith after the taking of any such lands if the owners thereof shall so require, and the said other works as soon as conveniently may be.
- Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the side of such work, and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby.
- Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply, nor to make any accommodation works in such a manner as would prevent or obstruct the using of any works for any water supply, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation.
68. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof or respecting the maintaining thereof, the same shall be determined by the Governor, who shall also appoint the time within which such works shall be commenced and executed.
69. If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Company, or directed by the Governor to be made by the Company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Company.
70. If the Company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of the Company's engineer, and according to plans and specifications to be submitted to and approved by the Company. But the Company shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Company.
71. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds.

Drains.

Differences as to accommodation works to be settled by Governor.

Power to owners of lands to make additional accommodation works.

Such works to be constructed under the superintendence of the Promoter's engineer.

Penalty on persons omitting to fasten gates.

## PART IV.

45 *Miscellaneous Provisions—Legal Procedure.*

72. Where any distress is made for any sum of money to be levied under this Act, the distress itself shall not be unlawful nor the persons making the same be deemed trespassers on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceedings relating thereto, nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining, but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

Distress not unlawful for want of form.



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73. If it shall be proved to the satisfaction of any Stipendiary or Police Magistrate that the Company or any of their officers have been guilty of any default under this Act not otherwise provided for, they shall be liable for each and every such default to a penalty not exceeding five pounds, to be recovered in a summary way.

Penalty for default not otherwise provided for.

74. Every penalty, forfeiture, charge, or sum of money imposed by or made payable under this Act, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before any Stipendiary or Police Magistrate, under the provisions of the Act or Acts in force for the time being, regulating summary proceedings before Justices.

Penalties, &c., to be summarily recovered before Stipendiary or Police Magistrate.

75. If any party shall feel aggrieved by any determination or adjudication of any Stipendiary or Police Magistrate with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the next Court of General Quarter Sessions, holden at or nearest to the place of such determination or adjudication, but no such appeal shall be entertained unless within ten days after such determination or adjudication notice in writing of such appeal, stating the nature and grounds thereof, be given to the party in whose favour such determination or adjudication shall have been made, nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice, conditioned duly to prosecute such appeal and to abide the order of the Court thereon. At the General Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn to the following Sessions, and upon the hearing of such appeal, the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant or levied by distress upon his goods to be returned to him, and also may order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may reasonably think fit.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

76. If through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to any conduit, main, pipe, sewer, or other property of the Company, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of such damages shall, in case of dispute, be determined by the Stipendiary or Police Magistrate by whom the party incurring such penalty shall have been convicted, and on non-payment of such damages on demand the same shall be levied by distress, and such Magistrate shall issue warrants accordingly.

Damage to be made good in addition to penalty.

77. Any notice required by this Act to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be in writing or partly in writing and partly printed, or may be wholly printed. And it shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last-known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier, or if there be no occupier if such notice be posted on some conspicuous part of such building or land. And any notice required to be given or served in respect of any public street, road, or lane, may be served on or sent by post as aforesaid, to the Council Clerk of the municipal district wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

Notices.



*Broken Hill and District Water Supply Company.*

78. In the event of the wrongful exercise of any powers given by this Act, nothing in this Act contained shall be construed to prevent any person from proceeding against the Company for nuisance or otherwise in respect of the work or means used or employed by the Company in the exercise of the privileges hereby conferred on the Company, or to prevent the Company or any person recovering any sum of money, or otherwise proceeding in any Court of competent jurisdiction; but the Company or any person, to whom any penalty or sum of money may, by the provisions of this Act, be awarded, may elect either to proceed in manner in this Act provided, or to proceed for and recover damages or otherwise, in any Court of competent jurisdiction.

79. The Company shall not be entitled to any of the rights and privileges conferred upon them by this Act unless they shall have commenced the projected works within the period of twelve months and completed the same within the period of three years from the passing of this Act.

80. It shall be lawful for the Minister for Mines on behalf of Her Majesty at any time after ten years, by notice in writing, to require the Company to sell, and thereupon the Company shall sell to the Minister for Mines on behalf of Her Majesty the Company's property and rights, upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said property and rights, or any compensation for compulsory sale or other consideration whatsoever) of the said property and rights, and all lands, buildings, works, materials, and plant of the Company suitable to and used by the Company, such value, in case of difference, to be ascertained by arbitration in the manner provided by the "Arbitration Act" thirty-one Victoria number fifteen; and when any such sale shall have been made to the said Minister for Mines on behalf of Her Majesty, the Company's property, lands, buildings, works, materials, plant, and premises shall vest in the Minister for Mines on behalf of Her Majesty, who shall have all the rights, powers, and authorities of the Company in respect to the said property, works, and rights so sold.

## 35

FIRST SCHEDULE.

*Notice of Claim and Abstract.*

To the Broken Hill and District Water Supply Company (Limited).

In pursuance of the "Broken Hill Water Supply Act of 1888," I (*or* we) hereby give you notice that I (*or* we) claim compensation in land hereunder described which has  
40 been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract.

*Abstract.*

45	Names and descriptions of parties claiming, and nature of their interests, whether tenants for life, in tail, or otherwise.	Situation and description of property.	Quit rents payable if leasehold, name of landlord, term of lease, and rent reserved.	Names of occupiers, distinguishing whether tenants-at-will or under lease, and rent reserved, terms, &c.	Particulars of claim, specifying separately the amount claimed for value of property, and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents, and place or places where the same may be inspected, and name of the claimant's solicitor or agent

50

(Signature)  
(Address)  
(Date)

## SECOND



*Broken Hill and District Water Supply Company.*

## SECOND SCHEDULE.

*Notice of Valuation.*

To A.B., claimant in respect of land hereunder described, resumed under the  
"Broken Hill Water Supply Act of 1888."

- 5 TAKE notice that the land hereunder described, being that in respect of the resumption whereof under the authority of the aforesaid Act your claim or compensation has been lodged, has been valued at the sum of £

A.B.

Manager of the Company.

- 10 *Description of land in respect of which claim has been made.*

ALL that piece or parcel of land, &c., &c., &c.

## THIRD SCHEDULE.

The following is a description of the line of route of the proposed Water-works and of the district to be supplied:—

- 15 1. The Lakes Menindie and Speculation and the intervening country, being a strip of land about half-a-mile in width, situated in the Electoral District of Wentworth.  
2. The river Darling at a point about half-a-mile above the town of Menindie, and thence to Lake Speculation and the country intervening, being a distance of about sixteen miles in length, in the Electoral District of Wentworth.
- 20 3. A line of country between Lake Speculation and the town of Broken Hill, being about fifty miles in length, in the said Electoral District of Wentworth, of a width along the whole route of three chains or thereabouts, except at the pumping stations and reservoir.
- 25 viz., one thousand five hundred acres or thereabouts.  
4. The following area of land at the reservoir near the town of Broken Hill, viz., one thousand five hundred acres or thereabouts.  
5. The following areas of land at the several pumping stations for timber supply and other purposes, viz.:—
- 30 1. At the first, second, third, fourth, and eighth pumping stations one thousand acres each or thereabouts.  
2. At the fifth, sixth, and seventh pumping stations five hundred acres each or thereabouts.  
3. At the point on Menindie Lake, known as the feeder to Lake Speculation, one thousand acres or thereabouts.
- 35 4. At the starting peg on the bank of Lake Speculation, one thousand acres or thereabouts.
- The whole of the lands above referred to are leased from the Crown, and occupied by Herbert Bristow Hughes, and is included in the Kinchega Run, number two hundred and forty-four on the Government plans of resumed and leasehold areas.
6. The streets and lands in the township and municipal district of Broken Hill.



Legislative Council.

52<sup>o</sup> VICTORIÆ, 1888.

## A BILL

To enable the "Broken Hill and District Water Supply Company (Limited)" to construct works, and use the waters of the Darling River and the Speculation and Menindie Lakes and the Darling River for the purpose of supplying Broken Hill and District with fresh water, and to give power to purchase land.

*(As amended and agreed to in Select Committee.)*

**W**HEREAS it is expedient and for the public benefit that the town and district of Broken Hill, in the Colony of New South Wales, should be provided with a supply of fresh water. And whereas a Company has been formed, called the "Broken Hill and District Water Supply Company (Limited)," for the purpose of supplying the said town and district with fresh water. And whereas the said Company desire to establish and carry out works for such purpose and other purposes incidental thereto in the said town and district. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

~~PART I.—Preliminary Powers and Duties of the Company.~~

1. This Act may be cited as the "Broken Hill and District Water Supply Act of 1888." Its provisions are arranged into Four Parts, embracing the following subjects:—

~~PART I.—Preliminary Powers and duties of the Company as to Water Supply.~~

~~PART II.—Special provisions as to Water Supply.~~

c 24—A

PART

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



PART III.—*The acquisition and occupation by the Company of lands for the purpose of water supply—ascertainment of compensation in respect thereof.*

PART IV.—*Miscellaneous provisions—Legal procedure.*

And in the construction of this Act the following words and 5 expressions in inverted commas, unless there shall be something in the context repugnant thereto or inconsistent therewith, shall bear the meanings and include the persons or things hereby respectively set against such words and expressions, that is to say:—

“Governor”—The Governor, with the advice of the Executive 10 Council.

“Conduit”—The canals, tunnels, aqueducts, cuttings, or pipes, by means of which the main stream of water is supplied to the said water district.

“Justice”—Any Justice of the Peace for the Colony of New 15 South Wales.

“Street”—Any square, court, alley, highway, railway, tramway, lane, road, thoroughfare or other passage, footpath, or place, whether public or private, within the limits of this Act. the 20 Water District.

“Owner”—Any person who is in the receipt of the rents and profits of any house, manufactory, or building of whatsoever kind, or of any land.

“Water District”—The area within which water is authorized to be supplied to the inhabitants of the said town and district. 25

“Company”—The said “Broken Hill and District Water Supply Company (Limited),” or their assigns, owners for the time being of the Broken Hill Waterworks.

## PART I.

### Powers and Duties of the Company as to Water Supply. 30

Conditions prior to acquisition of land.

2. Before the Company shall put into force any of the provisions contained in this Part with respect to the acquisition of land otherwise than by agreement, the following conditions and provisions shall be observed:—

(I) The Company shall publish once at the least in each of three 35 consecutive weeks in some local newspaper circulating in the town and district of Broken Hill, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land that has been alienated from the Crown, naming some central place at Broken Hill where a 40 plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of such lands required.

(II) The Company shall serve a notice on every owner or reputed owner, or reputed lessee or occupier of such lands, defining 45 in each case the particular lands intended to be taken, and requiring an answer, stating whether the person so served dissents, or is neutral, in respect of taking such land.

(III) On compliance with the provisions of this section with respect to notices the Company may, if they think fit, present 50 a petition to the Governor under their Common Seal, and such petition shall state the lands as aforesaid intended to be



- 5 be taken, and the purposes for which they are required,  
and the names of the owners, lessees, and occupiers of lands  
who have assented, dissented, or are neutral, in respect  
of the taking of such lands, or who have returned no answer  
to the notice. And it shall pray that the Company may,  
with reference to such lands, be allowed to put in force  
the powers contained in Part III of this Act with respect to  
the acquisition of such lands otherwise than by agreement,  
and such prayer shall be supported by such evidence as the  
10 Governor may require.
- (iv) On receipt of such petition, and on due proof of the  
proper notices having been published and served, the Governor  
shall take such petition into consideration, and may either  
dismiss the same or direct a local inquiry as to the propriety  
15 of assenting to the prayer of such petition, but until such  
inquiry has been made no provisional order shall be made  
affecting any such lands without the consent of the owners,  
lessees, and occupiers thereof.
- (v) After the completion of such inquiry the Governor may, by  
20 provisional order, empower the Company to put in force with  
reference to the lands referred to in such order, the powers of  
the said Part, with respect to the acquisition of lands, other-  
wise than by agreement or any of them, and either absolutely  
or with such conditions and modifications as the Governor  
25 may think fit; and it shall be the duty of the Company to  
serve a copy of any order so made in the manner and on the  
persons in which and on whom notices in respect of such lands  
are required to be served.

## PART II.

### 30 *Special Provisions as to Water Supply.*

3. Subject to the provisions of this Act, the Company may Powers of the Com-  
exercise any of the powers in this Part contained for the construction pany.  
of waterworks for the supply of water from the Darling River and Specu-  
lation and Menindie and Speculation Lakes and Darling River to the  
35 Town and Municipal District of Broken Hill, including therein the  
district between the town of Broken Hill and the said Lakes and River,  
and for the purpose of carrying out the provisions of this Act the  
Company may

- (i) Enter upon any lands and take levels of the same, and set out  
40 such parts thereof as they shall think necessary.
- (ii) Enter upon, take, and hold such land as they may from time  
to time deem necessary for the construction and maintenance  
of any of the works authorized by this Act, or for obtaining  
or enlarging the supply of water, or for improving the quality  
45 thereof for the purpose of this Act.
- (iii) Enter upon any Crown or private lands, or streets, roads or  
thoroughfares, and lay or place therein any pipes, and may  
repair, alter or cut off, or remove the same, and may enter  
upon any such lands, or streets, roads, or thoroughfares, for the  
50 purpose of repairing any watercourses, or other works being  
their property or under their control.
- (iv) Take water from the lakes and river aforesaid.

Provided always that in the exercise of any of the powers hereby  
conferred, the Company shall inflict as little damage as may be, and  
55 in all cases where it can be done, shall provide other watering-places,  
drains,



drains, and channels, for the use of adjoining lands in place of any taken away or interrupted by them, and shall make full compensation to all parties interested, for all damage sustained by them through the exercise of such powers. Provided nevertheless that the Company shall not be liable to make compensation in respect of any damage sustained 5 by the reason of the taking of water from the said river or lakes or either of them.

Penalty for obstructing construction of works.

4. Any person who shall wilfully obstruct any person acting under the authority of the Company in setting out the line of any works undertaken under the authority of this Part, or pull up, or 10 remove, any poles or stakes driven into the ground for the purpose of setting out the line of such works or destroy or injure any works so undertaken as aforesaid, shall incur a penalty not exceeding five pounds for every such offence.

Penalty for destroying works.

5. If any person unlawfully and maliciously destroy or damage, 15 or attempts to destroy or damage, any reservoir, dam, tank, tunnel, watercourse, sluice, main, pipe, aqueduct, bridge, roadway, or engine, or other part whatever of the works of the Company, every such offender shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years. 20

Power to open streets, &c.

6. The Company may open and break up the soil and pavement of the several streets and bridges within the limits of its water district, and make open and break up any sewers, drains, or tunnels within or under such streets and lay down and place within the same limits, pipes, conduits, service pipes, and other works and engines, and from 25 time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the Company shall from time to time deem necessary for supplying water to the inhabitants of the district ~~included within the said limits in the fourth section of~~ 30 **this Act described and hereafter referred to as the "Water District."**

Rein-tatement of streets, &c.

7. When the Company shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make 35 good the road or pavement or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And shall at all times whilst any such pavement or road shall be so open or broken up cause the same to be fenced and guarded, and shall cause light sufficient for the warning of passengers to be set up and 40 kept there for every night during which such road or pavement shall be continued open or broken up.

Company not liable for accidental failure to supply water.

8. The Company shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any penalty or damages for not supplying such water if the want of such 45 supply arises from unusual drought or other unavoidable cause or accident.

Agreements to supply water.

9. The Company may supply any person with water for domestic or other purposes, by measure or otherwise, at such rates, to be declared fixed and published by them (subject to the provisions 50 ~~of this Act~~ hereinafter contained), upon such terms, and subject to such conditions as may be agreed upon by the Company and the person requiring to be supplied.

Company may let meters.

10. The Company may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the 55 quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money as may be agreed upon between the Company and the consumer, which shall be recoverable in the same manner as rates due to the Company for water. 60



11. Such meters, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or to be attached or taken in execution under any process of any Court of Law or Equity, or under or in pursuance of any sequestration or order in bankruptcy or other legal proceedings against or affecting the consumer of the water, or the occupier of the premises, or other the person in whose possession the meters, pipes, instruments, and apparatus may be.

Meters of Company not distrainable.

12. Every person who shall have agreed with the Company for a supply of water by measure shall, at his own expense, unless he hire a meter from the Company, provide a meter, and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Company; and in the event of any repairs being required, notice in writing shall be immediately given by such person to the Company, and a registration of the quantity of water used shall be taken before such repairs are effected.

Meters to be supplied and maintained by consumer.

13. Every person requiring to remove or alter the position of any meter shall leave six days notice in writing to that effect at the registered or local office of the Company, hereinafter mentioned, and a registration of the quantity of water shall be taken before such removal or alteration is made.

Notice of removal, &c. of meter.

14. If any person shall neglect or delay to have such meter properly repaired and put in correct working order, after having been required by any officer of the Company so to do, the Company may shut off the supply of water from the premises of such person, either by cutting the service pipe or otherwise, until such meter shall have been properly repaired and certified by some officer of the Company as being in proper working order.

Water may be cut off if meter not in order.

15. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Company without having first obtained a certificate from the Company that the said meter has been examined and found in correct working order, he shall, for such offence, forfeit a sum not exceeding ten pounds.

Penalty for fixing uncertified meter.

16. If any person remove or alter the position of, or in any way interfere with any meter without giving such notice as aforesaid, he shall, for such offence, forfeit a sum not exceeding twenty pounds. Provided that the Company shall always have an office in the district of Broken Hill and shall register the same at the Council Chambers of the Municipal Council at Broken Hill.

For removing or altering meter without notice.

17. The officers of the Company may enter any house, building, or lands, to, through, or into which water is supplied by the Company by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water, or for the purpose of ascertaining the quantity of water supplied or consumed; and may from time to time enter any house, buildings, or lands for the purpose of removing any meter, instrument, pipe, or apparatus the property of the ~~premeters~~ Company; and if any person hinders any such officer from entering or making such inspection or effecting such removal, he shall for each such offence be liable to a penalty not exceeding five pounds, but except with the consent of a Justice a power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

Power of officers of Company to inspect meter.

18. In all the pipes to which any fire-plug is fixed, the Company shall provide and keep constantly laid on for use, unless prevented by unusual drought or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes (that is to say), for cleansing the sewers and drains, for cleansing and watering the streets, and for supplying any public hospitals or charitable institutions, or any public pumps, baths, and wash-houses that may

Supply of water for public purposes.



may be established for the use of the inhabitants, and paid for out of any municipal rates; and such supply shall be provided at such rates and charges and upon such terms and conditions as may be agreed on by the said Municipal Council and the Company, or, in case of disagreement, as shall be settled by ~~two Justices~~ **arbitration in the manner provided by the Arbitration Act.** 5

Promoters

Company to place public fire-plugs in main.

19. The Company, at the request of the said Municipal Council shall fix proper fire-plugs in the main and other pipes belonging to them at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any 10 fire that may break out within the ~~Borough~~ **said District**, and shall from time to time renew and keep in effective order every such fire-plug; and shall put up a public notice on some conspicuous place in each street on which such fire-plug is situated, showing its situation, and such notice may be put up on any house or building in such street; and as 15 soon as such fire-plug is completed they shall deposit a key thereof in each place where any public fire engine is kept. The cost of such fire-plugs and the expense of fixing, placing, and maintaining the same in repair, and of supplying such keys as aforesaid shall be defrayed by the said Municipal Council. 20

Fire-plugs for manufactories, &c.

20. The Company ~~may~~ shall at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road in which or within two hundred yards of which there shall be a pipe of the Company, place and maintain a fire-plug (to be used only for extinguishing fires) as near as conveniently may be to such 25 manufactory or works.

Pipes to be kept charged, and water taken for fires.

21. The Company shall at all times keep charged with water all their pipes to which fire-plugs are fixed unless prevented by drought or other unavoidable cause or accident or during necessary repairs, and shall allow all persons at all times to take and use such water for the 30 purpose only of extinguishing fire without making compensation for the same.

Penalty for refusal to fix, &c. fire-plugs, or failure to supply water.

22. If, except when prevented as aforesaid, the Company neglect or refuse to fix or repair such fire-plug, or to furnish to the said Municipal Council a sufficient supply of water for the public pur- 35 poses aforesaid, on such terms as shall have been agreed or settled as aforesaid, or if, except as aforesaid, they neglect to keep the pipes charged as aforesaid, or neglect or refuse to furnish any owner or occupier liable to be rated under this Act during any part of the time for which such rates have been paid or tendered, they shall be liable 40 to a penalty of *twenty* pounds, and shall also forfeit to the said Municipal Council, or to every person having paid or tendered the rate, the sum of *twenty* shillings for every day during which such refusal shall continue after notice in writing shall have been given to the Company of the want of supply. 45

Pipes laid by owners or occupiers. Power to inhabitants to lay service pipes.

23. Any owner or occupier of any dwelling-house, or part of a dwelling-house, situate within the water district who shall wish to have water from the water-works of the Company brought on to his premises, and who shall have paid or tendered to the Company the portion of water rate or charge in respect of such premises by this 50 Act directed to be paid in advance, may open the ground between the pipes of the Company and his premises, having first obtained the consent of the owners and occupiers of such ground, and lay any pipes from such premises to communicate with the pipes of the Company.

Notice to Company of laying pipes.

24. Such pipes shall be of a strength and material approved of 55 by some officer of the Company, and every such owner or occupier shall, before he begins to lay any such pipe, give to the Company two days notice of his intention so to do.



25. Before any pipe is made to communicate with the pipes of the Company the person intending to lay such pipes shall give two days notice to the Company of the day and hour when such pipe is intended to be made to communicate with the pipes of the Company, and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor, engineer, or other officer appointed for that purpose by the Company, and the bore of such pipe shall not exceed three-quarters of an inch, except with the consent of the Company.
26. Any person who shall have laid down any pipe or other works, or who shall have become the proprietor thereof, may remove the same after having first given six days notice to the Company of his intention so to do and of the time of such proposed removal, and every such person shall make compensation to the Company for any injury or damage to their pipes or works which may be caused by such removal.
27. Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipes of the Company and his house, building, or premises, and any sewer or drain therein for any such purposes as aforesaid (doing as little damage as may be and making compensation for any damage done in the execution of such work). Provided always that every such owner or occupier desiring to break up the pavement of any street, or any sewer, or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restrictions, and obligations in, and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto as the Company are subject to under the provisions of this Act. ~~Provided also that the service mains shall be laid in the centre of the street.~~
28. If any person supplied with water by the Company wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this part, or wrongfully fails to do anything which under any of these provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the Company, the Company may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied to him or for his use, and may cease to supply him with water so long as the cause of injury remains or is not remedied.
29. If any person supplied with water by the Company wilfully or negligently causes or suffers any pipe, valve, cock, cistern, bath, soil-pan, water-closet, or other apparatus or receptacle to be out of repair, or to be so closed or contrived that the water supplied to him by the Company is or is likely to be wasted, misused, unduly consumed or contaminated, or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Company, he shall for every such offence be liable to a penalty not exceeding *five* pounds.
30. If any person—
- (i) ~~Not having from the Company a supply of water for other than domestic purposes, any water supplied to him by the Company;~~
- (ii) having from the Company a supply of water for any purpose other than domestic uses use such water for any purpose other than those that for which he is entitled to use the same he shall for every such offence be liable to a penalty not exceeding *forty* shillings without prejudice to the right of the Company to recover from him the value of the water misused.

