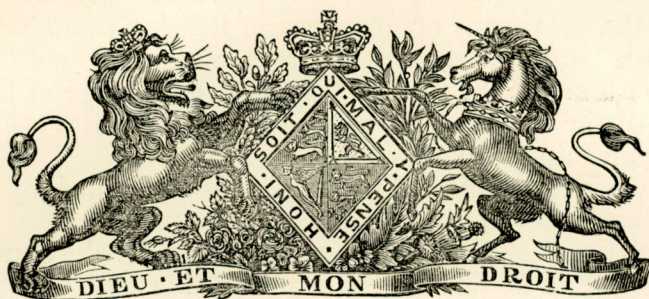


New South Wales.



ANNO QUINQUAGESIMO QUARTO

VICTORIÆ REGINÆ.

An Act to enable and authorize George Chaffey and Henry Gorman to establish a system of Irrigation and Water Supply within and adjacent to the Police District of Penrith; to acquire lands to establish Irrigation Works; to authorize the sale and supply of water for irrigation and domestic use; and to construct, make, and lay dams, weirs, or flood-gates upon or across the Nepean and Warragamba Rivers, and for all other purposes which may be incidental thereto. [Assented to, 19th December, 1890.]

WHEREAS it is expedient and would be to the advantage of the Preamble. inhabitants of the District of Penrith, in the Colony of New South Wales, and of the public generally, to establish a system, whereby the waters of the Nepean and Warragamba Rivers may be conserved and utilised for irrigation and domestic use, and for watering stock, and for other purposes. And whereas George Chaffey and Henry Gorman have acquired, and are about to acquire, large areas of lands within the Police District of Penrith, which lands are suitable for agricultural and horticultural purposes, if provided with a supply of water. 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 Promoters.

1. This Act may for all purposes be cited as the "Mulgoa ^{Title.} Irrigation Act."

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Mulgoa Irrigation.

Portions of Acts at variance with this.

2. Nothing contained in the "Municipalities Act of 1867," or the "Country Towns Water and Sewerage Act of 1880," shall be construed to control, limit, or restrict the operation of this Act, or to interfere with its provisions in respect of the construction or maintenance of works, or the storage, distribution, or supply of water, or in respect of the borrowing of money, the valuation of property, or the fixing or levying of rates.

Provisions subject to general legislation.

3. Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation throughout the Colony, and shall not in any way interfere with any right conferred before the passing of this Act.

Interpretation of terms.

4. In the construction of this Act, unless the context requires a different meaning, the expression—

"Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1889."

"Irrigation" means the use of water for flooding, moistening, or watering lands for agricultural or horticultural purposes.

"Domestic use," when employed with reference to water, means use for household and all other purposes, save for irrigation of gardens or land.

"The Governor" means the Governor, with the advice of the Executive Council.

"Irrigation area" means the lands and hereditaments described in the Schedule to this Act.

"Justice" means any Justice or Justices of the Peace.

"Minister" means the Minister charged with the administration of this Act.

"Owner" includes lessee or occupier.

"Person" means any individual as well as any Corporation, Municipality, Borough, or other local authority.

"Prescribed" means by this Act or by the regulations thereunder.

"Regulations" means the regulations made under this Act.

"Stock" means cattle, horses, sheep, and all other domestic animals.

"The Promoters" means the said George Chaffey and Henry Gorman, or their Assignees for the time being.

Conditions prior to acquisition of lands.

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

(I) The Promoters shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the Police District of Penrith, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land, naming the registered office as the place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands required.

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

(III) On compliance with the provisions of this section with respect to notices, the Promoters may, if they think fit, present a petition to the Governor, and such petition shall state the lands intended to be taken, and the purposes for which

Mulgoa Irrigation.

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

- (IV) On the 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 lands without the consent of the owners, lessees, and occupiers thereof.
- (V) After the completion of such inquiry the Governor may, by provisional order, empower the Promoters to put in force with reference to the lands referred to in such order the powers of the said Part II 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 Promoters to serve a copy of any order so made, in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

6. Subject to the provisions of this Act it shall be lawful for the Promoters to exercise any of the following powers, that is to say:— Powers of Promoters.

- (I) To erect, make, lay, or construct upon and across the River Nepean at any point within three miles above its junction with the Warragamba River, a dam, weir, or flood-gate, or either, with the necessary offtake works, and also to erect, make, lay, or construct upon and across the Warragamba River at any point within five miles above its junction with the Nepean River, a dam, weir, or flood-gate, or either, with the necessary offtake works, and also to make, lay, and construct from any point within one mile above the dam, weir, or flood-gate, upon or across the Warragamba River a tunnel, aqueduct, or canal, to carry the waters from the Warragamba River to the Nepean River above the dam, weir, or flood-gate, to be constructed upon or across the Nepean river, and to maintain the same.
- (II) To erect such boilers, engines, pumps, and other machinery within or without the irrigation area to raise any such waters as may be necessary and to work the same.
- (III) To erect, make, lay, or construct upon any part of the irrigation area such dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping machinery, reservoirs, dams, canals, water-courses, embankments, or other works as may be necessary or expedient for carrying out the purposes of this Act, and to maintain and work the same.
- (IV) To take or divert water from the said rivers above such dams, weirs, or flood-gates, and to convey to and distribute the same within the irrigation area or elsewhere as hereinafter provided, in quantities not exceeding one cubic foot per minute for every five acres of land within the irrigation area. Provided, nevertheless, that nothing contained in this

Act

Mulgoa Irrigation.

Act shall authorize the use of water from said rivers for irrigation purposes while less than five million gallons per diem flow past the junction of said rivers, and seventy-five gallons every twenty-four hours per head of the population of any town, village, or settlement which may be supplied by water under the provisions of this Act for domestic use. Provided always that notwithstanding anything in this Act contained it shall not be lawful for the Promoters by any such works as aforesaid to diminish or reduce the flow of the water of either of such rivers below such works beyond such mean discharge as the Governor shall from time to time prescribe by notification to be published by the Minister in the *Government Gazette*.

- (v) To widen or deepen, and use for drainage or any other purpose, any existing creek, lagoon, swamp, or water-course within or leading to or from the irrigation area.
- (vi) To lay pipes or cut trenches, canals, or ducts within the irrigation area for the purpose of delivering water to owners of lands, and to maintain the same.
- (vii) To lay pipes, cut trenches, canals, or ducts outside the irrigation area for the purpose of delivering water to owners of land outside such area, and for the purposes of supplying water for domestic uses and to maintain the same.
- (viii) To enter into and upon any lands and take and lay down levels of the same for the purpose of making, laying, or constructing canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, channels, or other works incidental thereto, and to set out such parts thereby as they shall think necessary.
- (ix) After payment of compensation as hereinafter provided to 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.
- (x) To enter upon any Crown or private lands, streets, roads, or thoroughfares, and to construct, maintain, lay, or place therein any canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, water-courses, embankments, pipes, bridges, or other works incidental thereto, and repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any water-courses or other works being their property or under their control.

Compensation for
damage done by
Promoters.

7. Whenever any person employed by the Promoters in pursuance of this Act shall, while in the execution of his duties, cause injury to land, fences, or other property, or shall cause loss or damage to any owner of land or other property, the person suffering such injury, loss, or damage shall be entitled to be compensated by the Promoters.

Plans of dams, &c.,
to be submitted to
Minister.

8. The plans of any dams, weirs, culverts, bridges, or other works which may interfere in any way with the flow of the River Warragamba, or the River Nepean, or any other natural channel shall be submitted to the Minister, and must receive his sanction before such works can be entered upon.

Arbitration.

9. When any person claims compensation from the Promoters, on account of any injury, loss, or damage, and such claim is disputed by the Promoters, the compensation claimed shall be settled in accordance with the provisions of the "Public Works Act of 1888" in respect of claims for compensation made thereunder, the words "constructing authority" mentioned in the said Act being for this purpose

Mulgoa Irrigation.

purpose read "The Promoters" as hereby defined. Provided always that in the exercise of any of the powers hereby conferred the Promoters 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 actual damage sustained by them through the exercise of such powers.

10. The Promoters may open and break up the soil and pavement of any streets, roads, and bridges, and may open and break up sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same or other limits, pipes, conduits, service pipes, and other works, and from time to time, repair, alter, or remove the same, and for the purposes aforesaid remove and use the earth and materials in and under such streets, roads and bridges, and do all other acts which the Promoters shall from time to time deem necessary for supplying water as authorized by this Act. Provided nevertheless that permission be obtained from respective Municipal Councils when such streets are outside the irrigation area.

Power to open streets.

11. When the Promoters shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all possible 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 of the sewer, drain, tunnel, or water-pipe so opened or broken up, and carry away the rubbish occasioned thereby. And shall at all times, whilst any such road or pavement shall be so open or broken up, cause the same to be fenced or 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.

Reinstatement of streets.

12. The Promoters may, within the irrigation area, from time to time, divert or alter, temporarily or permanently, any part of the course of any creeks or water-courses, roads, streets, or ways, in order the more conveniently to exercise any of the powers conferred on the Promoters, and may cut drains and deliver water into, embank, widen, or deepen, any creek, water-course, lagoon, or swamp within such area, and may purchase or take on lease any existing water-works, and erect or construct thereon all necessary works and machinery.

Diversion of water-courses.

13. The Promoters may supply any person, either within or without the irrigation area, with water for domestic use, by measure or otherwise, at such rates, upon such terms, and subject to such conditions as may be agreed upon by the Promoters.

Agreements to supply water.

14. The Promoters 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 or continuing to supply such water if the want of such supply arises from unusual drought or other unavoidable cause, or from accident, or from necessary repairs.

Promoters not liable for accidental failure to supply water.

15. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or instrument for measuring the quantity of water supplied, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration and upon such terms as may be agreed upon by the Promoters; and such agreement shall and may be enforced in any Court of Law or Equity.

Promoters may let meters.

16. Such meters, water-gauges, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or be liable 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 insolvency, or other legal proceedings

Meters of Promoters not distrainable.

Mulgoa Irrigation.

proceedings against or affecting the person using such water, or the occupier of the premises, or other the person in whose possession the meters, water-gauges, pipes, instruments, and apparatus may be.

Meter to be supplied and maintained by consumer.

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

Power to officers or servants of Promoters to inspect meter.

18. The Promoters or their officers or servants may enter in and upon any lands, houses, or buildings, and with or without horses or carriages, may enter in and upon any lands to, through, or into which water is supplied or carried by the Promoters to inspect the meters, water-gauges, canals, dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, or other works, and the instruments, pipes, and apparatus for the measuring, conveyance, reception, storage, or distribution of water, or for the purpose of ascertaining the quantity of water supplied or consumed, or to examine if there be any waste or misuse of water; and may from time to time enter any house, building, or lands, for the purpose of removing or altering any meter, water-gauge, instrument, pipe, or apparatus, upon or affecting the property of the Promoters. And if any person hinders any such Promoter, officer, or servant from entering or making such inspection or alteration 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 six in the forenoon and six in the afternoon.

Promoters may make regulations.

19. Subject to the provisions of this Act the Promoters may, from time to time, make, amend, and repeal regulations for or relating to all or any of the following subjects:—

- (i) The supply and sale and distribution of water to any person within or without the irrigation area.
- (ii) The rate and price at which water shall be sold, and the time of payment for the same, and the order in which applicants may be served.
- (iii) For determining and adjusting the interest of the various landowners and others within the irrigation area to and in the irrigation works.
- (iv) The management and maintenance of the irrigation works, and the payment of the annual working expenses, and the appointment of Water Managers or Trustees to supervise and control all or any matters referred to in this section.
- (v) The prevention and remedying of waste, undue consumption, theft, fouling or contamination of the water contained in or supplied from any part of the Promoters' works.
- (vi) The protection of the water and every part of the works from trespass or injury.
- (vii) The imposing of penalties for any breach of any regulation by this Act authorized to be made by the Promoters, not exceeding the sum of fifty pounds and the enforcement of the same; and
- (viii) Generally for duly administering and carrying out the powers given to the Promoters.

And such regulations shall, upon being approved by the Governor and published in the *Government Gazette*, be valid in law.

Mulgoa Irrigation.

20. The price to be charged by the Promoters for water sold to any person for domestic use shall in no case exceed one shilling per one thousand gallons. Maximum price of water.

21. If any person supplied with water by the Promoters wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this Act or of the regulations of the Promoters, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the Promoters, shall be liable for any such offence to a penalty not exceeding five pounds in addition to the value of the water misused, and the Promoters may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes, canals, sewers, drains, or flumes by or through which water is supplied to him or for his use, and may cease to supply such person with water so long as the cause of injury remains or is not remedied. PROTECTION OF THE WATER.
In case of any breach of this part of this Act water may be cut off.

22. If any person bathe in any stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or wash, throw, or cause to enter therein any animal, he shall for every such offence forfeit a sum not exceeding five pounds. POLLUTING THE WATER.
Penalty for bathing in water of Promoters.

23. If any person throw, convey, or cause or permit to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing into any such river, stream, drain, 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 such offence forfeit a sum not exceeding twenty pounds. Penalty for throwing dirt therein.

24. If any person wilfully and after due notice cause the water of any sink, sewer, or drain, or other filthy water belonging to him or under his control to run or be brought into any such river, stream, drain, reservoir, aqueduct, or other water-works (belonging to the Promoters), or shall do any other act whereby the water of the Promoters shall be fouled, he shall for each such 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.

25. Any person wilfully polluting the water supplied or to be supplied by the Promoters (onus of proof that water is polluted resting with Promoters) shall forfeit a sum not exceeding twenty pounds, to be recovered with full costs of suit for each day during which such pollution shall continue after the expiration of twenty-four hours from the time when notice of the offence has been served on such person by the Promoters. Penalty for permitting substances produced in making gas to flow into works.

26. Any person who shall, without the authority of the Promoters, establish or re-establish, or permit to be established or re-established any connection which has not been authorized, or which may have been cut off, removed, or severed by the Promoters, or who shall in any manner wilfully injure or tamper with any connection-pipe, meter, water-gauge, sluice, canal, flume, aqueduct, cistern, ball-cock, stop-cock, or waste-pipe which may have been approved by the Promoters, so as to destroy, diminish, or endanger its efficiency, may be summoned for such offence before two Justices, and, on conviction thereof, shall be adjudged to pay the Promoters the amount of the charges and expenses which the Promoters 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 also forfeit and pay a penalty not exceeding ten pounds. Any person re-establishing any connection with the main unless authorized or wilfully injuring any pipe liable to a penalty.