Communication with pipes of Company to be made under Superintendence of Surveyor.

Bore of service pipes.

Service pipes may be removed after giving notice.

Power to break up pavements.

In case of any breach of this part of the Act water may be cut off.

Penalty for waste of water.

Penalty for misapplication of water.



No pipe to be fixed to consumer's pipe without permission of Company.

31. It shall not be lawful for the owner or occupier of any premises supplied with water by the Company, or any consumer of the water of the Company, or any other person, to affix, or cause, or permit to be affixed, any pipe or apparatus to a pipe belonging to or used by such owner, occupier, or consumer, or any other person, or to make any alteration in any such communication or service pipe, or in any apparatus connected therewith, without the consent in every such case of the Company; and if any person acts in any respect in contravention of the provisions of the present section, he shall, for every such offence, be liable to a penalty not exceeding *five* pounds, without prejudice to the right of the Company to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed. 5 10

Penalty for unlawfully taking water.

32. If any person, not being supplied with water by the Company, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the Company, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the Company, or supplied by them for the use of any consumer of the water of the Company, he shall for every such offence be liable to a penalty not exceeding *five* pounds. 15 20

Inspection of water.

33. The surveyor, engineer, or other person appointed for that purpose by the Company, may, between the hours of ten o'clock in the forenoon, and four o'clock in the afternoon, enter into any house or premises supplied with water by the Company, in order to examine if there be any waste or misuse of such water; and if such surveyor, engineer, or other person, at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the Company may turn off the water supplied by them from such house or other premises. 25 30

Polluting the water. Penalty for bathing.

34. If any person bathe in any stream, reservoir, or other water-works belonging to the Company, or wash, throw, or cause to enter therein, any dog or other animal, he shall for every such offence forfeit a sum not exceeding *five* pounds. 35

Penalty for throwing dirt therein.

35. If any person throw or convey, or permit or cause to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing, into any such stream, reservoir, aqueduct, or other water-works as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing, he shall for each offence forfeit a sum not exceeding *ten* pounds. 40

Penalty for letting foul water flow thereinto.

36. If any person cause the water of any sink, sewer, or drain, steam-engine, boiler, or other filthy water belonging to him or under his control to be run or to be brought into any stream, reservoir, aqueduct, or other water-works belonging to the Company, or shall do any other act whereby the water of the Company shall be fouled, he shall for each offence forfeit a sum not exceeding *twenty* pounds, and a further sum of *twenty* shillings for each day (if more than one) that such offence continues. 45 50

Penalty for permitting substances produced in making gas to flow into the water.

37. Any person making or supplying gas within the limits of any the water districts, who shall at any time cause or suffer to be brought to the water of the Company, or into any drain communicating therewith, any ~~washing or any other~~ substance which shall be produced in the making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such reservoir, aqueduct, or other water-works shall be fouled, or the pipes or conduits thereof injured, shall forfeit to the Company a sum not exceeding *twenty* pounds, to be recovered with full costs of suit for each day during 55



during which such washing or other substance shall be brought or shall flow as aforesaid, or during which the act shall continue by which such water is fouled, after the expiration in either case of twenty-four hours from the time when the notice of the offence has been served on such person by the Company.

38. Whenever the water supplied by the Company shall be fouled by the gas of any person making or supplying gas within the water district aforesaid such person shall forfeit to the Company for every such offence a sum not exceeding *twenty* pounds, and a further sum not exceeding *ten* pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gas-makers causing water to be fouled.

39. For the purpose of ascertaining whether the water of the Company be fouled by the gas of any person making or supplying gas within the said water district, the Company may dig up the ground and examine the pipes, conduits, and works of the person making or supplying gas. Provided that before proceeding so to dig and examine, the Company shall give twenty-four hours' notice in writing to the person so making or supplying gas, of the time at which such digging and examining is intended to take place, and shall give the like notice to the person having the control or management of the pavement or place where such digging shall take place, and shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay or any nonfeasance or misfeasance therein, as hereinafter provided, with respect to roads and pavements broken up by the Company for laying their pipes; and if upon such examination it appears that such water has been fouled by any gas belonging to such person the expenses of digging, examination, and repairs of the street, or place disturbed in any such examination shall be paid by the person making or supplying gas; but if upon such examination it appears that the water has not been fouled by the gas of such person then the Company shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gas-pipes to ascertain cause of water being fouled.

40. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Company from all impurities from closets and other receptacles of faecal matter or urine:—

Provisions as to connection of closet and other pipes with mains, and as to cisterns, &c.

(I) It shall not be lawful for any person to connect with the main any pipe delivering water directly into the closet-pan or other receptacle for faecal matter or urine without the intervention of a cistern, into which the water from the main shall first be received, and any person so offending shall forfeit and pay a penalty not exceeding *fifty* pounds.

No closet pipes hereafter to connect directly with the main.

(II) The Company may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern (hereinafter termed "directly connected"), and which in the opinion of the Company may endanger the purity of the water by the absorption of noxious gases or suction of faecal matter or urine into such pipe, or into the main or otherwise. For the purpose of effecting such disconnection the Company's artificers and workmen may enter into and upon the premises of any person or corporation whatsoever, to do, or cause to be done, anything in his opinion requisite or necessary in relation thereto.

Company may disconnect pipes in certain cases.

(III) Whenever the Company shall have caused any pipe to be cut off or disconnected, or other work to be done in relation thereto, they shall forthwith serve the owner or occupier of the

The expense incurred by any disconnection to be paid by the tenant and deducted from his rent.



Owners of premises shall fix closet cisterns, or be liable to a penalty.

Upon neglect of owner, tenant, or occupier, after fourteen days' notice, to fix cistern and deduct the expenses from the rent.

Any person re-establishing any connection with the main, unless authorized, or wilfully injuring any pipe, &c., liable to a penalty.

Where several houses supplied by one pipe, each to pay.

the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such owner or occupier shall pay the amount to the Company, and if the amount be paid by an occupier only he may deduct the same from the rent owing or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid, the Company may sue for and recover the same with full costs of suit.

- (IV) The owner of every dwelling-house, or premises which shall have therein or thereon any closet with a pipe or branch pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet, and every cistern shall be made of such materials and dimensions, and of such model or plan of construction, and with such ball-cock, stop-cocks, waste-pipes, and other appliances as shall be deemed requisite and have been approved by the officers of the Company for securing the water from pollution through any noxious gases or matter evolved or derived from such closets, or otherwise every owner neglecting to comply with the provisions of this subsection shall forfeit and pay a penalty not exceeding *five* pounds.

- (V) Whenever any owner shall have neglected to fix and erect a cistern, with its appliances, as in the last preceding subsection provided for, the tenant or occupier is hereby authorized and required, after receiving a written notice thereof from the Company on that behalf, to fix and erect such cistern, with its appliances before mentioned, within fourteen days after the receipt of such notice; and the said tenant or occupier shall, upon payment by him of the charges and expenses of such fixing and erection, be entitled to deduct the amount so paid from the rent then due or accruing, or, at his option, to sue for and recover the same, with full costs of suit, from the owner as for money paid to his uses.

- (VI) Any person who shall, without the authority of the Company, re-establish any such connection which may have been cut off, removed, or severed by him, or who shall in any manner wilfully injure or tamper with any connection-pipe, cistern, ball-cock, stop-cock, or waste-pipe, which may have been approved by the Company, so as to destroy, diminish, or endanger its efficiency, may be summoned for such an offence before two Justices, and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the Company may have incurred (and which they are hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall forfeit and pay a penalty not exceeding *ten* pounds, and the amount of charges and expenses and penalty respectively shall, when recovered, be paid over to the Company.

41. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, or where water is supplied to courts, alleys, and right-of-ways by stand-pipes, the several owners or occupiers of such houses or parts of houses, or of the several houses or parts of houses in every such court, alley, or right-of-way, shall be liable to the payment of the same rates or charges for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Company by a separate pipe.



42. The rates and charges for water and all sums due to the Company under this part shall be paid by, and be recoverable from, Water rates to be recoverable from either landlord or tenant. the owner of the premises, or the occupier, or person requiring, receiving, or using agreeing with the Company for the supply of water, and all rates and charges shall be payable in advance by equal payments on the first day of January, the first day of April, the first day of July, and the first day of October in each year; and the first payment shall be made at the time when the owner or occupier of any tenement such person shall become liable to pay such rates and charges.

43. Such rates shall be payable in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure. Provided that the valuations of any lands or tenements for the purpose of such water supply shall not exceed in one year the valuation (if any) of such lands and tenements during the same or the previous year by the Municipal Council of Broken Hill, and no such rate shall exceed the amount of pounds per centum per annum on the assessed value.

44. The Company may also enter into any contract for the supply of water to persons desirous of obtaining such supply at a rate to be calculated by meter.

45. The charge to be made by the Company for the supply of water by meter shall not exceed the sum of one shilling and sixpence per one hundred gallons, and no rate to be made by the Company shall exceed in amount the sum of in the pound on the value of lands or tenements within the water district, as assessed for rating purposes by the said Municipal Council. Rating powers.

### PART III.

30

*The Acquisition and occupation by the Company of lands for the purposes of water supply—ascertainment of compensation in respect thereof.*

44. After the notification in the *Gazette*, as hereinbefore provided, of the approval of the Governor of a scheme for the supply of water to the said town and district, but not before the Company shall be empowered to acquire or occupy lands for the purposes of such water supply in manner hereinafter provided; and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided. Lands required for water supply, how acquired.

45. It shall be lawful for the Company, by notification to be published in the *Gazette* and in one or more newspapers published or circulated in the said town and district to declare that the land described in such notification is required for the purposes therein expressed. How and when lands can be taken.

46. Upon the publication of the notification to be in the *Gazette* declaring that the lands therein described are so required, such lands shall, upon compliance with the requirements and provisions herein-after contained, be vested in the Company for the purposes of this Act for an estate of inheritance in fee-simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way, or other easements whatsoever, and to the intent that the legal estate therein, together with all powers incident thereto or conferred by this Act, shall, subject to the provisions thereof, be vested in the Company. Vesting, &c., of lands.

47. Where the land required is Crown Land at the date of such publication, or is vested in any corporation or person on behalf of Her Majesty, or for public purposes by virtue of any statute, or is within the Effect of publication upon Crown Lands.



the limits with reference to centres of population prescribed by the Act next hereinafter cited, the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or license or promise thereof, and to cancel to the like extent any dedication or reservation of the said land ~~may~~ made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending the same, ~~or~~ and to divest the estate of such corporation or person, and to vest the said land to the extent aforesaid in the Company for the purposes mentioned, and for the estate limited in the last preceding section. Provided, however, that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

Compensation for private lands.

49. 48. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown, or is not Crown Land as defined by this Act, the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained under the provisions hereinafter contained.

Conversion of estate of proprietor of resumed land into a claim.

50. 49. The estate and interest of every person entitled to lands required under this Act, or any portion thereof, and whether to the legal or equitable estate therein, shall upon due payment of the amount of compensation tendered by the Company, or assessed by the jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Company as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall upon asserting his claim, as hereinafter provided, and making out his title in respect of any portion of the said resumed lands, be entitled to compensation on account of such resumption in manner hereinafter provided.

Notice of claim for compensation.

51. 50. Every person claiming compensation in respect of any land so required, or in respect of any work or other matter done under the authority of this Act, shall, within ninety days from the publication of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall, upon the application, and at the cost of the claimant, appoint in that behalf, serve a notice in writing upon the Company, by leaving the same at the office of the said Company ~~in the said form~~, which notice shall set forth the nature of the estate or interest of the claimant in such land, together with an abstract of his title, and if he claims, in respect of damage, the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid, and such notice may be in the form of the ~~Second~~ First Schedule hereto, but with any modifications required by the nature of the claim.

Claim and report thereon.

52. 51. Within sixty days after the receipt of every such notice of claim the Company shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the provisions of this Act, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Third Second Schedule hereto.

Compensation, by action in Supreme Court.

53. 52. If within ninety days after the service of notice of claim the claimant and the Company shall not agree as to the amount of compensation, the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the Company. And any such action may be tried before a Judge of the said Court or in any Circuit Court and a special jury of four persons. Provided always that, upon proper application either of the Company or of the claimant, a special jury of twelve may be summoned



summoned for the trial of each action. Provided also with the consent in writing of the Company and the claimant, any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation, but not within fourteen days from service of the notice of valuation on such claimant.

54. 53. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the Company and notified to the claimant as aforesaid, and if so, to what sum. And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation, then the costs of the action shall be borne by the Company, but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant.

Issue in action of compensation verdict and costs.

55. 54. All moneys payable under this Act by way of compensation to any claimant, whether under the verdict of a jury or otherwise, shall be paid, together with costs (if any) and interest at the rate of six pounds per centum, reckoned from the date of the notifications aforesaid, within one month after the determination of such compensation to the person lawfully entitled thereto, or to his agent duly authorized in that behalf in writing, ~~that~~ but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land. Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply, ~~or sewerage~~ no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed, or the support to such surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

56. 55. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," have jurisdiction to try any such action of compensation at the nearest District Court ~~held at~~ ~~Silverton~~ in any case where the whole amount of the claim in respect to such land served in pursuance of the ~~seventy-sixth~~ **fifty-first** section of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Company and the claimant by a memorandum signed by the Secretary of the said Company and such claimant or by the respective attorneys of the Company and the claimant agree thereto. For the purposes of this section, the provisions of the said District Courts Act and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in the said District Court hereunder.

Where claim may be prosecuted in District Court.

57. 56. In estimating or assessing the compensation to be paid under this Act, regard shall be had by the valutors and by the jury (on any issue) not only to the value of the land taken by the Company, but also to the damage (if any) to be sustained by the claimant by reason of the severing of the land taken from other lands, or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act, and they shall assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time of the resumption thereof, or the extent of the damage or injury sustained.

Compensation how to be estimated.

58. 57. Subject to the provisions of this Act, it shall be lawful for the Company and for any officer duly authorized in that behalf, and for all persons employed in the carrying out of any authorized works, and for any person authorized by the Company, to enter upon the lands of any person whomsoever which the Company may require to

General power of entry.



to purchase or take, and to take possession and appropriate the same for the purposes of this Act, or of the execution of any such authorized works.

Power to purchase lands by agreement.

59. 58. Notwithstanding anything hereinbefore contained, it shall be lawful for the Company, if they think fit, to agree with the owners of any lands, the acquisition of which is authorized by this Act, and with all parties having any estate or interest in such lands, or by this Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or parts thereof as shall be thought proper, and of all estates and interests in such lands of what kind soever. 5 10

Parties under disability enabled to sell and convey and exercise other powers.

60. 59. It shall be lawful for all parties being seized, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the Company, and to enter into all necessary agreements for that purpose, and particularly it shall be lawful for all or any of the following parties so seized, possessed, or entitled as aforesaid, so to sell, convey, or release, that is to say, all corporations, tenants entail, or for life, married women seized in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees, or feoffees, in trust for charitable or other purposes, executors, and administrators, and all parties for the time being entitled to the receipt of the rents and profit of any such lands in possession or subject to any estate in dower, or to any lease for life or for lives and years, or any less interest, and the power so to sell and convey, or lease as aforesaid, may lawfully be exercised by all such parties other than married women entitled to dower, or lessees for life or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians on behalf of their wards, and as to such committees on behalf of the lunatics and idiots, of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability, and as to such trustees, executors, or administrators, on behalf of their *cestui que* trusts whether infants, issue unborn, lunatics, *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability, and the power hereinafter given to release lands from any rent, charge, or encumbrance, and to agree to the apportionment of any such rent, charge, or encumbrance, shall extend to, and may lawfully be exercised by every party hereinbefore enabled to sell and convey, or release lands to the company. 15 20 25 30 35 40 45

Incorporation of provisions of Government Railways Act.

61. 60. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified, together with the respective power, authorities, duties, liabilities, obligations, and other the provisions therein contained, notwithstanding the repeal of the said Act, are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein. And that wheresoever in a section so incorporated the word "Commissioner" occurs, there shall for the purposes of this Act be substituted in lieu of such word the expression "the Company," and whenever the word "Railway," or words implying works connected with a railway occur, there shall be substituted such words respectively as denote the nature of 50 55



of the work, undertaking, or purpose, in respect of which the land in question has been appropriated or resumed. The following are the sections so declared to be incorporated with this Act :—

- 5 (I) As to the deposit of compensation money in certain cases with the Master in Equity, and the application and investment thereof. As to payment of such moneys in certain cases to trustees, or the parties themselves, and the exoneration of the Company in respect thereof after payment. Sections forty-seven to fifty-two, ~~to be~~ both inclusive.
- 10 (II) As to the deposit and application of compensation money on refusal of the owner to accept the same, or on his failing to make out a satisfactory title, and as to presumption of ownership. Sections fifty-three to fifty-six, both inclusive.
- 15 (III) As to the procedure by the Company in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof, or hinder the Company from entering upon or taking possession of the same. Section sixty-one.
- 20 (iv) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage are taken. Sections sixty-five to seventy both inclusive.
- 25 (v) As to the release of lands from rent, charges, and other encumbrances and procedure thereon. Sections seventy-one to seventy-four both inclusive.
- (vi) As to the apportionment of rent where lands taken are under lease, and as to compensation to tenants. Sections 30 seventy-five to seventy-eight both inclusive.
- (vii) As to the entry upon or temporary occupation of lands, the crossing of roads and other highways, the making of bridges, and other works of accommodation, and the provisions consequent thereon. Section ten and sections eighty-four to 35 ninety-seven both inclusive. Provided that compensation shall in all respects be ascertained in accordance with this Act.

62- 61. It shall be lawful for the Company and all persons by them authorized to enter upon any lands not being a garden, orchard, 40 or plantation attached, or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than one hundreds yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by 45 this Act, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes, that is to say,—

- For the purpose of taking earth or soil by side cuttings therefrom ;
- For the purpose of depositing soil thereon ;
- 50 For the purpose of obtaining materials therefrom for the construction or repair of waterworks or such accommodation works as aforesaid ; or
- For the purpose of forming roads thereon, to, or from, or by the side of the said works.

55 And in exercise of such powers, it shall lawful for the Company and all other persons employed by them to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from out thereof any clay, stone, gravel, sand, or other

Power to take temporary possession of land.



other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid, and for the purposes aforesaid erect thereon workshops, sheds, and other buildings of a temporary nature. Provided always that nothing in this Act contained shall exempt the Company from an action for nuisance, or other injury 5 (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid. Provided also that no stone or slate-quarry, brickfield, or other like place which at the time of the passing of this Act shall be commonly worked or used 10 for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Company either wholly or in part for any of the purposes lastly hereinbefore mentioned.

Company to separate the lands before using them.

63. 62. If any such lands shall be used for any of the purposes aforesaid the Company shall, if required so to do by the owner or 15 occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be necessary for the convenient occupation of such lands, and in case of any difference between the owners or occupiers of such lands and the Company as to the necessity of such fence and gates, then which said fences and gates as 20 the Governor shall deem necessary for the purposes aforesaid.

Compensation to be made for temporary occupation.

64. 63. In any of the cases aforesaid where the Company shall take temporary possession of lands by virtue of the powers herein granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required to do so, to pay to the 25 occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Company so taking possession of his lands.

Before roads interfered with others to be substituted.

65. 64. If in the exercise of the powers hereby granted it be found 30 necessary to cross cut through, raise, sink, or use any part of any road whether carriage-road, horse-road, or tram-road, or railway, either public or private, so as to render it impassable for, or dangerous, or more than usually inconvenient to passengers or carriages, or to the persons entitled to the use thereof the Company shall before the commence- 35 ment of any such operations cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Period for restoration of roads interfered with.

66. 65. If the road so interfered with can be restored compatibly 40 with the due completion of any works authorized under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Company or as near thereto as may be, and if such road cannot be so restored, the Company shall cause the new or substituted road or some other sufficient substi- 45 tuted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow, and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition. 50

Company to make sufficient approaches and fences to bridle-ways and foot-paths crossing on the line.

67. 66. If the conduit or any sewerage-works shall cross any highway other than a public carriage-way on the level the Company shall make and at all times maintain convenient approaches with hand-rails or other fences, and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates or stiles on each side 55 of such conduit or works where the highway shall communicate therewith.



68. 67. The Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorized under this Act, that is to say—

5 Such and so many convenient gates, bridges, arches, culverts, and passages, over, under, or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made, and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof.

Gates, bridges, &c.

Also sufficient posts, rails, hedges, ditches, mounds or other fences for separating the land taken for the use of such works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands, and not towards the said works; and all necessary stiles, and such posts, rails, and other fences, shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be.

Fences, &c.

Also all necessary arches, tunnels, culverts, drains, or other passages either over or under or by the side of such work, and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby.

Drains.

Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply, nor to make any accommodation works in such a manner as would prevent or obstruct the using of any works for any water supply, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation.

69. 68. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof or respecting the maintaining thereof, the same shall be determined by the Governor, who shall also appoint the time within which such works shall be commenced and executed.

Differences as to accommodation works to be settled by Governor.

70. 69. If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Council, Company, or directed by the Governor to be made by the Company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Company.

Power to owners of lands to make additional accommodation works.

71. 70. If the Company so desire, all such lastmentioned accommodation works shall be constructed under the superintendence of the Company's engineer, and according to plans and specifications to be submitted to and approved by the Company. But the Company shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Company.

Such works to be constructed under the superintendence of the Promoter's engineer.

72. 71. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds.

Penalty on persons omitting to fasten gates.



## PART IV.

*Miscellaneous Provisions—Legal Procedure.*

Moieties of penalties to be paid to informers.  
Distress not unlawful for want of form.

~~73.~~ **72.** One-half of any penalty recovered under this Act shall be paid to the informer. And Where any distress is made for any sum of money to be levied under this Act, the distress itself shall not be unlawful nor the persons making the same be deemed trespassers on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceedings relating thereto, nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining, but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case. 5 10

Penalty for default not otherwise provided for.

~~74.~~ **73.** If it shall be proved to the satisfaction of any two Justices of the Peace, **Stipendiary or Police Magistrate**, in Petty Sessions assembled that the Company or any of their officers have been guilty of any default under this Act not otherwise provided for, they shall be liable for each and every such default to a penalty not exceeding five pounds, to be recovered in a summary way. 15

Method of proceeding before Justices in question of damages, &c.