27. The charges for water and all sums due to the Promoters shall be paid by and be recoverable from the owner of the premises, or the occupier, or person requiring, receiving, or using the water. When water is supplied by measure, all rates or charges for the same, Charges and rates for water payable in advance.
for

Mulgoa Irrigation.

for water, shall be paid at such time and in such manner as shall be provided for by the regulations of the Promoters. The rent payable for meters shall be payable in advance as and from the first day of January, April, July, and October in each year.

Refusal to pay charges.

28. If any person refuse or neglect to pay on demand to the Promoters any rate, charge, or sum due by such person under this Act, the Promoters may recover the same with costs in any Court of competent jurisdiction, and any such person may be sued in any Court sitting within the Police District of Penrith.

Penalty for unlawfully taking water.

29. If any person wrongfully takes or uses any water belonging to the Promoters, or supplied by them for the use of any persons, he shall for every such offence be liable to a penalty not exceeding fifty pounds.

Penalty for fixing uncertified meter.

30. If any person fix or refix any sluice, stop, outlet, water-meter, water-gauge, or other instrument upon any pipe or canal, sluice or aqueduct the property of the Promoters without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding ten pounds.

For removing or altering meter without notice.

31. If any person remove or alter the position of, or in any way interfere with, any sluice, stop outlet, meter, water-gauge, or other instrument, without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding twenty pounds. Provided that the Promoters shall at all times have an office within the Police District of Penrith, and shall register the address of the same at the Court-house, Penrith.

Notice of removal, &c., of meter.

32. Every person requiring to remove or alter the position of or to open any sluice, stop-outlet, meter, or water-gauge shall leave six days notice in writing to that effect at the registered office of the Promoters. And if any person refuse or delay to have any sluice, stop-outlet, meter, or water-gauge properly repaired and put in correct working order after having been required by any officer of the Promoters so to do, the Promoters may shut off the supply of water from the land or premises of such person, either by cutting the service-pipe or otherwise, until such sluice, stop-outlet, meter, or water-gauge shall have been properly repaired and certified by some officer of the Promoters as being in proper working order.

Water may be cut off if meter not in order

Penalty for obstructing construction of works.

33. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any works undertaken under the authority of this Act, 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 twenty pounds for every such offence.

Penalty for destroying works.

34. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any reservoir, dam, tank, tunnel, water-course, sluice, main, distributary pipe, aqueduct, bridge, road-way, embankment, pump, or engine, or other part whatever of the machinery or works of the Promoters, such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

Mulgoa Irrigation.

PART II.

The acquisition and occupation by the Promoters of lands—ascertainment of compensation in respect thereof.

35. After the approval by the Governor of the acquisition of lands otherwise than by agreement, and payment of compensation made and provided by this Act, but not before, the Promoters shall be empowered to acquire or occupy such lands in manner hereinafter provided, and in the case of Crown Lands such acquisition or occupation shall be made under and subject to the provisions of the "Crown Lands Act of 1884" and the Amending Act of 1889.

Lands required how acquired.

36. It shall be lawful for the Promoters, by notification to be published in the *Gazette*, and in one or more newspapers published or circulating in the said Police District of Penrith, to declare that the land described in such notification is required for the purpose therein expressed, but the purpose so to be expressed shall be limited to the acquisition of lands for erecting, making, laying, or constructing works, canals, aqueducts, flumes, water-courses, or other works for carrying out the objects of this Act.

How and when lands can be taken.

37. Upon the publication of the notification 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 Promoters 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 Promoters.

Vesting, &c., of lands.

38. 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 divest the estate of such corporation or person, and to vest the said land, to the extent aforesaid, in the Promoters, 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.

39. 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.

Compensation for private lands.

40. 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 Promoters, or assessed by the jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Promoters 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

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

Mulgoa Irrigation.

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.

41. 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 Promoters, 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.

Claim and report thereon.

42. Within sixty days after the receipt of every such notice of claim, the Promoters 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 Schedule hereto.

Compensation by action in Supreme Court.

43. If within ninety days after the service of notice of claim the claimant and the Promoters 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 Promoters; 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 Promoters or of the claimant, a special jury of twelve may be summoned for the trial of such action. Provided also that with the consent in writing of the Promoters 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.

Issue in action of compensation verdict and costs.

44. 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 Promoters 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 the costs of the action shall be borne by the Promoters, 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.

As to payment of compensation.

45. 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 per annum, reckoned from the date of the notification 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

Mulgoa Irrigation.

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.

46. 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 Promoters, but also to the damage (if any) to be sustained by the claimant by reason of the severing of the lands 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.

47. Subject to the provisions of this Act it shall be lawful for the Promoters, and for any officer there 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 Promoters to enter upon the lands of any person whomsoever, which the Promoters 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.

48. Notwithstanding anything hereinbefore contained it shall be lawful for the Promoters, 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 such 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.

49. 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 Promoters, 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 in tail 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 profits 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 for years, or any less interest; and the power so to sell and convey or release 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

Mulgoa Irrigation.

of this Act if they had respectively been under no disability; and the power hereinafter given to release lands from any rent-charge or incumbrance, and to agree for the apportionment of any such rent-charge or incumbrance shall extend to, and may lawfully be exercised by, every party hereinbefore enabled to sell, and convey, or release lands to the Promoters.

Incorporation of provisions of Government Railways Act.

50. The several sections of the Government Railways Act, twenty-second Victoria number nineteen, hereinafter specified, together with the respective powers, authorities, duties, liabilities, obligations, and other the provisions therein contained, are hereby declared, notwithstanding the repeal of the said Act, 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 any 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 Promoters." 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:—

- (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 money in certain cases to trustees or to the parties themselves, and the exoneration of the Promoters 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) As to the procedure by the Promoters in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Promoters 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 incumbrances, 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.

Power to take temporary possession of land.

51. It shall be lawful for the Promoters, 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
wa'k,

Mulgoa Irrigation.

walk, avenue, or ground ornamentally planted, and not being nearer to the dwelling-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, 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 the 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 Promoters and all other persons employed therein 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 or 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 to erect thereon workshops, sheds, and other buildings of a temporary nature. Provided always that nothing in this Act contained shall exempt the Promoters 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 Promoters either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Company shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom.

52. If any such lands shall be used for any of the purposes aforesaid, the Promoters 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 Promoters as to the necessity for such fences and gates, then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid.

Promoters to separate the lands before using them.

53. In any of the cases aforesaid where the Promoters 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 Promoters so taking possession of his lands.

Compensation to be made for temporary occupation.

54. 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 Promoters 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,

Before roads interfered with others to be substituted.

Mulgoa Irrigation.

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.

55. 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 Promoters, or as near thereto as may be, and if such road cannot be so restored, the Promoters 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.

Promoters to make sufficient approaches and fences to bridle-ways and footways crossing on the line.

56. If any pipe, canal, or duct shall cross any highway, other than a public carriage-way, on the level, the Promoters shall make and at all times maintain convenient ascents and descents, and other 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, and if the same shall be a footway, good and sufficient gates or stiles on each side of works where the highway shall communicate therewith.

Works for benefit of owners.

57. The Promoters 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—

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 pipe, canal, or duct passing over such lands shall have been laid down or formed or during the formation thereof.

Fences, &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 works as soon as conveniently may be.

Drains.

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

Provided always, that the Promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works authorized by this Act, 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.

Differences as to accommodation works to be settled by Governor.

58. 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 also appoint the time within which such works shall be commenced and executed.

Mulgoa Irrigation.

59. If any of the owners or occupiers of lands affected by such pipe, canal, or duct shall consider the accommodation works made by the Promoters, or directed by the Governor to be made by the Promoters, 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 Promoters.

Power to owners of lands to make additional accommodation works.

60. If the Promoters so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of the Promoters' engineer, and according to plans and specifications to be submitted to and approved by the Promoters. But the Promoters 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 Promoters, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Promoters.

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

61. 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 III.

Miscellaneous Provisions—Legal Procedure.

62. 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.

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

63. If it shall be proved to the satisfaction of any two Justices in Petty Sessions assembled, that the Promoters 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.

64. 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 Justices, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before two Justices 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 two Justices 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.

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

65. 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

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

Mulgoa Irrigation.

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 by the said Acts.

Parties allowed to appeal to Quarter Sessions on giving security.

66. If any party shall feel aggrieved by any determination or adjudication of any Justices with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the nearest Quarter Sessions; 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 Quarter Sessions, for which such notice shall be given, the Court shall proceed to determine the appeal in a summary way, or they may, if they think fit, adjourn it 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 think reasonable.

Court to make such order as they think reasonable.

Damage to be made good in addition to penalty.

67. 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 Promoters, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damages 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 their warrant accordingly.

Transient offenders.

68. It shall be lawful for any officer or servant of the Promoters, and all persons assisting him, 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, to be dealt with according to law.

Notices.

69. Any notice required by this Act, or by 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 served or given 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.

Mulgoa Irrigation.

70. 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 indicting, or otherwise proceeding, either civilly or criminally against the Promoters or their officers, for nuisance or otherwise in respect of the works, or means used or employed by the Promoters in the exercise of the privileges hereby conferred on the Promoters, or to prevent the Promoters, or any person recovering any sum of money, or otherwise proceeding in any Court of competent jurisdiction; but the Promoters 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.

71. For any of the purposes of the Promoters authorized by this Act the Promoters may from time to time borrow money in such sum or sums as the Promoters may think fit; and for securing the repayment of the money so borrowed, with interest, it shall be lawful for the Promoters to issue debentures, to be charged and secured upon the Promoters lands, works, materials, rights, privileges, and revenues or to mortgage the same.

Borrowing powers.

72. The Promoters shall assign and transfer to the purchaser or purchasers of land within the irrigation area at time of purchase such a water-right to attach to the land so purchased as the Promoters may determine, and such water-right, when assigned or transferred to such purchaser or purchasers, shall be expressed in or endorsed upon the deed of conveyance, or in or upon the transfer of such land; and in all cases where the land is under the provisions of the Real Property Act, such water-right shall be noted by the Registrar-General upon the purchaser's certificate of title, and such water-right shall, for all time, attach to the land to which the same has been assigned, and shall be held by and belong to the owner of such land for the time being. Provided such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

Assignment of water-rights to purchasers.

73. It shall be lawful for the Promoters, at any time after the passing of this Act, to assign, transfer, convey, and release to any person, or to any Company duly incorporated for that purpose, all the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed upon it by this Act, together with all lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired by it under or in pursuance thereof, and purchased, occupied, or used in connection with the same, and upon and after the completion of such assignment, transfer, conveyance, and release the said person or Company, their officers, agents, and servants alone may lawfully exercise and enjoy all the rights, powers, authorities, and privileges, and shall be and continue alone to be subject to all the liabilities, obligations, penalties, and forfeitures to which the said Promoters, their officers, agents, or servants would have been entitled or subject had no such assignment, transfer, conveyance, and release been completed. Provided, however, that nothing herein contained shall prejudice or affect any rights accrued, action or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by the said promoters before the completion of the said assignment, transfer, conveyance, and release, and for which the said assignees shall be as fully liable as the Promoters would have been if no such assignment, transfer, conveyance, and release had been executed.

Rights, powers, &c. under this Act may be assigned, &c., to incorporate Company.

74. Upon the application of the Promoters the Governor may, by proclamation, declare that the provisions of this Act shall be extended to lands other than those within the irrigation area, and thereupon such lands which shall in such proclamation be described shall be included within the provisions of this Act, the same as if such lands had been included in the provisions of this Act originally.

Power to extend provisions of the Act.

Mulgoa Irrigation.

Voidance of Act.

75. This Act shall become null and void unless works to the value of twenty thousand pounds be carried out within two years after the passing thereof.

Penalty for infraction of proviso in subsection (iv) of section 5 of this Act.

76. In the event of any infraction by the Promoters of the proviso in subsection (iv) of section five in respect of the quantity of water to be taken, they shall be liable to a penalty not exceeding one hundred pounds per day for each and every such offence, and in case of a second like offence it shall be lawful for the Governor to forfeit all rights of the Promoters or their assigns under this Act.

FIRST SCHEDULE.

Irrigation area, about 18,610 acres, county of Cumberland.

- The portion of the York's Estate, parishes Mulgoa and Claremont, the property of the Metropolitan Mutual Permanent Building and Investment Association, Limited, 55 Market-street, Sydney. About 7,000 acres, more or less.
- The portions of the Littlefield's Estate, parish of Mulgoa, the property of A. W. Stephen, 28 Castlereagh-street, Sydney. About 700 acres.
- Portion of the Winbourn Estate, parish of Mulgoa, abutting on to the Nepean River, and lying to the south, east, and north of the Winbourn Homestead, the property of the Honorable G. H. Cox, Winbourne, Mulgoa. 1,000 acres.
- The Fern Hill Estate, parish of Mulgoa, the property of Edward Standish Cox, Esquire, of Fernside, Rylstone. About 950 acres.
- Jamieson, land comprising Brabyn's 500 acre and John Jamieson's 460 acre grants, parish of Mulgoa, the property of T. Jamieson, Clarence River. About 960 acres.
- Tottenham Estate, parish of Claremont, the property of Sir D. Cooper, England. About 4,000 acres.
- Portions of John Oxley's 600 acre, P. P. King's 650 acre, Maria King's 280 acre, and A. J. King's 790 acre grants, the property of the Honorable P. G. King, Banksia, Double Bay. About 2,000 acres.
- Blaxland's Grant, parish of Claremont, the property of F. W. Wentworth. About 2,000 acres.
- Fitzgerald's Estate, parishes Claremont and Melville, the property of Fitzgerald's Estate. About 1,200 acres.

SECOND SCHEDULE.

Notice of Claim and Abstract.

To the Promoters of the Mulgoa Irrigation Scheme.

In pursuance of the "Mulgoa Irrigation Act" I (*or we*) hereby give you notice that I (*or we*) claim compensation for 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, 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 claimant's solicitor or agent.

(Signature)
(Address)
(Date)

Mulgoa Irrigation.

THIRD SCHEDULE.

Notice of Valuation.

To A.B., claimant in respect of the land hereunder described, resumed under the
"Mulgoa Irrigation Act."

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

A.B.,
Promoters, &c.

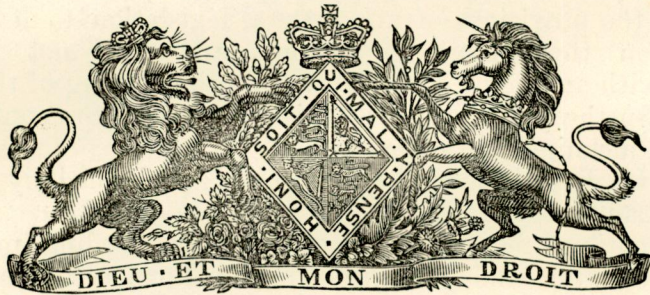
Description of land in respect of which claim has been made.

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

[1s. 3d.]

By Authority: CHARLES POTTER, Government Printer, Sydney, 1890.

New South Wales.



ANNO QUINQUAGESIMO QUARTO

VICTORIÆ REGINÆ.

An Act to enable and authorize George Chaffey and Henry Gorman to establish a system of Irrigation and Water Supply within and adjacent to the Police District of Penrith; to acquire lands to establish Irrigation Works; to authorize the sale and supply of water for irrigation and domestic use; and to construct, make, and lay dams, weirs, or flood-gates upon or across the Nepean and Warragamba Rivers, and for all other purposes which may be incidental thereto. [Assented to, 19th December, 1890.]

WHEREAS it is expedient and would be to the advantage of the inhabitants of the District of Penrith, in the Colony of New South Wales, and of the public generally, to establish a system, whereby the waters of the Nepean and Warragamba Rivers may be conserved and utilised for irrigation and domestic use, and for watering stock, and for other purposes. And whereas George Chaffey and Henry Gorman have acquired, and are about to acquire, large areas of lands within the Police District of Penrith, which lands are suitable for agricultural and horticultural purposes, if provided with a supply of water. 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:—

Preamble.

PART I.

Preliminary—Powers and duties of the Promoters.

1. This Act may for all purposes be cited as the "Mulgoa Irrigation Act."

Title.

Mulgoa Irrigation.

Portions of Acts at variance with this.

2. Nothing contained in the "Municipalities Act of 1867," or the "Country Towns Water and Sewerage Act of 1880," shall be construed to control, limit, or restrict the operation of this Act, or to interfere with its provisions in respect of the construction or maintenance of works, or the storage, distribution, or supply of water, or in respect of the borrowing of money, the valuation of property, or the fixing or levying of rates.

Provisions subject to general legislation.

3. Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation throughout the Colony, and shall not in any way interfere with any right conferred before the passing of this Act.

Interpretation of terms.

4. In the construction of this Act, unless the context requires a different meaning, the expression—

"Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1889."

"Irrigation" means the use of water for flooding, moistening, or watering lands for agricultural or horticultural purposes.

"Domestic use," when employed with reference to water, means use for household and all other purposes, save for irrigation of gardens or land.

"The Governor" means the Governor, with the advice of the Executive Council.

"Irrigation area" means the lands and hereditaments described in the Schedule to this Act.

"Justice" means any Justice or Justices of the Peace.

"Minister" means the Minister charged with the administration of this Act.

"Owner" includes lessee or occupier.

"Person" means any individual as well as any Corporation, Municipality, Borough, or other local authority.

"Prescribed" means by this Act or by the regulations thereunder.

"Regulations" means the regulations made under this Act.

"Stock" means cattle, horses, sheep, and all other domestic animals.

"The Promoters" means the said George Chaffey and Henry Gorman, or their Assignees for the time being.

Conditions prior to acquisition of lands.

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

(I) The Promoters shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the Police District of Penrith, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land, naming the registered office as the place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands required.

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

(III) On compliance with the provisions of this section with respect to notices, the Promoters may, if they think fit, present a petition to the Governor, and such petition shall state the lands intended to be taken, and the purposes for which

Mulgoa Irrigation.

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

- (IV) On the 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 lands without the consent of the owners, lessees, and occupiers thereof.
- (V) After the completion of such inquiry the Governor may, by provisional order, empower the Promoters to put in force with reference to the lands referred to in such order the powers of the said Part II 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 Promoters to serve a copy of any order so made, in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

6. Subject to the provisions of this Act it shall be lawful for the Promoters to exercise any of the following powers, that is to say:— Powers of Promoters.

- (I) To erect, make, lay, or construct upon and across the River Nepean at any point within three miles above its junction with the Warragamba River, a dam, weir, or flood-gate, or either, with the necessary offtake works, and also to erect, make, lay, or construct upon and across the Warragamba River at any point within five miles above its junction with the Nepean River, a dam, weir, or flood-gate, or either, with the necessary offtake works, and also to make, lay, and construct from any point within one mile above the dam, weir, or flood-gate, upon or across the Warragamba River a tunnel, aqueduct, or canal, to carry the waters from the Warragamba River to the Nepean River above the dam, weir, or flood-gate, to be constructed upon or across the Nepean river, and to maintain the same.
- (II) To erect such boilers, engines, pumps, and other machinery within or without the irrigation area to raise any such waters as may be necessary and to work the same.
- (III) To erect, make, lay, or construct upon any part of the irrigation area such dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping machinery, reservoirs, dams, canals, water-courses, embankments, or other works as may be necessary or expedient for carrying out the purposes of this Act, and to maintain and work the same.
- (IV) To take or divert water from the said rivers above such dams, weirs, or flood-gates, and to convey to and distribute the same within the irrigation area or elsewhere as hereinafter provided, in quantities not exceeding one cubic foot per minute for every five acres of land within the irrigation area. Provided, nevertheless, that nothing contained in this

Act

Mulgoa Irrigation.

Act shall authorize the use of water from said rivers for irrigation purposes while less than five million gallons per diem flow past the junction of said rivers, and seventy-five gallons every twenty-four hours per head of the population of any town, village, or settlement which may be supplied by water under the provisions of this Act for domestic use. Provided always that notwithstanding anything in this Act contained it shall not be lawful for the Promoters by any such works as aforesaid to diminish or reduce the flow of the water of either of such rivers below such works beyond such mean discharge as the Governor shall from time to time prescribe by notification to be published by the Minister in the *Government Gazette*.

- (v) To widen or deepen, and use for drainage or any other purpose, any existing creek, lagoon, swamp, or water-course within or leading to or from the irrigation area.
- (vi) To lay pipes or cut trenches, canals, or ducts within the irrigation area for the purpose of delivering water to owners of lands, and to maintain the same.
- (vii) To lay pipes, cut trenches, canals, or ducts outside the irrigation area for the purpose of delivering water to owners of land outside such area, and for the purposes of supplying water for domestic uses and to maintain the same.
- (viii) To enter into and upon any lands and take and lay down levels of the same for the purpose of making, laying, or constructing canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, channels, or other works incidental thereto, and to set out such parts thereby as they shall think necessary.
- (ix) After payment of compensation as hereinafter provided to 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.
- (x) To enter upon any Crown or private lands, streets, roads, or thoroughfares, and to construct, maintain, lay, or place therein any canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, water-courses, embankments, pipes, bridges, or other works incidental thereto, and repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any water-courses or other works being their property or under their control.

Compensation for
damage done by
Promoters.

7. Whenever any person employed by the Promoters in pursuance of this Act shall, while in the execution of his duties, cause injury to land, fences, or other property, or shall cause loss or damage to any owner of land or other property, the person suffering such injury, loss, or damage shall be entitled to be compensated by the Promoters.

Plans of dams, &c.,
to be submitted to
Minister.

8. The plans of any dams, weirs, culverts, bridges, or other works which may interfere in any way with the flow of the River Warragamba, or the River Nepean, or any other natural channel shall be submitted to the Minister, and must receive his sanction before such works can be entered upon.

Arbitration.

9. When any person claims compensation from the Promoters, on account of any injury, loss, or damage, and such claim is disputed by the Promoters, the compensation claimed shall be settled in accordance with the provisions of the "Public Works Act of 1888" in respect of claims for compensation made thereunder, the words "constructing authority" mentioned in the said Act being for this purpose

Mulgoa Irrigation.

purpose read "The Promoters" as hereby defined. Provided always that in the exercise of any of the powers hereby conferred the Promoters 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 actual damage sustained by them through the exercise of such powers.

10. The Promoters may open and break up the soil and pavement of any streets, roads, and bridges, and may open and break up sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same or other limits, pipes, conduits, service pipes, and other works, and from time to time, repair, alter, or remove the same, and for the purposes aforesaid remove and use the earth and materials in and under such streets, roads and bridges, and do all other acts which the Promoters shall from time to time deem necessary for supplying water as authorized by this Act. Provided nevertheless that permission be obtained from respective Municipal Councils when such streets are outside the irrigation area.

Power to open streets.

11. When the Promoters shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all possible 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 of the sewer, drain, tunnel, or water-pipe so opened or broken up, and carry away the rubbish occasioned thereby. And shall at all times, whilst any such road or pavement shall be so open or broken up, cause the same to be fenced or 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.

Reinstatement of streets.

12. The Promoters may, within the irrigation area, from time to time, divert or alter, temporarily or permanently, any part of the course of any creeks or water-courses, roads, streets, or ways, in order the more conveniently to exercise any of the powers conferred on the Promoters, and may cut drains and deliver water into, embank, widen, or deepen, any creek, water-course, lagoon, or swamp within such area, and may purchase or take on lease any existing water-works, and erect or construct thereon all necessary works and machinery.

Diversion of water-courses.

13. The Promoters may supply any person, either within or without the irrigation area, with water for domestic use, by measure or otherwise, at such rates, upon such terms, and subject to such conditions as may be agreed upon by the Promoters.

Agreements to supply water.

14. The Promoters 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 or continuing to supply such water if the want of such supply arises from unusual drought or other unavoidable cause, or from accident, or from necessary repairs.

Promoters not liable for accidental failure to supply water.

15. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or instrument for measuring the quantity of water supplied, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration and upon such terms as may be agreed upon by the Promoters; and such agreement shall and may be enforced in any Court of Law or Equity.

Promoters may let meters.

16. Such meters, water-gauges, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or be liable 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 insolvency, or other legal proceedings

Meters of Promoters not distrainable.

Mulgoa Irrigation.

proceedings against or affecting the person using such water, or the occupier of the premises, or other the person in whose possession the meters, water-gauges, pipes, instruments, and apparatus may be.

Meter to be supplied and maintained by consumer.

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

Power to officers or servants of Promoters to inspect meter.

18. The Promoters or their officers or servants may enter in and upon any lands, houses, or buildings, and with or without horses or carriages, may enter in and upon any lands to, through, or into which water is supplied or carried by the Promoters to inspect the meters, water-gauges, canals, dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, or other works, and the instruments, pipes, and apparatus for the measuring, conveyance, reception, storage, or distribution of water, or for the purpose of ascertaining the quantity of water supplied or consumed, or to examine if there be any waste or misuse of water; and may from time to time enter any house, building, or lands, for the purpose of removing or altering any meter, water-gauge, instrument, pipe, or apparatus, upon or affecting the property of the Promoters. And if any person hinders any such Promoter, officer, or servant from entering or making such inspection or alteration 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 six in the forenoon and six in the afternoon.

Promoters may make regulations.

19. Subject to the provisions of this Act the Promoters may, from time to time, make, amend, and repeal regulations for or relating to all or any of the following subjects:—

- (I) The supply and sale and distribution of water to any person within or without the irrigation area.
- (II) The rate and price at which water shall be sold, and the time of payment for the same, and the order in which applicants may be served.
- (III) For determining and adjusting the interest of the various landowners and others within the irrigation area to and in the irrigation works.
- (IV) The management and maintenance of the irrigation works, and the payment of the annual working expenses, and the appointment of Water Managers or Trustees to supervise and control all or any matters referred to in this section.
- (V) The prevention and remedying of waste, undue consumption, theft, fouling or contamination of the water contained in or supplied from any part of the Promoters' works.
- (VI) The protection of the water and every part of the works from trespass or injury.
- (VII) The imposing of penalties for any breach of any regulation by this Act authorized to be made by the Promoters, not exceeding the sum of fifty pounds and the enforcement of the same; and
- (VIII) Generally for duly administering and carrying out the powers given to the Promoters.

And such regulations shall, upon being approved by the Governor and published in the *Government Gazette*, be valid in law.

Mulgoa Irrigation.

20. The price to be charged by the Promoters for water sold to any person for domestic use shall in no case exceed one shilling per one thousand gallons. Maximum price of water.

21. If any person supplied with water by the Promoters wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this Act or of the regulations of the Promoters, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the Promoters, shall be liable for any such offence to a penalty not exceeding five pounds in addition to the value of the water misused, and the Promoters may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes, canals, sewers, drains, or flumes by or through which water is supplied to him or for his use, and may cease to supply such person with water so long as the cause of injury remains or is not remedied. PROTECTION OF THE WATER.
In case of any breach of this part of this Act water may be cut off.

22. If any person bathe in any stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or wash, throw, or cause to enter therein any animal, he shall for every such offence forfeit a sum not exceeding five pounds. POLLUTING THE WATER.
Penalty for bathing in water of Promoters.

23. If any person throw, convey, or cause or permit to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing into any such river, stream, drain, 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 such offence forfeit a sum not exceeding twenty pounds. Penalty for throwing dirt therein.

24. If any person wilfully and after due notice cause the water of any sink, sewer, or drain, or other filthy water belonging to him or under his control to run or be brought into any such river, stream, drain, reservoir, aqueduct, or other water-works (belonging to the Promoters), or shall do any other act whereby the water of the Promoters shall be fouled, he shall for each such 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.

25. Any person wilfully polluting the water supplied or to be supplied by the Promoters (onus of proof that water is polluted resting with Promoters) shall forfeit a sum not exceeding twenty pounds, to be recovered with full costs of suit for each day during which such pollution shall continue after the expiration of twenty-four hours from the time when notice of the offence has been served on such person by the Promoters. Penalty for permitting substances produced in making gas to flow into works.

26. Any person who shall, without the authority of the Promoters, establish or re-establish, or permit to be established or re-established any connection which has not been authorized, or which may have been cut off, removed, or severed by the Promoters, or who shall in any manner wilfully injure or tamper with any connection-pipe, meter, water-gauge, sluice, canal, flume, aqueduct, cistern, ball-cock, stop-cock, or waste-pipe which may have been approved by the Promoters, so as to destroy, diminish, or endanger its efficiency, may be summoned for such offence before two Justices, and, on conviction thereof, shall be adjudged to pay the Promoters the amount of the charges and expenses which the Promoters 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 also forfeit and pay a penalty not exceeding ten pounds. Any person re-establishing any connection with the main unless authorized or wilfully injuring any pipe liable to a penalty.