**75.** Where by this Act any question of compensation, expenses, charges, or damages or other matter is required to be referred to the determination of any one or more Justices, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before one Justice or before two Justices, as the case may require, at a time and place to be named in such summons, and upon the appearance of such parties, or in the absence of any of them upon proof of due service of the summons, it shall be lawful for such one Justice or such two Justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath, and the cost of every such inquiry shall be in the discretion of such Justices, and they shall determine the amount thereof. 20 25 30

Penalties, &c., to be summarily recovered before two Justices.  
**Stipendiary or Police Magistrate.**

~~76.~~ **74.** Every penalty, forfeiture, charge, or sum of money imposed by or made payable under this Act, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before two Justices, any **Stipendiary or Police Magistrate**, under the provisions of the Act or Acts in force for the time being, regulating summary proceedings before Justices. And where any such penalty, charge, or sum be not paid, either immediately after conviction or adjudication, or within the time appointed thereby, the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels, in the manner provided for by the said Acts. 35 40

Parties allowed to appeal to Quarter Sessions on giving security.

~~77.~~ **75.** If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices **Magistrate** with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the nearest General Quarter Sessions, ~~held at Broken Hill or Silverton,~~ but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice, conditioned duly to prosecute such appeal and to abide the order of the Court thereon. At the General Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn to the following Sessions, and upon the hearing of such appeal, the Court may 45 50 55

Court to make such order as they think reasonable.



may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant or levied by distress upon his goods to be returned to him, and also may order such further satisfaction to be made to the party  
 5 injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may reasonably think fit.

78. 76. If through any act, neglect, or default, on account whereof  
 any person shall have incurred any penalty imposed by this Act, any  
 10 damage to any conduit, main, pipe, sewer, or other property of the Company, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty and the amount of such damages shall in case of dispute, be determined by the Justices **Magistrate** by whom the party  
 15 incurring such penalty shall have been convicted, and on non-payment of such damages on demand the same shall be levied by distress, and such Justices, ~~or one of them,~~ **Magistrate** shall issue warrants accordingly.

Damage to be made good in addition to penalty.

79. It shall be lawful for any officer or servant of the Company  
 20 and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act, and whose name and residence shall be unknown to such officer or servant, and convey him with all convenient despatch, before some Justice without any warrant or other authority than this Act,  
 25 and such Justice shall proceed, with all convenient despatch, to the hearing and determining of the complaint against such offender.

Transient offenders

80. 77. Any notice required by this Act ~~or any by law or regulation~~  
~~made thereunder~~ to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be  
 30 in writing or partly in writing and partly printed, or may be wholly printed. And it shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last-known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with  
 35 some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier, or if there be no occupier if such notice be posted on some conspicuous part of such building or land. And any notice required to be given or served in respect of any public street, road, or lane, may be served on or sent by post as afore-  
 40 said, to the Council Clerk of the ~~borough or~~ municipal district wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

Notices.

81. 78. In the event of the wrongful exercise of any powers given  
 by this Act, nothing in this Act contained shall be construed to  
 45 prevent any person from proceeding against the Company for nuisance or otherwise in respect of the work or means used or employed by the Company in the exercise of the privileges hereby conferred on the Company, or to prevent the Company or any person recovering any sum of money, or otherwise proceeding in any Court of competent  
 50 jurisdiction; but the Company or any person, to whom any penalty or sum of money may, by the provisions of this Act, be awarded, may elect either to proceed in manner in this Act provided, or to proceed for and recover damages or otherwise, in any Court of competent jurisdiction.

Indictment for nuisances.

82. 79. The Company shall not be entitled to any of the rights  
 55 and privileges conferred upon them by this Act unless they shall have completed commenced the projected works within the period of twelve months and completed the same within the period of three years from the passing of this Act.

Limitation of time for erection of works.



FIRST SCHEDULE.

BOROUGH OF BROKEN HILL.

*Notice to lay Service Pipes.*

Notice to the owners of tenements and premises in streets and the private streets,  
lanes, courts, and alleys opening thereunto.

The main pipe in the said street having been laid down, the owners of all tenements premises situated as above are hereby, on or before the \_\_\_\_\_ day of \_\_\_\_\_ next, to cause a proper pipe and stop-cocks to be laid so as to supply water from the main pipe to such tenements and premises.

A.B. 10

*Inspector (or Surveyor or other Officer) for the Company.*

SECOND FIRST SCHEDULE.

*Notice of Claim and Abstract.*

To the Broken Hill and District Water Supply Company (Limited).

IN pursuance of the "Broken Hill Water Supply Act of 1888," I (or we) hereby give you notice that I (or we) claim compensation in land hereunder described which has been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract.

*Abstract.*

Names and descriptions of parties claiming, and nature of their interests, whether tenants for life, in tail, or otherwise.	Situation and description of property.	Quit rents payable if leasehold, name of landlord, term of lease, and rent reserved.	Names of occupiers, distinguishing whether tenants-at-will or under lease, and rent reserved, terms, &c.	Particulars of claim, specifying separately the amount claimed for value of property, and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents, and place or places where the same may be inspected, and name of the claimant's solicitor or agent

(Signature)

(Address)

(Date)

30

### THIRD SECOND SCHEDULE.

*Notice of Valuation.*

To A.B., claimant in respect of land hereunder described, resumed under the  
"Broken Hill Water Supply Act of 1888."

TAKE notice that the land hereunder described, being that in respect of the resumption 35  
whereof under the authority of the aforesaid Act your claim or compensation has been  
lodged, has been valued at the sum of £

A.B.

Promoters,—etc. **Manager of the Company.**

*Description of land in respect of which claim has been made.*

ALL that piece or parcel of land, &c., &c., &c.



Legislative Council.

52<sup>o</sup> VICTORIÆ, 1888.

## A BILL

To enable the "Broken Hill and District Water Supply Company (Limited)" to construct works, and use the waters of the Darling River and the Speculation and Menindie Lakes and the Darling River for the purpose of supplying Broken Hill and District with fresh water, and to give power to purchase land.

*(As amended and agreed to in Select Committee.)*

**W**HEREAS it is expedient and for the public benefit that the town and district of Broken Hill, in the Colony of New South Wales, should be provided with a supply of fresh water. And whereas a Company has been formed, called the "Broken Hill and District Water Supply Company (Limited)," for the purpose of supplying the said town and district with fresh water. And whereas the said Company desire to establish and carry out works for such purpose and other purposes incidental thereto in the said town and district. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

~~PART I.—Preliminary Powers and Duties of the Company.~~

1. This Act may be cited as the "Broken Hill and District Water Supply Act of 1888." Its provisions are arranged into Four Parts, embracing the following subjects:—

~~PART I.—Preliminary Powers and duties of the Company as to Water Supply.~~

~~PART II.—Special provisions as to Water Supply.~~

c 24—A

PART

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



PART III.—*The acquisition and occupation by the Company of lands for the purpose of water supply—ascertainment of compensation in respect thereof.*

PART IV.—*Miscellaneous provisions—Legal procedure.*

And in the construction of this Act the following words and expressions in inverted commas, unless there shall be something in the context repugnant thereto or inconsistent therewith, shall bear the meanings and include the persons or things hereby respectively set against such words and expressions, that is to say:—

“Governor”—The Governor, with the advice of the Executive Council. 10

“Conduit”—The canals, tunnels, aqueducts, cuttings, or pipes, by means of which the main stream of water is supplied to the said water district.

“Justice”—Any Justice of the Peace for the Colony of New South Wales. 15

“Street”—Any square, court, alley, highway, railway, tramway, lane, road, thoroughfare or other passage, footpath, or place, whether public or private, within the limits of this Act. the Water District. 20

“Owner”—Any person who is in the receipt of the rents and profits of any house, manufactory, or building of whatsoever kind, or of any land.

“Water District”—The area within which water is authorized to be supplied to the inhabitants of the said town and district. 25

“Company”—The said “Broken Hill and District Water Supply Company (Limited),” or their assigns, owners for the time being of the Broken Hill Waterworks.

## PART I.

### Powers and Duties of the Company as to Water Supply. 30

Conditions prior to acquisition of land.

2. Before the Company shall put into force any of the provisions contained in this Part with respect to the acquisition of land otherwise than by agreement, the following conditions and provisions shall be observed:—

- (I) The Company shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the town and district of Broken Hill, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land that has been alienated from the Crown, naming some central place at Broken Hill where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of such lands required. 35 40
- (II) The Company shall serve a notice on every owner or reputed owner, or reputed lessee or occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer, stating whether the person so served dissents, or is neutral, in respect of taking such land. 45
- (III) On compliance with the provisions of this section with respect to notices the Company may, if they think fit, present a petition to the Governor under their Common Seal, and such petition shall state the lands as aforesaid intended to be 50



5 be taken, and the purposes for which they are required,  
and the names of the owners, lessees, and occupiers of lands  
who have assented, dissented, or are neutral, in respect  
of the taking of such lands, or who have returned no answer  
to the notice. And it shall pray that the Company may,  
with reference to such lands, be allowed to put in force  
the powers contained in Part III of this Act with respect to  
the acquisition of such lands otherwise than by agreement,  
and such prayer shall be supported by such evidence as the  
10 Governor may require.

15 (iv) On receipt of such petition, and on due proof of the  
proper notices having been published and served, the Governor  
shall take such petition into consideration, and may either  
dismiss the same or direct a local inquiry as to the propriety  
of assenting to the prayer of such petition, but until such  
inquiry has been made no provisional order shall be made  
affecting any such lands without the consent of the owners,  
lessees, and occupiers thereof.

20 (v) After the completion of such inquiry the Governor may, by  
provisional order, empower the Company to put in force with  
reference to the lands referred to in such order, the powers of  
the said Part, with respect to the acquisition of lands, other-  
wise than by agreement or any of them, and either absolutely  
or with such conditions and modifications as the Governor  
25 may think fit; and it shall be the duty of the Company to  
serve a copy of any order so made in the manner and on the  
persons in which and on whom notices in respect of such lands  
are required to be served.

## PART II.

### 30 *Special Provisions as to Water Supply.*

3. Subject to the provisions of this Act, the Company may Powers of the Com-  
exercise any of the powers in this Part contained for the construction pan-  
of waterworks for the supply of water from the Darling River and Specu-  
lation and Menindie and Speculation Lakes and Darling River to the  
35 Town and Municipal District of Broken Hill, including therein the  
district between the town of Broken Hill and the said Lakes and River,  
and for the purpose of carrying out the provisions of this Act the  
Company may

40 (i) Enter upon any lands and take levels of the same, and set out  
such parts thereof as they shall think necessary.

(ii) Enter upon, take, and hold such land as they may from time  
to time deem necessary for the construction and maintenance  
of any of the works authorized by this Act, or for obtaining  
or enlarging the supply of water, or for improving the quality  
45 thereof for the purpose of this Act.

(iii) Enter upon any Crown or private lands, or streets, roads or  
thoroughfares, and lay or place therein any pipes, and may  
repair, alter or cut off, or remove the same, and may enter  
upon any such lands, or streets, roads, or thoroughfares, for the  
purpose of repairing any watercourses, or other works being  
50 their property or under their control.

(iv) Take water from the lakes and river aforesaid.

Provided always that in the exercise of any of the powers hereby  
conferred, the Company shall inflict as little damage as may be, and  
55 in all cases where it can be done, shall provide other watering-places,  
drains,



drains, and channels, for the use of adjoining lands in place of any taken away or interrupted by them, and shall make full compensation to all parties interested, for all damage sustained by them through the exercise of such powers. Provided nevertheless that the Company shall not be liable to make compensation in respect of any damage sustained 5 by the reason of the taking of water from the said river or lakes or either of them.

Penalty for obstructing construction of works.

4. Any person who shall wilfully obstruct any person acting under the authority of the Company in setting out the line of any works undertaken under the authority of this Part, or pull up, or 10 remove, any poles or stakes driven into the ground for the purpose of setting out the line of such works or destroy or injure any works so undertaken as aforesaid, shall incur a penalty not exceeding five pounds for every such offence.

Penalty for destroying works.

5. If any person unlawfully and maliciously destroy or damage, 15 or attempts to destroy or damage, any reservoir, dam, tank, tunnel, watercourse, sluice, main, pipe, aqueduct, bridge, roadway, or engine, or other part whatever of the works of the Company, every such offender shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

Power to open streets, &c.

6. The Company may open and break up the soil and pavement of the several streets and bridges within the limits of its water district, and make open and break up any sewers, drains, or tunnels within or under such streets and lay down and place within the same limits, pipes, conduits, service pipes, and other works and engines, and from 25 time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the Company shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits. in the fourth section of 30 this Act described and hereafter referred to as the "Water District."

Reinstatement of streets, &c.

7. When the Company shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make 35 good the road or pavement or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And shall at all times whilst any such pavement or road shall be so open or broken up cause the same to be fenced and guarded, and shall cause light sufficient for the warning of passengers to be set up and 40 kept there for every night during which such road or pavement shall be continued open or broken up.

Company not liable for accidental failure to supply water.

8. The Company shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any penalty or damages for not supplying such water if the want of such 45 supply arises from unusual drought or other unavoidable cause or accident.

Agreements to supply water.

9. The Company may supply any person with water for domestic or other purposes, by measure or otherwise, at such rates, to be declared fixed and published by them (subject to the provisions 50 of this Act hereinafter contained), upon such terms, and subject to such conditions as may be agreed upon by the Company and the person requiring to be supplied.

Company may let meters.

10. The Company may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the 55 quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money as may be agreed upon between the Company and the consumer, which shall be recoverable in the same manner as rates due to the Company for water.



11. Such meters, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or to be attached or taken in execution under any process of any Court of Law or Equity, or under or in pursuance of any sequestration or order in bankruptcy or other legal proceedings against or affecting the consumer of the water, or the occupier of the premises, or other the person in whose possession the meters, pipes, instruments, and apparatus may be. Meters of Company not distrainable.

12. Every person who shall have agreed with the Company for a supply of water by measure shall, at his own expense, unless he hire a meter from the Company, provide a meter, and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Company; and in the event of any repairs being required, notice in writing shall be immediately given by such person to the Company, and a registration of the quantity of water used shall be taken before such repairs are effected. Meters to be supplied and maintained by consumer.

13. Every person requiring to remove or alter the position of any meter shall leave six days notice in writing to that effect at the registered or local office of the Company, hereinafter mentioned, and a registration of the quantity of water shall be taken before such removal or alteration is made. Notice of removal, &c. of meter.

14. If any person shall neglect or delay to have such meter properly repaired and put in correct working order, after having been required by any officer of the Company so to do, the Company may shut off the supply of water from the premises of such person, either by cutting the service pipe or otherwise, until such meter shall have been properly repaired and certified by some officer of the Company as being in proper working order. Water may be cut off if meter not in order.

15. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Company without having first obtained a certificate from the Company that the said meter has been examined and found in correct working order, he shall, for such offence, forfeit a sum not exceeding *ten* pounds. Penalty for fixing uncertified meter.

16. If any person remove or alter the position of, or in any way interfere with any meter without giving such notice as aforesaid, he shall, for such offence, forfeit a sum not exceeding *twenty* pounds. Provided that the Company shall always have an office in the district of Broken Hill and shall register the same at the Council Chambers of the Municipal Council at Broken Hill. For removing or altering meter without notice.

17. The officers of the Company may enter any house, building, or lands, to, through, or into which water is supplied by the Company by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water, or for the purpose of ascertaining the quantity of water supplied or consumed; and may from time to time enter any house, buildings, or lands for the purpose of removing any meter, instrument, pipe, or apparatus the property of the ~~premeters~~ Company; and if any person hinders any such officer from entering or making such inspection or effecting such removal, he shall for each such offence be liable to a penalty not exceeding *five* pounds, but except with the consent of a Justice a power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon. Power of officers of Company to inspect meter.

18. In all the pipes to which any fire-plug is fixed, the Company shall provide and keep constantly laid on for use, unless prevented by unusual drought or other unavoidable accident, or during necessary repairs, a sufficient supply of water for the following purposes (that is to say), for cleansing the sewers and drains, for cleansing and watering the streets, and for supplying any public hospitals or charitable institutions, or any public pumps, baths, and wash-houses that may Supply of water for public purposes.



may be established for the use of the inhabitants, and paid for out of any municipal rates; and such supply shall be provided at such rates and charges and upon such terms and conditions as may be agreed on by the said Municipal Council and the Company, or, in case of disagreement, as shall be settled by two Justices **arbitration in the manner provided by the Arbitration Act.** 5

Promoters  
Company to place  
public fire-plugs in  
main.

19. The Company, at the request of the said Municipal Council shall fix proper fire-plugs in the main and other pipes belonging to them at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire that may break out within the Borough said District, and shall from time to time renew and keep in effective order every such fire-plug; and shall put up a public notice on some conspicuous place in each street on which such fire-plug is situated, showing its situation, and such notice may be put up on any house or building in such street; and as soon as such fire-plug is completed they shall deposit a key thereof in each place where any public fire engine is kept. The cost of such fire-plugs and the expense of fixing, placing, and maintaining the same in repair, and of supplying such keys as aforesaid shall be defrayed by the said Municipal Council. 10 15 20

Fire-plugs for  
manufactories, &c.

20. The Company may shall at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road in which or within two hundred yards of which there shall be a pipe of the Company, place and maintain a fire-plug (to be used only for extinguishing fires) as near as conveniently may be to such manufactory or works. 25

Pipes to be kept  
charged, and water  
taken for fires.

21. The Company shall at all times keep charged with water all their pipes to which fire-plugs are fixed unless prevented by drought or other unavoidable cause or accident or during necessary repairs, and shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire without making compensation for the same. 30

Penalty for refusal  
to fix, &c. fire-plugs,  
or failure to supply  
water.

22. If, except when prevented as aforesaid, the Company neglect or refuse to fix or repair such fire-plug, or to furnish to the said Municipal Council a sufficient supply of water for the public purposes aforesaid, on such terms as shall have been agreed or settled as aforesaid, or if, except as aforesaid, they neglect to keep the pipes charged as aforesaid, or neglect or refuse to furnish any owner or occupier liable to be rated under this Act during any part of the time for which such rates have been paid or tendered, they shall be liable to a penalty of *twenty* pounds, and shall also forfeit to the said Municipal Council, or to every person having paid or tendered the rate, the sum of *twenty* shillings for every day during which such refusal shall continue after notice in writing shall have been given to the Company of the want of supply. 35 40 45

Pipes laid by owners  
or occupiers. Power  
to inhabitants to lay  
service pipes.

23. Any owner or occupier of any dwelling-house, or part of a dwelling-house, situate within the water district who shall wish to have water from the water-works of the Company brought on to his premises, and who shall have paid or tendered to the Company the portion of water rate or charge in respect of such premises by this Act directed to be paid in advance, may open the ground between the pipes of the Company and his premises, having first obtained the consent of the owners and occupiers of such ground, and lay any pipes from such premises to communicate with the pipes of the Company. 50

Notice to Company  
of laying pipes.

24. Such pipes shall be of a strength and material approved of by some officer of the Company, and every such owner or occupier shall, before he begins to lay any such pipe, give to the Company two days notice of his intention so to do. 55



25. Before any pipe is made to communicate with the pipes of the Company the person intending to lay such pipes shall give two days notice to the Company of the day and hour when such pipe is intended to be made to communicate with the pipes of the Company, and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor, engineer, or other officer appointed for that purpose by the Company, and the bore of such pipe shall not exceed three-quarters of an inch, except with the consent of the Company.

Communication with pipes of Company to be made under Superintendence of Surveyor.

Bore of service pipes.

26. Any person who shall have laid down any pipe or other works, or who shall have become the proprietor thereof, may remove the same after having first given six days notice to the Company of his intention so to do and of the time of such proposed removal, and every such person shall make compensation to the Company for any injury or damage to their pipes or works which may be caused by such removal.

Service pipes may be removed after giving notice.

27. Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipes of the Company and his house, building, or premises, and any sewer or drain therein for any such purposes as aforesaid (doing as little damage as may be and making compensation for any damage done in the execution of such work). Provided always that every such owner or occupier desiring to break up the pavement of any street, or any sewer, or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restrictions, and obligations in, and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto as the Company are subject to under the provisions of this Act. ~~Provided also that the service mains shall be laid in the centre of the street.~~

Power to break up pavements.

28. If any person supplied with water by the Company wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this part, or wrongfully fails to do anything which under any of these provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the Company, the Company may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied to him or for his use, and may cease to supply him with water so long as the cause of injury remains or is not remedied.

In case of any breach of this part of the Act water may be cut off.

29. If any person supplied with water by the Company wilfully or negligently causes or suffers any pipe, valve, cock, cistern, bath, soil-pan, water-closet, or other apparatus or receptacle to be out of repair, or to be so closed or contrived that the water supplied to him by the Company is or is likely to be wasted, misused, unduly consumed or contaminated, or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Company, he shall for every such offence be liable to a penalty not exceeding *five* pounds.

Penalty for waste of water.

30. If any person—  
(i) ~~Not having from the Company a supply of water for other than domestic purposes, any water supplied to him by the Company;~~  
~~or,~~  
(ii) having from the Company a supply of water for any purpose other than domestic uses use such water for any purpose other than those that for which he is entitled to use the same he shall for every such offence be liable to a penalty not exceeding *forty* shillings without prejudice to the right of the Company to recover from him the value of the water misused.

Penalty for misapplication of water.



No pipe to be fixed to consumer's pipe without permission of Company.

31. It shall not be lawful for the owner or occupier of any premises supplied with water by the Company, or any consumer of the water of the Company, or any other person, to affix, or cause, or permit to be affixed, any pipe or apparatus to a pipe belonging to or used by such owner, occupier, or consumer, or any other person, or to make any alteration in any such communication or service pipe, or in any apparatus connected therewith, without the consent in every such case of the Company; and if any person acts in any respect in contravention of the provisions of the present section, he shall, for every such offence, be liable to a penalty not exceeding *five* pounds, without prejudice to the right of the Company to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed. 5 10

Penalty for unlawfully taking water.

32. If any person, not being supplied with water by the Company, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the Company, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the Company, or supplied by them for the use of any consumer of the water of the Company, he shall for every such offence be liable to a penalty not exceeding *five* pounds. 15 20

Inspection of water.

33. The surveyor, engineer, or other person appointed for that purpose by the Company, may, between the hours of ten o'clock in the forenoon, and four o'clock in the afternoon, enter into any house or premises supplied with water by the Company, in order to examine if there be any waste or misuse of such water; and if such surveyor, engineer, or other person, at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the Company may turn off the water supplied by them from such house or other premises. 25 30

Polluting the water. Penalty for bathing.

34. If any person bathe in any stream, reservoir, or other water-works belonging to the Company, or wash, throw, or cause to enter therein, any dog or other animal, he shall for every such offence forfeit a sum not exceeding *five* pounds. 35

Penalty for throwing dirt therein.