27. The charges for water and all sums due to the Promoters shall be paid by and be recoverable from the owner of the premises, or the occupier, or person requiring, receiving, or using the water. When water is supplied by measure, all rates or charges for the same, Charges and rates for water payable in advance.
for

Mulgoa Irrigation.

for water, shall be paid at such time and in such manner as shall be provided for by the regulations of the Promoters. The rent payable for meters shall be payable in advance as and from the first day of January, April, July, and October in each year.

Refusal to pay charges.

28. If any person refuse or neglect to pay on demand to the Promoters any rate, charge, or sum due by such person under this Act, the Promoters may recover the same with costs in any Court of competent jurisdiction, and any such person may be sued in any Court sitting within the Police District of Penrith.

Penalty for unlawfully taking water.

29. If any person wrongfully takes or uses any water belonging to the Promoters, or supplied by them for the use of any persons, he shall for every such offence be liable to a penalty not exceeding fifty pounds.

Penalty for fixing uncertified meter.

30. If any person fix or refix any sluice, stop, outlet, water-meter, water-gauge, or other instrument upon any pipe or canal, sluice or aqueduct the property of the Promoters without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding ten pounds.

For removing or altering meter without notice.

31. If any person remove or alter the position of, or in any way interfere with, any sluice, stop outlet, meter, water-gauge, or other instrument, without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding twenty pounds. Provided that the Promoters shall at all times have an office within the Police District of Penrith, and shall register the address of the same at the Court-house, Penrith.

Notice of removal, &c., of meter.

32. Every person requiring to remove or alter the position of or to open any sluice, stop-outlet, meter, or water-gauge shall leave six days notice in writing to that effect at the registered office of the Promoters. And if any person refuse or delay to have any sluice, stop-outlet, meter, or water-gauge properly repaired and put in correct working order after having been required by any officer of the Promoters so to do, the Promoters may shut off the supply of water from the land or premises of such person, either by cutting the service-pipe or otherwise, until such sluice, stop-outlet, meter, or water-gauge shall have been properly repaired and certified by some officer of the Promoters as being in proper working order.

Water may be cut off if meter not in order

Penalty for obstructing construction of works.

33. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any works undertaken under the authority of this Act, 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 twenty pounds for every such offence.

Penalty for destroying works.

34. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any reservoir, dam, tank, tunnel, water-course, sluice, main, distributary pipe, aqueduct, bridge, road-way, embankment, pump, or engine, or other part whatever of the machinery or works of the Promoters, such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

Mulgoa Irrigation.

PART II.

The acquisition and occupation by the Promoters of lands—ascertainment of compensation in respect thereof.

35. After the approval by the Governor of the acquisition of lands otherwise than by agreement, and payment of compensation made and provided by this Act, but not before, the Promoters shall be empowered to acquire or occupy such lands in manner hereinafter provided, and in the case of Crown Lands such acquisition or occupation shall be made under and subject to the provisions of the "Crown Lands Act of 1884" and the Amending Act of 1889.

36. It shall be lawful for the Promoters, by notification to be published in the *Gazette*, and in one or more newspapers published or circulating in the said Police District of Penrith, to declare that the land described in such notification is required for the purpose therein expressed, but the purpose so to be expressed shall be limited to the acquisition of lands for erecting, making, laying, or constructing works, canals, aqueducts, flumes, water-courses, or other works for carrying out the objects of this Act.

37. Upon the publication of the notification 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 Promoters 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 Promoters.

38. 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 divest the estate of such corporation or person, and to vest the said land, to the extent aforesaid, in the Promoters, 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.

39. 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.

40. 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 Promoters, or assessed by the jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Promoters 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

Mulgoa Irrigation.

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.

41. 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 Promoters, 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.

Claim and report thereon.

42. Within sixty days after the receipt of every such notice of claim, the Promoters 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 Schedule hereto.

Compensation by action in Supreme Court.

43. If within ninety days after the service of notice of claim the claimant and the Promoters 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 Promoters; 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 Promoters or of the claimant, a special jury of twelve may be summoned for the trial of such action. Provided also that with the consent in writing of the Promoters 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.

Issue in action of compensation verdict and costs.

44. 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 Promoters 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 the costs of the action shall be borne by the Promoters, 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.

As to payment of compensation.

45. 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 per annum, reckoned from the date of the notification 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

Mulgoa Irrigation.

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.

46. 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 Promoters, but also to the damage (if any) to be sustained by the claimant by reason of the severing of the lands 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.

47. Subject to the provisions of this Act it shall be lawful for the Promoters, and for any officer there 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 Promoters to enter upon the lands of any person whomsoever, which the Promoters 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.

48. Notwithstanding anything hereinbefore contained it shall be lawful for the Promoters, 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 such 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.

49. 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 Promoters, 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 in tail 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 profits 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 for years, or any less interest; and the power so to sell and convey or release 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

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

of

Mulgoa Irrigation.

of this Act if they had respectively been under no disability; and the power hereinafter given to release lands from any rent-charge or incumbrance, and to agree for the apportionment of any such rent-charge or incumbrance shall extend to, and may lawfully be exercised by, every party hereinbefore enabled to sell, and convey, or release lands to the Promoters.

Incorporation of provisions of Government Railways Act.

50. The several sections of the Government Railways Act, twenty-second Victoria number nineteen, hereinafter specified, together with the respective powers, authorities, duties, liabilities, obligations, and other the provisions therein contained, are hereby declared, notwithstanding the repeal of the said Act, 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 any 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 Promoters." 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:—

- (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 money in certain cases to trustees or to the parties themselves, and the exoneration of the Promoters 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) As to the procedure by the Promoters in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Promoters 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 incumbrances, 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.

Power to take temporary possession of land.

51. It shall be lawful for the Promoters, 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 wa^lk,

Mulgoa Irrigation.

walk, avenue, or ground ornamentally planted, and not being nearer to the dwelling-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, 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 the 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 Promoters and all other persons employed therein 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 or 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 to erect thereon workshops, sheds, and other buildings of a temporary nature. Provided always that nothing in this Act contained shall exempt the Promoters 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 Promoters either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Company shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom.

52. If any such lands shall be used for any of the purposes aforesaid, the Promoters 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 Promoters as to the necessity for such fences and gates, then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid.

53. In any of the cases aforesaid where the Promoters 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 Promoters so taking possession of his lands.

54. 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 Promoters 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,

Mulgoa Irrigation.

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.

55. 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 Promoters, or as near thereto as may be, and if such road cannot be so restored, the Promoters 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.

Promoters to make sufficient approaches and fences to bridle-ways and footways crossing on the line.

56. If any pipe, canal, or duct shall cross any highway, other than a public carriage-way, on the level, the Promoters shall make and at all times maintain convenient ascents and descents, and other 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, and if the same shall be a footway, good and sufficient gates or stiles on each side of works where the highway shall communicate therewith.

Works for benefit of owners.

57. The Promoters 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—

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 pipe, canal, or duct passing over such lands shall have been laid down or formed or during the formation thereof.

Fences, &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 works as soon as conveniently may be.

Drains.

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

Provided always, that the Promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works authorized by this Act, 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.

Differences as to accommodation works to be settled by Governor.

58. 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 also appoint the time within which such works shall be commenced and executed.

Mulgoa Irrigation.

59. If any of the owners or occupiers of lands affected by such pipe, canal, or duct shall consider the accommodation works made by the Promoters, or directed by the Governor to be made by the Promoters, 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 Promoters.

Power to owners of lands to make additional accommodation works.

60. If the Promoters so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of the Promoters' engineer, and according to plans and specifications to be submitted to and approved by the Promoters. But the Promoters 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 Promoters, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Promoters.

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

61. 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 III.

Miscellaneous Provisions—Legal Procedure.

62. 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.

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

63. If it shall be proved to the satisfaction of any two Justices in Petty Sessions assembled, that the Promoters 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.

64. 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 Justices, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before two Justices 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 two Justices 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.

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

65. 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

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

Mulgoa Irrigation.

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 by the said Acts.

Parties allowed to appeal to Quarter Sessions on giving security.

66. If any party shall feel aggrieved by any determination or adjudication of any Justices with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the nearest Quarter Sessions; 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 Quarter Sessions, for which such notice shall be given, the Court shall proceed to determine the appeal in a summary way, or they may, if they think fit, adjourn it 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 think reasonable.

Court to make such order as they think reasonable.

Damage to be made good in addition to penalty.

67. 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 Promoters, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damages 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 their warrant accordingly.

Transient offenders.

68. It shall be lawful for any officer or servant of the Promoters, and all persons assisting him, 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, to be dealt with according to law.

Notices.

69. Any notice required by this Act, or by 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 served or given 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.

Mulgoa Irrigation.

70. 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 indicting, or otherwise proceeding, either civilly or criminally against the Promoters or their officers, for nuisance or otherwise in respect of the works, or means used or employed by the Promoters in the exercise of the privileges hereby conferred on the Promoters, or to prevent the Promoters, or any person recovering any sum of money, or otherwise proceeding in any Court of competent jurisdiction; but the Promoters 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.

71. For any of the purposes of the Promoters authorized by this Act the Promoters may from time to time borrow money in such sum or sums as the Promoters may think fit; and for securing the repayment of the money so borrowed, with interest, it shall be lawful for the Promoters to issue debentures, to be charged and secured upon the Promoters lands, works, materials, rights, privileges, and revenues or to mortgage the same.

Borrowing powers.

72. The Promoters shall assign and transfer to the purchaser or purchasers of land within the irrigation area at time of purchase such a water-right to attach to the land so purchased as the Promoters may determine, and such water-right, when assigned or transferred to such purchaser or purchasers, shall be expressed in or endorsed upon the deed of conveyance, or in or upon the transfer of such land; and in all cases where the land is under the provisions of the Real Property Act, such water-right shall be noted by the Registrar-General upon the purchaser's certificate of title, and such water-right shall, for all time, attach to the land to which the same has been assigned, and shall be held by and belong to the owner of such land for the time being. Provided such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

Assignment of water-rights to purchasers.

73. It shall be lawful for the Promoters, at any time after the passing of this Act, to assign, transfer, convey, and release to any person, or to any Company duly incorporated for that purpose, all the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed upon it by this Act, together with all lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired by it under or in pursuance thereof, and purchased, occupied, or used in connection with the same, and upon and after the completion of such assignment, transfer, conveyance, and release the said person or Company, their officers, agents, and servants alone may lawfully exercise and enjoy all the rights, powers, authorities, and privileges, and shall be and continue alone to be subject to all the liabilities, obligations, penalties, and forfeitures to which the said Promoters, their officers, agents, or servants would have been entitled or subject had no such assignment, transfer, conveyance, and release been completed. Provided, however, that nothing herein contained shall prejudice or affect any rights accrued, action or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by the said promoters before the completion of the said assignment, transfer, conveyance, and release, and for which the said assignees shall be as fully liable as the Promoters would have been if no such assignment, transfer, conveyance, and release had been executed.

Rights, powers, &c. under this Act may be assigned, &c., to incorporate Company.

74. Upon the application of the Promoters the Governor may, by proclamation, declare that the provisions of this Act shall be extended to lands other than those within the irrigation area, and thereupon such lands which shall in such proclamation be described shall be included within the provisions of this Act, the same as if such lands had been included in the provisions of this Act originally.

Power to extend provisions of the Act.

Mulgoa Irrigation.

Voidance of Act.

75. This Act shall become null and void unless works to the value of twenty thousand pounds be carried out within two years after the passing thereof.

Penalty for infraction of proviso in subsection (iv) of section 5 of this Act.

76. In the event of any infraction by the Promoters of the proviso in subsection (iv) of section five in respect of the quantity of water to be taken, they shall be liable to a penalty not exceeding one hundred pounds per day for each and every such offence, and in case of a second like offence it shall be lawful for the Governor to forfeit all rights of the Promoters or their assigns under this Act.

FIRST SCHEDULE.

Irrigation area, about 18,610 acres, county of Cumberland.

- The portion of the York's Estate, parishes Mulgoa and Claremont, the property of the Metropolitan Mutual Permanent Building and Investment Association, Limited, 55 Market-street, Sydney. About 7,000 acres, more or less.
- The portions of the Littlefield's Estate, parish of Mulgoa, the property of A. W. Stephen, 28 Castlereagh-street, Sydney. About 700 acres.
- Portion of the Winbourn Estate, parish of Mulgoa, abutting on to the Nepean River, and lying to the south, east, and north of the Winbourn Homestead, the property of the Honorable G. H. Cox, Winbourne, Mulgoa. 1,000 acres.
- The Fern Hill Estate, parish of Mulgoa, the property of Edward Standish Cox, Esquire, of Fernside, Rylstone. About 950 acres.
- Jamieson, land comprising Brabyn's 500 acre and John Jamieson's 460 acre grants, parish of Mulgoa, the property of T. Jamieson, Clarence River. About 960 acres.
- Tottenham Estate, parish of Claremont, the property of Sir D. Cooper, England. About 4,000 acres.
- Portions of John Oxley's 600 acre, P. P. King's 650 acre, Maria King's 280 acre, and A. J. King's 790 acre grants, the property of the Honorable P. G. King, Banksia, Double Bay. About 2,000 acres.
- Blaxland's Grant, parish of Claremont, the property of F. W. Wentworth. About 2,000 acres.
- Fitzgerald's Estate, parishes Claremont and Melville, the property of Fitzgerald's Estate. About 1,200 acres.

SECOND SCHEDULE.

Notice of Claim and Abstract.

To the Promoters of the Mulgoa Irrigation Scheme.

IN pursuance of the "Mulgoa Irrigation Act" I (*or we*) hereby give you notice that I (*or we*) claim compensation for 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, 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 claimant's solicitor or agent.

(Signature)
(Address)
(Date)

Mulgoa Irrigation.

THIRD SCHEDULE.

Notice of Valuation.

To A.B., claimant in respect of the land hereunder described, resumed under the
"Mulgoa Irrigation Act."

TAKE notice that the land hereunder described, being that in respect of the resumption
whereof under the authority of the aforesaid Act your claim for 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.

[1s. 3d.]

By Authority: CHARLES POTTER, Government Printer, Sydney, 1890.

OF VICTOR

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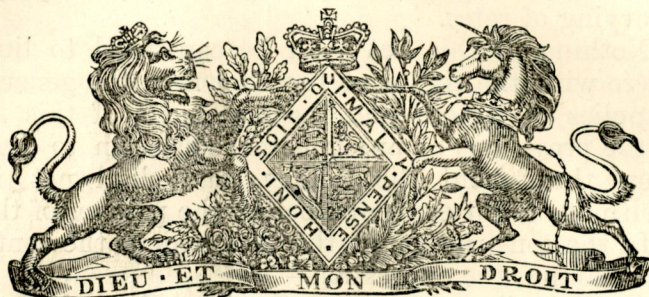
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I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council Chamber, }
Sydney, 16th December, 1890. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUARTO

VICTORIÆ REGINÆ.

An Act to enable and authorize George Chaffey and Henry Gorman to establish a system of Irrigation and Water Supply within and adjacent to the Police District of Penrith; to acquire lands to establish Irrigation Works; to authorize the sale and supply of water for irrigation and domestic use; and to construct, make, and lay dams, weirs, or flood-gates upon or across the Nepean and Warragamba Rivers, and for all other purposes which may be incidental thereto. [Assented to, 19th December, 1890.]

WHEREAS it is expedient and would be to the advantage of the Preamble. inhabitants of the District of Penrith, in the Colony of New South Wales, and of the public generally, to establish a system, whereby the waters of the Nepean and Warragamba Rivers may be conserved and utilised for irrigation and domestic use, and for watering stock, and for other purposes. And whereas George Chaffey and Henry Gorman have acquired, and are about to acquire, large areas of lands within the Police District of Penrith, which lands are suitable for agricultural and horticultural purposes, if provided with a supply of water. 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 Promoters.

1. This Act may for all purposes be cited as the "Mulgoa Title Irrigation Act."

2.

I Certify that I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

ARCHD. H. JACOB,
Chairman of Committees of the Legislative Council.

Mulgoa Irrigation.

Portions of Acts at variance with this.

2. Nothing contained in the "Municipalities Act of 1867," or the "Country Towns Water and Sewerage Act of 1880," shall be construed to control, limit, or restrict the operation of this Act, or to interfere with its provisions in respect of the construction or maintenance of works, or the storage, distribution, or supply of water, or in respect of the borrowing of money, the valuation of property, or the fixing or levying of rates.

Provisions subject to general legislation.

3. Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation throughout the Colony, and shall not in any way interfere with any right conferred before the passing of this Act.

Interpretation of terms.

4. In the construction of this Act, unless the context requires a different meaning, the expression—

"Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1889."

"Irrigation" means the use of water for flooding, moistening, or watering lands for agricultural or horticultural purposes.

"Domestic use," when employed with reference to water, means use for household and all other purposes, save for irrigation of gardens or land.

"The Governor" means the Governor, with the advice of the Executive Council.

"Irrigation area" means the lands and hereditaments described in the Schedule to this Act.

"Justice" means any Justice or Justices of the Peace.

"Minister" means the Minister charged with the administration of this Act.

"Owner" includes lessee or occupier.

"Person" means any individual as well as any Corporation, Municipality, Borough, or other local authority.

"Prescribed" means by this Act or by the regulations thereunder.

"Regulations" means the regulations made under this Act.

"Stock" means cattle, horses, sheep, and all other domestic animals.

"The Promoters" means the said George Chaffey and Henry Gorman, or their Assignees for the time being.

Conditions prior to acquisition of lands.

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

(I) The Promoters shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the Police District of Penrith, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land, naming the registered office as the place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands required.

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

(III) On compliance with the provisions of this section with respect to notices, the Promoters may, if they think fit, present a petition to the Governor, and such petition shall state the lands intended to be taken, and the purposes for which

Mulgoa Irrigation.

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

- (iv) On the 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 lands without the consent of the owners, lessees, and occupiers thereof.
- (v) After the completion of such inquiry the Governor may, by provisional order, empower the Promoters to put in force with reference to the lands referred to in such order the powers of the said Part II 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 Promoters to serve a copy of any order so made, in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

6. Subject to the provisions of this Act it shall be lawful for ^{Powers of} the Promoters to exercise any of the following powers, that is to say:— ^{Promoters.}

- (i) To erect, make, lay, or construct upon and across the River Nepean at any point within three miles above its junction with the Warragamba River, a dam, weir, or flood-gate, or either, with the necessary offtake works, and also to erect, make, lay, or construct upon and across the Warragamba River at any point within five miles above its junction with the Nepean River, a dam, weir, or flood-gate, or either, with the necessary offtake works, and also to make, lay, and construct from any point within one mile above the dam, weir, or flood-gate, upon or across the Warragamba River a tunnel, aqueduct, or canal, to carry the waters from the Warragamba River to the Nepean River above the dam, weir, or flood-gate, to be constructed upon or across the Nepean river, and to maintain the same.
- (ii) To erect such boilers, engines, pumps, and other machinery within or without the irrigation area to raise any such waters as may be necessary and to work the same.
- (iii) To erect, make, lay, or construct upon any part of the irrigation area such dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping machinery, reservoirs, dams, canals, water-courses, embankments, or other works as may be necessary or expedient for carrying out the purposes of this Act, and to maintain and work the same.
- (iv) To take or divert water from the said rivers above such dams, weirs, or flood-gates, and to convey to and distribute the same within the irrigation area or elsewhere as herein-after provided, in quantities not exceeding one cubic foot per minute for every five acres of land within the irrigation area. Provided, nevertheless, that nothing contained in this

Act

Mulgoa Irrigation.

Act shall authorize the use of water from said rivers for irrigation purposes while less than five million gallons per diem flow past the junction of said rivers, and seventy-five gallons every twenty-four hours per head of the population of any town, village, or settlement which may be supplied by water under the provisions of this Act for domestic use. Provided always that notwithstanding anything in this Act contained it shall not be lawful for the Promoters by any such works as aforesaid to diminish or reduce the flow of the water of either of such rivers below such works beyond such mean discharge as the Governor shall from time to time prescribe by notification to be published by the Minister in the *Government Gazette*.

- (v) To widen or deepen, and use for drainage or any other purpose, any existing creek, lagoon, swamp, or water-course within or leading to or from the irrigation area.
- (vi) To lay pipes or cut trenches, canals, or ducts within the irrigation area for the purpose of delivering water to owners of lands, and to maintain the same.
- (vii) To lay pipes, cut trenches, canals, or ducts outside the irrigation area for the purpose of delivering water to owners of land outside such area, and for the purposes of supplying water for domestic uses and to maintain the same.
- (viii) To enter into and upon any lands and take and lay down levels of the same for the purpose of making, laying, or constructing canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, channels, or other works incidental thereto, and to set out such parts thereby as they shall think necessary.
- (ix) After payment of compensation as hereinafter provided to 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.
- (x) To enter upon any Crown or private lands, streets, roads, or thoroughfares, and to construct, maintain, lay, or place therein any canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, water-courses, embankments, pipes, bridges, or other works incidental thereto, and repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any water-courses or other works being their property or under their control.

Compensation for
damage done by
Promoters.

7. Whenever any person employed by the Promoters in pursuance of this Act shall, while in the execution of his duties, cause injury to land, fences, or other property, or shall cause loss or damage to any owner of land or other property, the person suffering such injury, loss, or damage shall be entitled to be compensated by the Promoters.

Plans of dams, &c.,
to be submitted to
Minister.

8. The plans of any dams, weirs, culverts, bridges, or other works which may interfere in any way with the flow of the River Warragamba, or the River Nepean, or any other natural channel shall be submitted to the Minister, and must receive his sanction before such works can be entered upon.

Arbitration.

9. When any person claims compensation from the Promoters, on account of any injury, loss, or damage, and such claim is disputed by the Promoters, the compensation claimed shall be settled in accordance with the provisions of the "Public Works Act of 1888" in respect of claims for compensation made thereunder, the words "constructing authority" mentioned in the said Act being for this purpose

Mulgoa Irrigation.

purpose read "The Promoters" as hereby defined. Provided always that in the exercise of any of the powers hereby conferred the Promoters 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 actual damage sustained by them through the exercise of such powers.

10. The Promoters may open and break up the soil and pavement of any streets, roads, and bridges, and may open and break up sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same or other limits, pipes, conduits, service pipes, and other works, and from time to time, repair, alter, or remove the same, and for the purposes aforesaid remove and use the earth and materials in and under such streets, roads and bridges, and do all other acts which the Promoters shall from time to time deem necessary for supplying water as authorized by this Act. Provided nevertheless that permission be obtained from respective Municipal Councils when such streets are outside the irrigation area.

Power to open streets.

11. When the Promoters shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all possible 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 of the sewer, drain, tunnel, or water-pipe so opened or broken up, and carry away the rubbish occasioned thereby. And shall at all times, whilst any such road or pavement shall be so open or broken up, cause the same to be fenced or 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.

Reinstatement of streets.

12. The Promoters may, within the irrigation area, from time to time, divert or alter, temporarily or permanently, any part of the course of any creeks or water-courses, roads, streets, or ways, in order the more conveniently to exercise any of the powers conferred on the Promoters, and may cut drains and deliver water into, embank, widen, or deepen, any creek, water-course, lagoon, or swamp within such area, and may purchase or take on lease any existing water-works, and erect or construct thereon all necessary works and machinery.

Diversion of water-courses.

13. The Promoters may supply any person, either within or without the irrigation area, with water for domestic use, by measure or otherwise, at such rates, upon such terms, and subject to such conditions as may be agreed upon by the Promoters.

Agreements to supply water.

14. The Promoters 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 or continuing to supply such water if the want of such supply arises from unusual drought or other unavoidable cause, or from accident, or from necessary repairs.

Promoters not liable for accidental failure to supply water.

15. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or instrument for measuring the quantity of water supplied, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration and upon such terms as may be agreed upon by the Promoters; and such agreement shall and may be enforced in any Court of Law or Equity.

Promoters may let meters.

16. Such meters, water-gauges, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or be liable 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 insolvency, or other legal proceedings

Meters of Promoters not distrainable.

Mulgoa Irrigation.

proceedings against or affecting the person using such water, or the occupier of the premises, or other the person in whose possession the meters, water-gauges, pipes, instruments, and apparatus may be.

Meter to be supplied and maintained by consumer.

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

Power to officers or servants of Promoters to inspect meter.

18. The Promoters or their officers or servants may enter in and upon any lands, houses, or buildings, and with or without horses or carriages, may enter in and upon any lands to, through, or into which water is supplied or carried by the Promoters to inspect the meters, water-gauges, canals, dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, or other works, and the instruments, pipes, and apparatus for the measuring, conveyance, reception, storage, or distribution of water, or for the purpose of ascertaining the quantity of water supplied or consumed, or to examine if there be any waste or misuse of water; and may from time to time enter any house, building, or lands, for the purpose of removing or altering any meter, water-gauge, instrument, pipe, or apparatus, upon or affecting the property of the Promoters. And if any person hinders any such Promoter, officer, or servant from entering or making such inspection or alteration 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 six in the forenoon and six in the afternoon.

Promoters may make regulations.

19. Subject to the provisions of this Act the Promoters may, from time to time, make, amend, and repeal regulations for or relating to all or any of the following subjects:—

- (I) The supply and sale and distribution of water to any person within or without the irrigation area.
- (II) The rate and price at which water shall be sold, and the time of payment for the same, and the order in which applicants may be served.
- (III) For determining and adjusting the interest of the various landowners and others within the irrigation area to and in the irrigation works.
- (IV) The management and maintenance of the irrigation works, and the payment of the annual working expenses, and the appointment of Water Managers or Trustees to supervise and control all or any matters referred to in this section.
- (V) The prevention and remedying of waste, undue consumption, theft, fouling or contamination of the water contained in or supplied from any part of the Promoters' works.
- (VI) The protection of the water and every part of the works from trespass or injury.
- (VII) The imposing of penalties for any breach of any regulation by this Act authorized to be made by the Promoters, not exceeding the sum of fifty pounds and the enforcement of the same; and
- (VIII) Generally for duly administering and carrying out the powers given to the Promoters.

And such regulations shall, upon being approved by the Governor and published in the *Government Gazette*, be valid in law.

Mulgoa Irrigation.

20. The price to be charged by the Promoters for water sold to any person for domestic use shall in no case exceed one shilling per one thousand gallons. Maximum price of water.

21. If any person supplied with water by the Promoters wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this Act or of the regulations of the Promoters, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the Promoters, shall be liable for any such offence to a penalty not exceeding five pounds in addition to the value of the water misused, and the Promoters may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes, canals, sewers, drains, or flumes by or through which water is supplied to him or for his use, and may cease to supply such person with water so long as the cause of injury remains or is not remedied. PROTECTION OF THE WATER.
In case of any breach of this part of this Act water may be cut off.

22. If any person bathe in any stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or wash, throw, or cause to enter therein any animal, he shall for every such offence forfeit a sum not exceeding five pounds. POLLUTING THE WATER.
Penalty for bathing in water of Promoters.

23. If any person throw, convey, or cause or permit to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing into any such river, stream, drain, 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 such offence forfeit a sum not exceeding twenty pounds. Penalty for throwing dirt therein.

24. If any person wilfully and after due notice cause the water of any sink, sewer, or drain, or other filthy water belonging to him or under his control to run or be brought into any such river, stream, drain, reservoir, aqueduct, or other water-works (belonging to the Promoters), or shall do any other act whereby the water of the Promoters shall be fouled, he shall for each such 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.

25. Any person wilfully polluting the water supplied or to be supplied by the Promoters (onus of proof that water is polluted resting with Promoters) shall forfeit a sum not exceeding twenty pounds, to be recovered with full costs of suit for each day during which such pollution shall continue after the expiration of twenty-four hours from the time when notice of the offence has been served on such person by the Promoters. Penalty for permitting substances produced in making gas to flow into works.

26. Any person who shall, without the authority of the Promoters, establish or re-establish, or permit to be established or re-established any connection which has not been authorized, or which may have been cut off, removed, or severed by the Promoters, or who shall in any manner wilfully injure or tamper with any connection-pipe, meter, water-gauge, sluice, canal, flume, aqueduct, cistern, ball-cock, stop-cock, or waste-pipe which may have been approved by the Promoters, so as to destroy, diminish, or endanger its efficiency, may be summoned for such offence before two Justices, and, on conviction thereof, shall be adjudged to pay the Promoters the amount of the charges and expenses which the Promoters 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 also forfeit and pay a penalty not exceeding ten pounds. Any person re-establishing any connection with the main unless authorized or wilfully injuring any pipe liable to a penalty.

27. The charges for water and all sums due to the Promoters shall be paid by and be recoverable from the owner of the premises, or the occupier, or person requiring, receiving, or using the water. When water is supplied by measure, all rates or charges for the same, Charges and rates for water payable in advance.

for

Mulgoa Irrigation.

for water, shall be paid at such time and in such manner as shall be provided for by the regulations of the Promoters. The rent payable for meters shall be payable in advance as and from the first day of January, April, July, and October in each year.