35. If any person throw or convey, or permit or cause to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing, into any such stream, reservoir, aqueduct, or other water-works as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing, he shall for each offence forfeit a sum not exceeding *ten* pounds. 40

Penalty for letting foul water flow thereinto.

36. If any person cause the water of any sink, sewer, or drain, steam-engine, boiler, or other filthy water belonging to him or under his control to be run or to be brought into any stream, reservoir, aqueduct, or other water-works belonging to the Company, or shall do any other act whereby the water of the Company shall be fouled, he shall for each offence forfeit a sum not exceeding *twenty* pounds, and a further sum of *twenty* shillings for each day (if more than one) that such offence continues. 45 50

Penalty for permitting substances produced in making gas to flow into the water.

37. Any person making or supplying gas within the limits of any the water districts, who shall at any time cause or suffer to be brought to the water of the Company, or into any drain communicating therewith, any ~~washing or any other~~ substance which shall be produced in the making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such reservoir, aqueduct, or other water-works shall be fouled, or the pipes or conduits thereof injured, shall forfeit to the Company a sum not exceeding *twenty* pounds, to be recovered with full costs of suit for each day during 55



during which such washing or other substance shall be brought or shall flow as aforesaid, or during which the act shall continue by which such water is fouled, after the expiration in either case of twenty-four hours from the time when the notice of the offence has been served on such person by the Company.

38. Whenever the water supplied by the Company shall be fouled by the gas of any person making or supplying gas within the water district aforesaid such person shall forfeit to the Company for every such offence a sum not exceeding *twenty* pounds, and a further sum not exceeding *ten* pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gas-makers causing water to be fouled.

39. For the purpose of ascertaining whether the water of the Company be fouled by the gas of any person making or supplying gas within the said water district, the Company may dig up the ground and examine the pipes, conduits, and works of the person making or supplying gas. Provided that before proceeding so to dig and examine, the Company shall give twenty-four hours' notice in writing to the person so making or supplying gas, of the time at which such digging and examining is intended to take place, and shall give the like notice to the person having the control or management of the pavement or place where such digging shall take place, and shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay or any nonfeasance or misfeasance therein, as hereinafter provided, with respect to roads and pavements broken up by the Company for laying their pipes; and if upon such examination it appears that such water has been fouled by any gas belonging to such person the expenses of digging, examination, and repairs of the street, or place disturbed in any such examination shall be paid by the person making or supplying gas; but if upon such examination it appears that the water has not been fouled by the gas of such person then the Company shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gas-pipes to ascertain cause of water being fouled.

40. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Company from all impurities from closets and other receptacles of faecal matter or urine:—

Provisions as to connection of closet and other pipes with mains, and as to cisterns, &c.

(I) It shall not be lawful for any person to connect with the main any pipe delivering water directly into the closet-pan or other receptacle for faecal matter or urine without the intervention of a cistern, into which the water from the main shall first be received, and any person so offending shall forfeit and pay a penalty not exceeding *fifty* pounds.

No closet pipes hereafter to connect directly with the main.

(II) The Company may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern (hereinafter termed "directly connected"), and which in the opinion of the Company may endanger the purity of the water by the absorption of noxious gases or suction of faecal matter or urine into such pipe, or into the main or otherwise. For the purpose of effecting such disconnection the Company's artificers and workmen may enter into and upon the premises of any person or corporation whatsoever, to do, or cause to be done, anything in his opinion requisite or necessary in relation thereto.

Company may disconnect pipes in certain cases.

(III) Whenever the Company shall have caused any pipe to be cut off or disconnected, or other work to be done in relation thereto, they shall forthwith serve the owner or occupier of the

The expense occurred by any disconnection to be paid by the tenant and deducted from his rent.



the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such owner or occupier shall pay the amount to the Company, and if the amount be paid by an occupier only he may deduct the same from the rent owing or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid, the Company may sue for and recover the same with full costs of suit.

Owners of premises shall fix closet cisterns, or be liable to a penalty.

- (IV) The owner of every dwelling-house, or premises which shall have therein or thereon any closet with a pipe or branch pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet, and every cistern shall be made of such materials and dimensions, and of such model or plan of construction, and with such ball-cock, stop-cocks, waste-pipes, and other appliances as shall be deemed requisite and have been approved by the officers of the Company for securing the water from pollution through any noxious gases or matter evolved or derived from such closets, or otherwise every owner neglecting to comply with the provisions of this subsection shall forfeit and pay a penalty not exceeding *five* pounds.

Upon neglect of owner, tenant, or occupier, after fourteen days' notice, to fix cistern and deduct the expenses from the rent.

- (V) Whenever any owner shall have neglected to fix and erect a cistern, with its appliances, as in the last preceding subsection provided for, the tenant or occupier is hereby authorized and required, after receiving a written notice thereof from the Company on that behalf, to fix and erect such cistern, with its appliances before mentioned, within fourteen days after the receipt of such notice; and the said tenant or occupier shall, upon payment by him of the charges and expenses of such fixing and erection, be entitled to deduct the amount so paid from the rent then due or accruing, or, at his option, to sue for and recover the same, with full costs of suit, from the owner as for money paid to his uses.

Any person re-establishing any connection with the main, unless authorized, or wilfully injuring any pipe, &c., liable to a penalty.

- (VI) Any person who shall, without the authority of the Company, re-establish any such connection which may have been cut off, removed, or severed by him, or who shall in any manner wilfully injure or tamper with any connection-pipe, cistern, ball-cock, stop-cock, or waste-pipe, which may have been approved by the Company, so as to destroy, diminish, or endanger its efficiency, may be summoned for such an offence before two Justices, and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the Company may have incurred (and which they are hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall forfeit and pay a penalty not exceeding *ten* pounds, and the amount of charges and expenses and penalty respectively shall, when recovered, be paid over to the Company.

Where several houses supplied by one pipe, each to pay.

41. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, or where water is supplied to courts, alleys, and right-of-ways by stand-pipes, the several owners or occupiers of such houses or parts of houses, or of the several houses or parts of houses in every such court, alley, or right-of-way, shall be liable to the payment of the same rates or charges for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Company by a separate pipe.



42. The rates and charges for water and all sums due to the Company under this part shall be paid by, and be recoverable from, Water rates to be recoverable from either landlord or tenant. the owner of the premises, or the occupier, or person requiring, receiving, or using **agreeing with the Company** for the supply of water, and all rates and charges shall be payable in advance by equal payments on the first day of January, the first day of April, the first day of July, and the first day of October in each year; and the first payment shall be made at the time when the owner or occupier of any tenement **such person** shall become liable to pay such rates and charges.
43. Such rates shall be payable in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure. Provided that the valuations of any lands or tenements for the purpose of such water supply shall not exceed in one year the valuation (if any) of such lands and tenements during the same or the previous year by the Municipal Council of Broken Hill, and no such rate shall exceed the amount of pounds per centum per annum on the assessed value.
44. The Company may also enter into any contract for the supply of water to persons desirous of obtaining such supply at a rate to be calculated by meter.
43. The charge to be made by the Company for the supply of Rating powers. water by meter shall not exceed the sum of one shilling and sixpence per one hundred gallons, and no rate to be made by the Company shall exceed in amount the sum of in the pound on the value of lands or tenements within the water district, as assessed for rating purposes by the said Municipal Council.

### PART III.

30

*The Acquisition and occupation by the Company of lands for the purposes of water supply—ascertainment of compensation in respect thereof.*

44. After the notification in the *Gazette*, as hereinbefore provided, of the approval of the Governor of a scheme for the supply of water to the said town and district, but not before the Company shall be empowered to acquire or occupy lands for the purposes of such water supply in manner hereinafter provided; and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided. Lands required for water supply, how acquired.
45. It shall be lawful for the Company, by notification to be published in the *Gazette* and in one or more newspapers published or circulated in the said town and district to declare that the land described in such notification is required for the purposes therein expressed. How and when lands can be taken.
46. Upon the publication of the notification to be in the *Gazette* declaring that the lands therein described are so required, such lands shall, upon compliance with the requirements and provisions hereinafter contained, be vested in the Company for the purposes of this Act for an estate of inheritance in fee-simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way, or other easements whatsoever, and to the intent that the legal estate therein, together with all powers incident thereto or conferred by this Act, shall, subject to the provisions thereof, be vested in the Company. Vesting, &c., of lands.
47. Where the land required is Crown Land at the date of such publication, or is vested in any corporation or person on behalf of Her Majesty, or for public purposes by virtue of any statute, or is within the

Effect of publication upon Crown Lands.



the limits with reference to centres of population prescribed by the Act next hereinafter cited, the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or license or promise thereof, and to cancel to the like extent any dedication or reservation of the said land ~~may made~~ under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending the same, ~~or~~ and to divest the estate of such corporation or person, and to vest the said land to the extent aforesaid in the Company for the purposes mentioned, and for the estate limited in the last preceding section. Provided, however, that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

Compensation for private lands.

49. 48. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown, or is not Crown Land as defined by this Act, the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained under the provisions hereinafter contained.

Conversion of estate of proprietor of resumed land into a claim.

50. 49. The estate and interest of every person entitled to lands required under this Act, or any portion thereof, and whether to the legal or equitable estate therein, shall upon due payment of the amount of compensation tendered by the Company, or assessed by the jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Company as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall upon asserting his claim, as hereinafter provided, and making out his title in respect of any portion of the said resumed lands, be entitled to compensation on account of such resumption in manner hereinafter provided.

Notice of claim for compensation.

51. 50. Every person claiming compensation in respect of any land so required, or in respect of any work or other matter done under the authority of this Act, shall, within ninety days from the publication of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall, upon the application, and at the cost of the claimant, appoint in that behalf, serve a notice in writing upon the Company, by leaving the same at the office of the said Company ~~in the said form~~, which notice shall set forth the nature of the estate or interest of the claimant in such land, together with an abstract of his title, and if he claims, in respect of damage, the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid, and such notice may be in the form of the ~~Second~~ **First** Schedule hereto, but with any modifications required by the nature of the claim.

Claim and report thereon.

52. 51. Within sixty days after the receipt of every such notice of claim the Company shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the provisions of this Act, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the ~~Third~~ **Second** Schedule hereto.

Compensation by action in Supreme Court.

53. 52. If within ninety days after the service of notice of claim the claimant and the Company shall not agree as to the amount of compensation, the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the Company. And any such action may be tried before a Judge of the said Court or in any Circuit Court and a special jury of four persons. Provided always that, upon proper application either of the Company or of the claimant, a special jury of twelve may be summoned



summoned for the trial of each action. Provided also with the consent in writing of the Company and the claimant, any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation, but not within fourteen days from service of the notice of valuation on such claimant.

54. 53. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the Company and notified to the claimant as aforesaid, and if so, to what sum. And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation, then the costs of the action shall be borne by the Company, but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant.

Issue in action of compensation verdict and costs.

55. 54. All moneys payable under this Act by way of compensation to any claimant, whether under the verdict of a jury or otherwise, shall be paid, together with costs (if any) and interest at the rate of six pounds per centum, reckoned from the date of the notifications aforesaid, within one month after the determination of such compensation to the person lawfully entitled thereto, or to his agent duly authorized in that behalf in writing, ~~that~~ but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land. Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply, ~~or sewerage~~ no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed, or the support to such surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

56. 55. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," have jurisdiction to try any such action of compensation at the nearest District Court ~~held at~~ ~~Silverton~~ in any case where the whole amount of the claim in respect to such land served in pursuance of the ~~seventy-sixth~~ **fifty-first** section of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Company and the claimant by a memorandum signed by the Secretary of the said Company and such claimant or by the respective attorneys of the Company and the claimant agree thereto. For the purposes of this section, the provisions of the said District Courts Act and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in the said District Court hereunder.

Where claim may be prosecuted in District Court.

57. 56. In estimating or assessing the compensation to be paid under this Act, regard shall be had by the valuers and by the jury (on any issue) not only to the value of the land taken by the Company, but also to the damage (if any) to be sustained by the claimant by reason of the severing of the land taken from other lands, or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act, and they shall assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time of the resumption thereof, or the extent of the damage or injury sustained.

Compensation how to be estimated.

58. 57. Subject to the provisions of this Act, it shall be lawful for the Company and for any officer duly authorized in that behalf, and for all persons employed in the carrying out of any authorized works, and for any person authorized by the Company, to enter upon the lands of any person whomsoever which the Company may require to

General power of entry.



to purchase or take, and to take possession and appropriate the same for the purposes of this Act, or of the execution of any such authorized works.

Power to purchase lands by agreement.

59. 58. Notwithstanding anything hereinbefore contained, it shall be lawful for the Company, if they think fit, to agree with the owners of any lands, the acquisition of which is authorized by this Act, and with all parties having any estate or interest in such lands, or by this Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or parts thereof as shall be thought proper, and of all estates and interests in such lands of what kind soever. 10

Parties under disability enabled to sell and convey and exercise other powers.

60. 59. It shall be lawful for all parties being seized, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the Company, and to enter into all necessary agreements for that purpose, and particularly it shall be lawful for all or any of the following parties so seized, possessed, or entitled as aforesaid, so to sell, convey, or release, that is to say, all corporations, tenants entail, or for life, married women seized in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees, or feoffees, in trust for charitable or other purposes, executors, and administrators, and all parties for the time being entitled to the receipt of the rents and profit of any such lands in possession or subject to any estate in dower, or to any lease for life or for lives and years, or any less interest, and the power so to sell and convey, or lease as aforesaid, may lawfully be exercised by all such parties other than married women entitled to dower, or lessees for life or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians on behalf of their wards, and as to such committees on behalf of the lunatics and idiots, of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability, and as to such trustees, executors, or administrators, on behalf of their *cestui que* trusts whether infants, issue unborn, lunatics, *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability, and the power hereinafter given to release lands from any rent, charge, or encumbrance, and to agree to the apportionment of any such rent, charge, or encumbrance, shall extend to, and may lawfully be exercised by every party hereinbefore enabled to sell and convey, or release lands to the company. 45

Incorporation of provisions of Government Railways Act.

61. 60. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified, together with the respective power, authorities, duties, liabilities, obligations, and other the provisions therein contained, notwithstanding the repeal of the said Act, are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein. And that wheresoever in a section so incorporated the word "Commissioner" occurs, there shall for the purposes of this Act be substituted in lieu of such word the expression "the Company," and whenever the word "Railway," or words implying works connected with a railway occur, there shall be substituted such words respectively as denote the nature of



of the work, undertaking, or purpose, in respect of which the land in question has been appropriated or resumed. The following are the sections so declared to be incorporated with this Act:—

- 5 (I) As to the deposit of compensation money in certain cases with the Master in Equity, and the application and investment thereof. As to payment of such moneys in certain cases to trustees, or the parties themselves, and the exoneration of the Company in respect thereof after payment. Sections forty-seven to fifty-two, ~~to be~~ both inclusive.
- 10 (II) As to the deposit and application of compensation money on refusal of the owner to accept the same, or on his failing to make out a satisfactory title, and as to presumption of ownership. Sections fifty-three to fifty-six, both inclusive.
- 15 (III) As to the procedure by the Company in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof, or hinder the Company from entering upon or taking possession of the same. Section sixty-one.
- 20 (iv) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage are taken. Sections sixty-five to seventy both inclusive.
- 25 (v) As to the release of lands from rent, charges, and other encumbrances and procedure thereon. Sections seventy-one to seventy-four both inclusive.
- (vi) As to the apportionment of rent where lands taken are under lease, and as to compensation to tenants. Sections 30 seventy-five to seventy-eight both inclusive.
- (vii) As to the entry upon or temporary occupation of lands, the crossing of roads and other highways, the making of bridges, and other works of accommodation, and the provisions consequent thereon. Section ten and sections eighty-four to 35 ninety-seven both inclusive. Provided that compensation shall in all respects be ascertained in accordance with this Act.

62- 61. It shall be lawful for the Company and all persons by them authorized to enter upon any lands not being a garden, orchard, 40 or plantation attached, or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than one hundreds yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by 45 this Act, or of the accommodation works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes, that is to say,—

- For the purpose of taking earth or soil by side cuttings therefrom;
- For the purpose of depositing soil thereon;
- 50 For the purpose of obtaining materials therefrom for the construction or repair of waterworks or such accommodation works as aforesaid; or
- For the purpose of forming roads thereon, to, or from, or by the side of the said works.

55 And in exercise of such powers, it shall lawful for the Company and all other persons employed by them to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from out thereof any clay, stone, gravel, sand, or other

Power to take temporary possession of land.



other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid, and for the purposes aforesaid erect thereon workshops, sheds, and other buildings of a temporary nature. Provided always that nothing in this Act contained shall exempt the Company from an action for nuisance, or other injury 5 (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid. Provided also that no stone or slate-quarry, brickfield, or other like place which at the time of the passing of this Act shall be commonly worked or used 10 for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Company either wholly or in part for any of the purposes lastly hereinbefore mentioned.

Company to separate the lands before using them.

63. 62. If any such lands shall be used for any of the purposes aforesaid the Company shall, if required so to do by the owner or 15 occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be necessary for the convenient occupation of such lands, and in case of any difference between the owners or occupiers of such lands and the Company as to the necessity of such fence and gates, then which said fences and gates as 20 the Governor shall deem necessary for the purposes aforesaid.

Compensation to be made for temporary occupation.

64. 63. In any of the cases aforesaid where the Company shall take temporary possession of lands by virtue of the powers herein granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required to do so, to pay to the 25 occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Company so taking possession of his lands.

Before roads interfered with others to be substituted.

65. 64. If in the exercise of the powers hereby granted it be found 30 necessary to cross cut through, raise, sink, or use any part of any road whether carriage-road, horse-road, or tram-road, or railway, either public or private, so as to render it impassable for, or dangerous, or more than usually inconvenient to passengers or carriages, or to the persons entitled to the use thereof the Company shall before the commence- 35 ment of any such operations cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Period for restoration of roads interfered with.

66. 65. If the road so interfered with can be restored compatibly 40 with the due completion of any works authorized under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Company or as near thereto as may be, and if such road cannot be so restored, the Company shall cause the new or substituted road or some other sufficient substi- 45 tuted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow, and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition. 50

Company to make sufficient approaches and fences to bridle-ways and foot-paths crossing on the line.

67. 66. If the conduit or any sewerage works shall cross any highway other than a public carriage-way on the level the Company shall make and at all times maintain convenient approaches with hand-rails or other fences, and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates or stiles on each side 55 of such conduit or works where the highway shall communicate therewith.



68. 67. The Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorized under this Act, that is to say—

5 Such and so many convenient gates, bridges, arches, culverts, and passages, over, under, or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made, and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof.

10 Also sufficient posts, rails, hedges, ditches, mounds or other fences, for separating the land taken for the use of such works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands, and not towards the said works; and all necessary stiles, and such posts, rails, and other fences, shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be.

20 Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the side of such work, and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby.

25 Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply, nor to make any accommodation works in such a manner as would prevent or obstruct the using of any works for any water supply, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation.

30 69. 68. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof or respecting the maintaining thereof, the same shall be determined by the Governor, who shall also appoint the time within which such works shall be commenced and executed.

40 70. 69. If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Council, Company, or directed by the Governor to be made by the Company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Company.

45 71. 70. If the Company so desire, all such lastmentioned accommodation works shall be constructed under the superintendence of the Company's engineer, and according to plans and specifications to be submitted to and approved by the Company. But the Company shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Company.

50 72. 71. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds.



## PART IV.

*Miscellaneous Provisions—Legal Procedure.*

~~Moiety of penalties to be paid to informers.~~  
Distress not unlawful for want of form.

Penalty for default not otherwise provided for.

Method of proceeding before Justices in question of damages, &c.

Penalties, &c., to be summarily recovered before two Justices.  
Stipendiary or Police Magistrate.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

~~73. 72. One-half of any penalty recovered under this Act shall be paid to the informer.~~ And Where any distress is made for any sum of money to be levied under this Act, the distress itself shall not be unlawful 5 nor the persons making the same be deemed trespassers on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceedings relating thereto, nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons 10 distraining, but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

~~74. 73.~~ If it shall be proved to the satisfaction of any two Justices of the Peace, **Stipendiary or Police Magistrate**, in Petty Sessions assembled that the Company or any of their officers have been guilty of 15 any default under this Act not otherwise provided for, they shall be liable for each and every such default to a penalty not exceeding five pounds, to be recovered in a summary way.

75. Where by this Act any question of compensation, expenses, charges, or damages or other matter is required to be referred to the 20 determination of any one or more Justices, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before one Justice or before two Justices, as the case may require, at a time and place to be named in such summons, and upon the appearance of such parties, or in the absence of any of them 25 upon proof of due service of the summons, it shall be lawful for such one Justice or such two Justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath, and the cost of every such inquiry shall be in the discretion of such Justices, and they shall 30 determine the amount thereof.

~~76. 74.~~ Every penalty, forfeiture, charge, or sum of money imposed by or made payable under this Act, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before two Justices, any **Stipendiary or Police Magistrate**, under the provisions 35 of the Act or Acts in force for the time being, regulating summary proceedings before Justices. ~~And where any such penalty, charge, or sum be not paid, either immediately after conviction or adjudication, or within the time appointed thereby, the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels, 40 in the manner provided for by the said Acts.~~

~~77. 75.~~ If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices **Magistrate** with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the nearest General Quarter Sessions, ~~helden at Broken Hill or 45 Silverton,~~ but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such 50 notice enter into recognizances with two sufficient sureties before a Justice, conditioned duly to prosecute such appeal and to abide the order of the Court thereon. At the General Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn to 55 the following Sessions, and upon the hearing of such appeal, the Court may



may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant or levied by distress upon his goods to be returned to him, and also may order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may reasonably think fit.

78. 76. If through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to any conduit, main, pipe, sewer, or other property of the Company, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty and the amount of such damages shall in case of dispute, be determined by the Justices **Magistrate** by whom the party incurring such penalty shall have been convicted, and on non-payment of such damages on demand the same shall be levied by distress, and such Justices, ~~or one of them,~~ **Magistrate** shall issue warrants accordingly.

Damage to be made good in addition to penalty.

79. It shall be lawful for any officer or servant of the Company and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act, and whose name and residence shall be unknown to such officer or servant, and convey him with all convenient despatch, before some Justice without any warrant or other authority than this Act, and such Justice shall proceed, with all convenient despatch, to the hearing and determining of the complaint against such offender.

Transient offenders

80. 77. Any notice required by this Act ~~or any by law or regulation made thereunder~~ to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be in writing or partly in writing and partly printed, or may be wholly printed. And it shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last-known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier, or if there be no occupier if such notice be posted on some conspicuous part of such building or land. And any notice required to be given or served in respect of any public street, road, or lane, may be served on or sent by post as aforesaid, to the Council Clerk of the ~~borough or~~ municipal district wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

Notices.

81. 78. In the event of the wrongful exercise of any powers given by this Act, nothing in this Act contained shall be construed to prevent any person from proceeding against the Company for nuisance or otherwise in respect of the work or means used or employed by the Company in the exercise of the privileges hereby conferred on the Company, or to prevent the Company or any person recovering any sum of money, or otherwise proceeding in any Court of competent jurisdiction; but the Company or any person, to whom any penalty or sum of money may, by the provisions of this Act, be awarded, may elect either to proceed in manner in this Act provided, or to proceed for and recover damages or otherwise, in any Court of competent jurisdiction.

Indictment for nuisances.

82. 79. The Company shall not be entitled to any of the rights and privileges conferred upon them by this Act unless they shall have completed commenced the projected works within the period of twelve months and completed the same within the period of three years from the passing of this Act.

Limitation of time for erection of works.



FIRST SCHEDULE.  
BOROUGH OF BROKEN HILL.  
Notice to lay Service Pipes.

Notice to the owners of tenements and premises in streets and the private streets, lanes, courts, and alleys opening thereunto. 5

The main pipe in the said street having been laid down, the owners of all tenements premises situated as above are hereby, on or before the day of next, to cause a proper pipe and stop-cocks to be laid so as to supply water from the main pipe to such tenements and premises.

A.B. 10

Inspector (or Surveyor or other Officer) for the Company.

SECOND FIRST SCHEDULE.  
Notice of Claim and Abstract.

To the Broken Hill and District Water Supply Company (Limited).

IN pursuance of the "Broken Hill Water Supply Act of 1888," I (or we) hereby give you notice that I (or we) claim compensation in land hereunder described which has been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract. 15

Abstract.

Names and descriptions of parties claiming, and nature of their interests, whether tenants for life, in tail, or otherwise.	Situation and description of property.	Quit rents payable if leasehold, name of landlord, term of lease, and rent reserved.	Names of occupiers, distinguishing whether tenants-at-will or under lease, and rent reserved, terms, &c.	Particulars of claim, specifying separately the amount claimed for value of property, and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents, and place or places where the same may be inspected, and name of the claimant's solicitor or agent

(Signature) 20  
(Address)  
(Date) 25

30

THIRD SECOND SCHEDULE.  
Notice of Valuation.

To A.B., claimant in respect of land hereunder described, resumed under the "Broken Hill Water Supply Act of 1888."

TAKE notice that the land hereunder described, being that in respect of the resumption whereof under the authority of the aforesaid Act your claim or compensation has been lodged, has been valued at the sum of £ 35

A.B.

Promoters, etc. Manager of the Company.

Description of land in respect of which claim has been made. 40

ALL that piece or parcel of land, &c., &c., &c.



# A BILL

To enable the Broken Hill and District Water Supply Company Limited to construct works and use the waters of the Darling River and the Speculation and Menindie Lakes for the purpose of supplying Broken Hill and District with fresh water and to  
5 give power to purchase land.

**W**HEREAS it is expedient and for the public benefit that the town and district of Broken Hill in the Colony of New South Wales should be provided with a supply of fresh water And Whereas a Company has been formed called the "Broken Hill and  
10 District Water Supply Company Limited" for the purpose of supplying the said town and district with fresh water And Whereas the said Company desire to establish and carry out works for such purpose and other purposes incidental thereto in the said town and district Be it  
15 therefore 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—POWERS AND DUTIES OF THE COMPANY.

20 1. *This Act may be cited the "Broken Hill and District Water Supply Act of 1888" Its provisions are arranged into four parts embracing the following subjects :—*

PART I.—PRELIMINARY—*Powers and duties of the Company as to Water Supply*

PART II.—*Special provisions as to Water Supply*

25 PART III.—*The acquisition and occupation by the Company of lands for the purpose of water supply—ascertainment of compensation in respect thereof*

PART IV.—*Miscellaneous provisions Legal procedure*

I And in the construction of this Act the following words and  
30 expressions in inverted commas unless there shall be something in the context repugnant thereto or inconsistent therewith shall bear the meanings

Interpretation of terms



meanings and include the persons or things hereby respectively set against such words and expressions that is to say :—

“ Governor ”—The Governor with the advice of the Executive Council

“ Conduit ”—The canals tunnels aqueducts cuttings or pipes 5  
by means of which the main stream of water is supplied to the said district

“ Justice ”—Any Justice of the Peace for the Colony of New South Wales

“ Street ”—Any square court alley highway railway tramway 10  
lane road thoroughfare or other passage footpath or place whether public or private within the limits of this Act

“ Owner ”—Any person who is in the receipt of the rents and profits of any house manufactory or building of 15  
whatsoever kind or of any land

“ Water District ”—The area within which water is authorised to be supplied to the inhabitants of the said Town and district

“ Company ”—The said Broken Hill and District Water 20  
Supply Company Limited or their assigns owners for the time being of the Broken Hill Water Works

Conditions prior to ac-  
quisition of land

2 Before the Company shall put into force any of the provisions contained in this part with respect to the acquisition of land otherwise than by agreement the following conditions and provisions shall be 25  
observed :—

(i.) The Company shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the town and district of Broken Hill a notice describing shortly the nature of the undertaking 30  
in respect of which it is proposed to take any land that has been alienated from the Crown naming some central place at Broken Hill where a plan of the proposed undertaking may be seen at all reasonable hours and stating the quantity of such lands required 35

(ii.) The Company shall serve a notice on every owner or reputed owner or reputed lessee or occupier of such lands defining in each case the particular lands intended to be taken and requiring an answer stating whether the person so served dissents or is neutral in respect of 40  
taking such land

(iii.) On compliance with the provisions of this section with respect to notices the Company may if they think fit present a petition to the Governor under their Common Seal and such petition shall state the lands as aforesaid 45  
intended to be taken and the purposes for which they are required and the names of the owners lessees and occupiers of lands who have assented dissented or are neutral in respect of the taking of such lands or who have returned no answer to the notice And it shall 50  
pray that the Company may with reference to such lands be allowed to put in force the powers contained in PART III of this Act with respect to the acquisition



acquisition of such lands otherwise than by agreement and such prayer shall be supported by such evidence as the Governor may require

5 (iv.) On receipt of such petition and on due proof of the proper notices having been published and served the Governor shall take such petition into consideration and may either dismiss the same or direct a local inquiry as to the propriety of assenting to the prayer of such petition but until such inquiry has been made  
10 no provisional order shall be made affecting any such lands without the consent of the owners lessees and occupiers thereof

(v.) After the completion of such inquiry the Governor may  
15 by provisional order empower the Company to put in force with reference to the lands referred to in such order the powers of the said part with respect to the acquisition of lands otherwise than by agreement or any of them and either absolutely or with such conditions and modifications as the Governor may  
20 think fit and it shall be the duty of the Company to serve a copy of any order so made in the manner and on the persons in which and on whom notices in respect of such lands are required to be served

## PART II.

### 25 SPECIAL PROVISIONS AS TO WATER SUPPLY.

Powers of the Company

3. Subject to the provisions of this Act the Company may exercise any of the powers in this Part contained for the construction of waterworks for the supply of water from the Darling River and Menindie and Speculation Lakes to the Town and District of Broken  
30 Hill and for the purpose of carrying out the provisions of this Act the Company may

(i.) Enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary

35 (ii.) Enter upon take and hold such land as they may from time to time deem necessary for the construction and maintenance of any of the works authorised by this Act or for obtaining or enlarging the supply of water or for improving the quality thereof for the purpose of this Act

40 (iii.) Enter upon any crown or private lands streets roads or thoroughfares and lay or place therein any pipes and may repair alter cut off or remove the same and may enter upon any such lands streets roads or thoroughfares for the purpose of repairing any watercourses or other  
45 works being their property or under their control

Provided always that in the exercise of any of the powers hereby conferred the Company shall inflict as little damage as may be and in all cases where it can be done shall provide other watering places drains and channels for the use of adjoining lands in place of  
50 any taken away or interrupted by them and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers Provided nevertheless that the Company shall not be liable to make compensation in respect of any damage sustained by the reason of the taking of water from the  
55 said river or lakes or either of them.

4. Any person who shall wilfully obstruct any person acting under the authority of the Company in setting out the line of any works undertaken under the authority of this part or pull up or remove any poles or stakes driven into the ground for the purpose of setting

Penalty for obstructing construction of works



setting out the line of such works or destroy or injure any works so undertaken as aforesaid shall incur a penalty not exceeding five pounds for every such offence.

Penalty for destroying works

5. If any person unlawfully and maliciously destroy or damage or attempts to destroy or damage any reservoir dam tank tunnel water-course sluice main pipe aqueduct bridge roadway or engine or other part whatever of the works of the Company every such offender shall be guilty of felony and shall be liable to be imprisoned for any term not exceeding ten years. 5

Power to open streets &c

6. The Company may open and break up the soil and pavement of the several streets and bridges within the limits of its water district and make open and break up any sewers drains or tunnels within or under such streets and lay down and place within the same limits pipes conduits service pipes and other works and engines and from time to time repair alter or remove the same and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges and do all other acts which the Company shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits. 10 15

Reinstatement of streets &c

7. When the Company shall open or break up the road or pavement of any street or bridge or any sewer drain or tunnel they shall with all convenient speed complete the work for which the same shall be broken up and fill in the ground and reinstate and make good the road or pavement or the sewer drain or tunnel so opened or broken up and carry away the rubbish occasioned thereby and shall at all times whilst any such pavement or road shall be so open or broken up cause the same to be fenced and guarded and shall cause light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up. 20 25 30

Company not liable for accidental failure to supply water

8. The Company shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any penalty or damages for not supplying such water if the want of such supply arises from unusual drought or other unavoidable cause or accident.

Agreements to supply water

9. The Company may supply any person with water for domestic or other purposes by measure or otherwise at such rates to be declared fixed and published by them (subject to the provisions of this Act) hereinafter contained upon such terms and subject to such conditions as may be agreed upon by the Company and the person requiring to be supplied. 35

Company may let meters

10. The Company may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed and any pipes and apparatus for the conveyance reception or storage of the water for such remuneration in money as may be agreed upon between the Company and the consumer which shall be recoverable in the same manner as rates due to the Company for water. 40 45

Meters of Company not distrainable

11. Such meters instruments pipes and apparatus shall not be subject to distress for rent of the premises where the same are used or to be attached or taken in execution under any process of any Court of Law or Equity or under or in pursuance of any sequestration or order in bankruptcy or other legal proceedings against or affecting the consumer of the water or the occupier of the premises or other the person in whose possession the meters pipes instruments and apparatus may be. 50

Meters to be supplied and maintained by consumer

12. Every person who shall have agreed with the Company for a supply of water by measure shall at his own expense unless he hire a meter from the Company provide a meter and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Company and in the event of any repairs being required notice in writing shall be immediately given by such person to the Company and a registration of the quantity of water used shall be taken before such repairs are effected. 55

Every



13. Every person requiring to remove or alter the position of any meter shall leave six days notice in writing to that effect at the registered or local office of the Company hereinafter mentioned and a registration of the quantity of water shall be taken before such removal or alteration is made.

Notice of removal &c of meter

14. If any person shall neglect or delay to have such meter properly repaired and put in correct working order after having been required by any officer of the Company so to do the Company may shut off the supply of water from the premises of such person either by cutting the service pipe or otherwise until such meter shall have been properly repaired and certified by some officer of the Company as being in proper working order.

Water may be cut off if meter not in order

15. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Company without having first obtained a certificate from the Company that the said meter has been examined and found in correct working order he shall forfeit a sum not exceeding Ten pounds.

Penalty for fixing uncertified meter

16. If any person remove or alter the position of or in any way interfere with any meter without giving such notice as aforesaid he shall for such offence forfeit a sum not exceeding twenty pounds. Provided that the Company shall always have an office in the district of Broken Hill and shall register the same at the Council Chambers of the Municipal Council at Broken Hill.

For removing or altering meter without notice

17. The officers of the Company may enter any house building or lands to through or into which water is supplied by the Company by measure in order to inspect the meters instruments pipes and apparatus for the measuring conveyance reception or storage of water or for the purpose of ascertaining the quantity of water supplied or consumed and may from time to time enter any house buildings or lands for the purpose of removing any meter instrument pipe or apparatus the property of the promoters and if any person hinders any such officer from entering or making such inspection or effecting such removal he shall for each such offence be liable to a penalty not exceeding Five pounds but except with the consent of a Justice a power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

Power of officers of Company to inspect meter

18. In all the pipes to which any fire plug is fixed the Company shall provide and keep constantly laid on for use unless prevented by unusual drought or other unavoidable accident or during necessary repairs a sufficient supply of water for the following purposes (that is to say) for cleansing the sewers and drains for cleansing and watering the streets and for supplying any public hospitals or charitable institutions or any public pumps baths and wash-houses that may be established for the use of the inhabitants and paid for out of any municipal rates and such supply shall be provided at such rates and charges and upon such terms and conditions as may be agreed on by the said Municipal Council and the Company or in case of disagreement as shall be settled by two Justices.

Supply of water for public purposes

19. The Company at the request of the Municipal Council shall fix proper fire plugs in the main and other pipes belonging to them at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire that may break out within the Borough and shall from time to time renew and keep in effective order every such fire plug and shall put up a public notice on some conspicuous place in each street on which such fire

Fire plugs Promoters to place public fire-plugs in main



fire plug is situated showing its situation and such notice may be put up on any house or building in such street and as soon as such fire plug is completed they shall deposit a key thereof in each place where any public fire engine is kept. The cost of such fireplugs and the expense of fixing placing and maintaining the same in repair and of supplying such keys as aforesaid shall be defrayed by the said Municipal Council.

5

20. The Company may at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road in which or within two hundred yards of which there shall be a pipe of the Company place and maintain a fireplug (to be used only for extinguishing fires) as near as conveniently may be to such manufactory or works.

10

Pipes to be kept charged and water taken for fires

21. The Company shall at all times keep charged with water all their pipes to which fireplugs are fixed unless prevented by drought or other unavoidable cause or accident or during necessary repairs and shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire without making compensation for the same.

15

Penalty for refusal to fix &c fire-plugs or failure to supply water

22. If except when prevented as aforesaid the Company neglect or refuse to fix or repair such fire plug or to furnish to the Municipal Council a sufficient supply of water for the public purposes aforesaid on such terms as shall have been agreed or settled as aforesaid or if except as aforesaid they neglect to keep the pipes charged as aforesaid or neglect or refuse to furnish any owner or occupier liable to be rated under this Act during any part of the time for which such rates have been paid or tendered they shall be liable to a penalty of £20 and shall also forfeit to the said Municipal Council or to every person having paid or tendered the rate the sum of Twenty shillings for every day during which such refusal shall continue after notice in writing shall have been given to the Company of the want of supply.

30

Pipes laid by owners or occupiers Power to inhabitants to lay service pipes

23. Any owner or occupier of any dwelling house or part of a dwelling house situate within the water district who shall wish to have water from the water works of the Company brought on to his premises and who shall have paid or tendered to the Company the portion of water rate in respect of such premises by this Act directed to be paid in advance may open the ground between the pipes of the Company and his premises having first obtained the consent of the owners and occupiers of such ground and lay any pipes from such premises to communicate with the pipes of the Company.

35

Notice to Company of laying pipes

24. Such pipes shall be of a strength and material approved of by some officer of the Company and every such owner or occupier shall before he begins to lay any such pipe give to the Company two days notice of his intention so to do.

40

Communication with pipes of Company to be made under superintendence of Surveyor

25. Before any pipe is made to communicate with the pipes of the Company the person intending to lay such pipes shall give two days notice to the Company of the day and hour when such pipe is intended to be made to communicate with the pipes of the Company and every such pipe shall be so made to communicate under the superintendence and according to the directions of the Surveyor Engineer or other officer appointed for that purpose by the Company and the bore of such pipe shall not exceed  $\frac{3}{4}$  of an inch except with the consent of the Company.

45

50

Bore of service pipes

Service pipes may be removed after giving notice

26. Any person who shall have laid down any pipe or other works or who shall have become the proprietor thereof may remove the same after having first given six days notice to the Company of his intention



intention so to do and of the time of such proposed removal and every such person shall make compensation to the Company for any injury or damage to their pipes or works which may be caused by such removal.

5 27. Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipes of the Company and his house building or premises and any sewer or drain therein for any such purposes as aforesaid (doing as little damage as may be and making compensation for any damage done in the execution of such work) Provided always that every such owner or occupier desiring to break up the pavement of any street or any sewer or drain therein shall be subject to the same necessity of giving previous notice and shall be subject to the same control restrictions and obligations in and during the time of breaking up the same and also reinstating the same and to the same penalties for any delay in regard thereto as the Company are subject to under the provisions of this Act Provided also that the service mains shall be laid in the centre of the street.

Power to break up pavements

28. If any person supplied with water by the Company wrongfully does or causes or permits to be done anything in contravention of any of the provisions of this part or wrongfully fails to do anything which under any of these provisions ought to be done for the prevention of the waste misuse undue consumption or contamination of the water of the Company the Company may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied to him or for his use and may cease to supply him with water so long as the cause of injury remains or is not remedied.

In case of any breach of this part of the Act water may be cut off

29. If any person supplied with water by the Company wilfully or negligently causes or suffers any pipe valve cock cistern bath soil-pan water-closet or other apparatus or receptacle to be out of repair or to be so closed or contrived that the water supplied to him by the Company is or is likely to be wasted misused unduly consumed or contaminated or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Company he shall for every such offence be liable to a penalty not exceeding Five pounds

Penalty for waste of water

30. If any person

Penalty of misapplication of water

(i.) Not having from the Company a supply of water for other than domestic purposes any water supplied to him by the Company or

(ii.) Having from the Company a supply of water for any purpose other than domestic uses such water for any purpose other than those for which he is entitled to use the same he shall for every such offence be liable to a penalty not exceeding Forty shillings without prejudice to the right of the Company to recover from him the value of the water misused

31. It shall not be lawful for the owner or occupier of any premises supplied with water by the Company or any consumer of the water of the Company or any other person to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to or used by such owner occupier or consumer or any other person or to make any alteration in any such communication or service pipe or in any apparatus connected therewith without the consent in every such case of the Company and if any person acts in any respect in contravention of

No pipe to be fixed to consumer's pipe without permission of Company



of the provisions of the present section he shall for every such offence be liable to a penalty not exceeding Five pounds without prejudice to the right of the Company to recover damages from him in respect of any injury done to their property and without prejudice to their right to recover from him the value of any water wasted misused or unduly consumed 5

Penalty for unlawfully taking water

32. If any person not being supplied with water by the Company wrongfully takes or uses any water from any reservoir watercourse conduit or pipe belonging to the Company or from any pipe leading to or from any such reservoir watercourse conduit or pipe or from any cistern or other like place containing water belonging to the Company or supplied by them for the use of any consumer of the water of the Company he shall for every such offence be liable to a penalty not exceeding Five pounds 10

Inspection of water

33. The Surveyor Engineer or other person appointed for that purpose by the Company may between the hours of ten o'clock in the forenoon and four o'clock in the afternoon enter into any house or premises supplied with water by the Company in order to examine if there be any waste or misuse of such water and if such Surveyor Engineer or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid or be prevented from making such examination as aforesaid the Company may turn off the water supplied by them from such house or other premises 15 20

Polluting the water Penalty for bathing

34. If any person bathe in any stream reservoir or other water-works belonging to the Company or wash throw or cause to enter therein any dog or other animal he shall for every such offence forfeit a sum not exceeding Five pounds 25

Penalty for throwing dirt therein

35. If any person throw or convey or permit or cause to be thrown or conveyed any rubbish dirt filth or other noisome thing into any such stream reservoir aqueduct or other water-works as aforesaid or wash or cleanse therein any cloth wool leather or skin of any animal or any clothes or other thing he shall for each offence forfeit a sum not exceeding Ten pounds 30

Penalty for letting foul water flow thereinto

36. If any person cause the water of any sink sewer or drain steam-engine boiler or other filthy water belonging to him or under his control to be run or to be brought into any stream reservoir aqueduct or other water-works belonging to the Company or shall do any other act whereby the water of the Company shall be fouled he shall for each offence forfeit a sum not exceeding Twenty pounds and a further sum of Twenty shillings for each day (if more than one) that such offence continues 35 40

Penalty for permitting substances produced in making gas to flow into the water

37. Any person making or supplying gas within the limits of any water districts who shall at any time cause or suffer to be brought to the water of the Company or into any drain communicating therewith any washing or any other substance which shall be produced in the making or supplying of gas or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such reservoir aqueduct or other water works shall be fouled or the pipes or conduits thereof injured shall forfeit to the Company a sum not exceeding Twenty pounds to be recovered with full costs of suit for each day during which such washing or other substance shall be brought or shall flow as aforesaid or during which the act shall continue by which such water is fouled after the expiration in either case of twenty-four hours from the time when the notice of the offence has been served on such person by the Company 45 50

Whenever



38. Whenever the water supplied by the Company shall be fouled by the gas of any person making or supplying gas within the district aforesaid such person shall forfeit to the Company for every such offence a sum not exceeding Twenty pounds and a further sum not exceeding Ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gas-makers causing water to be fouled

39. For the purpose of ascertaining whether the water of the Company be fouled by the gas of any person making or supplying gas within the said district the Company may dig up the ground and examine the pipes conduits and works of the person making or supplying gas. Provided that before proceeding so to dig and examine the Company shall give twenty-four hours notice in writing to the person so making or supplying gas of the time at which such digging and examining is intended to take place and shall give the like notice to the person having the control or management of the pavement or place where such digging shall take place and shall be subject to the like obligation of reinstating the road and pavement and to the same penalties for delay or any nonfeasance or misfeasance therein as hereinafter provided with respect to roads and pavements broken up by the Company for laying their pipes and if upon such examination it appears that such water has been fouled by any gas belonging to such person the expenses of digging examination and repairs of the street or place disturbed in any such examination shall be paid by the person making or supplying gas but if upon such examination it appears that the water has not been fouled by the gas of such person then the Company shall pay all the expenses of the examination and repair and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gas-pipes to ascertain cause of water being fouled

40. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Company from all impurities from closets and other receptacles of faecal matter or urine :—

Provisions as to connection of closet and other pipes with mains and as to cisterns &c.

(i.) It shall not be lawful for any person to connect with the the main any pipe delivering water directly into the closet-pan or other receptacle for faecal matter or urine without the intervention of a cistern into which the water from the main shall first be received and any person so offending shall forfeit and pay a penalty not exceeding Fifty pounds

No closet pipes hereafter to connect directly with the main.

(ii.) The Company may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern (hereinafter termed "directly connected") and which in the opinion of the Company may endanger the purity of the water by the absorption of noxious gases or suction of faecal matter or urine into such pipe or into the main or otherwise. For the purpose of effecting such disconnection the Company's artificers and workmen may enter into and upon the premises of any person or corporation whatsoever to do or cause to be done anything in his opinion requisite or necessary in relation thereto

Company may disconnect pipes in certain cases.