Refusal to pay charges.

28. If any person refuse or neglect to pay on demand to the Promoters any rate, charge, or sum due by such person under this Act, the Promoters may recover the same with costs in any Court of competent jurisdiction, and any such person may be sued in any Court sitting within the Police District of Penrith.

Penalty for unlawfully taking water.

29. If any person wrongfully takes or uses any water belonging to the Promoters, or supplied by them for the use of any persons, he shall for every such offence be liable to a penalty not exceeding fifty pounds.

Penalty for fixing uncertified meter.

30. If any person fix or refix any sluice, stop, outlet, water-meter, water-gauge, or other instrument upon any pipe or canal, sluice or aqueduct the property of the Promoters without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding ten pounds.

For removing or altering meter without notice.

31. If any person remove or alter the position of, or in any way interfere with, any sluice, stop outlet, meter, water-gauge, or other instrument, without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding twenty pounds. Provided that the Promoters shall at all times have an office within the Police District of Penrith, and shall register the address of the same at the Court-house, Penrith.

Notice of removal, &c., of meter.

32. Every person requiring to remove or alter the position of or to open any sluice, stop-outlet, meter, or water-gauge shall leave six days notice in writing to that effect at the registered office of the Promoters. And if any person refuse or delay to have any sluice, stop-outlet, meter, or water-gauge properly repaired and put in correct working order after having been required by any officer of the Promoters so to do, the Promoters may shut off the supply of water from the land or premises of such person, either by cutting the service-pipe or otherwise, until such sluice, stop-outlet, meter, or water-gauge shall have been properly repaired and certified by some officer of the Promoters as being in proper working order.

Water may be cut off if meter not in order

Penalty for obstructing construction of works.

33. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any works undertaken under the authority of this Act, 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 twenty pounds for every such offence.

Penalty for destroying works.

34. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any reservoir, dam, tank, tunnel, water-course, sluice, main, distributary pipe, aqueduct, bridge, road-way, embankment, pump, or engine, or other part whatever of the machinery or works of the Promoters, such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

Mulgoa Irrigation.

PART II.

The acquisition and occupation by the Promoters of lands—ascertainment of compensation in respect thereof.

35. After the approval by the Governor of the acquisition of lands otherwise than by agreement, and payment of compensation made and provided by this Act, but not before, the Promoters shall be empowered to acquire or occupy such lands in manner hereinafter provided, and in the case of Crown Lands such acquisition or occupation shall be made under and subject to the provisions of the "Crown Lands Act of 1884" and the Amending Act of 1889. Lands required how acquired.

36. It shall be lawful for the Promoters, by notification to be published in the *Gazette*, and in one or more newspapers published or circulating in the said Police District of Penrith, to declare that the land described in such notification is required for the purpose therein expressed, but the purpose so to be expressed shall be limited to the acquisition of lands for erecting, making, laying, or constructing works, canals, aqueducts, flumes, water-courses, or other works for carrying out the objects of this Act. How and when lands can be taken.

37. Upon the publication of the notification 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 Promoters 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 Promoters. Vesting, &c., of lands.

38. 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 divest the estate of such corporation or person, and to vest the said land, to the extent aforesaid, in the Promoters, 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.

39. 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. Compensation for private lands.

40. 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 Promoters, or assessed by the jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Promoters 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 Conversion of estate of proprietor of resumed land into a claim.

Mulgoa Irrigation.

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.

41. 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 Promoters, 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.

Claim and report thereon.

42. Within sixty days after the receipt of every such notice of claim, the Promoters 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 Schedule hereto.

Compensation by action in Supreme Court.

43. If within ninety days after the service of notice of claim the claimant and the Promoters 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 Promoters; 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 Promoters or of the claimant, a special jury of twelve may be summoned for the trial of such action. Provided also that with the consent in writing of the Promoters 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.

Issue in action of compensation verdict and costs.

44. 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 Promoters 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 the costs of the action shall be borne by the Promoters, 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.

As to payment of compensation.

45. 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 per annum, reckoned from the date of the notification 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

Mulgoa Irrigation.

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.

46. 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 Promoters, but also to the damage (if any) to be sustained by the claimant by reason of the severing of the lands 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.

47. Subject to the provisions of this Act it shall be lawful for the Promoters, and for any officer there 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 Promoters to enter upon the lands of any person whomsoever, which the Promoters 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.

48. Notwithstanding anything hereinbefore contained it shall be lawful for the Promoters, 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 such 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.

49. 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 Promoters, 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 in tail 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 profits 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 for years, or any less interest; and the power so to sell and convey or release 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

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

Mulgoa Irrigation.

of this Act if they had respectively been under no disability; and the power hereinafter given to release lands from any rent-charge or incumbrance, and to agree for the apportionment of any such rent-charge or incumbrance shall extend to, and may lawfully be exercised by, every party hereinbefore enabled to sell, and convey, or release lands to the Promoters.

Incorporation of provisions of Government Railways Act.

50. The several sections of the Government Railways Act, twenty-second Victoria number nineteen, hereinafter specified, together with the respective powers, authorities, duties, liabilities, obligations, and other the provisions therein contained, are hereby declared, notwithstanding the repeal of the said Act, 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 any 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 Promoters." 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:—

- (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 money in certain cases to trustees or to the parties themselves, and the exoneration of the Promoters 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) As to the procedure by the Promoters in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Promoters 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 incumbrances, 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.

Power to take temporary possession of land.

51. It shall be lawful for the Promoters, 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,

Mulgoa Irrigation.

walk, avenue, or ground ornamentally planted, and not being nearer to the dwelling-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, 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 the 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 Promoters and all other persons employed therein 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 or 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 to erect thereon workshops, sheds, and other buildings of a temporary nature. Provided always that nothing in this Act contained shall exempt the Promoters 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 Promoters either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Company shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom.

52. If any such lands shall be used for any of the purposes aforesaid, the Promoters 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 Promoters as to the necessity for such fences and gates, then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid.

53. In any of the cases aforesaid where the Promoters 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 Promoters so taking possession of his lands.

54. 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 Promoters 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,

Promoters to separate the lands before using them.

Compensation to be made for temporary occupation.

Before roads interfered with, others to be substituted.

Mulgoa Irrigation.

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.

55. 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 Promoters, or as near thereto as may be, and if such road cannot be so restored, the Promoters 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.

Promoters to make sufficient approaches and fences to bridleways and footways crossing on the line.

56. If any pipe, canal, or duct shall cross any highway, other than a public carriage-way, on the level, the Promoters shall make and at all times maintain convenient ascents and descents, and other 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, and if the same shall be a footway, good and sufficient gates or stiles on each side of works where the highway shall communicate therewith.

Works for benefit of owners.

57. The Promoters 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—

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 pipe, canal, or duct passing over such lands shall have been laid down or formed or during the formation thereof.

Fences, &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 works as soon as conveniently may be.

Drains.

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

Provided always, that the Promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works authorized by this Act, 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.

Differences as to accommodation works to be settled by Governor.

58. 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 also appoint the time within which such works shall be commenced and executed.

Mulgoa Irrigation.

59. If any of the owners or occupiers of lands affected by such pipe, canal, or duct shall consider the accommodation works made by the Promoters, or directed by the Governor to be made by the Promoters, 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 Promoters.

Power to owners of lands to make additional accommodation works.

60. If the Promoters so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of the Promoters' engineer, and according to plans and specifications to be submitted to and approved by the Promoters. But the Promoters 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 Promoters, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Promoters.

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

61. 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 III.

Miscellaneous Provisions—Legal Procedure.

62. 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.

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

63. If it shall be proved to the satisfaction of any two Justices in Petty Sessions assembled, that the Promoters 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.

64. 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 Justices, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before two Justices 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 two Justices 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.

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

65. 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

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

Mulgoa Irrigation.

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 by the said Acts.

Parties allowed to appeal to Quarter Sessions on giving security.

66. If any party shall feel aggrieved by any determination or adjudication of any Justices with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the nearest Quarter Sessions; 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 Quarter Sessions, for which such notice shall be given, the Court shall proceed to determine the appeal in a summary way, or they may, if they think fit, adjourn it 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 think reasonable.

Court to make such order as they think reasonable.

Damage to be made good in addition to penalty.

67. 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 Promoters, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damages 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 their warrant accordingly.

Transient offenders.

68. It shall be lawful for any officer or servant of the Promoters, and all persons assisting him, 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, to be dealt with according to law.

Notices.

69. Any notice required by this Act, or by 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 served or given 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.

Mulgoa Irrigation.

70. 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 indicting, or otherwise proceeding, either civilly or criminally against the Promoters or their officers, for nuisance or otherwise in respect of the works, or means used or employed by the Promoters in the exercise of the privileges hereby conferred on the Promoters, or to prevent the Promoters, or any person recovering any sum of money, or otherwise proceeding in any Court of competent jurisdiction; but the Promoters 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.

71. For any of the purposes of the Promoters authorized by this Act the Promoters may from time to time borrow money in such sum or sums as the Promoters may think fit; and for securing the repayment of the money so borrowed, with interest, it shall be lawful for the Promoters to issue debentures, to be charged and secured upon the Promoters lands, works, materials, rights, privileges, and revenues or to mortgage the same.

Borrowing powers.

72. The Promoters shall assign and transfer to the purchaser or purchasers of land within the irrigation area at time of purchase such a water-right to attach to the land so purchased as the Promoters may determine, and such water-right, when assigned or transferred to such purchaser or purchasers, shall be expressed in or endorsed upon the deed of conveyance, or in or upon the transfer of such land; and in all cases where the land is under the provisions of the Real Property Act, such water-right shall be noted by the Registrar-General upon the purchaser's certificate of title, and such water-right shall, for all time, attach to the land to which the same has been assigned, and shall be held by and belong to the owner of such land for the time being. Provided such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

Assignment of water-rights to purchasers.

73. It shall be lawful for the Promoters, at any time after the passing of this Act, to assign, transfer, convey, and release to any person, or to any Company duly incorporated for that purpose, all the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed upon it by this Act, together with all lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired by it under or in pursuance thereof, and purchased, occupied, or used in connection with the same, and upon and after the completion of such assignment, transfer, conveyance, and release the said person or Company, their officers, agents, and servants alone may lawfully exercise and enjoy all the rights, powers, authorities, and privileges, and shall be and continue alone to be subject to all the liabilities, obligations, penalties, and forfeitures to which the said Promoters, their officers, agents, or servants would have been entitled or subject had no such assignment, transfer, conveyance, and release been completed. Provided, however, that nothing herein contained shall prejudice or affect any rights accrued, action or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by the said promoters before the completion of the said assignment, transfer, conveyance, and release, and for which the said assignees shall be as fully liable as the Promoters would have been if no such assignment, transfer, conveyance, and release had been executed.

Rights, powers, &c. under this Act may be assigned, &c., to incorporate Company.

74. Upon the application of the Promoters the Governor may, by proclamation, declare that the provisions of this Act shall be extended to lands other than those within the irrigation area, and thereupon such lands which shall in such proclamation be described shall be included within the provisions of this Act, the same as if such lands had been included in the provisions of this Act originally.

Power to extend provisions of the Act.

Mulgoa Irrigation.

Voidance of Act.

75. This Act shall become null and void unless works to the value of twenty thousand pounds be carried out within two years after the passing thereof.

Penalty for infraction of proviso in subsection (iv) of section 5 of this Act.

76. In the event of any infraction by the Promoters of the proviso in subsection (iv) of section five in respect of the quantity of water to be taken, they shall be liable to a penalty not exceeding one hundred pounds per day for each and every such offence, and in case of a second like offence it shall be lawful for the Governor to forfeit all rights of the Promoters or their assigns under this Act.

FIRST SCHEDULE.

Irrigation area, about 18,610 acres, county of Cumberland.

- The portion of the York's Estate, parishes Mulgoa and Claremont, the property of the Metropolitan Mutual Permanent Building and Investment Association, Limited, 55 Market-street, Sydney. About 7,000 acres, more or less.
- The portions of the Littlefield's Estate, parish of Mulgoa, the property of A. W. Stephen, 28 Castlereagh-street, Sydney. About 700 acres.
- Portion of the Winbourn Estate, parish of Mulgoa, abutting on to the Nepean River, and lying to the south, east, and north of the Winbourn Homestead, the property of the Honorable G. H. Cox, Winbourne, Mulgoa. 1,000 acres.
- The Fern Hill Estate, parish of Mulgoa, the property of Edward Standish Cox, Esquire, of Fernside, Rylstone. About 950 acres.
- Jamieson, land comprising Brabyn's 500 acre and John Jamieson's 460 acre grants, parish of Mulgoa, the property of T. Jamieson, Clarence River. About 960 acres.
- Tottenham Estate, parish of Claremont, the property of Sir D. Cooper, England. About 4,000 acres.
- Portions of John Oxley's 600 acre, P. P. King's 650 acre, Maria King's 280 acre, and A. J. King's 790 acre grants, the property of the Honorable P. G. King, Banksia, Double Bay. About 2,000 acres.
- Blaxland's Grant, parish of Claremont, the property of F. W. Wentworth. About 2,000 acres.
- Fitzgerald's Estate, parishes Claremont and Melville, the property of Fitzgerald's Estate. About 1,200 acres.

SECOND SCHEDULE.

Notice of Claim and Abstract.

To the Promoters of the Mulgoa Irrigation Scheme.

In pursuance of the "Mulgoa Irrigation Act" I (*or we*) hereby give you notice that I (*or we*) claim compensation for 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, 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 claimant's solicitor or agent.

(Signature)
(Address)
(Date)

Mulgoa Irrigation.

THIRD SCHEDULE.

Notice of Valuation.

To A.B., claimant in respect of the land hereunder described, resumed under the
"Mulgoa Irrigation Act."

TAKE notice that the land hereunder described, being that in respect of the resumption
whereof under the authority of the aforesaid Act your claim for 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.

In the name and on the behalf of Her Majesty I assent to this Act.

ALFRED STEPHEN.

*Government House,
Sydney, 19th December, 1890.*

OF VICTORIA

IN THE

YEAR

1861

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the said Colony, at Melbourne, this 1st day of January, 1861.

ALFRED STEPHENS

GOVERNOR

ALFRED STEPHENS

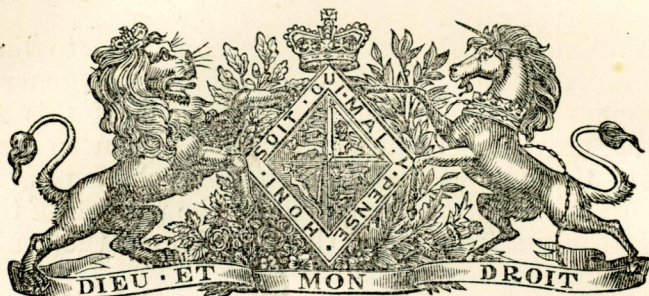
Printed and Published by J. G. B. [illegible]

I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council Chamber,
Sydney, 16th December, 1890. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUARTO

VICTORIÆ REGINÆ.

An Act to enable and authorize George Chaffey and Henry Gorman to establish a system of Irrigation and Water Supply within and adjacent to the Police District of Penrith; to acquire lands to establish Irrigation Works; to authorize the sale and supply of water for irrigation and domestic use; and to construct, make, and lay dams, weirs, or flood-gates upon or across the Nepean and Warragamba Rivers, and for all other purposes which may be incidental thereto. [Assented to, 19th December, 1890.]

WHEREAS it is expedient and would be to the advantage of the Preamble. inhabitants of the District of Penrith, in the Colony of New South Wales, and of the public generally, to establish a system, whereby the waters of the Nepean and Warragamba Rivers may be conserved and utilised for irrigation and domestic use, and for watering stock, and for other purposes. And whereas George Chaffey and Henry Gorman have acquired, and are about to acquire, large areas of lands within the Police District of Penrith, which lands are suitable for agricultural and horticultural purposes, if provided with a supply of water. 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 Promoters.

1. This Act may for all purposes be cited as the "Mulgoa Title Irrigation Act."

2.

I Certify that I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

ARCHD. H. JACOB,
Chairman of Committees of the Legislative Council.

Mulgoa Irrigation.

Portions of Acts at variance with this.

2. Nothing contained in the "Municipalities Act of 1867," or the "Country Towns Water and Sewerage Act of 1880," shall be construed to control, limit, or restrict the operation of this Act, or to interfere with its provisions in respect of the construction or maintenance of works, or the storage, distribution, or supply of water, or in respect of the borrowing of money, the valuation of property, or the fixing or levying of rates.

Provisions subject to general legislation.

3. Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation throughout the Colony, and shall not in any way interfere with any right conferred before the passing of this Act.

Interpretation of terms.

4. In the construction of this Act, unless the context requires a different meaning, the expression—

"Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1889."

"Irrigation" means the use of water for flooding, moistening, or watering lands for agricultural or horticultural purposes.

"Domestic use," when employed with reference to water, means use for household and all other purposes, save for irrigation of gardens or land.

"The Governor" means the Governor, with the advice of the Executive Council.

"Irrigation area" means the lands and hereditaments described in the Schedule to this Act.

"Justice" means any Justice or Justices of the Peace.

"Minister" means the Minister charged with the administration of this Act.

"Owner" includes lessee or occupier.

"Person" means any individual as well as any Corporation, Municipality, Borough, or other local authority.

"Prescribed" means by this Act or by the regulations thereunder.

"Regulations" means the regulations made under this Act.

"Stock" means cattle, horses, sheep, and all other domestic animals.

"The Promoters" means the said George Chaffey and Henry Gorman, or their Assignees for the time being.

Conditions prior to acquisition of lands.

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

(I) The Promoters shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the Police District of Penrith, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land, naming the registered office as the place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands required.

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

(III) On compliance with the provisions of this section with respect to notices, the Promoters may, if they think fit, present a petition to the Governor, and such petition shall state the lands intended to be taken, and the purposes for which

Mulgoa Irrigation.

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

- (iv) On the 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 lands without the consent of the owners, lessees, and occupiers thereof.
- (v) After the completion of such inquiry the Governor may, by provisional order, empower the Promoters to put in force with reference to the lands referred to in such order the powers of the said Part II 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 Promoters to serve a copy of any order so made, in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

6. Subject to the provisions of this Act it shall be lawful for the Promoters to exercise any of the following powers, that is to say:— Powers of Promoters.

- (i) To erect, make, lay, or construct upon and across the River Nepean at any point within three miles above its junction with the Warragamba River, a dam, weir, or flood-gate, or either, with the necessary offtake works, and also to erect, make, lay, or construct upon and across the Warragamba River at any point within five miles above its junction with the Nepean River, a dam, weir, or flood-gate, or either, with the necessary offtake works, and also to make, lay, and construct from any point within one mile above the dam, weir, or flood-gate, upon or across the Warragamba River a tunnel, aqueduct, or canal, to carry the waters from the Warragamba River to the Nepean River above the dam, weir, or flood-gate, to be constructed upon or across the Nepean river, and to maintain the same.
- (ii) To erect such boilers, engines, pumps, and other machinery within or without the irrigation area to raise any such waters as may be necessary and to work the same.
- (iii) To erect, make, lay, or construct upon any part of the irrigation area such dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping machinery, reservoirs, dams, canals, water-courses, embankments, or other works as may be necessary or expedient for carrying out the purposes of this Act, and to maintain and work the same.
- (iv) To take or divert water from the said rivers above such dams, weirs, or flood-gates, and to convey to and distribute the same within the irrigation area or elsewhere as hereinafter provided, in quantities not exceeding one cubic foot per minute for every five acres of land within the irrigation area. Provided, nevertheless, that nothing contained in this

Act

Mulgoa Irrigation.

Act shall authorize the use of water from said rivers for irrigation purposes while less than five million gallons per diem flow past the junction of said rivers, and seventy-five gallons every twenty-four hours per head of the population of any town, village, or settlement which may be supplied by water under the provisions of this Act for domestic use. Provided always that notwithstanding anything in this Act contained it shall not be lawful for the Promoters by any such works as aforesaid to diminish or reduce the flow of the water of either of such rivers below such works beyond such mean discharge as the Governor shall from time to time prescribe by notification to be published by the Minister in the *Government Gazette*.

- (v) To widen or deepen, and use for drainage or any other purpose, any existing creek, lagoon, swamp, or water-course within or leading to or from the irrigation area.
- (vi) To lay pipes or cut trenches, canals, or ducts within the irrigation area for the purpose of delivering water to owners of lands, and to maintain the same.
- (vii) To lay pipes, cut trenches, canals, or ducts outside the irrigation area for the purpose of delivering water to owners of land outside such area, and for the purposes of supplying water for domestic uses and to maintain the same.
- (viii) To enter into and upon any lands and take and lay down levels of the same for the purpose of making, laying, or constructing canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, channels, or other works incidental thereto, and to set out such parts thereby as they shall think necessary.
- (ix) After payment of compensation as hereinafter provided to 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.
- (x) To enter upon any Crown or private lands, streets, roads, or thoroughfares, and to construct, maintain, lay, or place therein any canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, water-courses, embankments, pipes, bridges, or other works incidental thereto, and repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any water-courses or other works being their property or under their control.

Compensation for
damage done by
Promoters.

7. Whenever any person employed by the Promoters in pursuance of this Act shall, while in the execution of his duties, cause injury to land, fences, or other property, or shall cause loss or damage to any owner of land or other property, the person suffering such injury, loss, or damage shall be entitled to be compensated by the Promoters.

Plans of dams, &c.,
to be submitted to
Minister.

8. The plans of any dams, weirs, culverts, bridges, or other works which may interfere in any way with the flow of the River Warragamba, or the River Nepean, or any other natural channel shall be submitted to the Minister, and must receive his sanction before such works can be entered upon.

Arbitration.

9. When any person claims compensation from the Promoters, on account of any injury, loss, or damage, and such claim is disputed by the Promoters, the compensation claimed shall be settled in accordance with the provisions of the "Public Works Act of 1888" in respect of claims for compensation made thereunder, the words "constructing authority" mentioned in the said Act being for this purpose

Mulgoa Irrigation.

purpose read "The Promoters" as hereby defined. Provided always that in the exercise of any of the powers hereby conferred the Promoters 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 actual damage sustained by them through the exercise of such powers.

10. The Promoters may open and break up the soil and pavement of any streets, roads, and bridges, and may open and break up sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same or other limits, pipes, conduits, service pipes, and other works, and from time to time, repair, alter, or remove the same, and for the purposes aforesaid remove and use the earth and materials in and under such streets, roads and bridges, and do all other acts which the Promoters shall from time to time deem necessary for supplying water as authorized by this Act. Provided nevertheless that permission be obtained from respective Municipal Councils when such streets are outside the irrigation area.

Power to open streets.

11. When the Promoters shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all possible 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 of the sewer, drain, tunnel, or water-pipe so opened or broken up, and carry away the rubbish occasioned thereby. And shall at all times, whilst any such road or pavement shall be so open or broken up, cause the same to be fenced or 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.

Reinstatement of streets.

12. The Promoters may, within the irrigation area, from time to time, divert or alter, temporarily or permanently, any part of the course of any creeks or water-courses, roads, streets, or ways, in order the more conveniently to exercise any of the powers conferred on the Promoters, and may cut drains and deliver water into, embank, widen, or deepen, any creek, water-course, lagoon, or swamp within such area, and may purchase or take on lease any existing water-works, and erect or construct thereon all necessary works and machinery.

Diversion of water-courses.

13. The Promoters may supply any person, either within or without the irrigation area, with water for domestic use, by measure or otherwise, at such rates, upon such terms, and subject to such conditions as may be agreed upon by the Promoters.

Agreements to supply water.

14. The Promoters 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 or continuing to supply such water if the want of such supply arises from unusual drought or other unavoidable cause, or from accident, or from necessary repairs.

Promoters not liable for accidental failure to supply water.

15. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or instrument for measuring the quantity of water supplied, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration and upon such terms as may be agreed upon by the Promoters; and such agreement shall and may be enforced in any Court of Law or Equity.

Promoters may let meters.

16. Such meters, water-gauges, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or be liable 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 insolvency, or other legal proceedings

Meters of Promoters not distrainable.

Mulgoa Irrigation.

proceedings against or affecting the person using such water, or the occupier of the premises, or other the person in whose possession the meters, water-gauges, pipes, instruments, and apparatus may be.

Meter to be supplied and maintained by consumer.

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

Power to officers or servants of Promoters to inspect meter.

18. The Promoters or their officers or servants may enter in and upon any lands, houses, or buildings, and with or without horses or carriages, may enter in and upon any lands to, through, or into which water is supplied or carried by the Promoters to inspect the meters, water-gauges, canals, dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, or other works, and the instruments, pipes, and apparatus for the measuring, conveyance, reception, storage, or distribution of water, or for the purpose of ascertaining the quantity of water supplied or consumed, or to examine if there be any waste or misuse of water; and may from time to time enter any house, building, or lands, for the purpose of removing or altering any meter, water-gauge, instrument, pipe, or apparatus, upon or affecting the property of the Promoters. And if any person hinders any such Promoter, officer, or servant from entering or making such inspection or alteration 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 six in the forenoon and six in the afternoon.

Promoters may make regulations.

19. Subject to the provisions of this Act the Promoters may, from time to time, make, amend, and repeal regulations for or relating to all or any of the following subjects:—

- (I) The supply and sale and distribution of water to any person within or without the irrigation area.
- (II) The rate and price at which water shall be sold, and the time of payment for the same, and the order in which applicants may be served.
- (III) For determining and adjusting the interest of the various landowners and others within the irrigation area to and in the irrigation works.
- (IV) The management and maintenance of the irrigation works, and the payment of the annual working expenses, and the appointment of Water Managers or Trustees to supervise and control all or any matters referred to in this section.
- (V) The prevention and remedying of waste, undue consumption, theft, fouling or contamination of the water contained in or supplied from any part of the Promoters' works.
- (VI) The protection of the water and every part of the works from trespass or injury.
- (VII) The imposing of penalties for any breach of any regulation by this Act authorized to be made by the Promoters, not exceeding the sum of fifty pounds and the enforcement of the same; and
- (VIII) Generally for duly administering and carrying out the powers given to the Promoters.

And such regulations shall, upon being approved by the Governor and published in the *Government Gazette*, be valid in law.

Mulgoa Irrigation.

20. The price to be charged by the Promoters for water sold to any person for domestic use shall in no case exceed one shilling per one thousand gallons. Maximum price of water.

21. If any person supplied with water by the Promoters wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this Act or of the regulations of the Promoters, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the Promoters, shall be liable for any such offence to a penalty not exceeding five pounds in addition to the value of the water misused, and the Promoters may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes, canals, sewers, drains, or flumes by or through which water is supplied to him or for his use, and may cease to supply such person with water so long as the cause of injury remains or is not remedied. PROTECTION OF THE WATER.
In case of any breach of this part of this Act water may be cut off.

22. If any person bathe in any stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or wash, throw, or cause to enter therein any animal, he shall for every such offence forfeit a sum not exceeding five pounds. POLLUTING THE WATER.
Penalty for bathing in water of Promoters.

23. If any person throw, convey, or cause or permit to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing into any such river, stream, drain, 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 such offence forfeit a sum not exceeding twenty pounds. Penalty for throwing dirt therein.

24. If any person wilfully and after due notice cause the water of any sink, sewer, or drain, or other filthy water belonging to him or under his control to run or be brought into any such river, stream, drain, reservoir, aqueduct, or other water-works (belonging to the Promoters), or shall do any other act whereby the water of the Promoters shall be fouled, he shall for each such 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.

25. Any person wilfully polluting the water supplied or to be supplied by the Promoters (onus of proof that water is polluted resting with Promoters) shall forfeit a sum not exceeding twenty pounds, to be recovered with full costs of suit for each day during which such pollution shall continue after the expiration of twenty-four hours from the time when notice of the offence has been served on such person by the Promoters. Penalty for permitting substances produced in making gas to flow into works.

26. Any person who shall, without the authority of the Promoters, establish or re-establish, or permit to be established or re-established any connection which has not been authorized, or which may have been cut off, removed, or severed by the Promoters, or who shall in any manner wilfully injure or tamper with any connection-pipe, meter, water-gauge, sluice, canal, flume, aqueduct, cistern, ball-cock, stop-cock, or waste-pipe which may have been approved by the Promoters, so as to destroy, diminish, or endanger its efficiency, may be summoned for such offence before two Justices, and, on conviction thereof, shall be adjudged to pay the Promoters the amount of the charges and expenses which the Promoters 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 also forfeit and pay a penalty not exceeding ten pounds. Any person re-establishing any connection with the main unless authorized or wilfully injuring any pipe liable to a penalty.

27. The charges for water and all sums due to the Promoters shall be paid by and be recoverable from the owner of the premises, or the occupier, or person requiring, receiving, or using the water. When water is supplied by measure, all rates or charges for the same, Charges and rates for water payable in advance.
for

Mulgoa Irrigation.

for water, shall be paid at such time and in such manner as shall be provided for by the regulations of the Promoters. The rent payable for meters shall be payable in advance as and from the first day of January, April, July, and October in each year.

Refusal to pay charges.

28. If any person refuse or neglect to pay on demand to the Promoters any rate, charge, or sum due by such person under this Act, the Promoters may recover the same with costs in any Court of competent jurisdiction, and any such person may be sued in any Court sitting within the Police District of Penrith.

Penalty for unlawfully taking water.

29. If any person wrongfully takes or uses any water belonging to the Promoters, or supplied by them for the use of any persons, he shall for every such offence be liable to a penalty not exceeding fifty pounds.

Penalty for fixing uncertified meter.

30. If any person fix or re-fix any sluice, stop, outlet, water-meter, water-gauge, or other instrument upon any pipe or canal, sluice or aqueduct the property of the Promoters without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding ten pounds.

For removing or altering meter without notice.

31. If any person remove or alter the position of, or in any way interfere with, any sluice, stop outlet, meter, water-gauge, or other instrument, without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding twenty pounds. Provided that the Promoters shall at all times have an office within the Police District of Penrith, and shall register the address of the same at the Court-house, Penrith.

Notice of removal, &c., of meter.

32. Every person requiring to remove or alter the position of or to open any sluice, stop-outlet, meter, or water-gauge shall leave six days notice in writing to that effect at the registered office of the Promoters. And if any person refuse or delay to have any sluice, stop-outlet, meter, or water-gauge properly repaired and put in correct working order after having been required by any officer of the Promoters so to do, the Promoters may shut off the supply of water from the land or premises of such person, either by cutting the service-pipe or otherwise, until such sluice, stop-outlet, meter, or water-gauge shall have been properly repaired and certified by some officer of the Promoters as being in proper working order.

Water may be cut off if meter not in order

Penalty for obstructing construction of works.

33. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any works undertaken under the authority of this Act, 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 twenty pounds for every such offence.

Penalty for destroying works.

34. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any reservoir, dam, tank, tunnel, water-course, sluice, main, distributary pipe, aqueduct, bridge, road-way, embankment, pump, or engine, or other part whatever of the machinery or works of the Promoters, such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

Mulgoa Irrigation.

PART II.

The acquisition and occupation by the Promoters of lands--ascertainment of compensation in respect thereof.

35. After the approval by the Governor of the acquisition of lands otherwise than by agreement, and payment of compensation made and provided by this Act, but not before, the Promoters shall be empowered to acquire or occupy such lands in manner hereinafter provided, and in the case of Crown Lands such acquisition or occupation shall be made under and subject to the provisions of the "Crown Lands Act of 1884" and the Amending Act of 1889. Lands required how acquired.

36. It shall be lawful for the Promoters, by notification to be published in the *Gazette*, and in one or more newspapers published or circulating in the said Police District of Penrith, to declare that the land described in such notification is required for the purpose therein expressed, but the purpose so to be expressed shall be limited to the acquisition of lands for erecting, making, laying, or constructing works, canals, aqueducts, flumes, water-courses, or other works for carrying out the objects of this Act. How and when lands can be taken.

37. Upon the publication of the notification 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 Promoters 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 Promoters. Vesting, &c., of lands.

38. 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 divest the estate of such corporation or person, and to vest the said land, to the extent aforesaid, in the Promoters, 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.

39. 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. Compensation for private lands.

40. 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 Promoters, or assessed by the jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Promoters 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 Conversion of estate of proprietor of resumed land into a claim.

Mulgoa Irrigation.

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.

41. 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 Promoters, 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.

Claim and report thereon.

42. Within sixty days after the receipt of every such notice of claim, the Promoters 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 Schedule hereto.

Compensation by action in Supreme Court.

43. If within ninety days after the service of notice of claim the claimant and the Promoters 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 Promoters; 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 Promoters or of the claimant, a special jury of twelve may be summoned for the trial of such action. Provided also that with the consent in writing of the Promoters 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.

Issue in action of compensation verdict and costs.

44. 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 Promoters 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 the costs of the action shall be borne by the Promoters, 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.

As to payment of compensation.

45. 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 per annum, reckoned from the date of the notification 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

Mulgoa Irrigation.

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.

46. In estimating or assessing the compensation to be paid under this Act regard shall be had by the valuator and by the jury (on any issue), not only to the value of the land taken by the Promoters, but also to the damage (if any) to be sustained by the claimant by reason of the severing of the lands 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.

47. Subject to the provisions of this Act it shall be lawful for the Promoters, and for any officer there 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 Promoters to enter upon the lands of any person whomsoever, which the Promoters 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.

48. Notwithstanding anything hereinbefore contained it shall be lawful for the Promoters, 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 such 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.

49. 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 Promoters, 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 in tail 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 profits 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 for years, or any less interest; and the power so to sell and convey or release 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

Parties under dis-
ability enabled to sell
and convey and
exercise other powers.

of

Mulgoa Irrigation.

of this Act if they had respectively been under no disability; and the power hereinafter given to release lands from any rent-charge or incumbrance, and to agree for the apportionment of any such rent-charge or incumbrance shall extend to, and may lawfully be exercised by, every party hereinbefore enabled to sell, and convey, or release lands to the Promoters.

Incorporation of provisions of Government Railways Act.

50. The several sections of the Government Railways Act, twenty-second Victoria number nineteen, hereinafter specified, together with the respective powers, authorities, duties, liabilities, obligations, and other the provisions therein contained, are hereby declared, notwithstanding the repeal of the said Act, 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 any 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 Promoters." 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:—

- (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 money in certain cases to trustees or to the parties themselves, and the exoneration of the Promoters 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) As to the procedure by the Promoters in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Promoters 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 incumbrances, 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.

Power to take temporary possession of land.

51. It shall be lawful for the Promoters, 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,

Mulgoa Irrigation.

walk, avenue, or ground ornamentally planted, and not being nearer to the dwelling-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, 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 the 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 Promoters and all other persons employed therein 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 or 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 to erect thereon workshops, sheds, and other buildings of a temporary nature. Provided always that nothing in this Act contained shall exempt the Promoters 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 Promoters either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Company shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom.

52. If any such lands shall be used for any of the purposes aforesaid, the Promoters 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 Promoters as to the necessity for such fences and gates, then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid.

Promoters to separate the lands before using them.

53. In any of the cases aforesaid where the Promoters 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 Promoters so taking possession of his lands.

Compensation to be made for temporary occupation.

54. 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 Promoters 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,

Before roads interfered with, others to be substituted.

Mulgoa Irrigation.

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.

55. 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 Promoters, or as near thereto as may be, and if such road cannot be so restored, the Promoters 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.

Promoters to make sufficient approaches and fences to bridle-ways and footways crossing on the line.

56. If any pipe, canal, or duct shall cross any highway, other than a public carriage-way, on the level, the Promoters shall make and at all times maintain convenient ascents and descents, and other 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, and if the same shall be a footway, good and sufficient gates or stiles on each side of works where the highway shall communicate therewith.

Works for benefit of owners.

57. The Promoters 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—

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 pipe, canal, or duct passing over such lands shall have been laid down or formed or during the formation thereof.

Fences, &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 works as soon as conveniently may be.

Drains.

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

Provided always, that the Promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works authorized by this Act, 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.

Differences as to accommodation works to be settled by Governor.

58. 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 also appoint the time within which such works shall be commenced and executed.

Mulgoa Irrigation.

59. If any of the owners or occupiers of lands affected by such pipe, canal, or duct shall consider the accommodation works made by the Promoters, or directed by the Governor to be made by the Promoters, 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 Promoters.

Power to owners of lands to make additional accommodation works.

60. If the Promoters so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of the Promoters' engineer, and according to plans and specifications to be submitted to and approved by the Promoters. But the Promoters 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 Promoters, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Promoters.

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

61. 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 III.

Miscellaneous Provisions—Legal Procedure.

62. 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.

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

63. If it shall be proved to the satisfaction of any two Justices in Petty Sessions assembled, that the Promoters 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.

64. 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 Justices, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before two Justices 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 two Justices 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.

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

65. 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

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

Mulgoa Irrigation.

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 by the said Acts.

Parties allowed to appeal to Quarter Sessions on giving security.

66. If any party shall feel aggrieved by any determination or adjudication of any Justices with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the nearest Quarter Sessions; 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 Quarter Sessions, for which such notice shall be given, the Court shall proceed to determine the appeal in a summary way, or they may, if they think fit, adjourn it 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 think reasonable.

Court to make such order as they think reasonable.

Damage to be made good in addition to penalty.

67. 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 Promoters, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damages 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 their warrant accordingly.

Transient offenders.

68. It shall be lawful for any officer or servant of the Promoters, and all persons assisting him, 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, to be dealt with according to law.

Notices.

69. Any notice required by this Act, or by 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 served or given 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.

Mulgoa Irrigation.

70. 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 indicting, or otherwise proceeding, either civilly or criminally against the Promoters or their officers, for nuisance or otherwise in respect of the works, or means used or employed by the Promoters in the exercise of the privileges hereby conferred on the Promoters, or to prevent the Promoters, or any person recovering any sum of money, or otherwise proceeding in any Court of competent jurisdiction; but the Promoters 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.

71. For any of the purposes of the Promoters authorized by this Act the Promoters may from time to time borrow money in such sum or sums as the Promoters may think fit; and for securing the repayment of the money so borrowed, with interest, it shall be lawful for the Promoters to issue debentures, to be charged and secured upon the Promoters lands, works, materials, rights, privileges, and revenues or to mortgage the same.

Borrowing powers.

72. The Promoters shall assign and transfer to the purchaser or purchasers of land within the irrigation area at time of purchase such a water-right to attach to the land so purchased as the Promoters may determine, and such water-right, when assigned or transferred to such purchaser or purchasers, shall be expressed in or endorsed upon the deed of conveyance, or in or upon the transfer of such land; and in all cases where the land is under the provisions of the Real Property Act, such water-right shall be noted by the Registrar-General upon the purchaser's certificate of title, and such water-right shall, for all time, attach to the land to which the same has been assigned, and shall be held by and belong to the owner of such land for the time being. Provided such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

Assignment of water-rights to purchasers.

73. It shall be lawful for the Promoters, at any time after the passing of this Act, to assign, transfer, convey, and release to any person, or to any Company duly incorporated for that purpose, all the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed upon it by this Act, together with all lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired by it under or in pursuance thereof, and purchased, occupied, or used in connection with the same, and upon and after the completion of such assignment, transfer, conveyance, and release the said person or Company, their officers, agents, and servants alone may lawfully exercise and enjoy all the rights, powers, authorities, and privileges, and shall be and continue alone to be subject to all the liabilities, obligations, penalties, and forfeitures to which the said Promoters, their officers, agents, or servants would have been entitled or subject had no such assignment, transfer, conveyance, and release been completed. Provided, however, that nothing herein contained shall prejudice or affect any rights accrued, action or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by the said promoters before the completion of the said assignment, transfer, conveyance, and release, and for which the said assignees shall be as fully liable as the Promoters would have been if no such assignment, transfer, conveyance, and release had been executed.

Rights, powers, &c. under this Act may be assigned, &c., to incorporate Company.

74. Upon the application of the Promoters the Governor may, by proclamation, declare that the provisions of this Act shall be extended to lands other than those within the irrigation area, and thereupon such lands which shall in such proclamation be described shall be included within the provisions of this Act, the same as if such lands had been included in the provisions of this Act originally.

Power to extend provisions of the Act.

Mulgoa Irrigation.

Voidance of Act.

75. This Act shall become null and void unless works to the value of twenty thousand pounds be carried out within two years after the passing thereof.

Penalty for infraction of proviso in subsection (iv) of section 5 of this Act.

76. In the event of any infraction by the Promoters of the proviso in subsection (iv) of section five in respect of the quantity of water to be taken, they shall be liable to a penalty not exceeding one hundred pounds per day for each and every such offence, and in case of a second like offence it shall be lawful for the Governor to forfeit all rights of the Promoters or their assigns under this Act.

FIRST SCHEDULE.

Irrigation area, about 18,610 acres, county of Cumberland.

- The portion of the York's Estate, parishes Mulgoa and Claremont, the property of the Metropolitan Mutual Permanent Building and Investment Association, Limited, 55 Market-street, Sydney. About 7,000 acres, more or less.
- The portions of the Littlefield's Estate, parish of Mulgoa, the property of A. W. Stephen, 28 Castlereagh-street, Sydney. About 700 acres.
- Portion of the Winbourn Estate, parish of Mulgoa, abutting on to the Nepean River, and lying to the south, east, and north of the Winbourn Homestead, the property of the Honorable G. H. Cox, Winbourne, Mulgoa. 1,000 acres.
- The Fern Hill Estate, parish of Mulgoa, the property of Edward Standish Cox, Esquire, of Fernside, Rylstone. About 950 acres.
- Jamieson, land comprising Brabyn's 500 acre and John Jamieson's 460 acre grants, parish of Mulgoa, the property of T. Jamieson, Clarence River. About 960 acres.
- Tottenham Estate, parish of Claremont, the property of Sir D. Cooper, England. About 4,000 acres.
- Portions of John Oxley's 600 acre, P. P. King's 650 acre, Maria King's 280 acre, and A. J. King's 790 acre grants, the property of the Honorable P. G. King, Banksia, Double Bay. About 2,000 acres.
- Blaxland's Grant, parish of Claremont, the property of F. W. Wentworth. About 2,000 acres.
- Fitzgerald's Estate, parishes Claremont and Melville, the property of Fitzgerald's Estate. About 1,200 acres.

SECOND SCHEDULE.

Notice of Claim and Abstract.

To the Promoters of the Mulgoa Irrigation Scheme.

IN pursuance of the "Mulgoa Irrigation Act" I (*or we*) hereby give you notice that I (*or we*) claim compensation for 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, 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 claimant's solicitor or agent.

(Signature)
(Address)
(Date)

Mulgoa Irrigation.

THIRD SCHEDULE.

Notice of Valuation.

To A.B., claimant in respect of the land hereunder described, resumed under the
"Mulgoa Irrigation Act."

TAKE notice that the land hereunder described, being that in respect of the resumption
whereof under the authority of the aforesaid Act your claim for 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.

In the name and on the behalf of Her Majesty I assent to this Act.

ALFRED STEPHEN.

*Government House,
Sydney, 19th December, 1890.*