(iii.) Whenever the Company shall have caused any pipe to be cut off or disconnected or other work to be done in relation thereto they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such owner

The expense incurred by any disconnection to be paid by the tenant and deducted from his rent.



owner or occupier shall pay the amount to the Company and if the amount be paid by an occupier only he may deduct the same from the rent owing or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid the Company may sue for and recover the same with full costs of suit

Owners of premises shall fix closet cisterns or be liable to a penalty.

- iv. The owner of every dwelling house or premises which shall have therein or thereon any closet with a pipe or branch pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet and every cistern shall be made of such materials and dimensions and of such model or plan of construction and with such ball-cock stop-cockswaste pipes and other appliances as shall be deemed requisite and have been approved by the officers of the Company for securing the water from pollution through any noxious gases or matter evolved or derived from such closets or otherwise every owner neglecting to comply with the provisions of this subsection shall forfeit and pay a penalty not exceeding Five pounds

Upon neglect of owner tenant or occupier after 14 days notice to fix cistern and deduct the expenses from the rent.

- v. Whenever any owner shall have neglected to fix and erect a cistern with its appliances as in the last preceding subsection provided for the tenant or occupier is hereby authorised and required after receiving a written notice thereof from the Company on that behalf to fix and erect such cistern with its appliances before mentioned within fourteen days after the receipt of such notice and the said tenant or occupier shall upon payment by him of the charges and expenses of such fixing and erection be entitled to deduct the amount so paid from the rent then due or accruing or at his option to sue for and recover the same with full costs of suit from the owner as for money paid to his uses

Any person re-establishing any connection with the main unless authorised or wilfully injuring any pipe &c. liable to a penalty.

- vi. Any person who shall without the authority of the Company re-establish any such connection which may have been cut off removed or severed by him or who shall in any manner wilfully injure or tamper with any connection pipe cistern ball-cock stop-cock or waste pipe which may have been approved by the Company so as to destroy diminish or endanger its efficiency may be summoned for such an offence before two Justices and on conviction thereto shall be adjudged to pay the amount of the charges and expenses which the Company may have incurred (and which they are hereby authorised to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall forfeit and pay a penalty not exceeding Ten pounds and the amount of charges and expenses and penalty respectively shall when recovered be paid over to the Company

Where several houses supplied by one pipe each to pay.

41. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe or where water is supplied to courts alleys and right-of-ways by stand pipes the several owners or occupiers of such houses or parts of houses or of the several houses or parts of houses in every such court alley or right-of-way shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Company by a separate pipe

The



42. The rates and charges for water and all sums due to the Company under this part shall be paid by and be recoverable from the owner of the premises or the occupier or person requiring receiving or using the supply of water and all rates shall be payable in advance by equal payments on the first day of January the first day of April the first day of July and the first day of October in each year and the first payment shall be made at the time when the owner or occupier of any tenement shall become liable to pay such rates and charges

Water Rates to be recoverable from either landlord or tenant.

43. Such rates shall be payable in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure Provided that the valuations of any lands or tenements for the purpose of such water supply shall not exceed in one year the valuation (if any) of such lands and tenements during the same or the previous year by the Municipal Council of Broken Hill and no such rate shall exceed the amount of pounds per centum per annum on the assessed value

44. The Company may also enter into any contract for the supply of water to persons desirous of obtaining such supply at a rate to be calculated by meter

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## PART III.

The acquisition and occupation by the Company of lands for the purposes of water supply—ascertainment of compensation in respect thereof

45. After the notification in the *Gazette* as hereinbefore provided of the approval of the Governor of a scheme for the supply of water to the said town and district but not before the Company shall be empowered to acquire or occupy lands for the purposes of such water supply in manner hereinafter provided and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided.

Lands required for water supply how acquired.

46. It shall be lawful for the Company by notification to be published in the *Gazette* and in one or more newspapers published or circulated in the said town and district to declare that the land described in such notification is required for the purposes therein expressed.

How and when lands can be taken.

47. Upon the publication of the notification to be in the *Gazette* declaring that the lands therein described are so required such lands shall upon compliance with the requirements and provisions hereinafter contained be vested in the Company for the purposes of this Act for an estate of inheritance in fee-simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights-of-way or other easements whatsoever and to the intent that the legal estate therein together with all powers incident thereto or conferred by this Act shall subject to the provisions thereof be vested in the Company.

Vesting &c. of lands

48. Where the land required is Crown land at the date of such publication or is vested in any corporation or person on behalf of Her Majesty or for public purposes by virtue of any statute or is within the limits with reference to centres of population prescribed by the Act next hereinafter cited the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or licence or promise thereof and to cancel to the like extent any dedication or reservation of the said land may under the authority of the "Crown Lands Alienation Act of 1861" or any Act or Acts amending the same or to divest the estate of such corporation or person and to vest the said land to the extent aforesaid in the Company's for the purposes mentioned and for the estate limited in the last preceding section provided however that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

Effect of publication upon Crown lands.

Where



Compensation for private  
lands.

49. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown or is not Crown Land as defined by this Act the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained 5 under the provisions hereinafter contained.

Conversion of estate of  
proprietor of resumed  
land into a claim.

50. The estate and interest of every person entitled to lands required under this Act or any portion thereof and whether to the legal or equitable estate therein shall upon due payment of the amount of compensation tender by the Company or assessed by the jury as here- 10 inafter provided be deemed to have been as fully and effectually conveyed to the Company as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law and every person shall upon asserting his claim as hereinafter provided and making out his title in respect of any por- 15 tion of the said resumed lands be entitled to compensation on account of such resumption in manner hereinafter provided.

Notice of claim for com-  
pensation.

51. Every person claiming compensation in respect of any land so required or in respect of any work or other matter done under the authority of this Act shall within ninety days from the publication 20 of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall upon the application and at the cost of the claimant appoint in that behalf serve a notice in writing upon the Company by leaving the same at the office of the said Company in the said form which notice shall set forth the nature of the 25 estate or interest of the claimant in such land together with an abstract of his title and if he claims in respect of damage the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid and such notice may be in the form of the Second Schedule hereto but with any modifications 30 required by the nature of the claim

Claim and report thereon

52. Within sixty days after the receipt of every such notice of claim the Company shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the provisions of this Act and shall inform the claimant as soon as 35 practicable of the amount of such valuation by notice in the form of the III Schedule hereto

Compensation by action  
in Supreme Court

53. If within ninety days after the service of notice of claim the claimant and the Company shall not agree as to the amount of compensation the claimant shall be at liberty to institute proceedings 40 in the Supreme Court in the form of an action for compensation against the Company And any such action may be tried before a Judge of the the said Court or in any Circuit Court and a special jury of four persons Provided always that upon proper application either of the Company or of the claimant a special jury of twelve may be summoned for 45 the trial of each action Provided also with the consent in writing of the Company and the claimant any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation but not within fourteen days from service of the notice of valuation on such claimant 50

Issue in action of com-  
pensation verdict and  
costs.

54. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the Company and notified to the claimant as aforesaid and if so to what sum And if upon the trial of the said action the verdict shall be for a greater sum than the 55 amount of the said valuation then the costs of the action shall be borne by the Company but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant

All



55. All moneys payable under this Act by way of compensation to any claimant whether under the verdict of a jury or otherwise shall be paid together with costs (if any) and interest at the rate of six pounds per centum reckoned from the date of the notifications aforesaid within one month after the determination of such compensation to the person lawfully entitled thereto or to his agent duly authorised in that behalf in writing that the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply or sewerage no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed or the support to such surface be destroyed or injuriously affected by the construction of such tunnel or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid
56. A District Court shall notwithstanding anything contained in the " District Court Act of 1858 " have jurisdiction to try any such action of compensation at the District Court holden at Silverton in any case where the whole amount of the claim in respect to such land served in pursuance of the seventy-sixth section of this Act does not exceed two hundred pounds or if exceeding that amount in any case where the Company and the claimant by a memorandum signed by the Secretary of the said Company and such claimant or by the respective Attorneys of the Company and the claimant agree thereto For the purposes of this section the provisions of the said District Courts Act and of any Act amending the same together with all rules made or to be made thereunder shall be deemed to apply to all proceedings taken in the said District Court hereunder
57. In estimating or assessing the compensation to be paid under this Act regard shall be had by the valuers and by the jury (on any issue) not only to the value of the land taken by the Company but also to the damage (if any) to be sustained by the claimant by reason of the severing of the land taken from other lands or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act and they shall assess the same according to what they shall find to have been the value of such lands estate or interest at the time of the resumption thereof or the extent of the damage or injury sustained
58. Subject to the provisions of this Act it shall be lawful for the Company and for any officer duly authorized in that behalf and for all persons employed in the carrying out of any authorized works and for any person authorized by the Company to enter upon the lands of any person whomsoever which the Company may require to purchase or take and to take possession and appropriate the same for the purposes of this Act or of the execution of any such authorized works
59. Notwithstanding anything hereinbefore contained it shall be lawful for the Company if they think fit to agree with the owners of any lands the acquisition of which is authorized by this Act and with all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase for a consideration in money of any such lands or parts thereof as shall be thought proper and of all estates and interests in such lands of what kind soever
60. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any estate or interest therein to sell and convey or release the same to the Company and to enter into all necessary agreements for that purpose and particularly it shall be lawful for all or any of the following parties so seized possessed or entitled as aforesaid so to sell convey or release that is to say all corporations tenants

As to payment of compensation.

Where claim may be prosecuted in District Court.

Compensation how to be estimated.

General power of entry.

Power to purchase lands by agreement

Parties under disability, enabled to sell and convey and exercise other powers.



tenants entail or for life married women seized in their own right or entitled to dower guardians committees of lunatics and idiots trustees or feoffees in trust for charitable or other purposes executors and administrators and all parties for the time being entitled to the receipt of the rents and profit of any such lands in possession or subject to any estate in dower or to any lease for life or for lives and years or any less interest and the power so to sell and convey or lease as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives and years or for years or for any less interest not only on behalf of themselves and their respective heirs executors administrators and successors but also for and on behalf of every person entitled in reversion remainder or expectancy after them or in defeasance of the estates of such parties and as to such married women whether they be of full age or not as if they were sole and of full age and as to such guardians on behalf of their wards and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively and that to the same extent as such wives wards lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability and as to such trustees executors or administrators on behalf of their *cestui que* trusts whether infants issue unborn lunatics feme covert or other persons and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability and the power hereinafter given to release lands from any rent charge or encumbrance and to agree to the apportionment of any such rent charge or encumbrance shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the Company

Incorporation of provisions of Government Railways Act.

61. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified together with the respective power authorities duties liabilities obligations and other the provisions therein contained are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein And that wheresoever in a section so incorporated the word "Commissioner" occurs there shall for the purposes of this Act be substituted in lieu of such word the expression "the Company" and whenever the word "Railway" or words implying works connected with a railway occur there shall be substituted such works respectively as denote the nature of the work undertaking or purpose in respect of which the land in question has been appropriated or resumed The following are the sections so declared to be incorporated with this Act

- (i.) As to the deposit of compensation money in certain cases with the Master in Equity and the application and investment thereof As to payment of such moneys in certain cases to trustees or the parties themselves and the exoneration of the Company in respect thereof after payment Sections forty seventy to fifty-two to be inclusive
- (ii.) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to make out a satisfactory title and as to presumption of ownership Sections fifty-three to fifty-six both inclusive
- (iii.) As to the procedure by the Company in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Company from entering upon or taking possession of the same Section sixty-one

(iv.)



- (iv.) As to the purchase or redemption of the interests of mortgagees and the deposit of principal and interest due on mortgages with the Master in Equity the procedure to be observed when the mortgaged lands are of less value than the mortgage debt and where part only of lands in mortgage are taken Sections sixty-five to seventy both inclusive
- (v.) As to the release of lands from rent charges and other encumbrances and procedure thereon Sections seventy-one to seventy-four both inclusive
- (vi.) As to the apportionment of rent where lands taken are under lease and as to compensation to tenants Sections seventy-five to seventy-eight inclusive
- (vii.) As to the entry upon or temporary occupation of lands the crossing of roads and other highways the making of bridges and other works of accommodation and the provisions consequent thereon Section ten and Sections eighty-four to ninety-seven both inclusive Provided that compensation shall in all respects be ascertained in accordance with this Act

62. It shall be lawful for the Company and all persons by them authorised to enter upon any lands not being a garden orchard or plantation attached or belonging to a house nor a park planted walk avenue or ground ornamentally planted and not being nearer to the mansion-house of the owner of any such lands than one hundred yards therefrom and to occupy the said lands so long as may be necessary for the construction or repair of any works authorised by this Act of the accommodation works connected therewith hereinafter mentioned and to use the same for any of the following purposes that is to say

Power to take temporary possession of land.

For the purpose of taking earth or soil by side cuttings therefrom

For the purpose of depositing soil thereon

For the purpose of obtaining materials therefrom for the construction or repair of water works or such accommodation works as aforesaid or

For the purpose of forming roads thereon to or from or by the side of the said works

And in exercise of such powers it shall be lawful for the Company and all other persons employed by them to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works and also to take from any such lands any timber and also to dig and take from out thereof any clay stone gravel sand or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid and for the purposes aforesaid erect thereon workshops sheds and other buildings of a temporary nature Provided always that nothing in this Act contained shall exempt the Company from an action for nuisance or other injury (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid. Provided also that no stone or slate quarry brick-field or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Company either wholly or in part for any of the purposes lastly hereinbefore mentioned.

If



Company to separate the lands before using them.

63 If any such lands shall be used for any of the purposes aforesaid the Company shall if required so to do by the owner or occupier thereof separate the same by a sufficient fence from the lands adjoining thereto with such gates as may be necessary for the convenient occupation of such lands and in case of any difference between the owners or occupiers of such lands and the Company as to the necessity of such fence and gates then which said fences and gates as the Governor shall deem necessary for the purposes aforesaid. 5

Compensation to be made for temporary occupation

64 In any of the cases aforesaid where the Company shall take temporary possession of lands by virtue of the powers herein granted it shall be incumbent on them within one month after their entry upon such lands upon being required to do so to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Company so taking possession of his lands. 10 15

Before roads interfered with others to be substituted

65 If in the exercise of the powers hereby granted it be found necessary to cross-cut through raise sink or use any part of any road whether carriage-road horse-road or tram-road or railway either public or private so as to render it impassable for or dangerous or more than usually inconvenient to passengers or carriages or to the persons entitled to the use thereof the Company shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be. 20 25

Period for restoration of roads interfered with.

66 If the road so interfered with can be restored compatibly with the due completion of any works authorised under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Company or as near thereto as may be and if such road cannot be so restored the Company shall cause the new or substituted road or some other sufficient substituted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition. 35 40

Company to make sufficient approaches and fences to bridle ways and footpaths crossing on the line,

67 If the conduit or any sewerage works shall cross any highway other than a public carriage way on the level the Company shall make and at all times maintain convenient approaches with hand-rails or other fences and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates or stiles on each side of such conduit or works where the highway shall communicate therewith. 45

Works for benefit of owners.

68 The Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorised under this Act that is to say :-

Gates bridges &c

Such and so many convenient gates bridges arches culverts and passages over under or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof. 50 55

Fences &c.

Also sufficient post rails hedges ditches mounds or other fences for separating the land taken for the use of such works from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from straying thereout by reason thereof together with all necessary gates made to open towards such adjoining lands and not towards the said works and all necessary stiles and such posts rails and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be. 60

Also



Also all necessary arches tunnels culverts drains or other passages either over or under or by the sides of such work and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby. Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply nor to make any accommodation works in such a manner as would prevent or obstruct the using of any works for any water supply nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation.

Drains.

69 If any difference arise respecting the kind or number of any such accommodation works or the dimensions or sufficiency thereof respecting the maintaining thereof the same shall be determined by the Governor who shall appoint the time within which such works shall be commenced and executed.

Differences as to accommodation works to be settled by Governor.

70 If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Council or directed by the Governor to be made by the Company insufficient for the commodious use of their respective lands it shall be lawful for any such owner or occupier at any time at his own expense to make such further works for that purpose as he shall think necessary and as shall be agreed to by the Company.

Power to owners of lands to make additional accommodation works.

71 If the Company so desire all such last mentioned accommodation works shall be constructed under the superintendence of the Company's engineer and according to plans and specifications to be submitted to and approved by the Company. But the Company shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Company or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Company.

Such works to be constructed under the superintendence of the promoters' engineer.

72 If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding ten pounds.

Penalty on persons omitting to fasten gates

## PART V.

### MISCELLANEOUS PROVISIONS—LEGAL PROCEDURE.

73 One half of any penalty recovered under this Act shall be paid to the informer and where any distress is made for any sum of money to be levied under this Act the distress itself shall not be unlawful nor the persons making the same to be deemed trespassers on account of any defect or want of form in the information summons conviction warrant of distress or other proceedings relating thereto nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

Moiety of penalties to be paid to informers Distress not unlawful for want of form.

74 If it shall be proved to the satisfaction of any two Justices of the Peace in Petty Sessions assembled that the Company or any of their officers have been guilty of any default under this Act not otherwise provided for they shall be liable for each and every such default to a penalty not exceeding five pounds to be recovered in a summary way.

Penalty for default not otherwise provided for.

Where



Method of proceeding before Justices in question of damages &c.

75 Where by this Act any question of compensation expenses charges or damages or other matter is required to be referred to the determination of any one or more Justices it shall be lawful for any Justice upon the application of either party to summon the other party to appear before one Justice or before two Justices as the case may require at a time and place to be named in such summons and upon the appearance of such parties or in the absence of any of them upon proof of due service of the summons it shall be lawful for such one Justice or such two Justices as the case may be to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses on oath and the cost of every such enquiry shall be in the discretion of such Justices and they shall determine the amount thereof. 5 10

Penalties &c. to be summarily recovered before two Justices.

76 Every penalty forfeiture charge or sum of money imposed by or made payable under this Act the recovery of which is not otherwise provided for may be recovered by summary proceedings before two Justices under the provisions of the Act or Acts in force for the time being regulating summary proceedings before Justices. And where any such penalty charge or sum be not paid either immediately after conviction or adjudication or within the time appointed thereby the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels in the manner provided for by the said Acts. 15 20

Parties allowed to appeal to Quarter Sessions on giving security

77 If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices with respect to any penalty or forfeiture under the provisions of this Act such party may appeal to the General Quarter Sessions holden at Broken Hill or Silverton but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication nor unless ten days notice in writing of such appeal stating the nature and grounds thereof be given to the party against whom the appeal shall be brought nor unless the appellant forthwith after such notice enter into recognisances with two sufficient sureties before a Justice conditioned duly to prosecute such appeal and to abide the order of the Court thereon. At the General Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way or they may if they think fit adjourn to the following Sessions and upon the hearing of such appeal the Court may if they think fit mitigate any penalty or forfeiture or they may confirm or quash the adjudication and order any money paid by the appellant or levied by distress upon his goods to be returned to him and also may order such further satisfaction to be made to the party injured as they may judge reasonable and they may make such order concerning the costs both of the adjudication and of the appeal as they may reasonably think fit. 25 30 35 40

Court to make such order as they think reasonable.

Damage to be made good in addition to penalty.

78 If through any act neglect or default on account whereof any person shall have incurred any penalty imposed by this Act any damage to any conduit main pipe sewer or other property of the Company used in connection therewith shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty and the amount of such damages shall in case of dispute be determined by the Justices by whom the party incurring such penalty shall have been convicted and on non-payment of such damages on demand the same shall be levied by distress and such Justices or one of them shall issue warrants accordingly. 45 50

Transient offenders.

79 It shall be lawful for any officer or servant of the Company and all persons called by him to his assistance to seize and detain any person who shall have committed any offence against the provisions of this Act and whose name and residence shall be unknown to such officer or servant and convey him with all convenient dispatch before some Justice without any warrant or other authority than this Act and such Justice shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender. 55

Any



80 Any notice required by this Act or any bye-law or regulation made thereunder to be served on or given to any owner or occupier of any building land or premises or on or to any person may be in writing or partly in writing and partly printed or may be wholly printed. And  
 5 it shall be sufficient for all purposes of this Act unless the said Act in any case prescribes a different course to be pursued if any such notice is sent by post to the owner by registered letter addressed to his last known place of abode or of business or is served on the owner or occupier of such building land or premises or left with some inmate apparently over  
 10 the age of fourteen years living at the place of abode of such owner or occupier or if there be no occupier if such notice be posted on some conspicuous part of such building or land and any notice required to be given or served in respect of any public street road or lane may be served on or sent by post as aforesaid to the Council Clerk of the Borough  
 15 or municipal district wherein such street road or lane or the portion thereof affected by the notice is situated.

Notices

81 In the event of the wrongful exercise of any powers given by this Act nothing in this Act contained shall be construed to prevent any person from proceeding against the Company for nuisance or other-  
 20 wise in respect of the work or means used or employed by the Company in the exercise of the privileges hereby conferred on the Company or to prevent the Company or any person recovering any sum of money or otherwise proceeding in any court of competent jurisdiction but the Company or any person to whom any penalty or sum of money may by  
 25 the provisions of this Act be awarded may elect either to proceed in manner in this Act provided or to proceed for and recover damages or otherwise in any court of competent jurisdiction.

Indictment for nuisances

82 The Company shall not be entitled to any of the rights and privileges conferred upon them by this Act unless they shall have com-  
 30 pleted the projected works within the period of three years from the passing of this Act.

Limitation of time for erection of works.

## FIRST SCHEDULE.

### Borough of Broken Hill.

#### NOTICE TO LAY SERVICE PIPES.

35 Notice to the owners of tenements and premises in streets and the private streets lanes courts and alleys opening thereunto.

The main pipe in the said street having been laid down the owners of all tenements premises situated as above are hereby on or before the day of next to cause a  
 40 proper pipe and stop cocks to be laid so as to supply water from the main pipe to such tenements and premises.

A. B.

*Inspector (or Surveyor or other Officer) for the Company.*



## SECOND SCHEDULE.

## NOTICE OF CLAIM AND ABSTRACT.

To the Broken Hill and District Water Supply Company, Limited.

In pursuance of "The Broken Hill Water Supply Act of 1888" I (or we) hereby give you notice that I (or we) claim compensation in land hereunder described which has been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined Abstract.

## ABSTRACT.

Names and descriptions of parties claiming and nature of their interests whether tenants for life in tail or otherwise.	Situation and description of Property.	Quit rents payable if leasehold name of landlord term of lease and rent reserved.	Names of occupiers distinguishing whether tenants-at-will or under lease and rent reserved terms, &c.	Particulars of claim specifying separately the amount claimed for value of property and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents and place or places where the same may be inspected and name of the claimant's solicitor or agent.

(Signature)

(Address)

(Date)

## THIRD SCHEDULE.

## NOTICE OF VALUATION.

To A. B. claimant in respect of land hereunder described resumed under "The Broken Hill Water Supply Act of 1888."

Take notice that the land hereunder described being that in respect of the resumption whereof under the authority of the aforesaid Act your claim or compensation has been lodged has been valued at the sum of £

A. B.

Promoters, &c.

DESCRIPTION OF LAND IN RESPECT OF WHICH CLAIM HAS BEEN MADE.

All that piece or parcel of land &c. &c. &c.



52° VICTORIÆ 1888.

## A BILL

To enable the Broken Hill and District Water Supply Company Limited to construct works and use the waters of the Darling River and the Speculation and Menindie Lakes for the purpose of supplying Broken Hill and District with fresh water and to  
5 give power to purchase land.

WHEREAS it is expedient and for the public benefit that the town and district of Broken Hill in the Colony of New South Wales should be provided with a supply of fresh water And Whereas a Company has been formed called the "Broken Hill and  
10 District Water Supply Company Limited" for the purpose of supplying the said town and district with fresh water And Whereas the said Company desire to establish and carry out works for such purpose and other purposes incidental thereto in the said town and district Be it therefore enacted by the Queen's Most Excellent Majesty by and with  
15 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—POWERS AND DUTIES OF THE COMPANY.

20 1. *This Act may be cited the "Broken Hill and District Water Supply Act of 1888" Its provisions are arranged into four parts embracing the following subjects :—*

PART I.—PRELIMINARY—*Powers and duties of the Company as to Water Supply*

PART II.—*Special provisions as to Water Supply*

25 PART III.—*The acquisition and occupation by the Company of lands for the purpose of water supply—ascertainment of compensation in respect thereof*

PART IV.—*Miscellaneous provisions Legal procedure*

I And in the construction of this Act the following words and  
30 expressions in inverted commas unless there shall be something in the context repugnant thereto or inconsistent therewith shall bear the meanings

Interpretation of terms



meanings and include the persons or things hereby respectively set against such words and expressions that is to say :—

“ Governor ”—The Governor with the advice of the Executive Council

“ Conduit ”—The canals tunnels aqueducts cuttings or pipes 5  
by means of which the main stream of water is supplied to the said district

“ Justice ”—Any Justice of the Peace for the Colony of New South Wales

“ Street ”—Any square court alley highway railway tramway 10  
lane road thoroughfare or other passage footpath or place whether public or private within the limits of this Act

“ Owner ”—Any person who is in the receipt of the rents and profits of any house manufactory or building of 15  
whatsoever kind or of any land

“ Water District ”—The area within which water is authorised to be supplied to the inhabitants of the said Town and district

“ Company ”—The said Broken Hill and District Water 20  
Supply Company Limited or their assigns owners for the time being of the Broken Hill Water Works

Conditions prior to ac-  
quisition of land

2 Before the Company shall put into force any of the provisions contained in this part with respect to the acquisition of land otherwise than by agreement the following conditions and provisions shall be 25  
observed :—

(i.) The Company shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the town and district of Broken Hill a notice describing shortly the nature of the undertaking 30  
in respect of which it is proposed to take any land that has been alienated from the Crown naming some central place at Broken Hill where a plan of the proposed undertaking may be seen at all reasonable hours and stating the quantity of such lands required 35

(ii.) The Company shall serve a notice on every owner or reputed owner or reputed lessee or occupier of such lands defining in each case the particular lands intended to be taken and requiring an answer stating whether the person so served dissents or is neutral in respect of 40  
taking such land

(iii.) On compliance with the provisions of this section with respect to notices the Company may if they think fit present a petition to the Governor under their Common Seal and such petition shall state the lands as aforesaid 45  
intended to be taken and the purposes for which they are required and the names of the owners lessees and occupiers of lands who have assented dissented or are neutral in respect of the taking of such lands or who have returned no answer to the notice And it shall 50  
pray that the Company may with reference to such lands be allowed to put in force the powers contained in PART III of this Act with respect to the acquisition



acquisition of such lands otherwise than by agreement and such prayer shall be supported by such evidence as the Governor may require

5 (iv.) On receipt of such petition and on due proof of the proper notices having been published and served the Governor shall take such petition into consideration and may either dismiss the same or direct a local inquiry as to the propriety of assenting to the prayer of such petition but until such inquiry has been made  
10 no provisional order shall be made affecting any such lands without the consent of the owners lessees and occupiers thereof

(v.) After the completion of such inquiry the Governor may  
15 by provisional order empower the Company to put in force with reference to the lands referred to in such order the powers of the said part with respect to the acquisition of lands otherwise than by agreement or any of them and either absolutely or with such conditions and modifications as the Governor may think fit and it shall be the duty of the Company to  
20 serve a copy of any order so made in the manner and on the persons in which and on whom notices in respect of such lands are required to be served

## PART II.

### 25 SPECIAL PROVISIONS AS TO WATER SUPPLY.

Powers of the Company

3. Subject to the provisions of this Act the Company may exercise any of the powers in this Part contained for the construction of waterworks for the supply of water from the Darling River and Menindie and Speculation Lakes to the Town and District of Broken  
30 Hill and for the purpose of carrying out the provisions of this Act the Company may

- (i.) Enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary
- 35 (ii.) Enter upon take and hold such land as they may from time to time deem necessary for the construction and maintenance of any of the works authorised by this Act or for obtaining or enlarging the supply of water or for improving the quality thereof for the purpose of this Act
- 40 (iii.) Enter upon any crown or private lands streets roads or thoroughfares and lay or place therein any pipes and may repair alter cut off or remove the same and may enter upon any such lands streets roads or thoroughfares for the purpose of repairing any watercourses or other  
45 works being their property or under their control

Provided always that in the exercise of any of the powers hereby conferred the Company shall inflict as little damage as may be and in all cases where it can be done shall provide other watering places drains and channels for the use of adjoining lands in place of  
50 any taken away or interrupted by them and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers Provided nevertheless that the Company shall not be liable to make compensation in respect of  
55 any damage sustained by the reason of the taking of water from the said river or lakes or either of them.

4. Any person who shall wilfully obstruct any person acting under the authority of the Company in setting out the line of any works undertaken under the authority of this part or pull up or remove any poles or stakes driven into the ground for the purpose of setting

Penalty for obstructing construction of works



setting out the line of such works or destroy or injure any works so undertaken as aforesaid shall incur a penalty not exceeding five pounds for every such offence.

Penalty for destroying works

5. If any person unlawfully and maliciously destroy or damage or attempts to destroy or damage any reservoir dam tank tunnel water-course sluice main pipe aqueduct bridge roadway or engine or other part whatever of the works of the Company every such offender shall be guilty of felony and shall be liable to be imprisoned for any term not exceeding ten years. 5

Power to open streets &c

6. The Company may open and break up the soil and pavement of the several streets and bridges within the limits of its water district and make open and break up any sewers drains or tunnels within or under such streets and lay down and place within the same limits pipes conduits service pipes and other works and engines and from time to time repair alter or remove the same and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges and do all other acts which the Company shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits. 10 15

Reinstatement of streets &c

7. When the Company shall open or break up the road or pavement of any street or bridge or any sewer drain or tunnel they shall with all convenient speed complete the work for which the same shall be broken up and fill in the ground and reinstate and make good the road or pavement or the sewer drain or tunnel so opened or broken up and carry away the rubbish occasioned thereby and shall at all times whilst any such pavement or road shall be so open or broken up cause the same to be fenced and guarded and shall cause light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up. 20 25 30

Company not liable for accidental failure to supply water

8. The Company shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any penalty or damages for not supplying such water if the want of such supply arises from unusual drought or other unavoidable cause or accident.

Agreements to supply water

9. The Company may supply any person with water for domestic or other purposes by measure or otherwise at such rates to be declared fixed and published by them (subject to the provisions of this Act) hereinafter contained upon such terms and subject to such conditions as may be agreed upon by the Company and the person requiring to be supplied. 35

Company may let meters

10. The Company may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed and any pipes and apparatus for the conveyance reception or storage of the water for such remuneration in money as may be agreed upon between the Company and the consumer which shall be recoverable in the same manner as rates due to the Company for water. 40 45

Meters of Company not distrainable

11. Such meters instruments pipes and apparatus shall not be subject to distress for rent of the premises where the same are used or to be attached or taken in execution under any process of any Court of Law or Equity or under or in pursuance of any sequestration or order in bankruptcy or other legal proceedings against or affecting the consumer of the water or the occupier of the premises or other the person in whose possession the meters pipes instruments and apparatus may be. 50

Meters to be supplied and maintained by consumer

12. Every person who shall have agreed with the Company for a supply of water by measure shall at his own expense unless he hire a meter from the Company provide a meter and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Company and in the event of any repairs being required notice in writing shall be immediately given by such person to the Company and a registration of the quantity of water used shall be taken before such repairs are effected. 55

Every



13. Every person requiring to remove or alter the position of any meter shall leave six days notice in writing to that effect at the registered or local office of the Company hereinafter mentioned and a registration of the quantity of water shall be taken before such removal or alteration is made.

Notice of removal &c of meter

14. If any person shall neglect or delay to have such meter properly repaired and put in correct working order after having been required by any officer of the Company so to do the Company may shut off the supply of water from the premises of such person either by cutting the service pipe or otherwise until such meter shall have been properly repaired and certified by some officer of the Company as being in proper working order.

Water may be cut off if meter not in order

15. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Company without having first obtained a certificate from the Company that the said meter has been examined and found in correct working order he shall forfeit a sum not exceeding Ten pounds.

Penalty for fixing uncertified meter

16. If any person remove or alter the position of or in any way interfere with any meter without giving such notice as aforesaid he shall for such offence forfeit a sum not exceeding twenty pounds. Provided that the Company shall always have an office in the district of Broken Hill and shall register the same at the Council Chambers of the Municipal Council at Broken Hill.

For removing or altering meter without notice

17. The officers of the Company may enter any house building or lands to through or into which water is supplied by the Company by measure in order to inspect the meters instruments pipes and apparatus for the measuring conveyance reception or storage of water or for the purpose of ascertaining the quantity of water supplied or consumed and may from time to time enter any house buildings or lands for the purpose of removing any meter instrument pipe or apparatus the property of the promoters and if any person hinders any such officer from entering or making such inspection or effecting such removal he shall for each such offence be liable to a penalty not exceeding Five pounds but except with the consent of a Justice a power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

Power of officers of Company to inspect meter

18. In all the pipes to which any fire plug is fixed the Company shall provide and keep constantly laid on for use unless prevented by unusual drought or other unavoidable accident or during necessary repairs a sufficient supply of water for the following purposes (that is to say) for cleansing the sewers and drains for cleansing and watering the streets and for supplying any public hospitals or charitable institutions or any public pumps baths and wash-houses that may be established for the use of the inhabitants and paid for out of any municipal rates and such supply shall be provided at such rates and charges and upon such terms and conditions as may be agreed on by the said Municipal Council and the Company or in case of disagreement as shall be settled by two Justices.

Supply of water for public purposes

19. The Company at the request of the Municipal Council shall fix proper fire plugs in the main and other pipes belonging to them at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire that may break out within the Borough and shall from time to time renew and keep in effective order every such fire plug and shall put up a public notice on some conspicuous place in each street on which such fire

Fire plugs Promoters to place public fire-plugs in main



fire plug is situated showing its situation and such notice may be put up on any house or building in such street and as soon as such fire plug is completed they shall deposit a key thereof in each place where any public fire engine is kept. The cost of such fireplugs and the expense of fixing placing and maintaining the same in repair and of supplying such keys as aforesaid shall be defrayed by the said Municipal Council. 5

20. The Company may at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road in which or within two hundred yards of which there shall be a pipe of the Company place and maintain a fireplug (to be used only for extinguishing fires) as near as conveniently may be to such manufactory or works. 10

Pipes to be kept charged and water taken for fires

21. The Company shall at all times keep charged with water all their pipes to which fireplugs are fixed unless prevented by drought or other unavoidable cause or accident or during necessary repairs and shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire without making compensation for the same. 15

Penalty for refusal to fix &c fire-plugs or failure to supply water

22. If except when prevented as aforesaid the Company neglect or refuse to fix or repair such fire plug or to furnish to the Municipal Council a sufficient supply of water for the public purposes aforesaid on such terms as shall have been agreed or settled as aforesaid or if except as aforesaid they neglect to keep the pipes charged as aforesaid or neglect or refuse to furnish any owner or occupier liable to be rated under this Act during any part of the time for which such rates have been paid or tendered they shall be liable to a penalty of £20 and shall also forfeit to the said Municipal Council or to every person having paid or tendered the rate the sum of Twenty shillings for every day during which such refusal shall continue after notice in writing shall have been given to the Company of the want of supply. 20 25 30

Pipes laid by owners or occupiers Power to inhabitants to lay service pipes

23. Any owner or occupier of any dwelling house or part of a dwelling house situate within the water district who shall wish to have water from the water works of the Company brought on to his premises and who shall have paid or tendered to the Company the portion of water rate in respect of such premises by this Act directed to be paid in advance may open the ground between the pipes of the Company and his premises having first obtained the consent of the owners and occupiers of such ground and lay any pipes from such premises to communicate with the pipes of the Company. 35

Notice to Company of laying pipes

24. Such pipes shall be of a strength and material approved of by some officer of the Company and every such owner or occupier shall before he begins to lay any such pipe give to the Company two days notice of his intention so to do. 40

Communication with pipes of Company to be made under superintendence of Surveyor

25. Before any pipe is made to communicate with the pipes of the Company the person intending to lay such pipes shall give two days notice to the Company of the day and hour when such pipe is intended to be made to communicate with the pipes of the Company and every such pipe shall be so made to communicate under the superintendence and according to the directions of the Surveyor Engineer or other officer appointed for that purpose by the Company and the bore of such pipe shall not exceed  $\frac{3}{4}$  of an inch except with the consent of the Company. 45 50

Bore of service pipes

Service pipes may be removed after giving notice

26. Any person who shall have laid down any pipe or other works or who shall have become the proprietor thereof may remove the same after having first given six days notice to the Company of his intention



intention so to do and of the time of such proposed removal and every such person shall make compensation to the Company for any injury or damage to their pipes or works which may be caused by such removal.

5           27. Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipes of the Company and his house building or premises and any sewer or drain therein for any such purposes as aforesaid (doing as little damage as may be and making compensation for any damage done in the execution of such work) Provided always that every such owner or occupier desiring to break up the pavement of any street or any sewer or drain therein shall be subject to the same necessity of giving previous notice and shall be subject to the same control restrictions and obligations in and during the time of breaking up the same and also reinstating the same and to the same penalties for any delay in regard thereto as the Company are subject to under the provisions of this Act Provided also that the service mains shall be laid in the centre of the street.

Power to break up pavements

20           28. If any person supplied with water by the Company wrongfully does or causes or permits to be done anything in contravention of any of the provisions of this part or wrongfully fails to do anything which under any of these provisions ought to be done for the prevention of the waste misuse undue consumption or contamination of the water of the Company the Company may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied to him or for his use and may cease to supply him with water so long as the cause of injury remains or is not remedied.

In case of any breach of this part of the Act water may be cut off

30           29. If any person supplied with water by the Company wilfully or negligently causes or suffers any pipe valve cock cistern bath soil-pan water-closet or other apparatus or receptacle to be out of repair or to be so closed or contrived that the water supplied to him by the Company is or is likely to be wasted misused unduly consumed or contaminated or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Company he shall for every such offence be liable to a penalty not exceeding Five pounds

Penalty for waste of water

30. If any person

Penalty of misapplication of water

40           (i.) Not having from the Company a supply of water for other than domestic purposes any water supplied to him by the Company or

45           (ii.) Having from the Company a supply of water for any purpose other than domestic uses such water for any purpose other than those for which he is entitled to use the same he shall for every such offence be liable to a penalty not exceeding Forty shillings without prejudice to the right of the Company to recover from him the value of the water misused

50           31. It shall not be lawful for the owner or occupier of any premises supplied with water by the Company or any consumer of the water of the Company or any other person to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to or used by such owner occupier or consumer or any other person or to make any alteration in any such communication or service pipe or in any apparatus connected therewith without the consent in every such case of the Company and if any person acts in any respect in contravention of

No pipe to be fixed to consumer's pipe without permission of Company



of the provisions of the present section he shall for every such offence be liable to a penalty not exceeding Five pounds without prejudice to the right of the Company to recover damages from him in respect of any injury done to their property and without prejudice to their right to recover from him the value of any water wasted misused or unduly consumed 5

Penalty for unlawfully taking water

32. If any person not being supplied with water by the Company wrongfully takes or uses any water from any reservoir watercourse conduit or pipe belonging to the Company or from any pipe leading to or from any such reservoir watercourse conduit or pipe or from any cistern or other like place containing water belonging to the Company or supplied by them for the use of any consumer of the water of the Company he shall for every such offence be liable to a penalty not exceeding Five pounds 10

Inspection of water

33. The Surveyor Engineer or other person appointed for that purpose by the Company may between the hours of ten o'clock in the forenoon and four o'clock in the afternoon enter into any house or premises supplied with water by the Company in order to examine if there be any waste or misuse of such water and if such Surveyor Engineer or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid or be prevented from making such examination as aforesaid the Company may turn off the water supplied by them from such house or other premises 15 20

Polluting the water Penalty for bathing

34. If any person bathe in any stream reservoir or other water-works belonging to the Company or wash throw or cause to enter therein any dog or other animal he shall for every such offence forfeit a sum not exceeding Five pounds 25

Penalty for throwing dirt therein

35. If any person throw or convey or permit or cause to be thrown or conveyed any rubbish dirt filth or other noisome thing into any such stream reservoir aqueduct or other water-works as aforesaid or wash or cleanse therein any cloth wool leather or skin of any animal or any clothes or other thing he shall for each offence forfeit a sum not exceeding Ten pounds 30

Penalty for letting foul water flow thereinto

36. If any person cause the water of any sink sewer or drain steam-engine boiler or other filthy water belonging to him or under his control to be run or to be brought into any stream reservoir aqueduct or other water-works belonging to the Company or shall do any other act whereby the water of the Company shall be fouled he shall for each offence forfeit a sum not exceeding Twenty pounds and a further sum of Twenty shillings for each day (if more than one) that such offence continues 35 40

Penalty for permitting substances produced in making gas to flow into the water

37. Any person making or supplying gas within the limits of any water districts who shall at any time cause or suffer to be brought to the water of the Company or into any drain communicating therewith any washing or any other substance which shall be produced in the making or supplying of gas or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such reservoir aqueduct or other water works shall be fouled or the pipes or conduits thereof injured shall forfeit to the Company a sum not exceeding Twenty pounds to be recovered with full costs of suit for each day during which such washing or other substance shall be brought or shall flow as aforesaid or during which the act shall continue by which such water is fouled after the expiration in either case of twenty-four hours from the time when the notice of the offence has been served on such person by the Company 45 50

Whenever



38. Whenever the water supplied by the Company shall be fouled by the gas of any person making or supplying gas within the district aforesaid such person shall forfeit to the Company for every such offence a sum not exceeding Twenty pounds and a further sum  
 5 not exceeding Ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Penalty on gas-makers causing water to be fouled

39. For the purpose of ascertaining whether the water of the Company be fouled by the gas of any person making or supplying  
 10 gas within the said district the Company may dig up the ground and examine the pipes conduits and works of the person making or supplying gas. Provided that before proceeding so to dig and examine the Company shall give twenty-four hours notice in  
 15 writing to the person so making or supplying gas of the time at which such digging and examining is intended to take place and shall give the like notice to the person having the control or management of the pavement or place where such digging shall take place and shall be subject to the like obligation of reinstating the road and  
 20 pavement and to the same penalties for delay or any nonfeasance or misfeasance therein as hereinafter provided with respect to roads and pavements broken up by the Company for laying their pipes and if upon such examination it appears that such water has been fouled by any gas belonging to such person the expenses of digging examination and repairs of the street or place disturbed in any such examination  
 25 shall be paid by the person making or supplying gas but if upon such examination it appears that the water has not been fouled by the gas of such person then the Company shall pay all the expenses of the examination and repair and also make good to the said person any injury which may be occasioned to his works by such examination.

Power to examine gas-pipes to ascertain cause of water being fouled

30 40. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Company from all impurities from closets and other receptacles of faecal matter or urine :—

Provisions as to connection of closet and other pipes with mains and as to cisterns &c.

35 (i.) It shall not be lawful for any person to connect with the the main any pipe delivering water directly into the closet-pan or other receptacle for faecal matter or urine without the intervention of a cistern into which the water from the main shall first be received and any  
 40 person so offending shall forfeit and pay a penalty not exceeding Fifty pounds

No closet pipes hereafter to connect directly with the main.

45 (ii.) The Company may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern (hereinafter termed "directly connected") and which in the opinion of the Company may endanger the purity of the water by the absorption of noxious gases or suction of faecal matter or urine into such pipe or into the main or otherwise  
 50 For the purpose of effecting such disconnection the Company's artificers and workmen may enter into and upon the premises of any person or corporation whatsoever to do or cause to be done anything in his opinion requisite or necessary in relation thereto

Company may disconnect pipes in certain cases.

55 (iii.) Whenever the Company shall have caused any pipe to be cut off or disconnected or other work to be done in relation thereto they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such  
 owner

The expense incurred by any disconnection to be paid by the tenant and deducted from his rent.



owner or occupier shall pay the amount to the Company and if the amount be paid by an occupier only he may deduct the same from the rent owing or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid the Company may sue for and recover the same with full costs of suit

Owners of premises shall fix closet cisterns or be liable to a penalty.

- iv. The owner of every dwelling house or premises which shall have therein or thereon any closet with a pipe or branch pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet and every cistern shall be made of such materials and dimensions and of such model or plan of construction and with such ball-cock stop-cockswaste pipes and other appliances as shall be deemed requisite and have been approved by the officers of the Company for securing the water from pollution through any noxious gases or matter evolved or derived from such closets or otherwise every owner neglecting to comply with the provisions of this subsection shall forfeit and pay a penalty not exceeding Five pounds

Upon neglect of owner tenant or occupier after 14 days notice to fix cistern and deduct the expenses from the rent.

- v. Whenever any owner shall have neglected to fix and erect a cistern with its appliances as in the last preceding subsection provided for the tenant or occupier is hereby authorised and required after receiving a written notice thereof from the Company on that behalf to fix and erect such cistern with its appliances before mentioned within fourteen days after the receipt of such notice and the said tenant or occupier shall upon payment by him of the charges and expenses of such fixing and erection be entitled to deduct the amount so paid from the rent then due or accruing or at his option to sue for and recover the same with full costs of suit from the owner as for money paid to his uses

Any person re-establishing any connection with the main unless authorised or wilfully injuring any pipe &c. liable to a penalty.

- vi. Any person who shall without the authority of the Company re-establish any such connection which may have been cut off removed or severed by him or who shall in any manner wilfully injure or tamper with any connection pipe cistern ball-cock stop-cock or waste pipe which may have been approved by the Company so as to destroy diminish or endanger its efficiency may be summoned for such an offence before two Justices and on conviction thereto shall be adjudged to pay the amount of the charges and expenses which the Company may have incurred (and which they are hereby authorised to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall forfeit and pay a penalty not exceeding Ten pounds and the amount of charges and expenses and penalty respectively shall when recovered be paid over to the Company

Where several houses supplied by one pipe each to pay.

41. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe or where water is supplied to courts alleys and right-of-ways by stand pipes the several owners or occupiers of such houses or parts of houses or of the several houses or parts of houses in every such court alley or right-of-way shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Company by a separate pipe

The



42. The rates and charges for water and all sums due to the Company under this part shall be paid by and be recoverable from the owner of the premises or the occupier or person requiring receiving or using the supply of water and all rates shall be payable in advance by equal payments on the first day of January the first day of April the first day of July and the first day of October in each year and the first payment shall be made at the time when the owner or occupier of any tenement shall become liable to pay such rates and charges

Water Rates to be recoverable from either landlord or tenant.

43. Such rates shall be payable in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure Provided that the valuations of any lands or tenements for the purpose of such water supply shall not exceed in one year the valuation (if any) of such lands and tenements during the same or the previous year by the Municipal Council of Broken Hill and no such rate shall exceed the amount of pounds per centum per annum on the assessed value

44. The Company may also enter into any contract for the supply of water to persons desirous of obtaining such supply at a rate to be calculated by meter

20

## PART III.

The acquisition and occupation by the Company of lands for the purposes of water supply—ascertainment of compensation in respect thereof

45. After the notification in the *Gazette* as hereinbefore provided of the approval of the Governor of a scheme for the supply of water to the said town and district but not before the Company shall be empowered to acquire or occupy lands for the purposes of such water supply in manner hereinafter provided and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided.

Lands required for water supply how acquired.

46. It shall be lawful for the Company by notification to be published in the *Gazette* and in one or more newspapers published or circulated in the said town and district to declare that the land described in such notification is required for the purposes therein expressed.

How and when lands can be taken.

47. Upon the publication of the notification to be in the *Gazette* declaring that the lands therein described are so required such lands shall upon compliance with the requirements and provisions hereinafter contained be vested in the Company for the purposes of this Act for an estate of inheritance in fee-simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights-of-way or other easements whatsoever and to the intent that the legal estate therein together with all powers incident thereto or conferred by this Act shall subject to the provisions thereof be vested in the Company.

Vesting &c. of lands

48. Where the land required is Crown land at the date of such publication or is vested in any corporation or person on behalf of Her Majesty or for public purposes by virtue of any statute or is within the limits with reference to centres of population prescribed by the Act next hereinafter cited the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or licence or promise thereof and to cancel to the like extent any dedication or reservation of the said land may under the authority of the "Crown Lands Alienation Act of 1861" or any Act or Acts amending the same or to divest the estate of such corporation or person and to vest the said land to the extent aforesaid in the Company's for the purposes mentioned and for the estate limited in the last preceding section provided however that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

Effect of publication upon Crown lands.

Where



Compensation for private lands.

49. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown or is not Crown Land as defined by this Act the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained under the provisions hereinafter contained. 5

Conversion of estate of proprietor of resumed land into a claim.

50. The estate and interest of every person entitled to lands required under this Act or any portion thereof and whether to the legal or equitable estate therein shall upon due payment of the amount of compensation tender by the Company or assessed by the jury as hereinafter provided be deemed to have been as fully and effectually conveyed to the Company as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law and every person shall upon asserting his claim as hereinafter provided and making out his title in respect of any portion of the said resumed lands be entitled to compensation on account of such resumption in manner hereinafter provided. 10 15

Notice of claim for compensation.

51. Every person claiming compensation in respect of any land so required or in respect of any work or other matter done under the authority of this Act shall within ninety days from the publication of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall upon the application and at the cost of the claimant appoint in that behalf serve a notice in writing upon the Company by leaving the same at the office of the said Company in the said form which notice shall set forth the nature of the estate or interest of the claimant in such land together with an abstract of his title and if he claims in respect of damage the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid and such notice may be in the form of the Second Schedule hereto but with any modifications required by the nature of the claim 20 25 30

Claim and report thereon

52. Within sixty days after the receipt of every such notice of claim the Company shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the provisions of this Act and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the III Schedule hereto 35

Compensation by action in Supreme Court

53. If within ninety days after the service of notice of claim the claimant and the Company shall not agree as to the amount of compensation the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the Company And any such action may be tried before a Judge of the the said Court or in any Circuit Court and a special jury of four persons Provided always that upon proper application either of the Company or of the claimant a special jury of twelve may be summoned for the trial of each action Provided also with the consent in writing of the Company and the claimant any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation but not within fourteen days from service of the notice of valuation on such claimant 40 45 50

Issue in action of compensation verdict and costs.

54. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the Company and notified to the claimant as aforesaid and if so to what sum And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation then the costs of the action shall be borne by the Company but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant 55

All



55. All moneys payable under this Act by way of compensation to any claimant whether under the verdict of a jury or otherwise shall be paid together with costs (if any) and interest at the rate of six pounds per centum reckoned from the date of the notifications aforesaid within one month after the determination of such compensation to the person lawfully entitled thereto or to his agent duly authorised in that behalf in writing that the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land. Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply or sewerage no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed or the support to such surface be destroyed or injuriously affected by the construction of such tunnel or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

56. A District Court shall notwithstanding anything contained in the "District Court Act of 1858" have jurisdiction to try any such action of compensation at the District Court holden at Silverton in any case where the whole amount of the claim in respect to such land served in pursuance of the seventy-sixth section of this Act does not exceed two hundred pounds or if exceeding that amount in any case where the Company and the claimant by a memorandum signed by the Secretary of the said Company and such claimant or by the respective Attorneys of the Company and the claimant agree thereto. For the purposes of this section the provisions of the said District Courts Act and of any Act amending the same together with all rules made or to be made thereunder shall be deemed to apply to all proceedings taken in the said District Court hereunder.

Where claim may be prosecuted in District Court.

57. In estimating or assessing the compensation to be paid under this Act regard shall be had by the valutors and by the jury (on any issue) not only to the value of the land taken by the Company but also to the damage (if any) to be sustained by the claimant by reason of the severing of the land taken from other lands or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act and they shall assess the same according to what they shall find to have been the value of such lands estate or interest at the time of the resumption thereof or the extent of the damage or injury sustained.

Compensation how to be estimated.

58. Subject to the provisions of this Act it shall be lawful for the Company and for any officer duly authorized in that behalf and for all persons employed in the carrying out of any authorized works and for any person authorized by the Company to enter upon the lands of any person whomsoever which the Company may require to purchase or take and to take possession and appropriate the same for the purposes of this Act or of the execution of any such authorized works.

General power of entry.

59. Notwithstanding anything hereinbefore contained it shall be lawful for the Company if they think fit to agree with the owners of any lands the acquisition of which is authorized by this Act and with all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase for a consideration in money of any such lands or parts thereof as shall be thought proper and of all estates and interests in such lands of what kind soever.

Power to purchase lands by agreement.

60. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any estate or interest therein to sell and convey or release the same to the Company and to enter into all necessary agreements for that purpose and particularly it shall be lawful for all or any of the following parties so seized possessed or entitled as aforesaid so to sell convey or release that is to say all corporations

Parties under disability, enabled to sell and convey and exercise other powers.

tenants



tenants entail or for life married women seized in their own right or entitled to dower guardians committees of lunatics and idiots trustees or feoffees in trust for charitable or other purposes executors and administrators and all parties for the time being entitled to the receipt of the rents and profit of any such lands in possession or subject to any estate in dower or to any lease for life or for lives and years or any less interest and the power so to sell and convey or lease as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives and years or for years or for any less interest not only on behalf of themselves and their respective heirs executors administrators and successors but also for and on behalf of every person entitled in reversion remainder or expectancy after them or in defeasance of the estates of such parties and as to such married women whether they be of full age or not as if they were sole and of full age and as to such guardians on behalf of their wards and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively and that to the same extent as such wives wards lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability and as to such trustees executors or administrators on behalf of their *cestui que* trusts whether infants issue unborn lunatics feme covert or other persons and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability and the power hereinafter given to release lands from any rent charge or encumbrance and to agree to the apportionment of any such rent charge or encumbrance shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the Company

Incorporation of provisions of Government Railways Act.

61. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified together with the respective power authorities duties liabilities obligations and other the provisions therein contained are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein And that wheresoever in a section so incorporated the word "Commissioner" occurs there shall for the purposes of this Act be substituted in lieu of such word the expression "the Company" and whenever the word "Railway" or words implying works connected with a railway occur there shall be substituted such works respectively as denote the nature of the work undertaking or purpose in respect of which the land in question has been appropriated or resumed The following are the sections so declared to be incorporated with this Act

- (i.) As to the deposit of compensation money in certain cases with the Master in Equity and the application and investment thereof As to payment of such moneys in certain cases to trustees or the parties themselves and the exoneration of the Company in respect thereof after payment Sections forty seventy to fifty-two to be inclusive
- (ii.) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to make out a satisfactory title and as to presumption of ownership Sections fifty-three to fifty-six both inclusive
- (iii.) As to the procedure by the Company in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Company from entering upon or taking possession of the same Section sixty-one

(iv.)



(iv.) As to the purchase or redemption of the interests of mortgagees and the deposit of principal and interest due on mortgages with the Master in Equity the procedure to be observed when the mortgaged lands are of less value than the mortgage debt and where part only of lands in mortgage are taken Sections sixty-five to seventy both inclusive

(v.) As to the release of lands from rent charges and other encumbrances and procedure thereon Sections seventy-one to seventy-four both inclusive

(vi.) As to the apportionment of rent where lands taken are under lease and as to compensation to tenants Sections seventy-five to seventy-eight inclusive

(vii.) As to the entry upon or temporary occupation of lands the crossing of roads and other highways the making of bridges and other works of accommodation and the provisions consequent thereon Section ten and Sections eighty-four to ninety-seven both inclusive Provided that compensation shall in all respects be ascertained in accordance with this Act

62. It shall be lawful for the Company and all persons by them authorised to enter upon any lands not being a garden orchard or plantation attached or belonging to a house nor a park planted walk avenue or ground ornamentally planted and not being nearer to the mansion-house of the owner of any such lands than one hundred yards therefrom and to occupy the said lands so long as may be necessary for the construction or repair of any works authorised by this Act of the accommodation works connected therewith hereinafter mentioned and to use the same for any of the following purposes that is to say

For the purpose of taking earth or soil by side cuttings therefrom

For the purpose of depositing soil thereon

For the purpose of obtaining materials therefrom for the construction or repair of water works or such accommodation works as aforesaid or

For the purpose of forming roads thereon to or from or by the side of the said works

And in exercise of such powers it shall be lawful for the Company and all other persons employed by them to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works and also to take from any such lands any timber and also to dig and take from out thereof any clay stone gravel sand or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid and for the purposes aforesaid erect thereon workshops sheds and other buildings of a temporary nature Provided always that nothing in this Act contained shall exempt the Company from an action for nuisance or other injury (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid. Provided also that no stone or slate quarry brick-field or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Company either wholly or in part for any of the purposes lastly hereinbefore mentioned.

If



Company to separate the lands before using them.

63 If any such lands shall be used for any of the purposes aforesaid the Company shall if required so to do by the owner or occupier thereof separate the same by a sufficient fence from the lands adjoining thereto with such gates as may be necessary for the convenient occupation of such lands and in case of any difference between the owners or occupiers of such lands and the Company as to the necessity of such fence and gates then which said fences and gates as the Governor shall deem necessary for the purposes aforesaid. 5

Compensation to be made for temporary occupation

64 In any of the cases aforesaid where the Company shall take temporary possession of lands by virtue of the powers herein granted it shall be incumbent on them within one month after their entry upon such lands upon being required to do so to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Company so taking possession of his lands. 10 15

Before roads interfered with others to be substituted

65 If in the exercise of the powers hereby granted it be found necessary to cross-cut through raise sink or use any part of any road whether carriage-road horse-road or tram-road or railway either public or private so as to render it impassable for or dangerous or more than usually inconvenient to passengers or carriages or to the persons entitled to the use thereof the Company shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be. 20 25

Period for restoration of roads interfered with.

66 If the road so interfered with can be restored compatibly with the due completion of any works authorised under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Company or as near thereto as may be and if such road cannot be so restored the Company shall cause the new or substituted road or some other sufficient substituted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition. 35 40

Company to make sufficient approaches and fences to bridle ways and footpaths crossing on the line,

67 If the conduit or any sewerage works shall cross any highway other than a public carriage way on the level the Company shall make and at all times maintain convenient approaches with hand-rails or other fences and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates or stiles on each side of such conduit or works where the highway shall communicate therewith. 45

Works for benefit of owners.

68 The Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorised under this Act that is to say :-

Gates bridges &c

Such and so many convenient gates bridges arches culverts and passages over under or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof. 50 55

Fences &c.

Also sufficient post rails hedges ditches mounds or other fences for separating the land taken for the use of such works from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from straying thereout by reason thereof together with all necessary gates made to open towards such adjoining lands and not towards the said works and all necessary stiles and such posts rails and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be. 60

Also



Also all necessary arches tunnels culverts drains or other passages either over or under or by the sides of such work and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby. Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply nor to make any accommodation works in such a manner as would prevent or obstruct the using of any works for any water supply nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation.

Drains.

69 If any difference arise respecting the kind or number of any such accommodation works or the dimensions or sufficiency thereof respecting the maintaining thereof the same shall be determined by the Governor who shall appoint the time within which such works shall be commenced and executed.

Differences as to accommodation works to be settled by Governor.

70 If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Council or directed by the Governor to be made by the Company insufficient for the commodious use of their respective lands it shall be lawful for any such owner or occupier at any time at his own expense to make such further works for that purpose as he shall think necessary and as shall be agreed to by the Company.

Power to owners of lands to make additional accommodation works.

71 If the Company so desire all such last mentioned accommodation works shall be constructed under the superintendence of the Company's engineer and according to plans and specifications to be submitted to and approved by the Company. But the Company shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Company or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Company.

Such works to be constructed under the superintendence of the promoters' engineer.

72 If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding ten pounds.

Penalty on persons omitting to fasten gates

## PART V.

### MISCELLANEOUS PROVISIONS—LEGAL PROCEDURE.

73 One half of any penalty recovered under this Act shall be paid to the informer and where any distress is made for any sum of money to be levied under this Act the distress itself shall not be unlawful nor the persons making the same to be deemed trespassers on account of any defect or want of form in the information summons conviction warrant of distress or other proceedings relating thereto nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

Moiety of penalties to be paid to informers Distress not unlawful for want of form.

74 If it shall be proved to the satisfaction of any two Justices of the Peace in Petty Sessions assembled that the Company or any of their officers have been guilty of any default under this Act not otherwise provided for they shall be liable for each and every such default to a penalty not exceeding five pounds to be recovered in a summary way.

Penalty for default not otherwise provided for.

Where



Method of proceeding before Justices in question of damages &c.

75 Where by this Act any question of compensation expenses charges or damages or other matter is required to be referred to the determination of any one or more Justices it shall be lawful for any Justice upon the application of either party to summon the other party to appear before one Justice or before two Justices as the case may require at a time and place to be named in such summons and upon the appearance of such parties or in the absence of any of them upon proof of due service of the summons it shall be lawful for such one Justice or such two Justices as the case may be to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses on oath and the cost of every such enquiry shall be in the discretion of such Justices and they shall determine the amount thereof. 5 10

Penalties &c. to be summarily recovered before two Justices.

76 Every penalty forfeiture charge or sum of money imposed by or made payable under this Act the recovery of which is not otherwise provided for may be recovered by summary proceedings before two Justices under the provisions of the Act or Acts in force for the time being regulating summary proceedings before Justices. And where any such penalty charge or sum be not paid either immediately after conviction or adjudication or within the time appointed thereby the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels in the manner provided for by the said Acts. 15 20

Parties allowed to appeal to Quarter Sessions on giving security

77 If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices with respect to any penalty or forfeiture under the provisions of this Act such party may appeal to the General Quarter Sessions holden at Broken Hill or Silverton but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication nor unless ten days notice in writing of such appeal stating the nature and grounds thereof be given to the party against whom the appeal shall be brought nor unless the appellant forthwith after such notice enter into recognisances with two sufficient sureties before a Justice conditioned duly to prosecute such appeal and to abide the order of the Court thereon. At the General Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way or they may if they think fit adjourn to the following Sessions and upon the hearing of such appeal the Court may if they think fit mitigate any penalty or forfeiture or they may confirm or quash the adjudication and order any money paid by the appellant or levied by distress upon his goods to be returned to him and also may order such further satisfaction to be made to the party injured as they may judge reasonable and they may make such order concerning the costs both of the adjudication and of the appeal as they may reasonably think fit. 25 30 35 40

Court to make such order as they think reasonable.

Damage to be made good in addition to penalty.

78 If through any act neglect or default on account whereof any person shall have incurred any penalty imposed by this Act any damage to any conduit main pipe sewer or other property of the Company used in connection therewith shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty and the amount of such damages shall in case of dispute be determined by the Justices by whom the party incurring such penalty shall have been convicted and on non-payment of such damages on demand the same shall be levied by distress and such Justices or one of them shall issue warrants accordingly. 45 50

Transient offenders.

79 It shall be lawful for any officer or servant of the Company and all persons called by him to his assistance to seize and detain any person who shall have committed any offence against the provisions of this Act and whose name and residence shall be unknown to such officer or servant and convey him with all convenient dispatch before some Justice without any warrant or other authority than this Act and such Justice shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender. 55

Any



80 Any notice required by this Act or any bye-law or regulation made thereunder to be served on or given to any owner or occupier of any building land or premises or on or to any person may be in writing or partly in writing and partly printed or may be wholly printed. And  
 5 it shall be sufficient for all purposes of this Act unless the said Act in any case prescribes a different course to be pursued if any such notice is sent by post to the owner by registered letter addressed to his last known place of abode or of business or is served on the owner or occupier of such building land or premises or left with some inmate apparently over  
 10 the age of fourteen years living at the place of abode of such owner or occupier or if there be no occupier if such notice be posted on some conspicuous part of such building or land and any notice required to be given or served in respect of any public street road or lane may be served on or sent by post as aforesaid to the Council Clerk of the Borough  
 15 or municipal district wherein such street road or lane or the portion thereof affected by the notice is situated.

Notices

81 In the event of the wrongful exercise of any powers given by this Act nothing in this Act contained shall be construed to prevent any person from proceeding against the Company for nuisance or other-  
 20 wise in respect of the work or means used or employed by the Company in the exercise of the privileges hereby conferred on the Company or to prevent the Company or any person recovering any sum of money or otherwise proceeding in any court of competent jurisdiction but the Company or any person to whom any penalty or sum of money may by  
 25 the provisions of this Act be awarded may elect either to proceed in manner in this Act provided or to proceed for and recover damages or otherwise in any court of competent jurisdiction.

Indictment for nuisances

82 The Company shall not be entitled to any of the rights and privileges conferred upon them by this Act unless they shall have com-  
 30 pleted the projected works within the period of three years from the passing of this Act.

Limitation of time for erection of works.

## FIRST SCHEDULE.

### Borough of Broken Hill.

#### NOTICE TO LAY SERVICE PIPES.

35 Notice to the owners of tenements and premises in streets and the private streets lanes courts and alleys opening thereunto.

The main pipe in the said street having been laid down the owners of all tenements premises situated as above are hereby on or before the day of next to cause a  
 40 proper pipe and stop cocks to be laid so as to supply water from the main pipe to such tenements and premises.

A. B.

*Inspector (or Surveyor or other Officer) for the Company.*



## SECOND SCHEDULE.

## NOTICE OF CLAIM AND ABSTRACT.

To the Broken Hill and District Water Supply Company, Limited.

In pursuance of "The Broken Hill Water Supply Act of 1888" I (or we) hereby give you notice that I (or we) claim compensation in land hereunder described which has been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined Abstract.

## ABSTRACT.

Names and descriptions of parties claiming and nature of their interests whether tenants for life in tail or otherwise.	Situation and description of Property.	Quit rents payable if leasehold name of landlord term of lease and rent reserved.	Names of occupiers distinguishing whether tenants-at-will or under lease and rent reserved terms, &c.	Particulars of claim specifying separately the amount claimed for value of property and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents and place or places where the same may be inspected and name of the claimant's solicitor or agent.

(Signature)

(Address)

(Date)

## THIRD SCHEDULE.

## NOTICE OF VALUATION.

To A. B. claimant in respect of land hereunder described resumed under "The Broken Hill Water Supply Act of 1888."

Take notice that the land hereunder described being that in respect of the resumption whereof under the authority of the aforesaid Act your claim or compensation has been lodged has been valued at the sum of £

A. B.

Promoters, &c.

DESCRIPTION OF LAND IN RESPECT OF WHICH CLAIM HAS BEEN MADE.

All that piece or parcel of land &c. &c. &c.



SECOND SCHEDULE

1. The following items are included in the inventory of the property of the United States:

(a) The following items are included in the inventory of the property of the United States:

(b) The following items are included in the inventory of the property of the United States:

(c) The following items are included in the inventory of the property of the United States:

(d) The following items are included in the inventory of the property of the United States:

(e) The following items are included in the inventory of the property of the United States:

(f) The following items are included in the inventory of the property of the United States:

(g) The following items are included in the inventory of the property of the United States:

(h) The following items are included in the inventory of the property of the United States:

(i) The following items are included in the inventory of the property of the United States:

(j) The following items are included in the inventory of the property of the United States:

(k) The following items are included in the inventory of the property of the United States:

(l) The following items are included in the inventory of the property of the United States:

(m) The following items are included in the inventory of the property of the United States:

(n) The following items are included in the inventory of the property of the United States:

(o) The following items are included in the inventory of the property of the United States:

(p) The following items are included in the inventory of the property of the United States:

(q) The following items are included in the inventory of the property of the United States:

(r) The following items are included in the inventory of the property of the United States:

(s) The following items are included in the inventory of the property of the United States:

(t) The following items are included in the inventory of the property of the United States:

(u) The following items are included in the inventory of the property of the United States:

(v) The following items are included in the inventory of the property of the United States:

(w) The following items are included in the inventory of the property of the United States:

(x) The following items are included in the inventory of the property of the United States:

(y) The following items are included in the inventory of the property of the United States:

(z) The following items are included in the inventory of the property of the United States:



