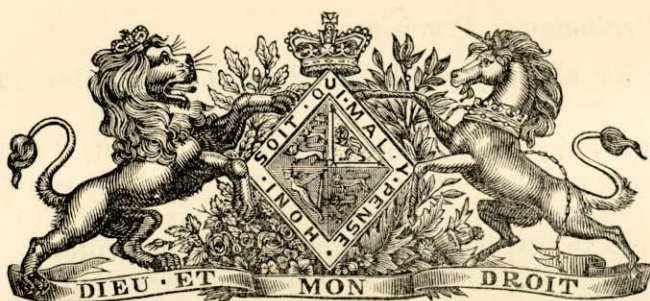


*This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council Chamber,  
Sydney, December, 1892. }*

*Acting Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO SEXTO

## VICTORIÆ REGINÆ.

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An Act to enable and authorise the Menindie Irrigation Settlement (Limited), a Company duly incorporated under the Companies Acts of 1874 and 1888 of the Colony of New South Wales, to establish a system of Irrigation and Water Supply within the counties of Menindie, Tandora, and Yancowinna, in the said Colony; to acquire lands; to establish Irrigation Works; to authorise 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 Menindie Creek and Lake, and the other creeks mentioned herein, and to take water therefrom and from the river Darling, and for all other purposes which may be incidental thereto.

**W**HEREAS it is expedient and would be to the advantage of the inhabitants of the counties of Menindie and Tandora, and of the public generally, to establish a system, whereby the waters of lake Menindie and of the Darling River, in the Colony of New South Wales, may be conserved and utilised for irrigation and domestic use, and for watering stock, and for other purposes: And whereas certain Crown lands situated in the parishes of Hume, Kars, Maiden, and Bellar, in the county of Tandora aforesaid, and more particularly described in the Second Schedule hereto, are suitable for agricultural and horticultural purposes, if provided with a permanent supply

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*Menindie Irrigation.*

supply of water: And whereas the Minister for Lands, on the application of the Promoters, and as notified in the *Gazette* of the twenty-third day of July, one thousand eight hundred and ninety-two, has reserved from Lease for Irrigation purposes part of the lands described in the Second Schedule hereto: 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.

10

*Preliminary Provisions.*

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

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.

Portions of Acts at variance with this.

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.

Provisions subject to rights of Crown to control of water.

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

Interpretation of terms.

25 "Construct" means, when used with reference to any irrigation work, to build, erect, make, lay, form, place, excavate, or embank, or to perform any other operation or work in connection with the carrying out of the irrigation works authorised by this Act.

30 "Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1884."

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

35 "Gazette" means the *Government Gazette*.

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

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

40 "Irrigation Water Conservation Area" means the Lake, Creeks, and Lands named and described in the First Schedule to this Act.

45 "Irrigation Works" means and includes all or any engines, pumps, boilers, machinery, plant, canals, channels, ducts, flumes, pipes, water-gauges, water-meters, stop-cocks, ball-cocks, bridges, reservoirs, cisterns, dams, weirs, wells, flood-gates, filter-beds, culverts, tunnels, drains, aqueducts, sluices, stops, water-locks, outlets, cuttings, embankments, buildings, sheds, instruments, apparatus, appliances, works incidental thereto, and other works of every description for the purpose of obtaining, conserving, storing, lifting, conveying, measuring, distributing, or delivering water for irrigation or domestic use, or otherwise suitable to the purposes of an irrigation settlement.

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"Irrigation



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- “Irrigation Cultivation Area” means the lands and hereditaments described in the Second Schedule to this Act, and all other lands which may hereafter be acquired by the Promoters under this Act.
- 5 “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 and lessee or licensee under the Crown.
- 10 “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.
- 15 “Private land” means any land which is not Crown land or which is hereinafter expressly referred to as private land.
- “Road” means a public road so constituted by reservation, proclamation, dedication, or otherwise, howsoever.
- The intervention of a road or watercourse (not being a permanent river) shall not prevent holdings or lands being held to be
- 20 “adjoining.”
- “Regulations” means the regulations made under this Act.
- “Stock” means and includes cattle, horses, sheep, and all other domestic animals.
- 25 “The Promoters” means the said “Menindie Irrigation Settlement (Limited),” and the Assignees of the said Company for the time being.

And the Parts and sections of this Act are arranged in the order following, namely:—

Arrangement of  
parts and sections  
of Act.

- PART I.—*Preliminary provisions.*—ss. 1-4.
- 30 PART II.—*Powers and duties of the Promoters.*—ss. 5-46.
- PART III.—*The reservation as an Irrigation Water Conservation Area of the Lake, Creeks, and Lands described in the First Schedule hereto.*—ss. 47-59.
- 35 PART IV.—*The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*—ss. 60-65.
- PART V.—*The ascertainment and payment of compensation in respect of lands resumed and taken.*—ss. 66-78.
- PART VI.—*Miscellaneous provisions—Legal procedure.*—ss. 79-92.



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## PART II.

*Powers and Duties of the Promoters.*

5. 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.

- 5 (I) To construct, upon and across the channels between Lake Menindie and the Darling River, and the channel between Lake Cawndilla and Lake Menindie, or any of them, dams, weirs, flood-gates, or water-locks, or other irrigation works, with the necessary offtakes and works, and to alter and maintain the same.
- 10 (II) To construct and place irrigation works within or without the Areas described in the First and Second Schedules hereto for the purpose of conserving, raising, or otherwise dealing with any such waters as may be necessary for irrigation and domestic use on the Irrigation Cultivation Area, or as may be necessary or expedient for carrying out any of the purposes of this Act, and to maintain and work the same.
- 15 (III) To take or divert water from Lake Menindie, or from any creek, channel, or water-course leading to or from the said Lake, or from the river Darling, and to convey to and distribute the same within the Irrigation Cultivation Area or elsewhere as hereinafter provided, in quantities not exceeding an average of one cubic foot per minute for every five acres of land intended to be irrigated under the provisions of this Act: Provided, nevertheless, that nothing contained in this Act shall authorise the use of water from the said river for any purpose, so as in any way to diminish the quantity to such an extent as to interfere with the navigation of the river, or reduce the flow of the water of the said river beyond such mean discharge as the Governor shall from time to time prescribe by notification to be published by the Minister in the *Gazette*.
- 20 (IV) After payment of compensation as hereinafter provided 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 areas described in the First and Second Schedules hereto; and also to enter upon, take, and hold any Crown or private lands, streets, roads, or thoroughfares, and to construct therein any irrigation works, and to maintain, repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any irrigation or other works being their property or under their control.
- 25 (V) And without such compensation to enter into and upon any lands and take, lay down, and set out levels of the same for the purpose of constructing irrigation works.
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6. 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 whenever it shall be deemed necessary in the public interest the Governor may take possession and control of the whole of the lands, works, goods, chattels, and funds at the time belonging to or vested in the Promoters, subject to all liabilities and obligations attaching to the same, and with all the powers hereby created. Rights of the Crown preserved.



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7. The Promoters shall make payment to the Crown of such amount in each year in name of charges for water rights as the Governor may from time to time prescribe, having regard to the cost of the Promoters' irrigation works and maintenance thereof, and in the event of any general legislation in reference to irrigation being hereafter enacted the amount of such charges shall be in accordance with the rates, if any, fixed in or appointed by any such general legislation.

8. 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. Compensation for damage done by promoters.

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

10. 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 manner provided in Part V of this Act in respect of claims for compensation made thereunder: 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. Compensation, how settled.

11. 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 may 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 the construction and maintenance of irrigation works as authorised by this Act: Provided nevertheless that permission be obtained from respective municipal councils when such streets are outside the Irrigation Cultivation Area. Power to open streets.

12. 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. Reinstatements of streets.

13. The Promoters may, within the areas described in the First and Second Schedules hereto 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, dam, 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 irrigation works. Diversion of water-courses.



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

Agreements to supply water.

15. 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  
10 unavoidable cause, or from accident, or from necessary repairs.

Promoters not liable for accidental failure to supply water.

16. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or other irrigation work, for such remuneration and upon such terms as may be agreed upon by the Promoters; and such agreement shall and may be enforced in  
15 any Court of Law or Equity.

Promoters may let meters.

17. Such meters, water-gauges, or other irrigation works 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  
20 any sequestration or order in insolvency, or other legal 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, or other irrigation works may be.

Meters of promoters not distrainable.

18. 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  
25 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.

Meter to be supplied and maintained by consumer.

19. The Promoters or their officers or servants may enter in and upon any lands, houses, or buildings, and with or without horses  
35 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, or other irrigation works, 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  
40 any house, building, or lands, for the purpose of removing or altering any meter, or other irrigation work, 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  
45 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.

Power to officers or servants of promoters to inspect meter.

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

Promoters may make regulations.

- (I) The supply and sale and distribution of water to any person within or without the Irrigation Cultivation Area.
- (II) The assessment of the rate and price at which water shall be supplied, and the time of payment for the same, whether in  
55 advance or otherwise, and the order in which applicants may be served.
- (III) The determination and adjustment of the interest, if any, of the various landowners and others within the Irrigation Cultivation Area to and in the irrigation works.

(IV)



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- (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.
- 5 (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 Irrigation Water Conservation Area or Irrigation Works.
- 10 (vi) The protection of the water and every part of the irrigation and other works from trespass or injury.
- (vii) The protection, management, and use of places for watering stock, and for bathing and washing purposes.
- (viii) The imposing of penalties for any breach of any regulation by this Act authorised to be made by the Promoters, not exceeding the sum of fifty pounds, and the enforcement of the same; and
- 15 (ix) Generally for duly administering and carrying out the powers given to the Promoters.

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

21. The price to be charged by the promoters for water sold to any person for domestic use or for watering stock within the Irrigation Cultivation Area shall in no case exceed two shillings and sixpence per one thousand gallons.

Maximum price of water for domestic use in Irrigation Cultivation Area.

- 25 22. 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, such person shall be liable for any such offence to a penalty not exceeding five pounds in addition to the value of the water wasted or misused, and the Promoters may (without prejudice to any remedy against them in respect thereof) cut off any of the pipes, canals, or  
30 other irrigation works, by or through which water is supplied to such person 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.

23. If any person bathe, or wash any article or stock, in any lake, stream, drain, reservoir, aqueduct, or other water-works within  
40 the Areas described in the First and Second Schedules hereto, except in such places as may be set aside by the Promoters for bathing and washing purposes, or 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.

24. If any person throw, convey, or cause or permit to be  
45 thrown or conveyed any rubbish, dirt, filth, or other noisome thing into any such lake, 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.

- 50 25. 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 lake, stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or over which they have any rights or control, or shall do  
55 any other act whereby the water of the Promoters shall be fouled, such person 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.



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26. 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  
 5 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 wilful pollution.

27. Any person who shall, without the authority of the Promoters, establish or re-establish, or permit to be established or re-  
 10 established any connection which has not been authorised, 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 irrigation work which may have been approved by the Promoters, so as to destroy, diminish, or endanger its efficiency, may be summoned for  
 15 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 authorised to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall also forfeit and pay a penalty  
 20 not exceeding ten pounds.

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

28. 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  
 25 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.

Charges and rates for water payable in advance.

29. If any person refuse or neglect to pay on demand to the  
 30 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 such Court sitting within the Police District of Mitchell.

Refusal to pay charges.

30. If any person wrongfully take or use any water belonging  
 35 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 unlawfully taking water.

31. If any person fix or refix any water-meter, water-gauge, or other irrigation work upon any pipe or other irrigation work the  
 40 property of the Promoters, without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding ten pounds.

Penalty for fixing uncertified meter, &c.

32. If any person remove or alter the position of, or in any way interfere with, any irrigation work without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding  
 45 twenty pounds.

For removing or altering meter without notice.

33. Every person requiring to remove or alter the position of or to open any irrigation work shall leave twenty-one days notice in writing to that effect at the local office of the promoters, situated upon the Irrigation Cultivation Area. And if any person refuse or delay to  
 50 have any irrigation work 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 irrigation work shall have been properly repaired and  
 55 certified by some officer of the Promoters as being in proper working order.

Notice of removal, &c., of meter.

Water may be cut off if meter not in order.

34. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any irrigation works undertaken under the authority of this Act, or pull up

Penalty for obstructing construction of works.

OR



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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.

5 35. If any person unlawfully and maliciously destroy or Penalty for destroying works. damage, or attempt to destroy or damage, any irrigation work, road-way, or other part whatever of the machinery or works of the Promoters, or deface or destroy any sign, notice or advertisement belonging to or erected, or published by the Promoters, such person shall be  
10 guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

36. It shall be lawful for the Promoters, and all persons by Power to take temporary possession of land. them authorised, to enter upon any lands, not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted  
15 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 authorised by this Act, of the accommodation works connected therewith hereinafter men-  
20 tioned, 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;

25 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  
30 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 con-  
35 structing 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  
40 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  
45 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 Promoters shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom: Provided also that where such lands so entered  
50 upon are Crown Lands, nothing in this Act contained shall exempt the Promoters from the provisions of Part VI of the "Crown Lands Act of 1884."

37. If any such lands shall be used for any of the purposes Promoters to separate the lands before using them. aforesaid, the Promoters shall, if required so to do by the owner  
55 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 of such lands and the Promoters as to the necessity for such fences and gates, then with such fences and gates as  
60 the Minister shall deem necessary for the purposes aforesaid.



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38. 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.

39. 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, maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

40. If the road so interfered with can be restored compatibly with the due completion of any works authorised under this Act, the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the 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.

Period for restoration of roads interfered with.

41. If any irrigation work 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.

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

42. The Promoters shall make and at all times thereafter maintain the following works for the accommodation of the owners of lands adjoining any irrigation works authorised under this Act, that is to say—

Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the side of, or leading to or from such irrigation 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 accommodation works shall be made forthwith after the part of the irrigation works passing through or over such lands shall have been laid down or formed or during the formation thereof.

Gates, bridges, &c.

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land, taken for the use of such irrigation works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners thereof from straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands and not towards the said irrigation 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.

Fences, &c.

Also



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- Also all necessary arches, tunnels, culverts, drains, or other Drains.  
 passages, either over or under, or by the sides of such irriga-  
 tion works, and of such dimensions as will be sufficient at  
 all times to convey the natural water from the lands lying  
 5 near or affected thereby.
- Provided always that the Promoters shall not be required to make Accommodation  
 such accommodation works in such a manner as would prevent or works not to inter-  
 obstruct the using of any irrigation works authorised by this Act, nor fere with use of  
 to make any accommodation works with respect to which the owners works, nor to be  
 10 of the lands shall have agreed to receive and shall have been paid made where com-  
 compensation. pensation given.
43. If any difference arise respecting the kind or number of Differences as to  
 any such accommodation works or the dimensions or sufficiency accommodation  
 thereof, or respecting the maintaining thereof, the same shall be deter- works to be settled  
 15 mined by the Minister, who shall also appoint the time within which by Minister.  
 such works shall be commenced and executed.
44. If any of the owners of lands affected by any irriga- Power to owners of  
 tion work shall consider the accommodation works made by the lands to make  
 Promoters, or directed by the Minister to be made by the Promoters, additional accommo-  
 20 insufficient for the commodious use of their respective lands, it shall be dation works.  
 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.
45. If the Promoters so desire, all such last-mentioned accom- Such works to be  
 25 modation works shall be constructed under the superintendence of the constructed under  
 Promoters' Engineer, and according to plans and specifications to be the superintendence  
 submitted to and approved by the Promoters. But the Promoters shall of the promoters'  
 not be entitled to require either that plans shall be adopted, which engineer.  
 will involve a greater expense than that incurred in the execution of  
 30 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.
46. If any person omit to shut and fasten any gate set up for Penalty on persons  
 the accommodation of the owners of the adjoining lands, or of the omitting to fasten  
 35 Promoters or their tenants, as soon as he and the carriages, cattle, or gates.  
 other animals under his care have passed through the same, he shall  
 forfeit for every such offence any sum not exceeding ten pounds.

## PART III.

40 *The reservation as an Irrigation Water Conservation Area of the  
 Lake, Creeks, and Lands described in the First Schedule hereto.*

47. On the passing of this Act, it shall be notified by the Reservation to be  
 Minister, by publication in the *Gazette*, that the Lake, Creeks, and gazetted.  
 Lands mentioned and described in the First Schedule hereto have  
 been set apart as an Irrigation Water Conservation Area for irrigation  
 45 purposes and domestic use within the Counties of Menindie, Tandora,  
 and Yancowinna.

48. Upon the publication of the notification in the *Gazette* Vesting, &c., of lands  
 declaring that the Lake, Creeks, and Lands therein described are so  
 required and set apart, the right of user of the water in, over, or upon  
 50 such Lake, Creeks, and Lands shall be vested in the Promoters in  
 Trust for the purposes of this Act.

49. Where the lands contained in the area described in the Effect of publication  
 Second Schedule hereto are Crown Lands at the date of such publica- upon Crown Lands  
 tion, or are vested in any corporation or person on behalf of Her described in the  
 Majesty, Second Schedule.



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Majesty, or for public purposes, by virtue of any statute, or are 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 lands from any lease or license or promise thereof, to cancel to the like extent any dedication or reservation of the said lake, creeks, and lands made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending or repealing the same, and to vest the said lake, creeks, and lands, to the extent aforesaid, in the Promoters, for the purposes mentioned 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.

50. Upon the publication of the said notification the Promoters shall be entitled to fence off any portion of the Irrigation Water Conservation Area on which Irrigation Works are constructed or erected: Provided always that when such fencing shall prevent access to any lake or creek previously in use by any owner of adjoining lands for watering stock or domestic use the Promoters shall provide, in lieu thereof, other convenient watering places for the use of such owner for the like purposes.

51. For so much only of the Irrigation Water Conservation Area as shall be fenced off under the authority of the preceding section, the owners thereof shall be entitled to claim compensation.

Promoters may fence off.

52. After the construction by the Promoters of all such Irrigation Works upon the Areas described in the First and Second Schedules hereto as they may consider necessary for the irrigation of the Irrigation Cultivation Area, it shall be lawful for any owner of land in the Counties of Menindie, Tandora, and Yancowinna to apply to the Promoters for the supply and delivery of water from the Irrigation Water Conservation Area upon such land for irrigation and domestic use for a term of years, at a price by measure or otherwise; and the Promoters shall supply such water on the conditions aftermentioned: Provided always that by so doing they shall not endanger due provision for, and the proper irrigation of, the Irrigation Cultivation Area.

Compensation to be paid for land fenced off above high water level only.

53. Every such application for a supply of water on land situated outside the Irrigation Cultivation Area for irrigation or domestic use shall be accompanied by a plan of any special irrigation works necessary therefor, and a map or plan of the lands through which such special works are intended to pass, showing the position of such proposed works thereon and the names of the owners of such lands, together with an estimate by a competent engineer of the cost of carrying out such special works.

Owners of land in Counties of Menindie, Tandora, and Yancowinna may apply for water.

54. Before any part of such special irrigation works as may be carried out under this part of this Act shall be commenced, the plans and construction thereof shall be approved and authorised by the Minister, and such owner shall be obliged to prove to the satisfaction of the Promoters that such works will yield a reasonably permanent return at a remunerative rate upon the total cost thereof; and any such special works shall be constructed only under written agreement between the Promoters and such owner, and such agreement, whether under seal or not, shall be deemed a covenant running with such land, and the successive owners thereof, during the term of such agreement.

Application to be accompanied by plan and map.

55. All such special irrigation works as may be constructed under this part of this Act shall be constructed by the Promoters, and under the superintendence of the Promoters' engineer, unless the Promoters shall otherwise agree with such owner, within a reasonable time after the approval and authority of the Minister as aforesaid shall have been obtained. But the Promoters shall not be entitled to require either that

Plans to be approved and works authorised by the Minister, and to be remunerative.

Works to be constructed by the Promoters.



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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.

5 56. The Promoters shall be entitled to charge and recover from such owner in each year in name of water rates, payable half-yearly, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, and such sum shall include a fair and reasonable proportion of the following items of outlay and  
10 expense in respect of the irrigation works on the Irrigation Water Conservation Area, namely :—

- (I) Provision for a sinking fund for the maintenance and renewal of the irrigation works.
- 15 (II) Annual cost of working and supervision of the irrigation works.
- (III) Interest at the rate of ten per centum per annum upon the total cost of the irrigation works, including the amount of compensation paid in respect thereof and the cost of lands acquired therefor.

20 57. In addition to such charge in name of water rates permitted by the last-preceding section it shall be in the option of the Promoters either to charge and recover from such owner the total cost of special irrigation works constructed on the application of such owner, or to charge, and recover from such owner, in each year, in name of special  
25 water rates, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, to cover the cost of such special works.

58. Subject to the provisions of this Act, it shall be lawful for the Promoters to enter into an agreement in writing with the owner  
30 of any land within the Counties of Menindie, Tandora, or Yancowinna, for the supply and delivery of water upon such land for a term of years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement, and in every such agreement the owner of such land shall agree to pay such price for the term limited in the  
35 agreement, and to pay the Promoters for not less water in any year than the minimum quantity in such agreement specified, and such agreement by such owner, whether under seal or not, shall be deemed a covenant running with such land, and shall bind such land and the successive owners thereof during the said term. But nothing in such  
40 agreement shall be construed to create any obligation on the part of the Promoters to supply any stated quantity of water in the event of there being at the disposal of the Promoters an insufficient quantity of water as in this part of this Act provided.

59. If at any time the supply of water obtainable from the  
45 Irrigation Water Conservation Area, shall, in the opinion of the the Promoters, be insufficient to supply to any such owner the whole of the water to which such owner would otherwise have been entitled and liable to take, without endangering the due provision for, and the proper irrigation of, the Irrigation Area, the Promoters shall deliver  
50 to such owner, and such owner shall receive, such quantity only as the Irrigation Water Conservation Area can, in the opinion of the Promoters, supply ; and if there be several such owners the Promoters shall in such event deliver to such owners respectively, and such owners shall respectively be liable to take from the Promoters such  
55 amount of water only as the Irrigation Water Conservative Area can, in the opinion of the Promoters, properly supply in quantities in proportion to the quantities which such owners would, had there been sufficient water available without endangering the due provision for, and the proper irrigation of, the Irrigation Cultivation Area, have respectively

Owners to be chargeable with annual water rates.

Charge to repay cost of special works.

Promoters may supply water under agreement with land owners.

When water available is insufficient, quantity supplied may be reduced.



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respectively been entitled and liable to take from the Promoters; but in such case such owner shall only pay for the water actually provided for him; and in no case shall any action, claim, demand, or other proceedings for not supplying water to any such owner be maintainable in any form in any case where it has been determined by the Minister that the Promoters have been, without negligence or wilful default upon their part, unable to supply such water or have refused to supply such water in virtue of any provisions of this Act.

Payment to be made for water supplied only.  
No claim to lie for inability to supply.

## PART IV.

10 *The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*

60. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the lands described in the Second Schedule hereto are required and have been set apart as an Irrigation Cultivation Area for the use of the Promoters, and that the same shall be held by them upon the conditions specified in this Act.

Reservation to be gazetted.

61. Upon the publication of the last-mentioned notification in the *Gazette* declaring that the lands therein described are so required and set apart, 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.

62. The effect of such publication shall be to withdraw the lands described in the Second Schedule hereto from any lease or license or promise thereof, 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 or repealing the same, and to vest the said land, to the extent aforesaid, in the Promoters, for the purposes mentioned, and for the estate mentioned 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 lands so required.

Effect of publication upon Crown lands described in the Second Schedule.

63. The conditions upon which the Irrigation Cultivation Area shall be held and acquired by the Promoters shall be as follows, namely:—

Conditions upon which Irrigation Cultivation Area to be held.

(I) They shall expend upon or in connection with the Irrigation Cultivation Area, and within the period of twenty years from the passing of this Act, in the construction of irrigation works, and permanent improvements, a sum of not less than Thirty thousand pounds in the following manner, that is to say:—  
During the first period of five years the sum of ten thousand pounds; before or during the second period of five years the further sum of seven thousand pounds; before or during the third period of five years the further sum of seven thousand pounds; and before or during the fourth period of five years the balance of six thousand pounds; and the said sum of thirty thousand pounds shall be expended as aforesaid, in addition to such sums of money as may be expended upon or in connection with the land described in the Second Schedule hereto in preparing and planting and cultivating the same.

Expenditure of £30,000.

(II)



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- (II) They shall keep and maintain all irrigation works, and permanent improvements upon or in connection with the Irrigation Cultivation Area in good condition and repair during the said period of twenty years. To maintain works.
- 5 (III) They shall not sell, lease, or dispose of any land granted, or to be granted to them in fee simple in parcels exceeding eighty acres, if the land so sold shall be prepared and planted for fruit growing, or one hundred and sixty acres if prepared for growing other produce, or sell, lease, or dispose of more than one hundred and sixty acres of land to the same person. Restrictions on sale, lease, &c.
- 10 (IV) They shall not at any time hold in their own possession, or in that of their agents, more than five thousand acres of cultivated irrigated land, out of the lands described in the the Second Schedule hereto. Restriction on cultivated irrigated land held by Promoters.
- 15 (V) They shall use all reasonable efforts to establish within the period of five years from the passing of this Act, upon the Irrigation Cultivation Area the business and industries of fruit growing, fruit drying, preserving, and canning. Industries to be established.
- 20 (VI) They shall take all reasonable measures to destroy all such animals and birds within and upon the Irrigation Cultivation Area as may be proclaimed to be vermin. Vermine to be destroyed.
- 25 (VII) They shall, within the period of five years from the passing of this Act, use all reasonable means to effect the removal of all timber growing within the high water-mark of the Lake specified in the First Schedule hereto, and may cut up, use, and dispose of the same. Land to be cleared.
- (VIII) The Governor may resume any portion of the Irrigation Cultivation Area for railways, tramways, and roads. Governor may resume.
- 30 (IX) For the purpose of ascertaining the actual cost of *bonâ fide* irrigation works and permanent improvements under this Act, the Promoters shall from year to year, until the said sum of thirty thousand pounds shall have been expended as aforesaid, submit to the Auditor-General accounts and proper vouchers of all irrigation works, and permanent improvements expended by them upon or in connection with the Irrigation Cultivation Area, and the amount of the accounts as passed by the Auditor-General shall be deemed to be the actual expenditure by the Promoters upon or in connection with such irrigation works, and permanent improvements. Accounts to be submitted to Auditor-General.
- 35
- 40 (x) The accounts of the Promoters in and about the construction of the irrigation works and permanent improvements shall be subject to all the provisions of the "Audit Act of 1870," so far as may be in the same manner in all respects as if such accounts had been specifically mentioned therein. Accounts to be subject to Audit Act of 1870.
- 45 Provided always that if the Promoters should at any time fail to comply with the foregoing conditions or any of them, all their right, title, and interest in or to the lands in this part of the Act mentioned or referred to shall, subject to the provisions of this Act, absolutely cease and determine.
- 50 64. For every two pounds expended by the Promoters upon or in connection with the Irrigation Cultivation Area in irrigation works and permanent improvements, the Governor shall, on payment to the Crown by the Promoters of the sum of one pound five shillings, in addition to said expenditure of two pounds, issue to the Promoters
- 55 a grant of one acre of land required by the Promoters within the area described in the Second Schedule hereto, provided always that no such grant shall be issued except for a parcel of land containing not less than one hundred acres. And every such grant shall be for an estate of inheritance in fee-simple in possession, subject to
- to
- Conditions on which grant in fee simple to issue.



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to the conditions contained in Crown grants issued under the Crown Lands Acts in force for the time being and the provisions of this Act, and shall be vested in the Promoters.

- 5 65. Until such grant of each such parcel of land shall respec- Promoters to be  
tively have been applied for and issued to the Promoters, they shall Crown Lessees until  
hold the lands described in the Second Schedule hereto, or the balance issue of Grant.
- 10 thereof from time to time, of which no such grant shall have been issued, as Lessees from the Crown, and shall pay to the Crown an annual sum in name of rent therefor at a rate not exceeding the average
- 15 rent assessed from time to time on other Crown unimproved pastoral lands in the counties aforesaid. And until such grant of each such Promoters may sub-  
parcel of land shall respectively have been issued as aforesaid, the lease, &c.
- the Promoters shall be entitled to sub-lease any such parcel of the lands described in the Second Schedule hereto, or the balance thereof from
- time to time of which no such grant shall have been issued, and to enter into any contract of sale of any such parcel of land conditional upon the issue of any such grant thereof.

## PART V.

20 *The Ascertainment and Payment of Compensation in Respect of  
Lands Resumed and Taken.*

66. Where the land described in any notification under this Act, and resumed and taken for any of the purposes thereof, consists Compensation for  
wholly or partly of land alienated by, or not the property of, the private lands.  
25 Crown, or is not Crown Land as defined by this Act, or is held under any lease or license from the Crown, the owners, lessees, or licensees 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.

- 30 67. The estate and interest of every person entitled to lands Conversion of estate  
required under this Act, or any portion thereof, and whether to the of proprietor of  
legal or equitable estate therein, shall, upon due payment of the amount resumed land into a  
of compensation tendered by the Promoters, or assessed by the jury claim.  
or arbitrators as hereinafter provided, be deemed to have been as  
35 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 his claim as hereinafter provided, and making out his title in respect of any portion of the said resumed lands, be  
40 entitled to compensation on account of such resumption in manner hereinafter provided.

68. 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  
45 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  
50 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 Third Schedule hereto, but with any modifications required by the nature of the claim.



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69. 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 by a competent valuator, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fourth Schedule hereto. Claim and report thereon.

70. 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. Compensation by action in Supreme Court.

71. 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. Issue in action of compensation verdict and costs.

72. 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 authorised in that behalf in writing, but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land: Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply, no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed, or the support to such surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid. As to payment of compensation.

73. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," or any amendment thereof, have jurisdiction to try any such action of compensation at the District Court holder within the district wherein any land in respect of which any claim has arisen under this Act (or the greater portion of such land) is situated in any case where the whole amount of the claim in respect to such land served in pursuance of section sixty-nine of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Promoters and the Claimant by a memorandum signed by the Promoters' Attorney and the Claimants' Attorney agree thereto. For the purposes of this Act the provisions of the said District Courts Act, and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in any District Court hereunder. Where claim may be prosecuted in a District Court.



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74. In estimating or assessing the compensation, if any, to be paid under this Act, regard shall be had by the valuers and by the jury (on any issue), or by the arbitrators and their umpire to, and they are hereby authorised and empowered to apply the following principles so far as the same may be applicable in each case, namely:—

Principles upon which compensation may be awarded.

(I) Regard shall be had 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 the valuers, jury, or arbitrators, shall assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time notice was given of such lands being required or having been taken.

Compensation for land taken, and severance.

(II) No compensation shall be awarded in any case where the injury for which compensation is claimed appears to have been the result of the execution of works which were incomplete at the time of such injury, if it shall appear that such works are being *bonâ fide* prosecuted to completion.

No compensation where works incomplete.

75. 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 authorised 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.

76. Notwithstanding anything hereinbefore contained, it shall be lawful for the Promoters, if they think fit, to enter into an agreement in writing with any person claiming compensation in respect of any land required, or in respect of any works or other matter done under the authority of this Act, to refer such claim to the decision of two arbitrators and their umpire, and in such event any such agreement shall be read and construed as a submission of such claim within the meaning of the "Arbitration Act, 1892."

Power to refer claims to arbitration.

77. 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

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



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that to the same extent as such wives, wards, lunatics, and idiots, respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability; and as to such trustees, executors, or administrators on behalf of their *cestui que* trusts, whether infants, issue unborn, lunatics, *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability; and the power hereinafter given to release lands from any rent-charge or 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.

78. 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 determination of compensation to absent parties. Sections forty-two to forty-four both inclusive.
- (II) 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.
- (III) 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.
- (IV) 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.
- (V) 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.
- (VI) As to the release of lands from rent-charges and other incumbrances, and procedure thereon. Sections seventy-one to seventy-four, both inclusive.
- (VII) 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.

Incorporation of  
provisions of  
Government Rail  
ways Act.



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## PART VI.

*Miscellaneous provisions—Legal procedure.*

79. 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.

80. 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.

81. 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.

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

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

83. 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.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.



*Menindie Irrigation.*

84. 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  
 5 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  
 10 Justices, or one of them, shall issue their warrant accordingly.

Damage to be made good in addition to penalty.

85. Any notice required by this Act, or by any 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  
 15 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  
 20 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  
 25 post as aforesaid to the Council Clerk of the Borough or Municipal District wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

Notices.

86. In the event of the wrongful exercise of any powers given by this Act, nothing in this Act contained shall be construed to prevent  
 30 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  
 35 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.

87. For any of the purposes of the Promoters authorised by this  
 40 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  
 45 the Promoters lands, irrigation works, rights, powers, authorities, privileges, and revenues or to mortgage the same.

Borrowing powers.

88. The Promoters shall assign and transfer to each and every purchaser of land within the Irrigation Cultivation Area at time of purchase such a water-right to attach as a perpetual easement to the land so  
 50 purchased as the Promoters may determine, but subject to payment by the purchaser of such water rate as may be fixed by assessment as hereinbefore provided, and such water-right, when assigned or transferred to such purchaser, 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  
 55 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

Assignment of water-rights to purchasers.



*Menindie Irrigation.*

belong to the owner of such land for the time being: Provided always that such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

89. It shall be lawful for the Promoters, at any time after the  
 5 passing of this Act and after the execution of works under this Act  
 to the value of five thousand pounds, to assign, transfer, convey, and  
 release to any person, or to any company duly incorporated for that  
 purpose, and having a registered office in New South Wales, all or  
 any of the rights, powers, authorities, privileges, liabilities, and  
 10 obligations conferred and imposed by this Act, together with all or any  
 of the lands, tenements, hereditaments, estates, chattels, and effects of  
 every kind acquired 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 such  
 15 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  
 20 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,  
 25 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.

90. In the event of any dispute, question, or difference arising  
 between the Promoters and the Minister, the same shall be referred  
 30 to two arbitrators, one to be appointed by the Governor and the other  
 by the Promoters, and in such event this section shall be read and con-  
 strued as a submission within the meaning of the "Arbitration Act,  
 1892," of such dispute, question, or difference, to such arbitrators.

Disputes between  
Minister and  
Promoters referred  
to arbitration.

91. Upon the application of the Promoters the Governor may,  
 35 by proclamation, declare that the provisions of this Act, or any of them,  
 shall be extended to lands within the Counties of Menindie, Tandora, and  
 Yancowinna, other than those within the Areas described in the First  
 and Second Schedules hereto, and thereupon such lands which shall in  
 such proclamation be described, shall be included within the provisions  
 40 of this Act, in the same manner and, so far as possible, to the same  
 extent and effect, as if such lands had been part of the lands described  
 in the First and Second Schedules to this Act originally.

Power to extend  
provisions of the Act.

92. This Act shall become null and void unless irrigation works  
 and permanent improvements to the value of five thousand pounds  
 45 be carried out upon or in connection with the Irrigation Cultivation  
 Area within two years after the passing thereof.

Voidance of Act.

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## SCHEDULES.

### FIRST SCHEDULE.

#### *The Irrigation Water Conservation Area.*

50 ALL those thirty-eight thousand six hundred and forty acres of land in the Counties  
 of Menindie and Tandora, including the area covered by Lake Menindie, and the  
 Creeks leading into and from the same.

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### SECOND



Menindie Irrigation.

SECOND SCHEDULE.

The Irrigation Cultivation Area, about 25,000 acres.

WESTERN Division—Land District of Willyama, within the resumed area of Kinchega Holding Number two hundred and forty-four, notified thirty-first July, one thousand eight hundred and eighty-five.

No. 16,083. County of Tandora, parishes of Hume, Kars, Maiden, and Bellar, containing an area of about twenty-five thousand acres. The Crown lands within the following boundaries: Commencing on the northern shore of Lake Menindie, at the south-eastern corner of Raimondo Pedroja's homestead lease three hundred and forty, of ten thousand two hundred and forty acres; and bounded thence by the northern shore of that lake easterly to the intersection of the south-western boundary of travelling stock reserve nine thousand eight hundred and sixty-seven, notified twelfth October, one thousand eight hundred and eighty-nine; thence by a line north-westerly to the south-western corner of camping and water reserve six hundred and ninety-nine, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the western and northern boundaries of that reserve and the eastern prolongation of the latter boundary bearing respectively northerly and easterly to the south-western boundary of homestead lease two hundred and twenty-nine, William Burns' ten thousand two hundred and forty acres; thence by part of that boundary, the north-western boundary of that homestead lease, and the north-western boundary of George Maiden's homestead lease ninety-five of ten thousand two hundred and forty acres bearing respectively north-westerly and north-easterly to the northernmost corner of the last-mentioned homestead lease; thence by the north-westerly prolongation of the north-eastern boundary of that homestead lease bearing north-west three miles; thence by a direct line to the sixty-fifth mile peg on the road from Silvertown to Menindie bearing south-westerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the northern boundary of water and camping reserve six hundred and ninety-eight, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the northern and part of the eastern boundaries of that reserve bearing respectively easterly and southerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the western boundary of homestead lease three hundred and forty aforesaid; and thence by part of the western, the northern, and the eastern boundaries of that homestead lease bearing respectively north, east, and south, to the point of commencement.

THIRD SCHEDULE.

Notice of Claim and Abstract.

To the Promoters of the Menindie Irrigation Act.

IN pursuance of the "Menindie 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.	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)

FOURTH SCHEDULE.

Notice of Valuation.

To A.B., claimant in respect of the land hereunder described resumed under the "Menindie 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 or compensation has been lodged, has been valued at the sum of £

The Menindie Irrigation Settlement, (Limited),  
Promoters of the Menindie Irrigation Act.

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

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



The first part of the history of the world is the history of the creation of the world and the history of the first man, Adam. The second part is the history of the world from the time of Adam to the time of the birth of Jesus Christ. The third part is the history of the world from the time of the birth of Jesus Christ to the present time. The fourth part is the history of the world from the present time to the end of the world.

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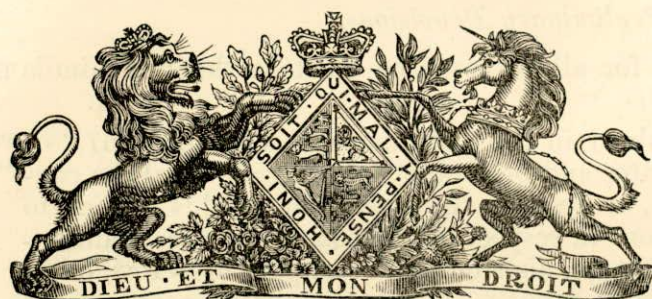


*This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council Chamber,  
Sydney, December, 1892. }*

*Acting Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO SEXTO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable and authorise the Menindie Irrigation Settlement (Limited), a Company duly incorporated under the Companies Acts of 1874 and 1888 of the Colony of New South Wales, to establish a system of Irrigation and Water Supply within the counties of Menindie, Tandora, and Yancowinna, in the said Colony; to acquire lands; to establish Irrigation Works; to authorise 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 Menindie Creek and Lake, and the other creeks mentioned herein, and to take water therefrom and from the river Darling, and for all other purposes which may be incidental thereto.

WHEREAS it is expedient and would be to the advantage of Preamble.  
the inhabitants of the counties of Menindie and Tandora,  
and of the public generally, to establish a system, whereby the waters  
of lake Menindie and of the Darling River, in the Colony of New  
5 South Wales, may be conserved and utilised for irrigation and  
domestic use, and for watering stock, and for other purposes: And  
whereas certain Crown lands situated in the parishes of Hume, Kars,  
Maiden, and Bellar, in the county of Tandora aforesaid, and more  
particularly described in the Second Schedule hereto, are suitable for  
10 agricultural and horticultural purposes, if provided with a permanent  
supply



*Menindie Irrigation.*

supply of water : And whereas the Minister for Lands, on the application of the Promoters, and as notified in the *Gazette* of the twenty-third day of July, one thousand eight hundred and ninety-two, has reserved from Lease for Irrigation purposes part of the lands described  
 5 in the Second Schedule hereto : 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.

10 *Preliminary Provisions.*

1. This Act may for all purposes be cited as the “Menindie Title Irrigation Act.”

2. Nothing contained in the “Municipalities Act of 1867,” or the “Country Towns Water and Sewerage Act of 1880,” shall be con-  
 15 strued 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.

20 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.

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

25 “Construct” means, when used with reference to any irrigation work, to build, erect, make, lay, form, place, excavate, or embank, or to perform any other operation or work in connection with the carrying out of the irrigation works authorised by this Act.

30 “Crown Lands” means Crown Lands as defined by the “Crown Lands Act of 1884.”

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

35 “Gazette” means the *Government Gazette*.

“Governor” means the Governor with the advice of the Executive Council.

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

40 “Irrigation Water Conservation Area” means the Lake, Creeks, and Lands named and described in the First Schedule to this Act.

45 “Irrigation Works” means and includes all or any engines, pumps, boilers, machinery, plant, canals, channels, ducts, flumes, pipes, water-gauges, water-meters, stop-cocks, ball-cocks, bridges, reservoirs, cisterns, dams, weirs, wells, flood-gates, filter-beds, culverts, tunnels, drains, aqueducts, sluices, stops, water-locks, outlets, cuttings, embankments, buildings, sheds, instruments, apparatus, appliances, works incidental thereto,  
 50 and other works of every description for the purpose of obtaining, conserving, storing, lifting, conveying, measuring, distributing, or delivering water for irrigation or domestic use, or otherwise suitable to the purposes of an irrigation settlement.

55

“Irrigation



*Menindie Irrigation.*

- “Irrigation Cultivation Area” means the lands and hereditaments described in the Second Schedule to this Act, and all other lands which may hereafter be acquired by the Promoters under this Act.
- 5 “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 and lessee or licensee under the Crown.
- 10 “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.
- 15 “Private land” means any land which is not Crown land or which is hereinafter expressly referred to as private land.
- “Road” means a public road so constituted by reservation, proclamation, dedication, or otherwise, howsoever.
- The intervention of a road or watercourse (not being a permanent river) shall not prevent holdings or lands being held to be
- 20 “adjoining.”
- “Regulations” means the regulations made under this Act.
- “Stock” means and includes cattle, horses, sheep, and all other domestic animals.
- 25 “The Promoters” means the said “Menindie Irrigation Settlement (Limited),” and the Assignees of the said Company for the time being.

And the Parts and sections of this Act are arranged in the order following, namely:—

Arrangement of  
parts and sections  
of Act.

- PART I.—*Preliminary provisions.*—ss. 1-4.
- 30 PART II.—*Powers and duties of the Promoters.*—ss. 5-46.
- PART III.—*The reservation as an Irrigation Water Conservation Area of the Lake, Creeks, and Lands described in the First Schedule hereto.*—ss. 47-59.
- 35 PART IV.—*The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*—ss. 60-65.
- PART V.—*The ascertainment and payment of compensation in respect of lands resumed and taken.*—ss. 66-78.
- PART VI.—*Miscellaneous provisions—Legal procedure.*—ss. 79-92.



*Menindie Irrigation.*

## PART II.

*Powers and Duties of the Promoters.*

5. 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.

- 5 (I) To construct, upon and across the channels between Lake Menindie and the Darling River, and the channel between Lake Cawndilla and Lake Menindie, or any of them, dams, weirs, flood-gates, or water-locks, or other irrigation works, with the necessary offtakes and works, and to alter and maintain the same.
- 10 (II) To construct and place irrigation works within or without the Areas described in the First and Second Schedules hereto for the purpose of conserving, raising, or otherwise dealing with any such waters as may be necessary for irrigation and domestic use on the Irrigation Cultivation Area, or as may be necessary or expedient for carrying out any of the purposes of this Act, and to maintain and work the same.
- 15 (III) To take or divert water from Lake Menindie, or from any creek, channel, or water-course leading to or from the said Lake, or from the river Darling, and to convey to and distribute the same within the Irrigation Cultivation Area or elsewhere as hereinafter provided, in quantities not exceeding an average of one cubic foot per minute for every five acres of land intended to be irrigated under the provisions of this Act: Provided, nevertheless, that nothing contained in this Act shall authorise the use of water from the said river for any purpose, so as in any way to diminish the quantity to such an extent as to interfere with the navigation of the river, or reduce the flow of the water of the said river beyond such mean discharge as the Governor shall from time to time prescribe by notification to be published by the Minister in the *Gazette*.
- 20 (IV) After payment of compensation as hereinafter provided 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 areas described in the First and Second Schedules hereto; and also to enter upon, take, and hold any Crown or private lands, streets, roads, or thoroughfares, and to construct therein any irrigation works, and to maintain, repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any irrigation or other works being their property or under their control.
- 25 (V) And without such compensation to enter into and upon any lands and take, lay down, and set out levels of the same for the purpose of constructing irrigation works.
- 30
- 35
- 40
- 45

6. 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 whenever it shall be deemed necessary in the public interest the Governor may take possession and control of the whole of the lands, works, goods, chattels, and funds at the time belonging to or vested in the Promoters, subject to all liabilities and obligations attaching to the same, and with all the powers hereby created. Rights of the Crown preserved.

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*Menindie Irrigation.*

7. The Promoters shall make payment to the Crown of such amount in each year in name of charges for water rights as the Governor may from time to time prescribe, having regard to the cost of the Promoters' irrigation works and maintenance thereof, and in the event of any general legislation in reference to irrigation being hereafter enacted the amount of such charges shall be in accordance with the rates, if any, fixed in or appointed by any such general legislation.

8. 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. Compensation for damage done by promoters.

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

10. 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 manner provided in Part V of this Act in respect of claims for compensation made thereunder: 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. Compensation, how settled.

11. 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 may 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 the construction and maintenance of irrigation works as authorised by this Act: Provided nevertheless that permission be obtained from respective municipal councils when such streets are outside the Irrigation Cultivation Area. Power to open streets.

12. 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. Reinstatements of streets.

13. The Promoters may, within the areas described in the First and Second Schedules hereto 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, dam, 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 irrigation works. Diversion of water-courses.



*Menindie Irrigation.*

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

Agreements to supply water.

15. 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  
 10 unavoidable cause, or from accident, or from necessary repairs.

Promoters not liable for accidental failure to supply water.

16. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or other irrigation work, for such remuneration and upon such terms as may be agreed upon by the Promoters; and such agreement shall and may be enforced in  
 15 any Court of Law or Equity.

Promoters may let meters.

17. Such meters, water-gauges, or other irrigation works 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  
 20 any sequestration or order in insolvency, or other legal 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, or other irrigation works may be.

Meters of promoters not distrainable.

18. 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  
 25 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.

Meter to be supplied and maintained by consumer.

19. The Promoters or their officers or servants may enter in and upon any lands, houses, or buildings, and with or without horses  
 35 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, or other irrigation works, 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  
 40 any house, building, or lands, for the purpose of removing or altering any meter, or other irrigation work, 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  
 45 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.

Power to officers or servants of promoters to inspect meter.

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

Promoters may make regulations.

- (I) The supply and sale and distribution of water to any person within or without the Irrigation Cultivation Area.
- (II) The assessment of the rate and price at which water shall be supplied, and the time of payment for the same, whether in  
 55 advance or otherwise, and the order in which applicants may be served.
- (III) The determination and adjustment of the interest, if any, of the various landowners and others within the Irrigation Cultivation Area to and in the irrigation works.

(IV)



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- (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.
- 5 (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 Irrigation Water Conservation Area or Irrigation Works.
- 10 (vi) The protection of the water and every part of the irrigation and other works from trespass or injury.
- (vii) The protection, management, and use of places for watering stock, and for bathing and washing purposes.
- (viii) The imposing of penalties for any breach of any regulation by this Act authorised to be made by the Promoters, not exceeding the sum of fifty pounds, and the enforcement of the same; and
- 15 (ix) Generally for duly administering and carrying out the powers given to the Promoters.

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

21. The price to be charged by the promoters for water sold to any person for domestic use or for watering stock within the Irrigation Cultivation Area shall in no case exceed two shillings and sixpence per one thousand gallons.

Maximum price of water for domestic use in Irrigation Cultivation Area.

22. If any person supplied with water by the Promoters wrong-  
fully 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, such person shall be liable for any such offence to a penalty not exceeding five pounds in addition to the value of the water wasted or misused, and the Promoters may (without prejudice to any remedy against them in respect thereof) cut off any of the pipes, canals, or  
30 other irrigation works, by or through which water is supplied to such person 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.

23. If any person bathe, or wash any article or stock, in any lake, stream, drain, reservoir, aqueduct, or other water-works within  
40 the Areas described in the First and Second Schedules hereto, except in such places as may be set aside by the Promoters for bathing and washing purposes, or 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.

24. If any person throw, convey, or cause or permit to be  
45 thrown or conveyed any rubbish, dirt, filth, or other noisome thing into any such lake, 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.

25. If any person wilfully and after due notice cause the water  
50 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 lake, stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or over which they have any rights or control, or shall do  
55 any other act whereby the water of the Promoters shall be fouled, such person 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.



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26. 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  
 5 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 wilful pollution.

27. Any person who shall, without the authority of the Promoters, establish or re-establish, or permit to be established or re-  
 10 established any connection which has not been authorised, 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 irrigation work which may have been approved by the Promoters, so as to destroy, diminish, or endanger its efficiency, may be summoned for  
 15 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 authorised to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall also forfeit and pay a penalty  
 20 not exceeding ten pounds.

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

28. 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  
 25 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.

Charges and rates for water payable in advance.

29. If any person refuse or neglect to pay on demand to the  
 30 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 such Court sitting within the Police District of Mitchell.

Refusal to pay charges.

30. If any person wrongfully take or use any water belonging  
 35 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 unlawfully taking water.

31. If any person fix or refix any water-meter, water-gauge, or other irrigation work upon any pipe or other irrigation work the  
 40 property of the Promoters, without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding ten pounds.

Penalty for fixing uncertified meter, &c.

32. If any person remove or alter the position of, or in any way interfere with, any irrigation work without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding  
 45 twenty pounds.

For removing or altering meter without notice.

33. Every person requiring to remove or alter the position of or to open any irrigation work shall leave twenty-one days notice in writing to that effect at the local office of the promoters, situated upon the Irrigation Cultivation Area. And if any person refuse or delay to  
 50 have any irrigation work 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 irrigation work shall have been properly repaired and  
 55 certified by some officer of the Promoters as being in proper working order.

Notice of removal, &c., of meter.

Water may be cut off if meter not in order.

34. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any irrigation works undertaken under the authority of this Act, or pull up

Penalty for obstructing construction of works.

or



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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.

5        35. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any irrigation work, road-  
 10        way, or other part whatever of the machinery or works of the Pro-  
        moters, or deface or destroy any sign, notice or advertisement belong-  
        ing to or erected, or published by the Promoters, such person shall be  
        guilty of felony, and shall be liable to be imprisoned for any term not  
        exceeding ten years.

Penalty for  
destroying works.

       36. It shall be lawful for the Promoters, and all persons by  
 15        them authorised, to enter upon any lands, not being a garden, orchard,  
        or plantation attached or belonging to a house, nor a park, planted  
        walk, avenue or ground ornamentally planted, and not being nearer to  
        the 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 authorised by this  
 20        Act, of the accommodation works connected therewith hereinafter men-  
        tioned, and to use the same for any of the following purposes, that is to  
        say—

Power to take  
temporary  
possession of land.

       For the purpose of taking earth or soil by side cuttings therefrom;  
        For the purpose of depositing soil thereon;  
 25        For the purpose of obtaining materials therefrom for the con-  
        struction 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  
 30        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 con-  
 35        structing the said works, or any such roads as aforesaid, and for the  
        purposes aforesaid to erect thereon workshops, sheds, and other build-  
        ings 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  
 40        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  
 45        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 Promoters shall pay to the owner of the land  
        a fair price for any timber, clay, stone, gravel, sand, or other things  
        taken therefrom: Provided also that where such lands so entered  
 50        upon are Crown Lands, nothing in this Act contained shall exempt  
        the Promoters from the provisions of Part VI of the "Crown Lands  
        Act of 1884."

       37. If any such lands shall be used for any of the purposes  
 55        aforesaid, the Promoters shall, if required so to do by the owner  
        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 of such lands and the Promoters as to the  
        necessity for such fences and gates, then with such fences and gates as  
 60        the Minister shall deem necessary for the purposes aforesaid.

Promoters to  
separate the lands  
before using them.



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38. 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.

39. 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, maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

40. If the road so interfered with can be restored compatibly with the due completion of any works authorised under this Act, the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the 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.

Period for restoration of roads interfered with.

41. If any irrigation work 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.

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

42. The Promoters shall make and at all times thereafter maintain the following works for the accommodation of the owners of lands adjoining any irrigation works authorised under this Act, that is to say—

Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the side of, or leading to or from such irrigation 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 accommodation works shall be made forthwith after the part of the irrigation works passing through or over such lands shall have been laid down or formed or during the formation thereof.

Gates, bridges, &c.

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land, taken for the use of such irrigation works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners thereof from straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands and not towards the said irrigation 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.

Fences, &c.

Also



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Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under, or by the sides of such irrigation 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.

5 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 irrigation works authorised by this Act, nor to make any accommodation works with respect to which the owners of the lands shall have agreed to receive and shall have been paid compensation.

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

44. If any of the owners of lands affected by any irrigation work shall consider the accommodation works made by the Promoters, or directed by the Minister 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.

45. 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.

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

## PART III.

40 *The reservation as an Irrigation Water Conservation Area of the Lake, Creeks, and Lands described in the First Schedule hereto.*

47. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the Lake, Creeks, and Lands mentioned and described in the First Schedule hereto have been set apart as an Irrigation Water Conservation Area for irrigation purposes and domestic use within the Counties of Menindie, Tandora, and Yancowinna.

48. Upon the publication of the notification in the *Gazette* declaring that the Lake, Creeks, and Lands therein described are so required and set apart, the right of user of the water in, over, or upon such Lake, Creeks, and Lands shall be vested in the Promoters in Trust for the purposes of this Act.

49. Where the lands contained in the area described in the Second Schedule hereto are Crown Lands at the date of such publication, or are vested in any corporation or person on behalf of Her Majesty,

Drains.

Accommodation works not to interfere with use of works, nor to be made where compensation given.

Differences as to accommodation works to be settled by Minister.

Power to owners of lands to make additional accommodation works.

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

Penalty on persons omitting to fasten gates.

Reservation to be gazetted.

Vesting, &amp;c., of lands

Effect of publication upon Crown Lands described in the Second Schedule.



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Majesty, or for public purposes, by virtue of any statute, or are 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 lands from any lease or license or promise thereof, to cancel to the like extent any dedication or reservation of the said lake, creeks, and lands made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending or repealing the same, and to vest the said lake, creeks, and lands, to the extent aforesaid, in the Promoters, for the purposes mentioned 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.

50. Upon the publication of the said notification the Promoters shall be entitled to fence off any portion of the Irrigation Water Conservation Area on which Irrigation Works are constructed or erected: Provided always that when such fencing shall prevent access to any lake or creek previously in use by any owner of adjoining lands for watering stock or domestic use the Promoters shall provide, in lieu thereof, other convenient watering places for the use of such owner for the like purposes.

51. For so much only of the Irrigation Water Conservation Area as shall be fenced off under the authority of the preceding section, the owners thereof shall be entitled to claim compensation.

52. After the construction by the Promoters of all such Irrigation Works upon the Areas described in the First and Second Schedules hereto as they may consider necessary for the irrigation of the Irrigation Cultivation Area, it shall be lawful for any owner of land in the Counties of Menindie, Tandora, and Yancowinna to apply to the Promoters for the supply and delivery of water from the Irrigation Water Conservation Area upon such land for irrigation and domestic use for a term of years, at a price by measure or otherwise; and the Promoters shall supply such water on the conditions aftermentioned: Provided always that by so doing they shall not endanger due provision for, and the proper irrigation of, the Irrigation Cultivation Area.

53. Every such application for a supply of water on land situated outside the Irrigation Cultivation Area for irrigation or domestic use shall be accompanied by a plan of any special irrigation works necessary therefor, and a map or plan of the lands through which such special works are intended to pass, showing the position of such proposed works thereon and the names of the owners of such lands, together with an estimate by a competent engineer of the cost of carrying out such special works.

54. Before any part of such special irrigation works as may be carried out under this part of this Act shall be commenced, the plans and construction thereof shall be approved and authorised by the Minister, and such owner shall be obliged to prove to the satisfaction of the Promoters that such works will yield a reasonably permanent return at a remunerative rate upon the total cost thereof; and any such special works shall be constructed only under written agreement between the Promoters and such owner, and such agreement, whether under seal or not, shall be deemed a covenant running with such land, and the successive owners thereof, during the term of such agreement.

55. All such special irrigation works as may be constructed under this part of this Act shall be constructed by the Promoters, and under the superintendence of the Promoters' engineer, unless the Promoters shall otherwise agree with such owner, within a reasonable time after the approval and authority of the Minister as aforesaid shall have been obtained. But the Promoters shall not be entitled to require either that

Promoters may fence off.

Compensation to be paid for land fenced off above high water level only.

Owners of land in Counties of Menindie, Tandora, and Yancowinna may apply for water.

Application to be accompanied by plan and map.

Plans to be approved and works authorised by the Minister, and to be remunerative.

Works to be constructed by the Promoters.



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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.

5        56. The Promoters shall be entitled to charge and recover from such owner in each year in name of water rates, payable half-yearly, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, and such sum shall include a fair and reasonable proportion of the following items of outlay and  
10 expense in respect of the irrigation works on the Irrigation Water Conservation Area, namely :—

Owners to be chargeable with annual water rates.

- (I) Provision for a sinking fund for the maintenance and renewal of the irrigation works.  
 (II) Annual cost of working and supervision of the irrigation  
15 works.  
 (III) Interest at the rate of ten per centum per annum upon the total cost of the irrigation works, including the amount of compensation paid in respect thereof and the cost of lands acquired therefor.

20        57. In addition to such charge in name of water rates permitted by the last-preceding section it shall be in the option of the Promoters either to charge and recover from such owner the total cost of special irrigation works constructed on the application of such owner, or to charge, and recover from such owner, in each year, in name of special  
25 water rates, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, to cover the cost of such special works.

Charge to repay cost of special works.

30        58. Subject to the provisions of this Act, it shall be lawful for the Promoters to enter into an agreement in writing with the owner of any land within the Counties of Menindie, Tandora, or Yancowinna, for the supply and delivery of water upon such land for a term of years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement, and in every such agreement the owner of such land shall agree to pay such price for the term limited in the  
35 agreement, and to pay the Promoters for not less water in any year than the minimum quantity in such agreement specified, and such agreement by such owner, whether under seal or not, shall be deemed a covenant running with such land, and shall bind such land and the successive owners thereof during the said term. But nothing in such  
40 agreement shall be construed to create any obligation on the part of the Promoters to supply any stated quantity of water in the event of there being at the disposal of the Promoters an insufficient quantity of water as in this part of this Act provided.

Promoters may supply water under agreement with land owners.

45        59. If at any time the supply of water obtainable from the Irrigation Water Conservation Area, shall, in the opinion of the the Promoters, be insufficient to supply to any such owner the whole of the water to which such owner would otherwise have been entitled and liable to take, without endangering the due provision for, and the proper irrigation of, the Irrigation Area, the Promoters shall deliver  
50 to such owner, and such owner shall receive, such quantity only as the Irrigation Water Conservation Area can, in the opinion of the Promoters, supply ; and if there be several such owners the Promoters shall in such event deliver to such owners respectively, and such owners shall respectively be liable to take from the Promoters such  
55 amount of water only as the Irrigation Water Conservative Area can, in the opinion of the Promoters, properly supply in quantities in proportion to the quantities which such owners would, had there been sufficient water available without endangering the due provision for, and the proper irrigation of, the Irrigation Cultivation Area, have  
 respectively

When water available is insufficient, quantity supplied may be reduced.



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respectively been entitled and liable to take from the Promoters; but in such case such owner shall only pay for the water actually provided for him; and in no case shall any action, claim, demand, or other proceedings for not supplying water to any such owner be maintainable in any form in any case where it has been determined by the Minister that the Promoters have been, without negligence or wilful default upon their part, unable to supply such water or have refused to supply such water in virtue of any provisions of this Act.

Payment to be made for water supplied only.  
No claim to lie for inability to supply.

## PART IV.

10 *The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*

60. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the lands described in the Second Schedule hereto are required and have been set apart as an Irrigation Cultivation Area for the use of the Promoters, and that the same shall be held by them upon the conditions specified in this Act.

Reservation to be gazetted.

61. Upon the publication of the last-mentioned notification in the *Gazette* declaring that the lands therein described are so required and set apart, 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.

62. The effect of such publication shall be to withdraw the lands described in the Second Schedule hereto from any lease or license or promise thereof, 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 or repealing the same, and to vest the said land, to the extent aforesaid, in the Promoters, for the purposes mentioned, and for the estate mentioned 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 lands so required.

Effect of publication upon Crown lands described in the Second Schedule.

63. The conditions upon which the Irrigation Cultivation Area shall be held and acquired by the Promoters shall be as follows, namely:—

Conditions upon which Irrigation Cultivation Area to be held.

(i) They shall expend upon or in connection with the Irrigation Cultivation Area, and within the period of twenty years from the passing of this Act, in the construction of irrigation works, and permanent improvements, a sum of not less than Thirty thousand pounds in the following manner, that is to say:—  
During the first period of five years the sum of ten thousand pounds; before or during the second period of five years the further sum of seven thousand pounds; before or during the third period of five years the further sum of seven thousand pounds; and before or during the fourth period of five years the balance of six thousand pounds; and the said sum of thirty thousand pounds shall be expended as aforesaid, in addition to such sums of money as may be expended upon or in connection with the land described in the Second Schedule hereto in preparing and planting and cultivating the same.

Expenditure of £30,000.

(ii)



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- (II) They shall keep and maintain all irrigation works, and permanent improvements upon or in connection with the Irrigation Cultivation Area in good condition and repair during the said period of twenty years. To maintain works.
- 5 (III) They shall not sell, lease, or dispose of any land granted, or to be granted to them in fee simple in parcels exceeding eighty acres, if the land so sold shall be prepared and planted for fruit growing, or one hundred and sixty acres if prepared for growing other produce, or sell, lease, or dispose of more than one hundred and sixty acres of land to the same person. Restrictions on sale, lease, &c.
- 10 (IV) They shall not at any time hold in their own possession, or in that of their agents, more than five thousand acres of cultivated irrigated land, out of the lands described in the the Second Schedule hereto. Restriction on cultivated irrigated land held by Promoters.
- 15 (V) They shall use all reasonable efforts to establish within the period of five years from the passing of this Act, upon the Irrigation Cultivation Area the business and industries of fruit growing, fruit drying, preserving, and canning. Industries to be established.
- 20 (VI) They shall take all reasonable measures to destroy all such animals and birds within and upon the Irrigation Cultivation Area as may be proclaimed to be vermin. Vermin to be destroyed.
- 25 (VII) They shall, within the period of five years from the passing of this Act, use all reasonable means to effect the removal of all timber growing within the high water-mark of the Lake specified in the First Schedule hereto, and may cut up, use, and dispose of the same. Land to be cleared.
- (VIII) The Governor may resume any portion of the Irrigation Cultivation Area for railways, tramways, and roads. Governor may resume.
- 30 (IX) For the purpose of ascertaining the actual cost of *bond fide* irrigation works and permanent improvements under this Act, the Promoters shall from year to year, until the said sum of thirty thousand pounds shall have been expended as aforesaid, submit to the Auditor-General accounts and proper vouchers of all irrigation works, and permanent improvements expended by them upon or in connection with the Irrigation Cultivation Area, and the amount of the accounts as passed by the Auditor-General shall be deemed to be the actual expenditure by the Promoters upon or in connection with such irrigation works, and permanent improvements. Accounts to be submitted to Auditor-General.
- 35
- 40 (x) The accounts of the Promoters in and about the construction of the irrigation works and permanent improvements shall be subject to all the provisions of the "Audit Act of 1870," so far as may be in the same manner in all respects as if such accounts had been specifically mentioned therein. Accounts to be subject to Audit Act of 1870.
- 45 Provided always that if the Promoters should at any time fail to comply with the foregoing conditions or any of them, all their right, title, and interest in or to the lands in this part of the Act mentioned or referred to shall, subject to the provisions of this Act, absolutely cease and determine.
- 50 64. For every two pounds expended by the Promoters upon or in connection with the Irrigation Cultivation Area in irrigation works and permanent improvements, the Governor shall, on payment to the Crown by the Promoters of the sum of one pound five shillings, in addition to said expenditure of two pounds, issue to the Promoters
- 55 a grant of one acre of land required by the Promoters within the area described in the Second Schedule hereto, provided always that no such grant shall be issued except for a parcel of land containing not less than one hundred acres. And every such grant shall be for an estate of inheritance in fee-simple in possession, subject to
- to
- Conditions on which grant in fee simple to issue.



*Menindie Irrigation.*

to the conditions contained in Crown grants issued under the Crown Lands Acts in force for the time being and the provisions of this Act, and shall be vested in the Promoters.

65. Until such grant of each such parcel of land shall respectively have been applied for and issued to the Promoters, they shall hold the lands described in the Second Schedule hereto, or the balance thereof from time to time, of which no such grant shall have been issued, as Lessees from the Crown, and shall pay to the Crown an annual sum in name of rent therefor at a rate not exceeding the average rent assessed from time to time on other Crown unimproved pastoral lands in the counties aforesaid. And until such grant of each such parcel of land shall respectively have been issued as aforesaid, the Promoters shall be entitled to sub-lease any such parcel of the lands described in the Second Schedule hereto, or the balance thereof from time to time of which no such grant shall have been issued, and to enter into any contract of sale of any such parcel of land conditional upon the issue of any such grant thereof.

Promoters to be Crown Lessees until issue of Grant.

Promoters may sub-lease, &c.

## PART V.

20 *The Ascertainment and Payment of Compensation in Respect of Lands Resumed and Taken.*

66. Where the land described in any notification under this Act, and resumed and taken for any of the purposes thereof, 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, or is held under any lease or license from the Crown, the owners, lessees, or licensees 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.

67. 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 or arbitrators 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 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.

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

68. 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 Third Schedule hereto, but with any modifications required by the nature of the claim.

Notice of claim for compensation.



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69. 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 by a competent valuator, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fourth Schedule hereto.

Claim and report thereon.

70. 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.

Compensation by action in Supreme Court.

71. 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.

Issue in action of compensation verdict and costs.

72. 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 authorised in that behalf in writing, but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land: Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply, no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed, or the support to such surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

73. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," or any amendment thereof, have jurisdiction to try any such action of compensation at the District Court holder within the district wherein any land in respect of which any claim has arisen under this Act (or the greater portion of such land) is situated in any case where the whole amount of the claim in respect to such land served in pursuance of section sixty-nine of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Promoters and the Claimant by a memorandum signed by the Promoters' Attorney and the Claimants' Attorney agree thereto. For the purposes of this Act the provisions of the said District Courts Act, and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in any District Court hereunder.

Where claim may be prosecuted in a District Court.



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74. In estimating or assessing the compensation, if any, to be paid under this Act, regard shall be had by the valuers and by the jury (on any issue), or by the arbitrators and their umpire to, and they are hereby authorised and empowered to apply the following principles so far as the same may be applicable in each case, namely:—

Principles upon which compensation may be awarded.

(I) Regard shall be had 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 the valuers, jury, or arbitrators, shall assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time notice was given of such lands being required or having been taken.

Compensation for land taken, and severance.

(II) No compensation shall be awarded in any case where the injury for which compensation is claimed appears to have been the result of the execution of works which were incomplete at the time of such injury, if it shall appear that such works are being *bonâ fide* prosecuted to completion.

No compensation where works incomplete.

75. 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 authorised 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.

76. Notwithstanding anything hereinbefore contained, it shall be lawful for the Promoters, if they think fit, to enter into an agreement in writing with any person claiming compensation in respect of any land required, or in respect of any works or other matter done under the authority of this Act, to refer such claim to the decision of two arbitrators and their umpire, and in such event any such agreement shall be read and construed as a submission of such claim within the meaning of the "Arbitration Act, 1892."

Power to refer claims to arbitration.

77. 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

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



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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* 5 *que* trusts, whether infants, issue unborn, lunatics, *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability; and the power hereinafter given to release lands from any rent-charge or 10 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.

78. The several sections of the Government Railways Act, 15 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 20 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 25 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:—
- 30 (I) As to the determination of compensation to absent parties. Sections forty-two to forty-four both inclusive.
- (II) 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 35 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.
- (III) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to 40 make out a satisfactory title, and as to presumption of ownership. Sections fifty-three to fifty-six, both inclusive.
- (IV) 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 45 entering upon or taking possession of the same. Section sixty-one.
- (V) 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 50 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.
- (VI) As to the release of lands from rent-charges and other incumbrances, and procedure thereon. Sections seventy-one 55 to seventy-four, both inclusive.
- (VII) 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.

Incorporation of  
provisions of  
Government Rail  
ways Act.



*Menindie Irrigation.*

## PART VI.

*Miscellaneous provisions—Legal procedure.*

79. 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, summon, 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.

80. 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.

81. 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.

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

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

83. 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.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.



*Menindie Irrigation.*

84. 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  
 5 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  
 10 Justices, or one of them, shall issue their warrant accordingly.

Damage to be made good in addition to penalty.

85. Any notice required by this Act, or by any 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  
 15 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  
 20 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  
 25 post as aforesaid to the Council Clerk of the Borough or Municipal District wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

Notices.

86. In the event of the wrongful exercise of any powers given by this Act, nothing in this Act contained shall be construed to prevent  
 30 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  
 35 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.

87. For any of the purposes of the Promoters authorised by this  
 40 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  
 45 the Promoters lands, irrigation works, rights, powers, authorities, privileges, and revenues or to mortgage the same.

Borrowing powers.

88. The Promoters shall assign and transfer to each and every purchaser of land within the Irrigation Cultivation Area at time of purchase such a water-right to attach as a perpetual easement to the land so  
 50 purchased as the Promoters may determine, but subject to payment by the purchaser of such water rate as may be fixed by assessment as hereinbefore provided, and such water-right, when assigned or transferred to such purchaser, 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  
 55 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

Assignment of water-rights to purchasers.



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belong to the owner of such land for the time being: Provided always that such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

89. It shall be lawful for the Promoters, at any time after the  
 5 passing of this Act and after the execution of works under this Act to the value of five thousand pounds, to assign, transfer, convey, and  
 10 release to any person, or to any company duly incorporated for that purpose, and having a registered office in New South Wales, all or  
 any of the rights, powers, authorities, privileges, liabilities, and  
 15 obligations conferred and imposed by this Act, together with all or any of the lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired 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 such  
 20 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  
 25 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  
 30 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.

90. In the event of any dispute, question, or difference arising  
 30 between the Promoters and the Minister, the same shall be referred to two arbitrators, one to be appointed by the Governor and the other by the Promoters, and in such event this section shall be read and construed as a submission within the meaning of the "Arbitration Act, 1892," of such dispute, question, or difference, to such arbitrators.

Disputes between  
Minister and  
Promoters referred  
to arbitration.

91. Upon the application of the Promoters the Governor may,  
 35 by proclamation, declare that the provisions of this Act, or any of them, shall be extended to lands within the Counties of Menindie, Tandora, and Yancowinna, other than those within the Areas described in the First and Second Schedules hereto, and thereupon such lands which shall in such proclamation be described, shall be included within the provisions  
 40 of this Act, in the same manner and, so far as possible, to the same extent and effect, as if such lands had been part of the lands described in the First and Second Schedules to this Act originally.

Power to extend  
provisions of the Act.

92. This Act shall become null and void unless irrigation works  
 45 and permanent improvements to the value of five thousand pounds be carried out upon or in connection with the Irrigation Cultivation Area within two years after the passing thereof.

Voidance of Act.

## SCHEDULES.

## FIRST SCHEDULE.

*The Irrigation Water Conservation Area.*

- 50 ALL those thirty-eight thousand six hundred and forty acres of land in the Counties of Menindie and Tandora, including the area covered by Lake Menindie, and the Creeks leading into and from the same.

## SECOND



*Menindie Irrigation.*

## SECOND SCHEDULE.

*The Irrigation Cultivation Area, about 25,000 acres.*

WESTERN Division—Land District of Willyama, within the resumed area of Kinchega Holding Number two hundred and forty-four, notified thirty-first July, one thousand eight hundred and eighty-five.

No. 16,083. County of Tandora, parishes of Hume, Kars, Maiden, and Bellar, containing an area of about twenty-five thousand acres. The Crown lands within the following boundaries: Commencing on the northern shore of Lake Menindie, at the south-eastern corner of Raimondo Pedroja's homestead lease three hundred and forty, of ten thousand two hundred and forty acres; and bounded thence by the northern shore of that lake easterly to the intersection of the south-western boundary of travelling stock reserve nine thousand eight hundred and sixty-seven, notified twelfth October, one thousand eight hundred and eighty-nine; thence by a line north-westerly to the south-western corner of camping and water reserve six hundred and ninety-nine, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the western and northern boundaries of that reserve and the eastern prolongation of the latter boundary bearing respectively northerly and easterly to the south-western boundary of homestead lease two hundred and twenty-nine, William Burns' ten thousand two hundred and forty acres; thence by part of that boundary, the north-western boundary of that homestead lease, and the north-western boundary of George Maiden's homestead lease ninety-five of ten thousand two hundred and forty acres bearing respectively north-westerly and north-easterly to the northernmost corner of the last-mentioned homestead lease; thence by the north-westerly prolongation of the north-eastern boundary of that homestead lease bearing north-west three miles; thence by a direct line to the sixty-fifth mile peg on the road from Silvertown to Menindie bearing south-westerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the northern boundary of water and camping reserve six hundred and ninety-eight, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the northern and part of the eastern boundaries of that reserve bearing respectively easterly and southerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the western boundary of homestead lease three hundred and forty aforesaid; and thence by part of the western, the northern, and the eastern boundaries of that homestead lease bearing respectively north, east, and south, to the point of commencement.

## THIRD SCHEDULE.

*Notice of Claim and Abstract.*

To the Promoters of the Menindie Irrigation Act.

In pursuance of the "Menindie 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.	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)

## FOURTH SCHEDULE.

*Notice of Valuation.*

To A.B., claimant in respect of the land hereunder described resumed under the "Menindie 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 or compensation has been lodged, has been valued at the sum of £

The Menindie Irrigation Settlement, (Limited),  
Promoters of the Menindie Irrigation Act.

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

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



THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

OF THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

THE SECOND VOLUME

CONTAINING

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

OF THE UNIVERSITY OF OXFORD

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THE SECOND VOLUME

CONTAINING

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY



Legislative Council.

56<sup>o</sup> VICTORIA, 1892.

## A BILL

To enable and authorise the Menindie Irrigation Settlement (Limited), a Company duly incorporated under the Companies Acts of 1874 and 1888 of the Colony of New South Wales, to establish a system of Irrigation and Water Supply within the counties of Menindie, and Tandora, **and Yancowinna**, in the said Colony; to acquire lands; to establish Irrigation Works; to authorise 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 Menindie Creek and Lake, and the other creeks and lakes mentioned herein, and to take water therefrom and from the river Darling, and for all other purposes which may be incidental thereto.

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

**W**HEREAS it is expedient and would be to the advantage of the Preamble.  
inhabitants of the counties of Menindie and Tandora, and of  
the public generally, to establish a system, whereby the waters of lakes  
Menindie, Cawndilla, and Pamamaroo, and of the Darling River, in the  
5 said Colony of New South Wales, may be conserved and utilised for irriga-  
tion and domestic use, and for watering stock, and for other purposes:  
And whereas certain Crown lands situated in the parishes of Hume,  
Kars, Maiden, and Bellar, in the County of Tandora aforesaid, and  
more particularly described in the Second Schedule hereto, are suitable  
10 for agricultural and horticultural purposes, if provided with a  
permanent supply of water: And whereas the Minister for Lands,  
on the application of the Promoters, and as notified in the *Government*  
*Gazette* of the twenty-third day of July, one thousand eight hundred  
and ninety-two, has reserved from Lease for Irrigation purposes part  
15 of the lands described in the Second Schedule hereto: Be it therefore  
c 12—A enacted

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



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.

5

*Preliminary Provisions.*

Title.

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

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. 10 15

Provisions subject to  
general legislation,  
rights of Crown to  
control of water.

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.

Interpretation of  
terms.

4. In the construction of this Act, unless the context requires a different meaning, the expression— 20

"Construct" means, when used with reference to any irrigation work, to build, erect, make, lay, form, place, excavate, or embank, or to perform any other operation or work in connection with the carrying out of the irrigation works authorised by this Act. 25

"Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1884." 30

"Domestic use," when employed with reference to water, means use for household and all other purposes, save for irrigation of gardens or land. 35

"Gazette" means the *Government Gazette*.

"Governor" means the Governor with the advice of the Executive Council, ~~for and on behalf of Her Majesty.~~

"Irrigation" means the use of water for flooding, moistening, or watering lands for agricultural and horticultural purposes 35 and for watering stock.

"Irrigation Water Conservation Area" means the Lakes, Creeks, and Lands named and described in the First Schedule to this Act.

"Irrigation Works" means and includes all or any engines, pumps, 40 boilers, machinery, plant, canals, channels, ducts, flumes, pipes, water-gauges, water-meters, stop-cocks, ball-cocks, bridges, reservoirs, cisterns, dams, weirs, wells, flood-gates, filter-beds, culverts, tunnels, drains, aqueducts, sluices, stops, water-locks, outlets, cuttings, embankments, buildings, sheds, 45 instruments, apparatus, appliances, works incidental thereto, and other works of every description for the purpose of obtaining, conserving, storing, lifting, conveying, measuring, distributing, or delivering water for irrigation or domestic use, or otherwise suitable to the purposes of an irrigation 50 settlement.

"Irrigation Cultivation Area" means the lands and hereditaments described in the Second Schedule to this Act, and all other lands which may hereafter be acquired by the Promoters under this Act. 55

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

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

"Owner"



- “Owner” includes lessee or occupier and lessee or licensee under the Crown.
- “Person” means any individual as well as any Corporation, Municipality, Borough, or other local authority.
- 5 “Prescribed” means by this Act or by the regulations thereunder.
- “Private land” means any land which is not Crown land or which is hereinafter expressly referred to as private land.
- “Road” means a public road so constituted by reservation, proclamation, dedication, or otherwise, howsoever.
- 10 The intervention of a road or watercourse (not being a permanent river) shall not prevent holdings or lands being held to be “adjoining.”
- “Regulations” means the regulations made under this Act.
- “Stock” means and includes cattle, horses, sheep, and all other domestic animals.
- 15 “The Promoters” means the said “Menindie Irrigation Settlement (Limited),” and the Assignees of the said Company for the time being.

And the Parts and sections of this Act are arranged in the order following, namely:—

Arrangement of parts and sections of Act.

- 20 PART I.—*Preliminary provisions.*—ss. 1-4.
- PART II.—*Powers and duties of the Promoters.*—ss. 5-44.
- PART III.—*The reservation as an Irrigation Water Conservation Area of the Lakes, Creeks, and Lands described in the*
- 25 *First Schedule hereto.*—ss. 45-5657.
- PART IV.—*The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*—ss. 57-6258-63.
- 30 PART V.—*The occupation and acquisition by the Promoters of Lands other than those described in the First and Second Schedules hereto.*—ss. 63-6764-68.
- PART VI.—*The ascertainment and payment of compensation in respect of lands resumed and taken.*—ss. 68-7969-81.
- 35 PART VII.—*Miscellaneous provisions—Legal procedure*—ss. 80-9582-97.

## PART II.

### *Powers and Duties of the Promoters.*

5. 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:—
- 40 (I) To construct, upon and across the channels between Lakes Menindie and Pamamaroo and the Darling River, and the channel between Lake Cawndilla and Lake Menindie, or any of them, dams, weirs, flood-gates, or water-locks, or other irrigation works, with the necessary offtakes and works, and to alter and maintain the same.
- 45 (II) To construct and place irrigation works within or without the Areas described in the First and Second Schedules hereto for the purpose of conserving, raising, or otherwise dealing with any such waters as may be necessary for irrigation and domestic use on the Irrigation Cultivation Area, or as may be necessary or expedient for carrying out any of the purposes of this Act, and to maintain and work the same.
- 50 (III) To take or divert water from Lakes Menindie, Cawndilla, and Pamamaroo, or from any creek, channel, or water-course leading to or from any of the said Lakes, or any of them, or from the river Darling, and to convey to and distribute the same
- 55



same within the Irrigation Cultivation Area or elsewhere as hereinafter provided, in quantities not exceeding an average of one cubic foot per minute for every five acres of land ~~within the Irrigation Cultivation Area:~~ intended to be irrigated under the provisions of this Act: Provided, nevertheless, 5 that nothing contained in this Act shall authorise the use of water from the said river for any purpose, so as in any way to diminish the quantity to such an extent as to interfere with the navigation of the river, or reduce the flow of the water of the said river beyond such mean discharge as the 10 Governor shall from time to time prescribe by notification to be published by the Minister in the *Gazette*.

- (iv) 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 areas described in the First 15 and Second Schedules hereto.
- (v) To enter into and upon any lands and take and lay down levels of the same for the purpose of constructing irrigation works, and to set out such parts thereof as they shall think necessary. 20
- (vi) To enter upon, take, and hold any Crown or private lands, streets, roads, or thoroughfares, and to construct therein any irrigation works, and to maintain, repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any 25 irrigation or other works being their property or under their control.

Compensation for damage done by promoters.

6. 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 30 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.

7. The plans of any dams, weirs, culverts, bridges, or other works which may interfere in any way with the flow of any natural 35 channel shall be submitted to the Minister, and must receive his sanction before such works can be entered upon.

Compensation, how settled.

8. 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 40 manner provided in Part VI of this Act in respect of claims for compensation made thereunder: 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 45 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.

Power to open streets.

9. The Promoters may open and break up the soil and pavement of any streets, roads, and bridges, and may open and break up sewers, 50 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 may remove and use the earth and materials in and under such streets, roads, and bridges, and do all 55 other acts which the Promoters shall from time to time deem necessary for the construction and maintenance of irrigation works as authorised by this Act: Provided nevertheless that permission be obtained from respective municipal councils when such streets are outside the Irrigation Cultivation Area.

Reinstatements of streets.

10. 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 60



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.

- 5 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.

- 10 11. The Promoters may, within the ~~irrigation~~ areas described in the **First and Second Schedules** hereto 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  
15 cut drains and deliver water into, dam, 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 irrigation works.

Diversion of water-courses.

- 20 12. The Promoters may supply any person, either within or without the **Irrigation Cultivation Area**, with water for irrigation and 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 with such person.

Agreements to supply water.

- 25 13. 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.

- 30 14. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or other irrigation work, 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.

- 35 15. Such meters, water-gauges, or other irrigation works 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 against or affecting the person using such water, or the occupier of  
40 the premises, or other the person in whose possession the meters, water-gauges, or other irrigation works may be.

Meters of promoters not distrainable.

- 45 16. 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  
50 repairs are effected.

Meter to be supplied and maintained by consumer.

- 55 17. 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, or other irrigation works, 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, or other irrigation work, upon or affecting the property of  
60 the Promoters. And if any person hinders any such Promoter, officer,

Power to officers or servants of promoters to inspect meter.

or



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. 5

Promoters may make regulations.

18. 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 Cultivation Area. 10
- (II) The assessment of the rate and price at which water shall be supplied, and the time of payment for the same, whether in advance or otherwise, and the order in which applicants may be served.
- (III) The determination and adjustment of the interest, if any, of the various landowners and others within the Irrigation Cultivation Area to and in the irrigation works. 15
- (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. 20
- (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 Irrigation Water Conservation Area or Irrigation Works. 25
- (VI) The protection of the water and every part of the irrigation and other works from trespass or injury.
- (VII) The protection, management, and use of places for watering stock, and for bathing and washing purposes.
- (VIII) The imposing of penalties for any breach of any regulation by this Act authorised to be made by the Promoters, not exceeding the sum of *fifty* pounds, and the enforcement of the same; and 30
- (IX) Generally for duly administering and carrying out the powers given to the Promoters. 35

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

Maximum price of water for domestic use in Irrigation Cultivation Area.

19. The price to be charged by the promoters for water sold to any person for domestic use within the Irrigation Cultivation Area shall in no case exceed *five* shillings per one thousand gallons. 40

PROTECTION OF THE WATER.

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

20. 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, such person shall be liable for any such offence to a penalty not exceeding *five* pounds in addition to the value of the water wasted or misused, and the Promoters may (without prejudice to any remedy against them in respect thereof) cut off any of the pipes, canals, or other irrigation works, by or through which water is supplied to him such person 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. 45 50

POLLUTING THE WATER.

Penalty for bathing in water of promoters.

21. If any person bathe, or wash any article or stock, in any lake, stream, drain, reservoir, aqueduct, or other water-works within the Areas described in the First and Second Schedules hereto, except in such places as may be set aside by the Promoters for bathing and washing purposes, or throw, or cause to enter therein any animal, he shall for every such offence forfeit a sum not exceeding *five* pounds. 55



22. 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 lake, 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.

23. 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 lake, stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or over which they have any rights or control, or shall do any other act whereby the water of the Promoters shall be fouled, such person 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.

24. 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. wilful pollution.

25. 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 authorised, 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 irrigation work 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 authorised 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 authorised or wilfully injuring any pipe liable to a penalty.

26. 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 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. Charges and rates for water payable in advance.

27. 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 such Court sitting within the Police District of Mitchell. Refusal to pay charges.

28. If any person wrongfully take or use 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 unlawfully taking water.

29. If any person fix or refix any water-meter, water-gauge, or other irrigation work upon any pipe or other irrigation work the property of the Promoters, without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding *ten* pounds. Penalty for fixing uncertified meter, &c.

30. If any person remove or alter the position of, or in any way interfere with, any irrigation work without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding *twenty* pounds. For removing or altering meter without notice.



Notice of removal,  
&c., of meter.

Water may be cut off  
if meter not in order.

Penalty for obstruct-  
ing construction of  
works.

Penalty for  
destroying works.

Power to take  
temporary  
possession of land.

31. Every person requiring to remove or alter the position of or to open any irrigation work shall leave twenty-one days notice in writing to that effect at the local office of the promoters, situated upon the Irrigation Cultivation Area. And if any person refuse or delay to have any irrigation work 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 irrigation work shall have been properly repaired and certified by some officer of the Promoters as being in proper working order. 5 10

32. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any irrigation 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. 15

33. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any irrigation work, road-way, or other part whatever of the machinery or works of the Promoters, or deface or destroy any sign, notice or advertisement belonging to or erected, or published by the Promoters, such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years. 20 25

34. It shall be lawful for the Promoters, and all persons by them authorised, to enter upon any lands, not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue or ground ornamentally planted, and not being nearer to the 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 authorised by this Act, of the accommodation works connected therewith hereinafter mentioned, and to use the same for any of the following purposes, that is to say— 30 35

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 40

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: 50 55  
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



either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Promoters shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom: **Provided also that where such lands so entered**  
 5 **upon are Crown Lands, nothing in this Act contained shall exempt the Promoters from the provisions of Part VI of the "Crown Lands Act of 1884."**

35. If any such lands shall be used for any of the purposes aforesaid, the Promoters shall, if required so to do by the owner  
 10 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 of such lands and the Promoters as to the necessity for such fences and gates, then with such fences and gates as  
 15 the Minister shall deem necessary for the purposes aforesaid.

Promoters to separate the lands before using them.

36. 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  
 20 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.

37. If in the exercise of the powers hereby granted it be found  
 25 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 commence-  
 30 ment of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense, maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

38. If the road so interfered with can be restored compatibly  
 35 with the due completion of any works authorised under this Act, the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the Promoters, or as near thereto as may be, and if such road cannot be so restored, the Pro-  
 40 moters 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  
 45 be, with all reasonable expedition.

Period for restoration of roads interfered with.

39. If any irrigation work 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  
 50 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.

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

40. The Promoters shall make and at all times thereafter main-  
 55 tain the following works for the accommodation of the owners of lands adjoining any irrigation works authorised under this Act, that is to say—

Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and  
 60 passages over, under, or by the side of, or leading to or from such irrigation works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of  
 c 12—B of

Gates, bridges, &c.



	of the lands through which the same shall be made, and such accommodation works shall be made forthwith after the part of the irrigation works passing through or over such lands shall have been laid down or formed or during the formation thereof.	5
Fences, &c.	Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land, taken for the use of such irrigation works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners thereof from straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands and not towards the said irrigation 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.	10 15
Drains.	Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under, or by the sides of such irrigation 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.	20
Accommodation works not to interfere with use of works, nor to be made where compensation given.	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 irrigation works authorised by this Act, nor to make any accommodation works with respect to which the owners of the lands shall have agreed to receive and shall have been paid compensation.	25
Differences as to accommodation works to be settled by Minister.	41. 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 Minister, who shall also appoint the time within which such works shall be commenced and executed.	30
Power to owners of lands to make additional accommodation works.	42. If any of the owners of lands affected by any irrigation work shall consider the accommodation works made by the Promoters, or directed by the Minister 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.	35
Such works to be constructed under the superintendence of the promoters' engineer.	43. 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.	40 45
Penalty on persons omitting to fasten gates.	44. If any person omit to shut and fasten any gate set up for the accommodation of the owners of the adjoining lands, or of the Promoters or their tenants, 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.	50

## PART III.

*The reservation as an Irrigation Water Conservation Area of the Lakes, Creeks, and Lands described in the First Schedule hereto.* 55

Reservation to be gazetted.	45. On the passing of this Act, it shall be notified by the Minister, by publication in the <i>Gazette</i> , that the Lakes, Creeks, and Lands mentioned and described in the First Schedule hereto have been set apart as an Irrigation Water Conservation Area for irrigation purposes and domestic use within the Counties of Menindie, Tandora, and Yancowinna.	60 46.
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46. Upon the publication of the notification in the *Gazette* declaring that the Lakes, Creeks, and Lands therein described are so required and set apart, such Lakes, Creeks, and Lands shall be vested in the Promoters in Trust for the purposes of this Act, for an estate of inheritance in fee-simple in possession, freed and discharged from all other trusts, obligations, estates, interests, contracts, charges, rates, right-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 in Trust as aforesaid.

47. Where the lands contained in the area described in the Second Schedule hereto are Crown Lands at the date of such publication, or are vested in any corporation or person on behalf of Her Majesty, or for public purposes, by virtue of any statute, or are 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 lands from any lease or license or promise thereof, to cancel to the like extent any dedication or reservation of the said lakes, creeks, and lands made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending or repealing the same, and to vest the said lakes, creeks, and lands, to the extent aforesaid, in the Promoters, for the purposes mentioned, and for the estate mentioned 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 described in the Second Schedule.

48. Upon the publication of the said notification the Promoters shall be entitled to take and fence off the whole or any portion of the Irrigation Water Conservation Area: Provided always that when such fencing shall prevent access to any lake or creek previously in use by any owner of adjoining lands for watering stock or domestic use the Promoters shall provide, in lieu thereof, other convenient watering places for the use of such owner for the like purposes.

Promoters may fence off.

49. For so much only of the Irrigation Water Conservation Area as extends above the high-water level referred to in the Second Schedule hereto, and as shall be taken and fenced off under the authority of the preceding section, the owners thereof shall be entitled to claim compensation.

Compensation to be paid for land fenced off above high water level only.

50. After the construction by the Promoters of all such Irrigation Works upon the Areas described in the First and Second Schedules hereto as they may consider necessary for the irrigation of the Irrigation Cultivation Area, it shall be lawful for any owner of land in the Counties of Menindie, Tandora, and Yancowinna to apply to the Promoters for the supply and delivery of water from the Irrigation Water Conservation Area upon such land for irrigation and domestic use for a term of years, at a price by measure or otherwise; and the Promoters shall supply such water on the conditions aftermentioned: Provided always that by so doing they shall not endanger due provision for, and the proper irrigation of, the Irrigation Cultivation Area.

Owners of land in Counties of Menindie, and Tandora, and Yancowinna may apply for water.

51. Every such application for a supply of water on land situated outside the Irrigation Cultivation Area for irrigation or domestic use shall be accompanied by a plan of any special irrigation works necessary therefor, and a map or plan of the lands through which such special works are intended to pass, showing the position of such proposed works thereon and the names of the owners of such lands, together with an estimate by a competent engineer of the cost of carrying out such special works.

Application to be accompanied by plan and map.

52. Before any part of such special irrigation works as may be carried out under this part of this Act shall be commenced, the plans and construction thereof shall be approved and authorised by the Minister, and such owner shall be obliged to prove to the satisfaction of the Promoters

Plans to be approved and works authorised by the Minister, and to be remunerative.



Promoters that such works will yield a reasonably permanent return at a remunerative rate upon the total cost thereof; and any such special works shall be constructed only under written agreement between the Promoters and such owner, and such agreement, whether under seal or not, shall be deemed a covenant running with such land, and the successive owners thereof, during the term of such agreement. 5

Works to be constructed by the Promoters.

52. 53. All such special irrigation works as may be constructed under this part of this Act shall be constructed by the Promoters, and under the superintendence of the Promoters' engineer, unless the Promoters shall otherwise agree with such owner, within a reasonable time after the approval and authority of the Minister as aforesaid shall have been obtained. 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. 10 15

Owners to be chargeable with annual water rates.

53. 54. The Promoters shall be entitled to charge and recover from such owner in each year in name of water rates, payable half-yearly, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, and such sum shall include a fair and reasonable proportion of the following items of outlay and expense in respect of the irrigation works on the Irrigation Water Conservation Area, namely :— 20

- (I) Provision for a sinking fund for the maintenance and renewal of the irrigation works. 25
- (II) Annual cost of working and supervision of the irrigation works.
- (III) Interest at the rate of ten per centum per annum upon the total cost of the irrigation works, including the amount of compensation paid in respect thereof and the cost of lands acquired therefor. 30

Charge to repay cost of special works.

54. 55. In addition to such charge in name of water rates permitted by the last-preceding section it shall be in the option of the Promoters either to charge and recover from such owner the total cost of special irrigation works constructed on the application of such owner, or to charge, and recover from such owner, in each year, in name of special water rates, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, to cover the cost of such special works. 35

Promoters may supply water under agreement with land owners.

55. 56. Subject to the provisions of this Act, it shall be lawful for the Promoters to enter into an agreement in writing with the owner of any land within the Counties of Menindie, Tandora, or Yancowinna, for the supply and delivery of water upon such land for a term of years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement, and in every such agreement the owner of such land shall agree to pay such price for the term limited in the agreement, and to pay the Promoters for not less water in any year than the minimum quantity in such agreement specified, and such agreement by such owner, whether under seal or not, shall be deemed a covenant running with such land, and shall bind such land and the successive owners thereof during the said term. But nothing in such agreement shall be construed to create any obligation on the part of the Promoters to supply any stated quantity of water in the event of there being at the disposal of the Promoters an insufficient quantity of water as in this part of this Act provided. 40 45 50 55

When water available is insufficient, quantity supplied may be reduced.

56. 57. If at any time the supply of water obtainable from the Irrigation Water Conservation Area, shall, in the opinion of the the Promoters, be insufficient to supply to any such owner the whole of the water to which such owner would otherwise have been entitled and liable to take, without endangering the due provision for, and the proper irrigation of, the Irrigation Area, the Promoters shall deliver to such owner, and such owner shall receive, such quantity only as the 60



the Irrigation Water Conservation Area can, in the opinion of the Promoters, supply; and if there be several such owners the Promoters shall in such event deliver to such owners respectively, and such owners shall respectively be liable to take from the Promoters such amount of water only as the Irrigation Water Conservative Area can, in the opinion of the Promoters, properly supply in quantities in proportion to the quantities which such owners would, had there been sufficient water available without endangering the due provision for, and the proper irrigation of, the Irrigation Cultivation Area, have respectively been entitled and liable to take from the Promoters; but in such case such owner shall only pay for the water actually provided for him; and in no case shall any action, claim, demand, or other proceedings for not supplying water to any such owner be maintainable in any form in any case where it has been determined by the Minister that the Promoters have been, without negligence or wilful default upon their part, unable to supply such water or have refused to supply such water in virtue of any provisions of this Act.

Payment to be made for water supplied only.  
No claim to lie for inability to supply.

## PART IV.

*The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*

57. 58. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the lands described in the Second Schedule hereto are required and have been set apart as an Irrigation Cultivation Area for the use of the Promoters, and that the same shall be held by them upon the conditions specified in this Act.
58. 59. Upon the publication of the last-mentioned notification in the *Gazette* declaring that the lands therein described are so required and set apart, 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.
59. 60. The effect of such publication shall be to withdraw the lands described in the Second Schedule hereto from any lease or license or promise thereof, 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 or repealing the same, and to vest the said land, to the extent aforesaid, in the Promoters, for the purposes mentioned, and for the estate mentioned 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 lands so required.
60. 61. The conditions upon which the Irrigation Cultivation Area shall be held and acquired by the Promoters shall be as follows, namely:—
- (1) They shall expend upon or in connection with the Irrigation Cultivation Area, and within the period of twenty years from the passing of this Act, in the construction of irrigation works, and permanent improvements, a sum of not less than Thirty thousand pounds in the following manner, that is to say:— During the first period of five years the sum of ten thousand pounds; before or during the second period of five years the further sum of seven thousand pounds; before or during the

Reservation to be gazetted.

Vesting, &c., of lands.

Effect of publication upon Crown lands described in the Second Schedule.

Conditions upon which Irrigation Cultivation Area to be held.

Expenditure of £30,000.



- the third period of five years the further sum of seven thousand pounds; and before or during the fourth period of five years the balance of six thousand pounds; and the said sum of thirty thousand pounds shall be expended as aforesaid, in addition to such sums of money as may be expended upon or in connection with the land described in the Second Schedule hereto in preparing and planting and cultivating the same. 5
- To maintain works. (II) They shall keep and maintain all irrigation works, and permanent improvements upon or in connection with the Irrigation Cultivation Area in good condition and repair during the said period of twenty years. 10
- Restrictions on sale, lease, &c. (III) They shall not sell, lease, or dispose of any land granted, or to be granted to them in fee simple in parcels exceeding eighty acres, if the land so sold shall be prepared and planted for fruit growing, or one hundred and sixty acres if prepared for growing other produce, or sell, lease, or dispose of more than one hundred and sixty acres of land to the same person. 15
- Restriction on cultivated irrigated land held by Promoters. (IV) They shall not at any time hold in their own possession, or in that of their agents, more than five thousand acres of cultivated irrigated land, out of the lands described in the the Second Schedule hereto. 20
- Industries to be established. (V) They shall use all reasonable efforts to establish within the period of five years from the passing of this Act, upon the Irrigation Cultivation Area the business and industries of fruit growing, fruit drying, preserving, and canning. 25
- Vermin to be destroyed. (VI) They shall take all reasonable measures to destroy all such animals and birds within and upon the Irrigation Cultivation Area as may be proclaimed to be vermin.
- Land to be cleared. (VII) They shall, within the period of five years from the passing of this Act, use all reasonable means to effect the removal of all timber growing within the high water-mark of the Lakes specified in the First Schedule hereto; and may cut up, use, and dispose of the same. 30
- Governor may resume. (VIII) The Governor may resume any portion of the Irrigation Cultivation Area for railways, tramways, and roads. 35
- Accounts to be submitted to Auditor-General. (IX) For the purpose of ascertaining the actual cost of *bona fide* irrigation works and permanent improvements under this Act, the Promoters shall from year to year, until the said sum of thirty thousand pounds shall have been expended as aforesaid, submit to the Auditor-General accounts and proper vouchers of all irrigation works, and permanent improvements expended by them upon or in connection with the Irrigation Cultivation Area, and the amount of the accounts as passed by the Auditor-General shall be deemed to be the actual expenditure by the Promoters upon or in connection with such irrigation works, and permanent improvements. 40 45
- Accounts to be subject to Audit Act of 1870. (X) The accounts of the Promoters in and about the construction of the irrigation works and permanent improvements shall be subject to all the provisions of the "Audit Act of 1870," so far as may be in the same manner in all respects as if such accounts had been specifically mentioned therein. 50
- Conditions on which grant in fee simple to issue. 61. 62. For every two pounds expended by the Promoters upon or in connection with the Irrigation Cultivation Area in irrigation works and permanent improvements, the Governor shall, on payment to the Crown by the Promoters of the sum of one pound, in addition to said expenditure of two pounds, issue to the Promoters a grant of one acre of land required by the Promoters within the 55 the



the area described in the Second Schedule hereto, provided always that no such grant shall be issued except for a parcel of land containing not less than one hundred acres. And every such grant shall be for an estate of inheritance in fee-simple in possession, freed  
 5 and discharged from all 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.

- 10 ~~62.~~ 63. Until such grant of each such parcel of land shall respectively have been applied for and issued to the Promoters, they shall hold the lands described in the Second Schedule hereto, or the balance thereof from time to time, of which no such grant shall have been  
 15 issued, as Lessees from the Crown, and shall pay to the Crown an annual sum in name of rent therefor at a rate not exceeding the average rent assessed from time to time on other Crown unimproved pastoral lands in the counties aforesaid. And until such grant of each such  
 20 parcel of land shall respectively have been issued as aforesaid, the Promoters shall be entitled to sub-lease any such parcel of the lands described in the Second Schedule hereto, or the balance thereof from time to time of which no such grant shall have been issued, and to enter into any contract of sale of any such parcel of land conditional upon the issue of any such grant thereof.

Promoters to be Crown Lessees until issue of Grant.

Promoters may sub-lease, &c.

- 25 64. Before the Promoters shall put into force any of the provisions contained in this Act with respect to the acquisition or occupation of private lands otherwise than by agreement, the following  
 30 conditions and provisions shall be observed.

Conditions prior to acquisition of private lands.

- (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 Mitchell, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any private lands, naming their 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.
- 30
- (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.
- 35
- (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 private lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are neutral in respect 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 this Act, with respect to the acquisition or occupation of private lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Governor may require.
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- 50
- (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  
 55 inquiry



inquiry has been made, no provisional order shall be made affecting any such lands without the consent of the owners, lessees, and occupiers thereof.

- (v) After the completion of such inquiry the Governor may, by provisional order, empower the Promoters to put in force with reference to the lands referred to in such order the powers of this Act with respect to the acquisition and occupation of private 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.

## PART V.

*The acquisition and occupation by the Promoters of Lands other than those described in the First and Second Schedules hereto.*

Lands required how acquired.

63. 65. After the approval by the Governor of the acquisition of lands otherwise than by agreement, but not before, the Promoters shall be empowered to acquire or occupy any lands in the said Police District of Mitchell Counties of Menindie, Tandora, and Yancowinna other than the lands described in the First and Second Schedules hereto, in manner hereinafter provided, and in the case of Crown Lands such acquisition or occupation shall be made under and subject to the like conditions as are herein contained with respect to the lands described in the Second Schedule hereto.

How and when lands can be taken.

64. 66. 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 Mitchell, to declare that the land described in such notification is required under this Act for the purpose therein expressed, but the purpose so to be expressed shall be limited to the acquisition of lands for purposes similar to those for which the lands described in the Second Schedule hereto are acquired under this Act by the Promoters.

Vesting, &c., of land.

65. 67. Upon the publication of the last mentioned notification in the *Gazette* declaring that the lands therein described are so required, such lands shall 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.

Effect of publication upon Crown lands.

66. 68. Where the land required under this part of this Act 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



land made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending or repealing 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 mentioned 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.

## PART VI.

### 10 *The Ascertainment and Payment of Compensation in Respect of Lands Resumed and Taken.*

67. 69. Where the land described in any notification under this Act, and resumed and taken for any of the purposes thereof, 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, or is held under any lease or license from the Crown, the owners, lessees, or licensees 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.

68. 70. 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 or arbitrators 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 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.

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

69. 71. 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 Third Schedule hereto, but with any modifications required by the nature of the claim.

Notice of claim for compensation.

70. 72. 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 by a competent valuator, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fourth Schedule hereto.

Claim and report thereon.

71. 73. 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

Compensation by action in Supreme Court.



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 5 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.

72- 74. The issue to be tried in any such action shall be whether 10 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 15 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.

73- 75. 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 20 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 authorised 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 25 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 30 surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

Where claim may be prosecuted in a District Court.

74- 76. A District Court shall, notwithstanding anything contained 35 in the "District Courts Act of 1858," or any amendment thereof, have jurisdiction to try any such action of compensation at the District Court holder within the district wherein any land in respect of which any claim has arisen under this Act (or the greater portion of such land) is situated in any case where the whole amount of the claim in 40 respect to such land served in pursuance of section sixty-nine of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Promoters and the Claimant by a memorandum signed by the Promoters' Attorney and the Claimants' Attorney agree thereto. For the purposes of this Act the provisions of the said 45 District Courts Act, and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in any District Court hereunder.

Principles upon which compensation may be awarded.

75- 77. In estimating or assessing the compensation, if any, to be paid under this Act, regard shall be had by the valuers and by the 50 jury (on any issue), or by the arbitrators and their umpire to, and they are hereby authorised and empowered to apply the following principles so far as the same may be applicable in each case, namely:—

Compensation for land taken, and severance.

- (1) Regard shall be had not only to the value of the land taken by the Promoters, but also to the damage, if any, to be sus- 55 tained 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 the valuers, jury, or arbitrators, shall assess



assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time notice was given of such lands being required or having been taken.

- 5 (II) No compensation shall be awarded in any case where the injury for which compensation is claimed appears to have been the result of the execution of works which were incomplete at the time of such injury, if it shall appear that such works are being *bonâ fide* prosecuted to completion. No compensation where works incomplete.
- 10 (III) No compensation shall be awarded for any diminution or deterioration of the supply of water to which any person may be entitled, unless such diminution or deterioration shall have so diminished or deteriorated the supply previously enjoyed by the claimant as to deprive him of the use of sufficient water for domestic purposes and the watering of stock, and is the direct and will be the permanent result of a completed irrigation work. No compensation for loss of water, unless loss permanent.
- 15 (IV) No compensation shall be made for any injury, loss, or damage occasioned by the taking or diverting of surplus or flood water, either permanently, temporarily, or intermittently, from any lake, river, or creek. No compensation for flood waters taken.
- 20 (V) No compensation shall be payable by reason of the permanent, temporary, or intermittent maintenance of the high-water level referred to in the First Schedule hereto, or by reason of any irrigation works which the Promoters may construct upon any part of the Irrigation Water Conservation Area. No compensation for maintenance of high-water level.
- 25 (VI) There shall be taken into consideration and given effect to by way of set-off or abatement of all or any claims for compensation for land taken, or for severance, or by reason of the construction of any irrigation works under this Act any enhancement in value of any property of the claimant wherever situated, which has been directly or indirectly caused, and any other benefit which shall have been gained by or become available to such claimant, by reason of such works, or by reason of any other irrigation works constructed or guaranteed to be constructed by the Promoters under this Act; but in no case shall this provision operate so as to require any payment to be made by such owner to the Promoters in consideration of such enhancement in value as aforesaid. Benefit to claimant of Promoters works to be taken into account.
- 30 (VII) The measure of the compensation, if any, shall in all cases be the direct pecuniary injury done to the claimant by the loss of something of substantial benefit previously by him enjoyed, and shall not include remote, indirect, or speculative damages. But no payment to be made by claimant to Promoters.
- 35 (VIII) In any case where the injury complained of may appear to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the valutors, jury, or arbitrator may declare to be a compensation for all possible future repetitions of such injury as well as for the injury already done, and after such award no further compensation shall be made to any person whatsoever in respect of any future repetitions of such injury. Compensation to be for direct pecuniary injury.
- 40 (IX) No compensation shall be made in respect of more than one claim for any act causing or likely to cause the same injury to the same property, and the valutors, jury, or arbitrators shall consider the damage or detriment caused to every estate in such lands, whether in possession or in reversion or remainder, Permanent or recurring injury.
- 45
- 50
- 55 Compensation to be made in respect of one claim in case of each property.



remainder, and shall decide what payment is to be made to the owner or occupier of the estate in possession, and to the owners of any future estate respectively.

Power to purchase lands by agreement.

76- 78. 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 authorised 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. 5 10

Power to refer claims to arbitration.

77- 79. Notwithstanding anything hereinbefore contained, it shall be lawful for the Promoters, if they think fit, to agree enter into an agreement in writing with any person claiming compensation in respect of any land required, or in respect of any works or other matter done under the authority of this Act, to refer such claim to the decision of two arbitrators and their umpire, and in such event this section any such agreement shall be read and construed as a submission of such claim within the meaning of the "Arbitration Act, 1892." 15 20

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

78- 80. 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 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. 25 30 35 40 45 50 55

Incorporation of provisions of Government Railways Act.

79- 81. 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 60



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  
 5 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  
 10 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 determination of compensation to absent parties. Sections forty-two to forty-four both inclusive.
- 15 (II) 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  
 20 forty-seven to fifty-two, both inclusive.
- (III) 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.
- 25 (IV) 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.
- 30 (V) 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  
 35 are taken. Sections sixty-five to seventy, both inclusive.
- (VI) As to the release of lands from rent-charges and other incumbrances, and procedure thereon. Sections seventy-one to seventy-four, both inclusive.
- 40 (VII) 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.

## PART VII.

### *Miscellaneous provisions—Legal procedure.*

80. 82. One-half of any penalty recovered under this Act shall be  
 45 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,  
 50 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.



Penalty for default not otherwise provided for.

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

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

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

Damage to be made good in addition to penalty.

Transient offenders

81- 83. 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. 5

82- 84. 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, 10 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 15 such Justices, and they shall determine the amount thereof.

83- 85. 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 20 time being regulating summary proceedings before Justices. And where any such penalty, charge, or sum be not paid, either immediately after conviction or adjudication, or within the time appointed thereby, the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels, in the manner provided by the said Acts. 25

84- 86. 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 30 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 35 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 40 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 45 adjudication and of the appeal, as they may think reasonable.

85- 87. 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 50 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 55 Justices, or one of them, shall issue their warrant accordingly.

86- 88. 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



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.

- 5 87. 89. Any notice required by this Act, or by any ~~by-law or~~ <sup>Notices.</sup> 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, 10 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 15 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 20 District wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

88. 90. 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 25 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 30 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.

89. 91. All irrigation works, and every part of any irrigation work, 35 which the Promoters may construct, and all water which at any time is in any lake, creek, or irrigation work, vested in or under the control or management of the Promoters, shall be the property of the Promoters subject to the provisions of this Act. <sup>Irrigation works and water to be the property of the Promoters.</sup>

90. 92. For any of the purposes of the Promoters authorised by this 40 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, irrigation works, rights, powers, authorities, 45 privileges, and revenues or to mortgage the same; and notwithstanding any forfeiture of the rights, powers, authorities, and privileges, conferred by this Act, any such debenture or mortgage shall remain good and valid and be a burden upon the Areas described in the First and Second Schedules hereto, to the extent to which the Promoters 50 shall have money expended upon, or in connection with said Areas in irrigation works or permanent improvements. <sup>Borrowing powers.</sup>

91. 93. The Promoters shall assign and transfer to each and every purchaser of land within the Irrigation Cultivation Area at time of purchase such a water-right to attach as a perpetual easement to the land so 55 purchased as the Promoters may determine, but subject to payment by the purchaser of such water rate as may be fixed by assessment as hereinbefore provided, and such water-right, when assigned or transferred to such purchaser, 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 <sup>Assignment of water-rights to purchasers.</sup>



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 always that such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act. 5

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

92. 94. 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, and having a registered office in New South Wales, all or any of the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed by this Act, together with all or any of the lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired 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 such 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 effect 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. 10 15 20 25 30

Disputes between  
Minister and  
Promoters referred  
to arbitration.

93. 95. In the event of any dispute, question, or difference arising between the Promoters and the Minister, the same shall be referred to two arbitrators, one to be appointed by the Governor and the other by the Promoters, and in such event this section shall be read and construed as a submission within the meaning of the "Arbitration Act, 1892," of such dispute, question, or difference, to such arbitrators. 35

Power to extend  
provisions of the Act.

94. 96. Upon the application of the Promoters the Governor may, by proclamation, declare that the provisions of this Act, or any of them, shall be extended to lands within the Counties of Menindie, Tandora, and Yancowinna, other than those within the Areas described in the First and Second Schedules hereto, and thereupon such lands which shall in such proclamation be described, shall be included within the provisions of this Act, in the same manner and, so far as possible, to the same extent and effect, as if such lands had been part of the lands described in the First and Second Schedules to this Act originally. 40 45

Voidance of Act.

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

## SCHEDULES.

50

### FIRST SCHEDULE.

#### *The Irrigation Water Conservation Area.*

ALL that area of land in the Counties of Menindie and Tandora, consisting of and including the areas covered by Lakes Menindie, Cawndilla, and Pamamaroo, and Creeks leading into and from the same, all as filled to the high water level of the Flood of the Year One thousand eight hundred and ninety, and for a distance of ten chains above and beyond the said high water level. 55

### SECOND



## SECOND SCHEDULE.

*The Irrigation Cultivation Area, about 25,000 acres.*

WESTERN Division—Land District of Willyama, within the resumed area of Kinchega Holding Number two hundred and forty-four, notified thirty-first July, one thousand eight hundred and eighty-five.

No. 16,083. County of Tandora, parishes of Hume, Kars, Maiden, and Bellar, containing an area of about twenty-five thousand acres. The Crown lands within the following boundaries: Commencing on the northern shore of Lake Menindie, at the south-eastern corner of Raimondo Pedroja's homestead lease three hundred and forty, of ten thousand two hundred and forty acres; and bounded thence by the northern shore of that lake easterly to the intersection of the south-western boundary of travelling stock reserve nine thousand eight hundred and sixty-seven, notified twelfth October, one thousand eight hundred and eighty-nine; thence by a line north-westerly to the south-western corner of camping and water reserve six hundred and ninety-nine, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the western and northern boundaries of that reserve and the eastern prolongation of the latter boundary bearing respectively northerly and easterly to the south-western boundary of homestead lease two hundred and twenty-nine, William Burns' ten thousand two hundred and forty acres; thence by part of that boundary, the north-western boundary of that homestead lease, and the north-western boundary of George Maiden's homestead lease ninety-five of ten thousand two hundred and forty acres bearing respectively north-westerly and north-easterly to the northernmost corner of the last-mentioned homestead lease; thence by the north-westerly prolongation of the north-eastern boundary of that homestead lease bearing north-west three miles; thence by a direct line to the sixty-fifth mile peg on the road from Silvertown to Menindie bearing south-westerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the northern boundary of water and camping reserve six hundred and ninety-eight, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the northern and part of the eastern boundaries of that reserve bearing respectively easterly and southerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the western boundary of homestead lease three hundred and forty aforesaid; and thence by part of the western, the northern, and the eastern boundaries of that homestead lease bearing respectively north, east, and south, to the point of commencement.

## THIRD SCHEDULE.

*Notice of Claim and Abstract.*

To the Promoters of the Menindie Irrigation Act.

IN pursuance of the "Menindie 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, covenants, &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)

## FOURTH SCHEDULE.

*Notice of Valuation.*

55

To A.B., claimant in respect of the land hereunder described resumed under the "Menindie 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 or compensation has been lodged, has been valued at the sum of £

60

The Menindie Irrigation Settlement, (Limited),  
Promoters of the Menindie Irrigation Act.

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

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

65

[1s. 3d.]

Sydney: Charles Potter, Government Printer.—1892

c 12—D



1. The first part of the paper is devoted to a general discussion of the problem of the origin of life. It is shown that the problem is one of the most important and interesting in the history of science. The author discusses the various theories of the origin of life, and shows that the most probable one is the theory of spontaneous generation. This theory states that life originated from non-living matter, and that it has since developed into the various forms of life that we see today. The author also discusses the evidence for this theory, and shows that it is supported by a large number of facts. Finally, the author concludes that the theory of spontaneous generation is the most reasonable one, and that it is the one that should be accepted by all scientists.

2. The second part of the paper is devoted to a discussion of the problem of the development of life. It is shown that the problem is one of the most important and interesting in the history of science. The author discusses the various theories of the development of life, and shows that the most probable one is the theory of evolution. This theory states that life has developed from simple forms into more complex forms, and that it has since developed into the various forms of life that we see today. The author also discusses the evidence for this theory, and shows that it is supported by a large number of facts. Finally, the author concludes that the theory of evolution is the most reasonable one, and that it is the one that should be accepted by all scientists.

3. The third part of the paper is devoted to a discussion of the problem of the future of life. It is shown that the problem is one of the most important and interesting in the history of science. The author discusses the various theories of the future of life, and shows that the most probable one is the theory of the continuation of life. This theory states that life will continue to develop, and that it will eventually reach a stage of perfection. The author also discusses the evidence for this theory, and shows that it is supported by a large number of facts. Finally, the author concludes that the theory of the continuation of life is the most reasonable one, and that it is the one that should be accepted by all scientists.

4. The fourth part of the paper is devoted to a discussion of the problem of the origin of the universe. It is shown that the problem is one of the most important and interesting in the history of science. The author discusses the various theories of the origin of the universe, and shows that the most probable one is the theory of the big bang. This theory states that the universe originated from a single point, and that it has since expanded into the various forms that we see today. The author also discusses the evidence for this theory, and shows that it is supported by a large number of facts. Finally, the author concludes that the theory of the big bang is the most reasonable one, and that it is the one that should be accepted by all scientists.



Legislative Council.

56<sup>o</sup> VICTORIÆ, 1892.

## A BILL

To enable and authorise the Menindie Irrigation Settlement (Limited), a Company duly incorporated under the Companies Acts of 1874 and 1888 of the Colony of New South Wales, to establish a system of Irrigation and Water Supply within the counties of Menindie, and Tandora, **and Yancowinna**, in the said Colony; to acquire lands; to establish Irrigation Works; to authorise 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 Menindie Creek and Lake, and the other creeks and lakes mentioned herein, and to take water therefrom and from the river Darling, and for all other purposes which may be incidental thereto.

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

**W**HEREAS it is expedient and would be to the advantage of the Preamble.  
inhabitants of the counties of Menindie and Tandora, and of  
the public generally, to establish a system, whereby the waters of lakes  
Menindie, Cawndilla, and Pamamaroo, and of the Darling River, in the  
5 said Colony of **New South Wales**, may be conserved and utilised for irriga-  
tion and domestic use, and for watering stock, and for other purposes:  
And whereas certain Crown lands situated in the parishes of Hume,  
Kars, Maiden, and Bellar, in the County of Tandora aforesaid, and  
more particularly described in the Second Schedule hereto, are suitable  
10 for agricultural and horticultural purposes, if provided with a  
permanent supply of water: And whereas the Minister for Lands,  
on the application of the Promoters, and as notified in the *Government  
Gazette* of the twenty-third day of July, one thousand eight hundred  
and ninety-two, has reserved from Lease for Irrigation purposes part  
15 of the lands described in the Second Schedule hereto: Be it therefore  
c 12—A enacted

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



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.

5

*Preliminary Provisions.*

Title.

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

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. 10

Provisions subject to  
general legislation,  
rights of Crown to  
control of water.

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. 15

Interpretation of  
terms.

4. In the construction of this Act, unless the context requires a different meaning, the expression— 20

"Construct" means, when used with reference to any irrigation work, to build, erect, make, lay, form, place, excavate, or embank, or to perform any other operation or work in connection with the carrying out of the irrigation works authorised by this Act. 25

"Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1884."

"Domestic use," when employed with reference to water, means use for household and all other purposes, save for irrigation of gardens or land. 30

"Gazette" means the *Government Gazette*.

"Governor" means the Governor with the advice of the Executive Council, ~~for and on behalf of Her Majesty.~~

"Irrigation" means the use of water for flooding, moistening, or watering lands for agricultural and horticultural purposes and for watering stock. 35

"Irrigation Water Conservation Area" means the Lakes, Creeks, and Lands named and described in the First Schedule to this Act.

"Irrigation Works" means and includes all or any engines, pumps, boilers, machinery, plant, canals, channels, ducts, flumes, pipes, water-gauges, water-meters, stop-cocks, ball-cocks, bridges, reservoirs, cisterns, dams, weirs, wells, flood-gates, filter-beds, culverts, tunnels, drains, aqueducts, sluices, stops, water-locks, outlets, cuttings, embankments, buildings, sheds, instruments, apparatus, appliances, works incidental thereto, and other works of every description for the purpose of obtaining, conserving, storing, lifting, conveying, measuring, distributing, or delivering water for irrigation or domestic use, or otherwise suitable to the purposes of an irrigation settlement. 40 45 50

"Irrigation Cultivation Area" means the lands and hereditaments described in the Second Schedule to this Act, and all other lands which may hereafter be acquired by the Promoters under this Act. 55

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

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

"Owner"



- “Owner” includes lessee or occupier and lessee or licensee under the Crown.
- “Person” means any individual as well as any Corporation, Municipality, Borough, or other local authority.
- 5 “Prescribed” means by this Act or by the regulations thereunder.
- “Private land” means any land which is not Crown land or which is hereinafter expressly referred to as private land.
- “Road” means a public road so constituted by reservation, proclamation, dedication, or otherwise, howsoever.
- 10 The intervention of a road or watercourse (not being a permanent river) shall not prevent holdings or lands being held to be “adjoining.”
- “Regulations” means the regulations made under this Act.
- “Stock” means and includes cattle, horses, sheep, and all other domestic animals.
- 15 “The Promoters” means the said “Menindie Irrigation Settlement (Limited),” and the Assignees of the said Company for the time being.

And the Parts and sections of this Act are arranged in the order following, namely:—

Arrangement of parts and sections of Act.

- PART I.—*Preliminary provisions.*—ss. 1-4.
- PART II.—*Powers and duties of the Promoters.*—ss. 5-44.
- PART III.—*The reservation as an Irrigation Water Conservation Area of the Lakes, Creeks, and Lands described in the First Schedule hereto.*—ss. 45-5657.
- 25 PART IV.—*The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*—ss. 57-6258-63.
- PART V.—*The occupation and acquisition by the Promoters of Lands other than those described in the First and Second Schedules hereto.*—ss. 63-6764-68.
- 30 PART VI.—*The ascertainment and payment of compensation in respect of lands resumed and taken.*—ss. 68-7969-81.
- PART VII.—*Miscellaneous provisions—Legal procedure*—ss. 80-9582-97.
- 35

## PART II.

### *Powers and Duties of the Promoters.*

5. 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:—
- 40 (I) To construct, upon and across the channels between Lakes Menindie and Pamamaroo and the Darling River, and the channel between Lake Cawndilla and Lake Menindie, or any of them, dams, weirs, flood-gates, or water-locks, or other irrigation works, with the necessary offtakes and works, and to alter and maintain the same.
- 45 (II) To construct and place irrigation works within or without the Areas described in the First and Second Schedules hereto for the purpose of conserving, raising, or otherwise dealing with any such waters as may be necessary for irrigation and domestic use on the Irrigation Cultivation Area, or as may be necessary or expedient for carrying out any of the purposes of this Act, and to maintain and work the same.
- 50 (III) To take or divert water from Lakes Menindie, Cawndilla, and Pamamaroo, or from any creek, channel, or water-course leading to or from any of the said Lakes, or any of them, or from the river Darling, and to convey to and distribute the same
- 55

owers of Promoters.



same within the Irrigation Cultivation Area or elsewhere as hereinafter provided, in quantities not exceeding an average of one cubic foot per minute for every five acres of land ~~within the Irrigation Cultivation Area:~~ intended to be irrigated under the provisions of this Act: Provided, nevertheless, 5 that nothing contained in this Act shall authorise the use of water from the said river for any purpose, so as in any way to diminish the quantity to such an extent as to interfere with the navigation of the river, or reduce the flow of the water of the said river beyond such mean discharge as the 10 Governor shall from time to time prescribe by notification to be published by the Minister in the *Gazette*.

- (iv) 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 areas described in the First 15 and Second Schedules hereto.
- (v) To enter into and upon any lands and take and lay down levels of the same for the purpose of constructing irrigation works, and to set out such parts thereof as they shall think necessary. 20
- (vi) To enter upon, take, and hold any Crown or private lands, streets, roads, or thoroughfares, and to construct therein any irrigation works, and to maintain, repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any 25 irrigation or other works being their property or under their control.

Compensation for damage done by promoters.

6. 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 30 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.

7. The plans of any dams, weirs, culverts, bridges, or other works which may interfere in any way with the flow of any natural 35 channel shall be submitted to the Minister, and must receive his sanction before such works can be entered upon.

Compensation, how settled.

8. 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 40 manner provided in Part VI of this Act in respect of claims for compensation made thereunder: 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 45 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.

Power to open streets.

9. The Promoters may open and break up the soil and pavement of any streets, roads, and bridges, and may open and break up sewers, 50 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 may remove and use the earth and materials in and under such streets, roads, and bridges, and do all 55 other acts which the Promoters shall from time to time deem necessary for the construction and maintenance of irrigation works as authorised by this Act: Provided nevertheless that permission be obtained from respective municipal councils when such streets are outside the Irrigation Cultivation Area. 60

Reinstatements of streets.

10. 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



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.

- 5 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.

- 10 11. The Promoters may, within the ~~irrigation~~ areas described in the **First and Second Schedules** hereto 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  
15 cut drains and deliver water into, dam, 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 irrigation works.

Diversion of water-courses.

- 20 12. The Promoters may supply any person, either within or without the **Irrigation Cultivation Area**, with water for irrigation and 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 with such person.

Agreements to supply water.

- 25 13. 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.

- 30 14. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or other irrigation work, 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.

- 35 15. Such meters, water-gauges, or other irrigation works 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 against or affecting the person using such water, or the occupier of  
40 the premises, or other the person in whose possession the meters, water-gauges, or other irrigation works may be.

Meters of promoters not distrainable.

- 45 16. 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  
50 repairs are effected.

Meter to be supplied and maintained by consumer.

- 55 17. 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, or other irrigation works, 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, or other irrigation work, upon or affecting the property of  
60 the Promoters. And if any person hinders any such Promoter, officer,

Power to officers or servants of promoters to inspect meter.

or



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.

18. 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 Cultivation Area. 10
- (II) The assessment of the rate and price at which water shall be supplied, and the time of payment for the same, whether in advance or otherwise, and the order in which applicants may be served.
- (III) The determination and adjustment of the interest, if any, of the various landowners and others within the Irrigation Cultivation Area to and in the irrigation works. 15
- (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. 20
- (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 Irrigation Water Conservation Area or Irrigation Works. 25
- (VI) The protection of the water and every part of the irrigation and other works from trespass or injury.
- (VII) The protection, management, and use of places for watering stock, and for bathing and washing purposes.
- (VIII) The imposing of penalties for any breach of any regulation by this Act authorised to be made by the Promoters, not exceeding the sum of *fifty* pounds, and the enforcement of the same; and 30
- (IX) Generally for duly administering and carrying out the powers given to the Promoters. 35

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

Maximum price of water for domestic use in Irrigation Cultivation Area.

19. The price to be charged by the promoters for water sold to any person for domestic use within the Irrigation Cultivation Area shall in no case exceed *five* shillings per one thousand gallons. 40

PROTECTION OF THE WATER.

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

20. 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, such person shall be liable for any such offence to a penalty not exceeding *five* pounds in addition to the value of the water wasted or misused, and the Promoters may (without prejudice to any remedy against them in respect thereof) cut off any of the pipes, canals, or other irrigation works, by or through which water is supplied to ~~him~~ such person 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. 45 50

POLLUTING THE WATER.

Penalty for bathing in water of promoters.

21. If any person bathe, or wash any article or stock, in any lake, stream, drain, reservoir, aqueduct, or other water-works within the Areas described in the First and Second Schedules hereto, except in such places as may be set aside by the Promoters for bathing and washing purposes, or throw, or cause to enter therein any animal, he shall for every such offence forfeit a sum not exceeding *five* pounds. 55



22. 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 lake, 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.

23. 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 lake, stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or over which they have any rights or control, or shall do any other act whereby the water of the Promoters shall be fouled, such person 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.

24. 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. wilful pollution.

25. 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 authorised, 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 irrigation work 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 authorised 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 authorised or wilfully injuring any pipe liable to a penalty.

26. 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 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. Charges and rates for water payable in advance.

27. 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 such Court sitting within the Police District of Mitchell. Refusal to pay charges.

28. If any person wrongfully take or use 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 unlawfully taking water.

29. If any person fix or refix any water-meter, water-gauge, or other irrigation work upon any pipe or other irrigation work the property of the Promoters, without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding *ten* pounds. Penalty for fixing uncertified meter, &c.

30. If any person remove or alter the position of, or in any way interfere with, any irrigation work without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding *twenty* pounds. For removing or altering meter without notice.



Notice of removal,  
&c., of meter.

Water may be cut off  
if meter not in order.

Penalty for obstruct-  
ing construction of  
works.

Penalty for  
destroying works.

Power to take  
temporary  
possession of land.

31. Every person requiring to remove or alter the position of or to open any irrigation work shall leave twenty-one days notice in writing to that effect at the local office of the promoters, situated upon the Irrigation Cultivation Area. And if any person refuse or delay to have any irrigation work 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 irrigation work shall have been properly repaired and certified by some officer of the Promoters as being in proper working order. 5 10

32. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any irrigation 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. 15

33. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any irrigation work, road-way, or other part whatever of the machinery or works of the Promoters, or deface or destroy any sign, notice or advertisement belonging to or erected, or published by the Promoters, such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years. 20 25

34. It shall be lawful for the Promoters, and all persons by them authorised, to enter upon any lands, not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue or ground ornamentally planted, and not being nearer to the 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 authorised by this Act, of the accommodation works connected therewith hereinafter mentioned, and to use the same for any of the following purposes, that is to say— 30 35

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 40

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: 50 55

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



either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Promoters shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom: **Provided also that where such lands so entered upon are Crown Lands, nothing in this Act contained shall exempt the Promoters from the provisions of Part VI of the "Crown Lands Act of 1884."**

35. If any such lands shall be used for any of the purposes aforesaid, the Promoters shall, if required so to do by the owner 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 of such lands and the Promoters as to the necessity for such fences and gates, then with such fences and gates as the Minister shall deem necessary for the purposes aforesaid.

Promoters to separate the lands before using them.

36. 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.

37. 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, maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

38. If the road so interfered with can be restored compatibly with the due completion of any works authorised under this Act, the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the 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.

Period for restoration of roads interfered with.

39. If any irrigation work 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.

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

40. The Promoters shall make and at all times thereafter maintain the following works for the accommodation of the owners of lands adjoining any irrigation works authorised under this Act, that is to say—

Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the side of, or leading to or from such irrigation works as shall be necessary for the purpose of making good any interruptions caused thereby to the use

Gates, bridges, &c.



	of the lands through which the same shall be made, and such accommodation works shall be made forthwith after the part of the irrigation works passing through or over such lands shall have been laid down or formed or during the formation thereof.	5
Fences, &c.	Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land, taken for the use of such irrigation works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners thereof from straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands and not towards the said irrigation 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.	10 15
Drains.	Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under, or by the sides of such irrigation 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.	20
Accommodation works not to interfere with use of works, nor to be made where compensation given.	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 irrigation works authorised by this Act, nor to make any accommodation works with respect to which the owners of the lands shall have agreed to receive and shall have been paid compensation.	25
Differences as to accommodation works to be settled by Minister.	41. 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 Minister, who shall also appoint the time within which such works shall be commenced and executed.	30
Power to owners of lands to make additional accommodation works.	42. If any of the owners of lands affected by any irrigation work shall consider the accommodation works made by the Promoters, or directed by the Minister 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.	35
Such works to be constructed under the superintendence of the promoters' engineer.	43. 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.	40 45
Penalty on persons omitting to fasten gates.	44. If any person omit to shut and fasten any gate set up for the accommodation of the owners of the adjoining lands, or of the Promoters or their tenants, 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.	50

## PART III.

*The reservation as an Irrigation Water Conservation Area of the Lakes, Creeks, and Lands described in the First Schedule hereto.* 55

Reservation to be gazetted.

45. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the Lakes, Creeks, and Lands mentioned and described in the First Schedule hereto have been set apart as an Irrigation Water Conservation Area for irrigation purposes and domestic use within the Counties of Menindie, Tandora, and Yancowinna. 60  
46.



46. Upon the publication of the notification in the *Gazette* Vesting, &c., of lands declaring that the Lakes, Creeks, and Lands therein described are so required and set apart, such Lakes, Creeks, and Lands shall be vested in the Promoters in Trust for the purposes of this Act, for an estate of inheritance in fee-simple in possession, freed and discharged from all other trusts, obligations, estates, interests, contracts, charges, rates, right-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 in Trust as aforesaid.

47. Where the lands contained in the area described in the Second Schedule hereto are Crown Lands at the date of such publication, or are vested in any corporation or person on behalf of Her Majesty, or for public purposes, by virtue of any statute, or are 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 lands from any lease or license or promise thereof, to cancel to the like extent any dedication or reservation of the said lakes, creeks, and lands made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending or repealing the same, and to vest the said lakes, creeks, and lands, to the extent aforesaid, in the Promoters, for the purposes mentioned, and for the estate mentioned 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.

47- 48. Upon the publication of the said notification the Promoters shall be entitled to take and fence off the whole or any portion of the Irrigation Water Conservation Area: Provided always that when such fencing shall prevent access to any lake or creek previously in use by any owner of adjoining lands for watering stock or domestic use the Promoters shall provide, in lieu thereof, other convenient watering places for the use of such owner for the like purposes.

48. 49. For so much only of the Irrigation Water Conservation Area as extends above the high-water level referred to in the Second Schedule hereto, and as shall be taken and fenced off under the authority of the preceding section, the owners thereof shall be entitled to claim compensation.

49. 50. After the construction by the Promoters of all such Irrigation Works upon the Areas described in the First and Second Schedules hereto as they may consider necessary for the irrigation of the Irrigation Cultivation Area, it shall be lawful for any owner of land in the Counties of Menindie, Tandora, and Yancowinna to apply to the Promoters for the supply and delivery of water from the Irrigation Water Conservation Area upon such land for irrigation and domestic use for a term of years, at a price by measure or otherwise; and the Promoters shall supply such water on the conditions aftermentioned: Provided always that by so doing they shall not endanger due provision for, and the proper irrigation of, the Irrigation Cultivation Area.

50. 51. Every such application for a supply of water on land situated outside the Irrigation Cultivation Area for irrigation or domestic use shall be accompanied by a plan of any special irrigation works necessary therefor, and a map or plan of the lands through which such special works are intended to pass, showing the position of such proposed works thereon and the names of the owners of such lands, together with an estimate by a competent engineer of the cost of carrying out such special works.

51. 52. Before any part of such special irrigation works as may be carried out under this part of this Act shall be commenced, the plans and construction thereof shall be approved and authorised by the Minister, and such owner shall be obliged to prove to the satisfaction of the

Promoters



Promoters that such works will yield a reasonably permanent return at a remunerative rate upon the total cost thereof; and any such special works shall be constructed only under written agreement between the Promoters and such owner, and such agreement, whether under seal or not, shall be deemed a covenant running with such land, 5 and the successive owners thereof, during the term of such agreement.

Works to be constructed by the Promoters.

52. 53. All such special irrigation works as may be constructed under this part of this Act shall be constructed by the Promoters, and under the superintendence of the Promoters' engineer, unless the Promoters shall otherwise agree with such owner, within a reasonable time after 10 the approval and authority of the Minister as aforesaid shall have been obtained. 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 15 than that adopted in similar cases by the Promoters.

Owners to be chargeable with annual water rates.

53. 54. The Promoters shall be entitled to charge and recover from such owner in each year in name of water rates, payable half-yearly, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, and such sum shall include 20 a fair and reasonable proportion of the following items of outlay and expense in respect of the irrigation works on the Irrigation Water Conservation Area, namely :—

- (I) Provision for a sinking fund for the maintenance and renewal of the irrigation works. 25
- (II) Annual cost of working and supervision of the irrigation works.
- (III) Interest at the rate of ten per centum per annum upon the total cost of the irrigation works, including the amount of compensation paid in respect thereof and the cost of lands 30 acquired therefor.

Charge to repay cost of special works.

54. 55. In addition to such charge in name of water rates permitted by the last-preceding section it shall be in the option of the Promoters either to charge and recover from such owner the total cost of special irrigation works constructed on the application of such owner, or to 35 charge, and recover from such owner, in each year, in name of special water rates, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, to cover the cost of such special works.

Promoters may supply water under agreement with land owners.

55. 56. Subject to the provisions of this Act, it shall be lawful for 40 the Promoters to enter into an agreement in writing with the owner of any land within the Counties of Menindie, Tandora, or Yancowinna, for the supply and delivery of water upon such land for a term of years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement, and in every such agreement the owner of 45 such land shall agree to pay such price for the term limited in the agreement, and to pay the Promoters for not less water in any year than the minimum quantity in such agreement specified, and such agreement by such owner, whether under seal or not, shall be deemed a covenant running with such land, and shall bind such land and the 50 successive owners thereof during the said term. But nothing in such agreement shall be construed to create any obligation on the part of the Promoters to supply any stated quantity of water in the event of there being at the disposal of the Promoters an insufficient quantity of water as in this part of this Act provided. 55

When water available is insufficient, quantity supplied may be reduced.

56. 57. If at any time the supply of water obtainable from the Irrigation Water Conservation Area, shall, in the opinion of the the Promoters, be insufficient to supply to any such owner the whole of the water to which such owner would otherwise have been entitled and liable to take, without endangering the due provision for, and the 60 proper irrigation of, the Irrigation Area, the Promoters shall deliver to such owner, and such owner shall receive, such quantity only as the



the Irrigation Water Conservation Area can, in the opinion of the Promoters, supply ; and if there be several such owners the Promoters shall in such event deliver to such owners respectively, and such owners shall respectively be liable to take from the Promoters such  
 5 amount of water only as the Irrigation Water Conservative Area can, in the opinion of the Promoters, properly supply in quantities in proportion to the quantities which such owners would, had there been sufficient water available without endangering the due provision for, and the proper irrigation of, the Irrigation Cultivation Area, have respec-  
 10 tively been entitled and liable to take from the Promoters ; but in such case such owner shall only pay for the water actually provided for him ; and in no case shall any action, claim, demand, or other proceedings for not supplying water to any such owner be maintainable in any form in any case where it has been determined by the  
 15 Minister that the Promoters have been, without negligence or wilful default upon their part, unable to supply such water or have refused to supply such water in virtue of any provisions of this Act.

Payment to be made for water supplied only.  
 No claim to lie for inability to supply.

#### PART IV.

*The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*

- 20 57. 58. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the lands described in the Second Schedule hereto are required and have been set apart as an Irrigation Cultivation Area for the use of the Promoters, and that the  
 25 same shall be held by them upon the conditions specified in this Act.
58. 59. Upon the publication of the last-mentioned notification in the *Gazette* declaring that the lands therein described are so required and set apart, such lands shall, upon compliance with the requirements and provisions hereinafter contained, be vested in the Promoters for  
 30 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  
 35 subject to the provisions thereof, be vested in the Promoters.
59. 60. The effect of such publication shall be to withdraw the lands described in the Second Schedule hereto from any lease or license or promise thereof, 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 or repealing the same,  
 40 and to vest the said land, to the extent aforesaid, in the Promoters, for the purposes mentioned, and for the estate mentioned 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  
 45 shall first have been obtained with respect to the lands so required.
60. 61. The conditions upon which the Irrigation Cultivation Area shall be held and acquired by the Promoters shall be as follows, namely :—
- (1) They shall expend upon or in connection with the Irrigation  
 50 Cultivation Area, and within the period of twenty years from the passing of this Act, in the construction of irrigation works, and permanent improvements, a sum of not less than Thirty thousand pounds in the following manner, that is to say :—  
 55 During the first period of five years the sum of ten thousand pounds ; before or during the second period of five years the further sum of seven thousand pounds ; before or during the

Reservation to be gazetted.

Vesting, &c., of lands.

Effect of publication upon Crown lands described in the Second Schedule.

Conditions upon which Irrigation Cultivation Area to be held.

Expenditure of £30,000.



- the third period of five years the further sum of seven thousand pounds; and before or during the fourth period of five years the balance of six thousand pounds; and the said sum of thirty thousand pounds shall be expended as aforesaid, in addition to such sums of money as may be expended upon or in connection with the land described in the Second Schedule hereto in preparing and planting and cultivating the same. 5
- To maintain works. (II) They shall keep and maintain all irrigation works, and permanent improvements upon or in connection with the Irrigation Cultivation Area in good condition and repair during the said period of twenty years. 10
- Restrictions on sale, lease, &c. (III) They shall not sell, lease, or dispose of any land granted, or to be granted to them in fee simple in parcels exceeding eighty acres, if the land so sold shall be prepared and planted for fruit growing, or one hundred and sixty acres if prepared for growing other produce, or sell, lease, or dispose of more than one hundred and sixty acres of land to the same person. 15
- Restriction on cultivated irrigated land held by Promoters. (IV) They shall not at any time hold in their own possession, or in that of their agents, more than five thousand acres of cultivated irrigated land, out of the lands described in the the Second Schedule hereto. 20
- Industries to be established. (V) They shall use all reasonable efforts to establish within the period of five years from the passing of this Act, upon the Irrigation Cultivation Area the business and industries of fruit growing, fruit drying, preserving, and canning. 25
- Vermin to be destroyed. (VI) They shall take all reasonable measures to destroy all such animals and birds within and upon the Irrigation Cultivation Area as may be proclaimed to be vermin.
- Land to be cleared. (VII) They shall, within the period of five years from the passing of this Act, use all reasonable means to effect the removal of all timber growing within the high water-mark of the Lakes specified in the First Schedule hereto, and may cut up, use, and dispose of the same. 30
- Governor may resume. (VIII) The Governor may resume any portion of the Irrigation Cultivation Area for railways, tramways, and roads. 35
- Accounts to be submitted to Auditor-General. (IX) For the purpose of ascertaining the actual cost of *bona fide* irrigation works and permanent improvements under this Act, the Promoters shall from year to year, until the said sum of thirty thousand pounds shall have been expended as aforesaid, submit to the Auditor-General accounts and proper vouchers of all irrigation works, and permanent improvements expended by them upon or in connection with the Irrigation Cultivation Area, and the amount of the accounts as passed by the Auditor-General shall be deemed to be the actual expenditure by the Promoters upon or in connection with such irrigation works, and permanent improvements. 40 45
- Accounts to be subject to Audit Act of 1870. (X) The accounts of the Promoters in and about the construction of the irrigation works and permanent improvements shall be subject to all the provisions of the "Audit Act of 1870," so far as may be in the same manner in all respects as if such accounts had been specifically mentioned therein. 50
- Conditions on which grant in fee simple to issue. 61- 62. For every two pounds expended by the Promoters upon or in connection with the Irrigation Cultivation Area in irrigation works and permanent improvements, the Governor shall, on payment to the Crown by the Promoters of the sum of one pound, in addition to said expenditure of two pounds, issue to the Promoters a grant of one acre of land required by the Promoters within the the



the area described in the Second Schedule hereto, provided always that no such grant shall be issued except for a parcel of land containing not less than one hundred acres. And every such grant shall be for an estate of inheritance in fee-simple in possession, freed  
 5 and discharged from all 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.

- 10 62. 63. Until such grant of each such parcel of land shall respectively have been applied for and issued to the Promoters, they shall hold the lands described in the Second Schedule hereto, or the balance thereof from time to time, of which no such grant shall have been issued, as Lessees from the Crown, and shall pay to the Crown an  
 15 annual sum in name of rent therefor at a rate not exceeding the average rent assessed from time to time on other Crown unimproved pastoral lands in the counties aforesaid. And until such grant of each such parcel of land shall respectively have been issued as aforesaid, the Promoters shall be entitled to sub-lease any such parcel of the lands  
 20 described in the Second Schedule hereto, or the balance thereof from time to time of which no such grant shall have been issued, and to enter into any contract of sale of any such parcel of land conditional upon the issue of any such grant thereof.

Promoters to be Crown Lessees until issue of Grant.

Promoters may sub-lease, &c.

- 25 64. Before the Promoters shall put into force any of the provisions contained in this Act with respect to the acquisition or occupation of private lands otherwise than by agreement, the following conditions and provisions shall be observed.

Conditions prior to acquisition of private lands.

- (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 Mitchell, a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any private lands, naming their 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.
- 30 (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.
- 35 (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 private lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are neutral in respect 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 this Act, with respect to the acquisition or occupation of private lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Governor may require.
- 40 45 50 (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
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inquiry has been made, no provisional order shall be made affecting any such lands without the consent of the owners, lessees, and occupiers thereof.

- (v) After the completion of such inquiry the Governor may, by provisional order, empower the Promoters to put in force with reference to the lands referred to in such order the powers of this Act with respect to the acquisition and occupation of private 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.

## PART V.

*The acquisition and occupation by the Promoters of Lands other than those described in the First and Second Schedules hereto.*

Lands required how  
acquired.

63. 65. After the approval by the Governor of the acquisition of lands otherwise than by agreement, but not before, the Promoters shall be empowered to acquire or occupy any lands in the said Police District of Mitchell Counties of Menindie, Tandora, and Yancowinna other than the lands described in the First and Second Schedules hereto, in manner hereinafter provided, and in the case of Crown Lands such acquisition or occupation shall be made under and subject to the like conditions as are herein contained with respect to the lands described in the Second Schedule hereto.

How and when lands  
can be taken.

64. 66. 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 Mitchell, to declare that the land described in such notification is required under this Act for the purpose therein expressed, but the purpose so to be expressed shall be limited to the acquisition of lands for purposes similar to those for which the lands described in the Second Schedule hereto are acquired under this Act by the Promoters.

Vesting, &c., of lands.

65. 67. Upon the publication of the last mentioned notification in the *Gazette* declaring that the lands therein described are so required, such lands shall 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.

Effect of publication  
upon Crown lands.

66. 68. Where the land required under this part of this Act 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



land made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending or repealing 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 mentioned 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.

## PART VI.

### 10 *The Ascertainment and Payment of Compensation in Respect of Lands Resumed and Taken.*

67. 69. Where the land described in any notification under this Act, and resumed and taken for any of the purposes thereof, 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, or is held under any lease or license from the Crown, the owners, lessees, or licensees 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.

68. 70. 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 or arbitrators 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 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.

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

69. 71. 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 Third Schedule hereto, but with any modifications required by the nature of the claim.

Notice of claim for compensation.

70. 72. 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 by a competent valuator, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fourth Schedule hereto.

Claim and report thereon.

71. 73. 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

Compensation by action in Supreme Court.



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 5 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.

72. 74. The issue to be tried in any such action shall be whether 10 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 15 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.

73. 75. 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 20 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 authorised 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 25 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 30 surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

Where claim may be prosecuted in a District Court.

74. 76. A District Court shall, notwithstanding anything contained 35 in the "District Courts Act of 1858," or any amendment thereof, have jurisdiction to try any such action of compensation at the District Court holder within the district wherein any land in respect of which any claim has arisen under this Act (or the greater portion of such land) is situated in any case where the whole amount of the claim in 40 respect to such land served in pursuance of section sixty-nine of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Promoters and the Claimant by a memorandum signed by the Promoters' Attorney and the Claimants' Attorney agree thereto. For the purposes of this Act the provisions of the said 45 District Courts Act, and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in any District Court hereunder.

Principles upon which compensation may be awarded.

75. 77. In estimating or assessing the compensation, if any, to be paid under this Act, regard shall be had by the valuers and by the 50 jury (on any issue), or by the arbitrators and their umpire to, and they are hereby authorised and empowered to apply the following principles so far as the same may be applicable in each case, namely:—

Compensation for land taken, and severance.

- (1) Regard shall be had not only to the value of the land taken by the Promoters, but also to the damage, if any, to be sus- 55 tained 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 the valuers, jury, or arbitrators, shall assess



assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time notice was given of such lands being required or having been taken.

- 5 (II) No compensation shall be awarded in any case where the injury for which compensation is claimed appears to have been the result of the execution of works which were incomplete at the time of such injury, if it shall appear that such works are being *bonâ fide* prosecuted to completion. No compensation where works incomplete.
- 10 (III) No compensation shall be awarded for any diminution or deterioration of the supply of water to which any person may be entitled, unless such diminution or deterioration shall have so diminished or deteriorated the supply previously enjoyed by the claimant as to deprive him of the use of sufficient water for domestic purposes and the watering of stock, and is the direct and will be the permanent result of a completed irrigation work. No compensation for loss of water, unless loss permanent.
- 15 (IV) No compensation shall be made for any injury, loss, or damage occasioned by the taking or diverting of surplus or flood water, either permanently, temporarily, or intermittently, from any lake, river, or creek. No compensation for flood waters taken.
- 20 (v) No compensation shall be payable by reason of the permanent, temporary, or intermittent maintenance of the high-water level referred to in the First Schedule hereto, or by reason of any irrigation works which the Promoters may construct upon any part of the Irrigation Water Conservation Area. No compensation for maintenance of high-water level.
- 25 (VI) There shall be taken into consideration and given effect to by way of set-off or abatement of all or any claims for compensation for land taken, or for severance, or by reason of the construction of any irrigation works under this Act any enhancement in value of any property of the claimant wherever situated, which has been directly or indirectly caused, and any other benefit which shall have been gained by or become available to such claimant, by reason of such works, or by reason of any other irrigation works constructed or guaranteed to be constructed by the Promoters under this Act; but in no case shall this provision operate so as to require any payment to be made by such owner to the Promoters in consideration of such enhancement in value as aforesaid. Benefit to claimant of Promoters works to be taken into account.
- 30 (VII) The measure of the compensation, if any, shall in all cases be the direct pecuniary injury done to the claimant by the loss of something of substantial benefit previously by him enjoyed, and shall not include remote, indirect, or speculative damages. But no payment to be made by claimant to Promoters.
- 35 (VIII) In any case where the injury complained of may appear to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the valutors, jury, or arbitrator may declare to be a compensation for all possible future repetitions of such injury as well as for the injury already done, and after such award no further compensation shall be made to any person whatsoever in respect of any future repetitions of such injury. Compensation to be for direct pecuniary injury.
- 40 (IX) No compensation shall be made in respect of more than one claim for any act causing or likely to cause the same injury to the same property, and the valutors, jury, or arbitrators shall consider the damage or detriment caused to every estate in such lands, whether in possession or in reversion or remainder, Permanent or recurring injury.
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remainder, and shall decide what payment is to be made to the owner or occupier of the estate in possession, and to the owners of any future estate respectively.

Power to purchase lands by agreement.

76. 78. 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 authorised 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 refer claims to arbitration.

77. 79. Notwithstanding anything hereinbefore contained, it shall be lawful for the Promoters, if they think fit, to agree enter into an agreement in writing with any person claiming compensation in respect of any land required, or in respect of any works or other matter done under the authority of this Act, to refer such claim to the decision of two arbitrators and their umpire, and in such event ~~this section~~ any such agreement shall be read and construed as a submission of such claim within the meaning of the "Arbitration Act, 1892."

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

78. 80. 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 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.

79. 81. 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



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  
 5 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  
 10 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 determination of compensation to absent parties. Sections forty-two to forty-four both inclusive.
- 15 (II) 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  
 20 forty-seven to fifty-two, both inclusive.
- (III) 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.
- 25 (IV) 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  
 30 sixty-one.
- (V) 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  
 35 the mortgage debt, and where part only of lands in mortgage are taken. Sections sixty-five to seventy, both inclusive.
- (VI) As to the release of lands from rent-charges and other incumbrances, and procedure thereon. Sections seventy-one to seventy-four, both inclusive.
- 40 (VII) 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.

## PART VII.

### *Miscellaneous provisions—Legal procedure.*

80. 82. One-half of any penalty recovered under this Act shall be  
 45 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,  
 50 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.



Penalty for default not otherwise provided for.

81. 83. 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. 5

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

82. 84. 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, 10 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 15 such Justices, and they shall determine the amount thereof.

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

83. 85. 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 20 time being regulating summary proceedings before Justices. And where any such penalty, charge, or sum be not paid, either immediately after conviction or adjudication, or within the time appointed thereby, the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels, in the manner provided by the said Acts. 25

Parties allowed to appeal to Quarter Sessions on giving security.

84. 86. 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 30 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 35 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 40 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 45 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.

85. 87. 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 50 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 55 Justices, or one of them, shall issue their warrant accordingly.

Transient offenders

86. 88. 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



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.

- 5 87. 89. Any notice required by this Act, or by any ~~by-law or~~ Notices.  
 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,  
 10 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  
 15 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  
 20 District wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

88. 90. 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  
 25 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  
 30 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.

89. 91. All irrigation works, and every part of any irrigation work, Irrigation works and  
 35 which the Promoters may construct, and all water which at any time water to be the property of the Promoters.  
 is in any lake, creek, or irrigation work, vested in or under the control or management of the Promoters, shall be the property of the Promoters subject to the provisions of this Act.

90. 92. For any of the purposes of the Promoters authorised by this Borrowing powers.  
 40 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, irrigation works, rights, powers, authorities,  
 45 privileges, and revenues or to mortgage the same; and notwithstanding any forfeiture of the rights, powers, authorities, and privileges, conferred by this Act, any such debenture or mortgage shall remain good and valid and be a burden upon the Areas described in the First and Second Schedules hereto, to the extent to which the Promoters  
 50 shall have money expended upon, or in connection with said Areas in irrigation works or permanent improvements.

91. 93. The Promoters shall assign and transfer to each and every Assignment of water-rights to purchasers.  
 purchaser of land within the Irrigation Cultivation Area at time of purchase such a water-right to attach as a perpetual easement to the land so  
 55 purchased as the Promoters may determine, but subject to payment by the purchaser of such water rate as may be fixed by assessment as hereinbefore provided, and such water-right, when assigned or transferred to such purchaser, 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



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 always that such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act. 5

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

92. 94. 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, and having a registered office in New South Wales, all or any of the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed by this Act, together with all or any of the lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired 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 such 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 effect 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. 30

Disputes between  
Minister and  
Promoters referred  
to arbitration.

93. 95. In the event of any dispute, question, or difference arising between the Promoters and the Minister, the same shall be referred to two arbitrators, one to be appointed by the Governor and the other by the Promoters, and in such event this section shall be read and construed as a submission within the meaning of the "Arbitration Act, 1892," of such dispute, question, or difference, to such arbitrators. 35

Power to extend  
provisions of the Act.

94. 96. Upon the application of the Promoters the Governor may, by proclamation, declare that the provisions of this Act, or any of them, shall be extended to lands within the Counties of Menindie, Tandora, and Yancowinna, other than those within the Areas described in the First and Second Schedules hereto, and thereupon such lands which shall in such proclamation be described, shall be included within the provisions of this Act, in the same manner and, so far as possible, to the same extent and effect, as if such lands had been part of the lands described in the First and Second Schedules to this Act originally. 40

Voidance of Act.

95. 97. This Act shall become null and void unless works to the value of five thousand pounds be carried out within two years after the passing thereof. 45

## SCHEDULES.

50

### FIRST SCHEDULE.

#### *The Irrigation Water Conservation Area.*

ALL that area of land in the Counties of Menindie and Tandora, consisting of and including the areas covered by Lakes Menindie, Cawndilla, and Pamamaroo, and Creeks leading into and from the same, all as filled to the high water level of the Flood of the Year One thousand eight hundred and ninety, and for a distance of ten chains above and beyond the said high water level. 55

### SECOND



## SECOND SCHEDULE.

*The Irrigation Cultivation Area, about 25,000 acres.*

WESTERN Division—Land District of Willyama, within the resumed area of Kinchega Holding Number two hundred and forty-four, notified thirty-first July, one thousand eight hundred and eighty-five.

No. 16,083. County of Tandora, parishes of Hume, Kars, Maiden, and Bellar, containing an area of about twenty-five thousand acres. The Crown lands within the following boundaries: Commencing on the northern shore of Lake Menindie, at the south-eastern corner of Raimondo Pedroja's homestead lease three hundred and forty, of ten thousand two hundred and forty acres; and bounded thence by the northern shore of that lake easterly to the intersection of the south-western boundary of travelling stock reserve nine thousand eight hundred and sixty-seven, notified twelfth October, one thousand eight hundred and eighty-nine; thence by a line north-westerly to the south-western corner of camping and water reserve six hundred and ninety-nine, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the western and northern boundaries of that reserve and the eastern prolongation of the latter boundary bearing respectively northerly and easterly to the south-western boundary of homestead lease two hundred and twenty-nine, William Burns' ten thousand two hundred and forty acres; thence by part of that boundary, the north-western boundary of that homestead lease, and the north-western boundary of George Maiden's homestead lease ninety-five of ten thousand two hundred and forty acres bearing respectively north-westerly and north-easterly to the northernmost corner of the last-mentioned homestead lease; thence by the north-westerly prolongation of the north-eastern boundary of that homestead lease bearing north-west three miles; thence by a direct line to the sixty-fifth mile peg on the road from Silverton to Menindie bearing south-westerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the northern boundary of water and camping reserve six hundred and ninety-eight, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the northern and part of the eastern boundaries of that reserve bearing respectively easterly and southerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the western boundary of homestead lease three hundred and forty aforesaid; and thence by part of the western, the northern, and the eastern boundaries of that homestead lease bearing respectively north, east, and south, to the point of commencement.

## THIRD SCHEDULE.

*Notice of Claim and Abstract.*

To the Promoters of the Menindie Irrigation Act.

In pursuance of the "Menindie 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)

## FOURTH SCHEDULE.

*Notice of Valuation.*

To A.B., claimant in respect of the land hereunder described resumed under the "Menindie 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 or compensation has been lodged, has been valued at the sum of £

The Menindie Irrigation Settlement, (Limited),  
Promoters of the Menindie Irrigation Act.

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

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

Sydney: Charles Potter, Government Printer.—1892

[1s. 3d.]



*[Faint, illegible text, likely bleed-through from the reverse side of the page]*



Legislative Council.

56<sup>o</sup> VICTORIAE, 1892.

## A BILL

To enable and authorise the Menindie Irrigation Settlement (Limited), a Company duly incorporated under the Companies Acts of 1874 and 1888 of the Colony of New South Wales, to establish a system of Irrigation and Water Supply within the counties of Menindie and Tandora, in the said Colony; to acquire lands; to establish Irrigation Works; to authorise 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 Menindie Creek and Lake, and the other creeks and lakes mentioned herein, and to take water therefrom and from the river Darling, and for all other purposes which may be incidental thereto.

**W**HEREAS it is expedient and would be to the advantage of the inhabitants of the counties of Menindie and Tandora, and of the public generally, to establish a system, whereby the waters of Lakes Menindie, Cawndilla, and Pamamaroo, and of the Darling River, in the said Colony, may be conserved and utilised for irrigation and domestic use, and for watering stock, and for other purposes: And whereas certain Crown lands situated in the parishes of Hume, Kars, Maiden, and Bellar, in the County of Tandora aforesaid, and more particularly described in the Second Schedule hereto, are suitable for agricultural and horticultural purposes, if provided with a permanent supply of water: And whereas the Minister for Lands, on the application of the Promoters, and as notified in the *Government Gazette* of the twenty-third day of July, one thousand eight hundred and ninety-two, has reserved from Lease for Irrigation purposes part of the lands described in the Second Schedule hereto: Be it therefore

Preamble.

enacted

c 12—A



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.

5

*Preliminary Provisions.*

Title.

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

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.

Interpretation of terms.

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

"Construct" means, when used with reference to any irrigation work, to build, erect, make, lay, form, place, excavate, or embank, or to perform any other operation or work in connection with the carrying out of the irrigation works authorised by this Act.

"Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1884."

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

"Gazette" means the *Government Gazette*.

"Governor" means the Governor with the advice of the Executive Council, for and on behalf of Her Majesty.

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

"Irrigation Water Conservation Area" means the Lakes, Creeks, and Lands named and described in the First Schedule to this Act.

"Irrigation Works" means and includes all or any engines, pumps, boilers, machinery, plant, canals, channels, ducts, flumes, pipes, water-gauges, water-meters, stop-cocks, ball-cocks, bridges, reservoirs, cisterns, dams, weirs, wells, flood-gates, filter-beds, culverts, tunnels, drains, aqueducts, sluices, stops, water-locks, outlets, cuttings, embankments, buildings, sheds, instruments, apparatus, appliances, works incidental thereto, and other works of every description for the purpose of obtaining, conserving, storing, lifting, conveying, measuring, distributing, or delivering water for irrigation or domestic use, or otherwise suitable to the purposes of an irrigation settlement.

"Irrigation Cultivation Area" means the lands and hereditaments described in the Second Schedule to this Act, and all other lands which may hereafter be acquired by the Promoters under this Act.

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

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

"Owner"



- “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.  
 5 “Regulations” means the regulations made under this Act.  
 “Stock” means and includes cattle, horses, sheep, and all other  
 domestic animals.  
 “The Promoters” means the said “Menindie Irrigation Settlement  
 (Limited),” and the Assignees of the said Company for the  
 10 time being.

And the Parts and sections of this Act are arranged in the order following, namely:—

Arrangement of  
parts and sections  
of Act.

- PART I.—*Preliminary provisions.*—ss. 1-4.  
 PART II.—*Powers and duties of the Promoters.*—ss. 5-44.  
 15 PART III.—*The reservation as an Irrigation Water Conserva-  
 tion Area of the Lakes, Creeks, and Lands described in the  
 First Schedule hereto.*—ss. 45-56.  
 PART IV.—*The occupation and acquisition by the Promoters of  
 the Crown Lands described in the Second Schedule hereto.*—  
 20 ss. 57-62.  
 PART V.—*The occupation and acquisition by the Promoters of  
 Lands other than those described in the First and Second  
 Schedules hereto.*—ss. 63-67.  
 PART VI.—*The ascertainment and payment of compensation in  
 25 respect of lands resumed and taken.*—ss. 68-79.  
 PART VII.—*Miscellaneous provisions—Legal procedure*—ss.  
 80-95.

## PART II.

### *Powers and Duties of the Promoters.*

- 30 5. 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 construct, upon and across the channels between Lakes  
 Menindie and Pamamaroo and the Darling River, and the  
 35 channel between Lake Cawndilla and Lake Menindie, or any  
 of them, dams, weirs, flood-gates, or water-locks, or other  
 irrigation works, with the necessary offtakes and works, and  
 to alter and maintain the same.
- (II) To construct and place irrigation works within or without  
 the Areas described in the First and Second Schedules hereto  
 40 for the purpose of conserving, raising, or otherwise dealing  
 with any such waters as may be necessary for irrigation and  
 domestic use on the Irrigation Cultivation Area, or as may  
 be necessary or expedient for carrying out any of the purposes  
 of this Act, and to maintain and work the same.
- (III) To take or divert water from Lakes Menindie, Cawndilla, and  
 45 Pamamaroo, or from any creek, channel, or water-course  
 leading to or from any of the said Lakes, or any of them, or  
 from the river Darling, and to convey to and distribute the  
 same within the Irrigation Cultivation Area or elsewhere as  
 50 hereinafter provided, in quantities not exceeding an average  
 of one cubic foot per minute for every five acres of land  
 within



within the Irrigation Cultivation Area: Provided, nevertheless, that nothing contained in this Act shall authorise the use of water from the said river for any purpose, so as in any way to diminish the quantity to such an extent as to interfere with the navigation of the river, or reduce the flow of the water of the said river beyond such mean discharge as the Governor shall from time to time prescribe by notification to be published by the Minister in the *Gazette*. 5

- (IV) 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 areas described in the First and Second Schedules hereto. 10
- (V) To enter into and upon any lands and take and lay down levels of the same for the purpose of constructing irrigation works, and to set out such parts thereof as they shall think necessary. 15
- (VI) To enter upon, take, and hold any Crown or private lands, streets, roads, or thoroughfares, and to construct therein any irrigation works, and to maintain, repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any irrigation or other works being their property or under their control. 20

Compensation for  
damage done by  
promoters.

6. 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. 25

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

7. The plans of any dams, weirs, culverts, bridges, or other works which may interfere in any way with the flow of any natural channel shall be submitted to the Minister, and must receive his sanction before such works can be entered upon. 30

Compensation, how  
settled.

8. 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 manner provided in Part IV of this Act in respect of claims for compensation made thereunder: 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 power. 40

Power to open  
streets.

9. 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 may 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 the construction and maintenance of irrigation works as authorised by this Act: Provided nevertheless that permission be obtained from respective municipal councils when such streets are outside the Irrigation Cultivation Area. 55

Reinstatements of  
streets.

10. 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



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.

5 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.

10 11. 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, dam, embank, widen, 15 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 irrigation works.

12. The Promoters may supply any person, either within or without the irrigation area, with water for irrigation and domestic use, 20 by measure or otherwise, at such rates, upon such terms, and subject to such conditions as may be agreed upon by the Promoters with such person.

13. The Promoters shall not be liable, in the absence of express stipulation under any agreement for the supply of water, to any 25 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.

14. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or other irrigation work, 30 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.

15. Such meters, water-gauges, or other irrigation works shall not be subject to distress for rent of the premises where the same 35 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 against or affecting the person using such water, or the occupier of the premises, or other the person in whose possession the meters, 40 water-gauges, or other irrigation works may be.

16. 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 45 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.

17. The Promoters or their officers or servants may enter in 50 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, or other irrigation works, or for the purpose of ascertaining 55 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, or other irrigation work, upon or affecting the property of the Promoters. And if any person hinders any such Promoter, officer, or

Diversion of water-courses.

Agreements to supply water.

Promoters not liable for accidental failure to supply water.

Promoters may let meters.

Meters of promoters not distrainable.

Meter to be supplied and maintained by consumer.

Power to officers or servants of promoters to inspect meter.



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. 5

Promoters may make regulations.

18. 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 Cultivation Area. 10
- (II) The assessment of the rate and price at which water shall be supplied, and the time of payment for the same, whether in advance or otherwise, and the order in which applicants may be served.
- (III) The determination and adjustment of the interest, if any, of the various landowners and others within the Irrigation Cultivation Area to and in the irrigation works. 15
- (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. 20
- (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 Irrigation Water Conservation Area or Irrigation Works. 25
- (VI) The protection of the water and every part of the irrigation and other works from trespass or injury.
- (VII) The protection, management, and use of places for watering stock, and for bathing and washing purposes.
- (VIII) The imposing of penalties for any breach of any regulation by this Act authorised to be made by the Promoters, not exceeding the sum of *fifty* pounds, and the enforcement of the same; and 30
- (IX) Generally for duly administering and carrying out the powers given to the Promoters. 35

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

Maximum price of water for domestic use in Irrigation Cultivation Area.

19. The price to be charged by the promoters for water sold to any person for domestic use within the Irrigation Cultivation Area shall in no case exceed *five* shillings per one thousand gallons. 40

PROTECTION OF THE WATER.

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

20. 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, such person shall be liable for any such offence to a penalty not exceeding *five* pounds in addition to the value of the water wasted or misused, and the Promoters may (without prejudice to any remedy against them in respect thereof) cut off any of the pipes, canals, or other irrigation works, 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. 50

POLLUTING THE WATER.

Penalty for bathing in water of promoters.

21. If any person bathe, or wash any article or stock, in any lake, stream, drain, reservoir, aqueduct, or other water-works within the Areas described in the First and Second Schedules hereto, except in such places as may be set aside by the Promoters for bathing and washing purposes, or throw, or cause to enter therein any animal, he shall for every such offence forfeit a sum not exceeding *five* pounds. 55



22. 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 lake, 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.

23. 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 lake, stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or over which they have any rights or control, or shall do any other act whereby the water of the Promoters shall be fouled, such person 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.

24. 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.

25. 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 authorised, 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 irrigation work 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 authorised 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 authorised or wilfully injuring any pipe liable to a penalty.

26. 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 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.

Charges and rates for water payable in advance.

27. 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 Mitchell.

Refusal to pay charges.

28. 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 unlawfully taking water.

29. If any person fix or refix any water-meter, water-gauge, or other irrigation work upon any pipe or other irrigation work the property of the Promoters, without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding *ten* pounds.

Penalty for fixing uncertified meter, &c.



For removing or  
altering meter  
without notice.

Notice of removal,  
&c., of meter.

Water may be cut off  
if meter not in order.

Penalty for obstruct-  
ing construction of  
works.

Penalty for  
destroying works.

Power to take  
temporary  
possession of land.

30. If any person remove or alter the position of, or in any way interfere with, any irrigation work without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding *twenty* pounds.

31. Every person requiring to remove or alter the position of 5  
or to open any irrigation work shall leave twenty-one days notice in writing to that effect at the local office of the promoters, situated upon the Irrigation Cultivation Area. And if any person refuse or delay to have any irrigation work properly repaired and put in correct working order after having been required by any officer of the Promoters so to 10  
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 irrigation work shall have been properly repaired and certified by some officer of the Promoters as being in proper working order. 15

32. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any irrigation 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 20  
so undertaken as aforesaid shall incur a penalty not exceeding *twenty* pounds for every such offence.

33. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any irrigation work, road- 25  
way, or other part whatever of the machinery or works of the Pro-  
moters, or deface or destroy any sign, notice or advertisement belong-  
ing to or erected, or published by the Promoters, such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding *ten* years.

34. It shall be lawful for the Promoters, and all persons by 30  
them authorised, to enter upon any lands, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorised by this Act, of the accommodation works connected there-  
with hereinafter mentioned, and to use the same for any of the following 35  
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 con-  
struction or repair of the water-works, or such accommodation 40  
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 45  
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 con-  
structing the said works, or any such roads as aforesaid, and for the  
purposes aforesaid to erect thereon workshops, sheds, and other build- 50  
ings 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: 55  
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



either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Promoters shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom.

5 35. If any such lands shall be used for any of the purposes aforesaid, the Promoters shall, if required so to do by the owner 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  
10 between the owners of such lands and the Promoters as to the necessity for such fences and gates, then with such fences and gates as the Minister shall deem necessary for the purposes aforesaid.

Promoters to separate the lands before using them.

36. In any of the cases aforesaid where the Promoters shall take temporary possession of lands by virtue of the powers herein  
15 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  
20 taking possession of his lands.

Compensation to be made for temporary occupation.

37. 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  
25 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, maintain such substituted road in a state as convenient for  
30 passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

38. If the road so interfered with can be restored compatibly with the due completion of any works authorised under this Act, the same shall be restored to as good a condition as it was in at the time  
35 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 circum-  
40 stances will allow, and the former road shall be restored, or the substituted road put into such condition as aforesaid as the case may be, with all reasonable expedition.

Period for restoration of roads interfered with.

39. If any irrigation work shall cross any highway, other than a public carriage-way, on the level, the Promoters shall make and at  
45 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 com-  
50 municate therewith.

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

40. The Promoters shall make and at all times thereafter main-  
tain the following works for the accommodation of the owners of lands adjoining any irrigation works authorised under this Act, that is to say—

Works for benefit of owners.

55 Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the side of, or leading to or from such irrigation works as shall be necessary for the purpose of making good any interruptions caused thereby to the use

Gates, bridges, &c.



of the lands through which the same shall be made, and such accommodation works shall be made forthwith after the part of the irrigation works passing through or over such lands shall have been laid down or formed or during the formation thereof.

5

Fences, &amp;c.

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land, taken for the use of such irrigation works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners thereof from straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands and not towards the said irrigation 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.

15

Drains.

Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under, or by the sides of such irrigation 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.

20

Accommodation works not to interfere with use of works, nor to be made where compensation given.

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 irrigation works authorised by this Act, nor to make any accommodation works with respect to which the owners of the lands shall have agreed to receive and shall have been paid compensation.

25

Differences as to accommodation works to be settled by Minister.

41. 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 Minister, who shall also appoint the time within which such works shall be commenced and executed.

30

Power to owners of lands to make additional accommodation works.

42. If any of the owners of lands affected by any irrigation work shall consider the accommodation works made by the Promoters, or directed by the Minister 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.

35

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

43. 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.

40

45

Penalty on persons omitting to fasten gates.

44. If any person omit to shut and fasten any gate set up for the accommodation of the owners of the adjoining lands, or of the Promoters or their tenants, 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.

50



## PART III.

*The reservation as an Irrigation Water Conservation Area of the Lakes, Creeks, and Lands described in the First Schedule hereto.*

45. On the passing of this Act, it shall be notified by the Reservation to be gazetted.
- 5 Minister, by publication in the *Gazette*, that the Lakes, Creeks, and Lands mentioned and described in the First Schedule hereto have been set apart as an Irrigation Water Conservation Area for irrigation purposes within the Counties of Menindie, Tandora, and Yancowinna.
46. Upon the publication of the notification in the *Gazette* Vesting, &c., of lands
- 10 declaring that the Lakes, Creeks, and Lands therein described are so required and set apart, such Lakes, Creeks, and Lands shall be vested in the Promoters in Trust for the purposes of this Act, for an estate of inheritance in fee-simple in possession, freed and discharged from all other trusts, obligations, estates, interests, contracts, charges, rates,
- 15 right-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 in Trust as aforesaid.
47. Upon the publication of the said notification the Promoters
- 20 shall be entitled to take and fence off the whole or any portion of the Irrigation Water Conservation Area: Provided always that when such fencing shall prevent access to any lake or creek previously in use by any owner of adjoining lands for watering stock or domestic use the Promoters shall provide, in lieu thereof, other convenient
- 25 watering places for the use of such owner for the like purposes.
48. For so much only of the Irrigation Water Conservation Area as extends above the high-water level referred to in the Second Schedule hereto, and as shall be taken and fenced off under the authority of the preceding section, the owners thereof shall be entitled
- 30 to claim compensation.
49. After the construction by the Promoters of all such Irriga- Owners of land in Counties of Menindie and Tandora may apply for water.
- tion Works upon the Areas described in the First and Second Schedules hereto as they may consider necessary for the irrigation of the Irriga-  
tion Cultivation Area, it shall be lawful for any owner of land in the
- 35 Counties of Menindie, Tandora, and Yancowinna to apply to the Promoters for the supply and delivery of water from the Irrigation Water Conservation Area upon such land for irrigation and domestic use for a term of years, at a price by measure or otherwise; and the Promoters shall supply such water on the conditions aftermentioned:
- 40 Provided always that by so doing they shall not endanger due provision for, and the proper irrigation of, the Irrigation Cultivation Area.
50. Every such application for a supply of water on land Application to be accompanied by plan and map.
- situated outside the Irrigation Cultivation Area for irrigation or domestic use shall be accompanied by a plan of any special irrigation works
- 45 necessary therefor, and a map or plan of the lands through which such special works are intended to pass, showing the position of such proposed works thereon and the names of the owners of such lands, together with an estimate by a competent engineer, of the cost of carrying out such special works.
- 50 51. Before any part of such special irrigation works as may be carried out under this part of this Act shall be commenced, the plans and construction thereof shall be approved and authorised by the Minister, Plans to be approved and works authorised by the Minister, and to be remunerative.
- and such owner shall be obliged to prove to the satisfaction of the Promoters that such works will yield a reasonably permanent return
- 55 at a remunerative rate upon the total cost thereof; and any such special works shall be constructed only under written agreement between the Promoters and such owner, and such agreement, whether under



Works to be  
constructed by the  
Promoters.

under seal or not, shall be deemed a covenant running with such land, and the successive owners thereof, during the term of such agreement.

52. All such special irrigation works as may be constructed under this part of this Act shall be constructed by the Promoters, and under the superintendence of the Promoters' engineer, unless the Promoters shall otherwise agree with such owner, within a reasonable time after the approval and authority of the Minister as aforesaid shall have been obtained. 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.

Owners to be  
chargeable with  
annual water rates.

53. The Promoters shall be entitled to charge and recover from such owner in each year in name of water rates, payable half-yearly, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, and such sum shall include a fair and reasonable proportion of the following items of outlay and expense in respect of the irrigation works on the Irrigation Water Conservation Area, namely :—

- (I) Provision for a sinking fund for the maintenance and renewal of the irrigation works.
- (II) Annual cost of working and supervision of the irrigation works.
- (III) Interest at the rate of ten per centum per annum upon the total cost of the irrigation works, including the amount of compensation paid in respect thereof and of lands acquired therefor.

Charge to repay cost  
of special works.

54. In addition to such charge in name of water rates permitted by the last-preceding section it shall be in the option of the Promoters either to charge and recover from such owner the total cost of special irrigation works constructed on the application of such owner, or to charge, and recover from such owner, in each year, in name of special water rates, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, to cover the cost of such special works.

55. Subject to the provisions of this Act, it shall be lawful for the Promoters to enter into an agreement in writing with the owner of any land within the Counties of Menindie, Tandora, or Yancowinna, for the supply and delivery of water upon such land for a term of years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement, and in every such agreement the owner of such land shall agree to pay such price for the term limited in the agreement, and to pay the Promoters for not less water in any year than the minimum quantity in such agreement specified, and such agreement by such owner, whether under seal or not, shall be deemed a covenant running with such land, and shall bind such land and the successive owners thereof during the said term. But nothing in such agreement shall be construed to create any obligation on the part of the Promoters to supply any stated quantity of water in the event of there being at the disposal of the Promoters an insufficient quantity of water as in this part of this Act provided.

When water available  
is insufficient,  
quantity supplied  
may be reduced.

56. If at any time the supply of water obtainable from the Irrigation Water Conservation Area, shall, in the opinion of the the Promoters, be insufficient to supply to any such owner the whole of the water to which such owner would otherwise have been entitled and liable to take, without endangering the due provision for, and the proper irrigation of, the Irrigation Area, the Promoters shall deliver to such owner, and such owner shall receive, such quantity only as the Irrigation Water Conservation Area can, in the opinion of the Promoters, supply ; and if there be several such owners the Promoters shall in such event deliver to such owners respectively, and such owners



owners shall respectively be liable to take from the Promoters such amount of water only as the Irrigation Water Conservative Area can, in the opinion of the Promoters, properly supply in quantities in proportion to the quantities which such owners would, had there been sufficient water available without endangering the due provision for, and the proper irrigation of, the Irrigation Cultivation Area, have respectively been entitled and liable to take from the Promoters; but in such case such owner shall only pay for the water actually provided for him; and in no case shall any action, claim, demand, or other proceedings for not supplying water to any such owner be maintainable in any form in any case where it has been determined by the Minister that the Promoters have been, without negligence or wilful default upon their part, unable to supply such water or have refused to supply such water in virtue of any provisions of this Act.

Payment to be made for water supplied only.  
No claim to lie for inability to supply.

15

## PART IV.

20 *The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*

57. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the land described in the Second Schedule hereto is required and has been set apart as an Irrigation Cultivation Area for the use of the Promoters, and that the same shall be held by them upon the conditions specified in this Act.

Reservation to be gazetted.

58. Upon the publication of the last-mentioned notification in the *Gazette* declaring that the lands therein described are so required and set apart, 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.

59. The effect of such publication shall be to withdraw the land described in the Second Schedule hereto from any lease or license or promise thereof, to cancel to the like extent any dedication or reservation of the said land made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending the same, and to vest the said land, to the extent aforesaid, in the Promoters, for the purposes mentioned, and for the estate mentioned 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 described in the Second Schedule.

60. The conditions upon which the Irrigation Cultivation Area shall be held and acquired by the Promoters shall be as follows, namely:—

Conditions upon which Irrigation Cultivation Area to be held.

- 50 (1) They shall expend upon or in connection with the Irrigation Cultivation Area, and within the period of twenty years from the passing of this Act, in the construction of irrigation works, and permanent improvements, a sum of not less than Thirty thousand pounds in the following manner, that is to say:—
- 55 During the first period of five years the sum of ten thousand pounds; before or during the second period of five years the further sum of seven thousand pounds; before or during the

Expenditure of £30,000.



- the third period of five years the further sum of seven thousand pounds; and before or during the fourth period of five years the balance of six thousand pounds; and the said sum of thirty thousand pounds shall be expended as aforesaid, in addition to such sums of money as may be expended upon or in connection with the land described in the Second Schedule hereto in preparing and planting and cultivating the same. 5
- To maintain works. (II) They shall keep and maintain all irrigation works, and permanent improvements upon or in connection with the Irrigation Cultivation Area in good condition and repair during the said period of twenty years. 10
- Restrictions on sale, lease, &c. (III) They shall not sell, lease, or dispose of any land granted, or to be granted to them in fee simple in parcels exceeding eighty acres, if the land so sold shall be prepared and planted for fruit growing, or one hundred and sixty acres if prepared for growing other produce, or sell, lease, or dispose of more than one hundred and sixty acres of land to the same person. 15
- Restriction on irrigated land held by Promoters. (IV) They shall not at any time hold in their own possession, or in that of their agents, more than five thousand acres of cultivated irrigated land, out of the lands described in the the Second Schedule hereto. 20
- Industries to be established. (V) They shall use all reasonable efforts to establish within the period of five years from the passing of this Act, upon the Irrigation Cultivation Area the business and industries of fruit growing, fruit drying, preserving, and canning. 25
- Vermine to be destroyed. (VI) They shall take all reasonable measures to destroy all such animals and birds within and upon the Irrigation Cultivation Area as may be proclaimed to be vermin.
- Land to be cleared. (VII) They shall, within the period of five years from the passing of this Act, use all reasonable means to effect the removal of all timber growing within the high water-mark of the Lakes specified in the First Schedule hereto, and may cut up, use, and dispose of the same. 30
- Governor may resume. (VIII) The Governor may resume any portion of the Irrigation Cultivation Area for railways, tramways, and roads. 35
- Accounts to be submitted to Auditor-General. (IX) For the purpose of ascertaining the actual cost of *bonâ fide* irrigation works and permanent improvements under this Act, the Promoters shall from year to year, until the said sum of thirty thousand pounds shall have been expended as aforesaid, submit to the Auditor-General accounts and proper vouchers of all irrigation works, and permanent improvements expended by them upon or in connection with the Irrigation Cultivation Area, and the amount of the accounts as passed by the Auditor-General shall be deemed to be the actual expenditure by the Promoters upon or in connection with such irrigation works, and permanent improvements. 40 45
- Accounts to be subject to Audit Act of 1870. (x) The accounts of the Promoters in and about the construction of the irrigation works and permanent improvements shall be subject to all the provisions of the "Audit Act of 1870," so far as may be in the same manner in all respects as if such accounts had been specifically mentioned therein. 50
- Conditions on which grant in fee simple to issue. 61. For every two pounds expended by the Promoters upon or in connection with the Irrigation Cultivation Area in irrigation works and permanent improvements, the Governor shall, on payment to the Crown by the Promoters of the sum of one pound, in addition to said expenditure of two pounds, issue to the Promoters a grant of one acre of land required by the Promoters within the the



the area described in the Second Schedule hereto, provided always that no such grant shall be issued except for a parcel of land containing not less than one hundred acres. And every such grant shall be for an estate of inheritance in fee-simple in possession, freed  
 5 and discharged from all 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.

- 10 62. Until such grant of each such parcel of land shall respectively have been applied for and issued to the Promoters, they shall hold the lands described in the Second Schedule hereto, or the balance thereof from time to time, of which no such grant shall have been issued, as Lessees from the Crown, and shall pay to the Crown an  
 15 annual sum in name of rent therefor at a rate not exceeding the average rent assessed from time to time on other Crown unimproved pastoral lands in the counties aforesaid. And until such grant of each such  
 20 parcel of land shall respectively have been issued as aforesaid, the Promoters shall be entitled to sub-lease any such parcel of the lands described in the Second Schedule hereto, or the balance thereof from time to time of which no such grant shall have been issued, and to enter into any contract of sale of any such parcel of land conditional upon the issue of any such grant thereof.

Promoters to be Crown Lessees until issue of Grant.

Promoters may sub-lease, &c.

#### PART V.

- 25 *The acquisition and occupation by the Promoters of Lands other than those described in the First and Second Schedules hereto.*

63. After the approval by the Governor of the acquisition of  
 lands otherwise than by agreement, but not before, the Promoters shall be empowered to acquire or occupy any lands in the said Police District  
 30 of Mitchell other than the lands described in the First and Second Schedules hereto, in manner hereinafter provided, and in the case of Crown Lands such acquisition or occupation shall be made under and subject to the like conditions as are herein contained with respect to the lands described in the Second Schedule hereto.

Lands required how acquired.

- 35 64. 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 Mitchell, to declare that the land described in such notification is required under this Act for the purpose therein expressed, but the purpose so to be expressed shall be  
 40 limited to the acquisition of lands for purposes similar to those for which the lands described in the Second Schedule hereto are acquired under this Act by the Promoters.

How and when lands can be taken.

65. Upon the publication of the last mentioned notification  
 in the *Gazette* declaring that the lands therein described are so required,  
 45 such lands shall 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  
 50 thereto or conferred by this Act, shall, subject to the provisions thereof, be vested in the Promoters.

Vesting, &c., of lands.

66. Where the land required under this part of this Act 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,  
 55 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  
 60 land made under the authority of the "Crown Lands Alienation Act of

Effect of publication upon Crown lands.



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 mentioned in the last preceding section: Provided, however, that nothing in this section contained shall have any effect 5 or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

## PART VI.

### *The Ascertainment and Payment of Compensation in Respect of Lands Resumed and Taken.*

Compensation for private lands.

67. Where the land described in any notification under this 10 Act 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. 15

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

68. 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 or arbitrators as hereinafter provided, be deemed to have been as 20 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 his claim as hereinafter provided, and making out his title in respect of any portion of the said resumed lands, be 25 entitled to compensation on account of such resumption in manner hereinafter provided.

Notice of claim for compensation.

69. 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 30 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 35 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 Third Schedule hereto, but with any modifications required by the nature of the claim. 40

Claim and report thereon.

70. 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 by a competent valuator, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fourth Schedule 45 hereto.

Compensation by action in Supreme Court.

71. 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 50 against the Promoters; and any such action may be tried before a Judge



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

5 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.

10 72. 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

Issue in action of compensation verdict and costs.

15 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.

73. All moneys payable under this Act by way of compensation to any claimant, whether under the verdict of a jury or otherwise, shall

20 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 authorised in that behalf in writing, but the claimant shall be bound

25 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

30 surface of the overlying soil be disturbed, or the support to such surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

35 74. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," or any amendment thereof, have jurisdiction to try any such action of compensation at the District Court holder within the district wherein any land in respect of which any claim has arisen under this Act (or the greater portion of such

40 land) is situated in any case where the whole amount of the claim in respect to such land served in pursuance of section sixty-nine of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Promoters and the Claimant by a memorandum signed by the Promoters' Attorney and the Claimants' Attorney agree

45 thereto. For the purposes of this Act the provisions of the said District Courts Act, and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in any District Court hereunder.

Where claim may be prosecuted in a District Court.

75. In estimating or assessing the compensation, if any, to be

50 paid under this Act, regard shall be had by the valuers and by the jury (on any issue), or by the arbitrators and their umpire to, and they are hereby authorised and empowered to apply the following principles so far as the same may be applicable in each case, namely:—

Principles upon which compensation may be awarded.

55 (1) Regard shall be had 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 the valuers, jury, or arbitrators, shall

Compensation for land taken, and severance.



- assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time notice was given of such lands being required or having been taken.
- No compensation where works incomplete. (II) No compensation shall be awarded in any case where the injury for which compensation is claimed appears to have been the result of the execution of works which were incomplete at the time of such injury, if it shall appear that such works are being *bona fide* prosecuted to completion. 5
- No compensation for loss of water, unless loss permanent. (III) No compensation shall be awarded for any diminution or deterioration of the supply of water to which any person may be entitled, unless such diminution or deterioration shall have so diminished or deteriorated the supply previously enjoyed by the claimant as to deprive him of the use of sufficient water for domestic purposes and the watering of stock, and is the direct and will be the permanent result of a completed irrigation work. 10
- No compensation for flood waters taken. (IV) No compensation shall be made for any injury, loss, or damage occasioned by the taking or diverting of surplus or flood water, either permanently, temporarily, or intermittently, from any lake, river, or creek. 20
- No compensation for maintenance of high-water level. (V) No compensation shall be payable by reason of the permanent, temporary, or intermittent maintenance of the high-water level referred to in the First Schedule hereto, or by reason of any irrigation works which the Promoters may construct upon any part of the Irrigation Water Conservation Area. 25
- Benefit to claimant of Promoters works to be taken into account. (VI) There shall be taken into consideration and given effect to by way of set-off or abatement of all or any claims for compensation for land taken, or for severance, or by reason of the construction of any irrigation works under this Act any enhancement in value of any property of the claimant wherever situated, which has been directly or indirectly caused, and any other benefit which shall have been gained by or become available to such claimant, by reason of such works, or by reason of any other irrigation works constructed or guaranteed to be constructed by the Promoters under this Act; but in no case shall this provision operate so as to require any payment to be made by such owner to the Promoters in consideration of such enhancement in value as aforesaid. 30
- But no payment to be made by claimant to Promoters. (VII) The measure of the compensation, if any, shall in all cases be the direct pecuniary injury done to the claimant by the loss of something of substantial benefit previously by him enjoyed, and shall not include remote, indirect, or speculative damages. 40
- Compensation to be for direct pecuniary injury. (VIII) In any case where the injury complained of may appear to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the valutors, jury, or arbitrator may declare to be a compensation for all possible future repetitions of such injury as well as for the injury already done, and after such award no further compensation shall be made to any person whatsoever in respect of any future repetitions of such injury. 45
- Permanent or recurring injury. (IX) No compensation shall be made in respect of more than one claim for any act causing or likely to cause the same injury to the same property, and the valutors, jury, or arbitrators shall consider the damage or detriment caused to every estate in such lands, whether in possession or in reversion or remainder, 50
- Compensation to be made in respect of one claim in case of each property. 55



remainder, and shall decide what payment is to be made to the owner or occupier of the estate in possession, and to the owners of any future estate respectively.

5 76. 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 authorised 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  
10 shall be thought proper, and of all estates and interests in such lands of what kind soever.

Power to purchase lands by agreement.

77. Notwithstanding anything hereinbefore contained, it shall be lawful for the Promoters, if they think fit, to agree with any person claiming compensation in respect of any land required, or in respect  
15 of any works or other matter done under the authority of this Act, to refer such claim to the decision of two arbitrators and their umpire, and in such event this section shall be read and construed as a submission of such claim within the meaning of the "Arbitration Act, 1892."

Power to refer claims to arbitration.

20 78. 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  
25 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  
30 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  
35 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  
40 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  
45 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  
50 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  
55 lands to the Promoters.

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

79. 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

Incorporation of provisions of Government Railways Act.



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" 5 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 10 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 determination of compensation to absent parties. Sections forty-two to forty-four inclusive.
- (II) As to the deposit of compensation money in certain cases 15 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. 20
- (III) 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.
- (IV) As to the procedure by the Promoters in case the owner or 25 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.
- (V) As to the purchase or redemption of the interests of 30 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. 35
- (VI) As to the release of lands from rent-charges and other incumbrances, and procedure thereon. Sections seventy-one to seventy-four, both inclusive.
- (VII) 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.

## PART VII.

40

### *Miscellaneous provisions—Legal procedure.*

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

80. One-half of any penalty recovered under this Act shall be paid to the informer; and where any distress if 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 45 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 50 satisfaction for the special damage in an action on the case.

81.



81. 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 5 not exceeding *five* pounds, to be recovered in a summary way.

Penalty for default not otherwise provided for.

82. 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 10 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 15 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.

83. 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 20 two Justices, under the provisions of the Act or Acts in force for the time being regulating summary proceedings before Justices. And where any such penalty, charge, or sum be not paid, either immediately after conviction or adjudication, or within the time appointed thereby, the same may be enforced by distress and sale of the offender's or 25 defaulter's goods and chattels, in the manner provided by the said Acts.

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

84. 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 30 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 35 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 40 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 45 adjudication and of the appeal, as they may think reasonable.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

85. 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 50 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 55 damages on demand, the same shall be levied by distress, and such Justices, or one of them, shall issue their warrant accordingly.

Damage to be made good in addition to penalty.

86. 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

Transient offenders.



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.

87. Any notice required by this Act, or by any by-law or 5 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 10 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 15 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 20 by the notice is situated.

Indictment for nuisances.

88. 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 25 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 30 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.

Irrigation works and water to be the property of the Promoters.

89. All irrigation works, and every part of any irrigation work, which the Promoters may construct, and all water which at any time 35 is in any lake, creek, or irrigation work, vested in or under the control or management of the Promoters, shall be the property of the Promoters subject to the provisions of this Act.

Borrowing powers.

90. For any of the purposes of the Promoters authorised by this Act the Promoters may from time to time borrow money in such sum 40 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, irrigation works, rights, powers, authorities, privileges, and revenues or to mortgage the same; and notwithstanding 45 any forfeiture of the rights, powers, authorities, and privileges, conferred by this Act, any such debenture or mortgage shall remain good and valid and be a burden upon the Areas described in the First and Second Schedules hereto, to the extent to which the Promoters shall have money expended upon, or in connection with said Areas in 50 irrigation works or permanent improvements.

Assignment of water-rights to purchasers.

91. The Promoters shall assign and transfer to each and every purchaser of land within the Irrigation Cultivation Area at time of purchase such a water-right to attach as a perpetual easement to the land so purchased as the Promoters may determine, but subject to payment by the 55 purchaser of such water rate as may be fixed by assessment as hereinbefore provided, and such water-right, when assigned or transferred to such purchaser, 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



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  
5 belong to the owner of such land for the time being: Provided always that such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

92. It shall be lawful for the Promoters, at any time after the passing of this Act, to assign, transfer, convey, and release to any  
10 person, or to any company duly incorporated for that purpose, and having a registered office in New South Wales, all or any of the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed by this Act, together with all or any of the lands, tenements, hereditaments, estates, chattels, and effects of every kind  
15 acquired 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,  
20 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  
25 effect 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,  
30 transfer, conveyance, and release had been executed.

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

93. In the event of any dispute, question, or difference arising between the Promoters and the Minister, the same shall be referred to two arbitrators, one to be appointed by the Governor and the other  
by the Promoters, and in such event this section shall be read and con-  
35 strued as a submission within the meaning of the "Arbitration Act, 1892," of such dispute, question, or difference, to such arbitrators.

Disputes between  
Minister and  
Promoters referred  
to arbitration.

94. Upon the application of the Promoters the Governor may,  
by proclamation, declare that the provisions of this Act, or any of them,  
shall be extended to lands other than those within the Areas described  
40 in the First and Second Schedules hereto, and thereupon such lands which shall in such proclamation be described, shall be included within the provisions of this Act, in the same manner and, so far as possible, to the same extent and effect, as if such lands had been part of the lands described in the First Schedule to this Act originally.

Power to extend  
provisions of the Act.

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

Voidance of Act.

## SCHEDULES.

### FIRST SCHEDULE.

#### 50 *The Irrigation Water Conservation Area.*

ALL that area of land in the Counties of Menindie and Tandora, consisting of and including the areas covered by Lakes Menindie, Cawndilla, and Pamamaroo, and Creeks leading into and from the same, all as filled to the high water level of the Flood of the Year One thousand eight hundred and ninety, and for a distance of ten chains above and  
55 beyond the said high water level.

### SECOND



SECOND SCHEDULE.

*The Irrigation Cultivation Area, about 25,000 acres.*

WESTERN Division—Land District of Willyama, within the resumed area of Kinchega Holding Number two hundred and forty-four, notified thirty-first July, one thousand eight hundred and eighty-five. 5

No. 16,083. County of Tandora, parishes of Hume, Kars, Maiden, and Bellar, containing an area of about twenty-five thousand acres. The Crown lands within the following boundaries: Commencing on the northern shore of Lake Menindie, at the south-eastern corner of Raimondo Pedroja's homestead lease three hundred and forty, of ten thousand two hundred and forty acres; and bounded thence by the northern shore of that lake 10 easterly to the intersection of the south-western boundary of travelling stock reserve nine thousand eight hundred and sixty-seven, notified twelfth October, one thousand eight hundred and eighty-nine; thence by a line north-westerly to the south-western corner of camping and water reserve six hundred and ninety-nine, notified twenty-sixth 15 November, one thousand eight hundred and eighty-four; thence by the western and northern boundaries of that reserve and the eastern prolongation of the latter boundary bearing respectively northerly and easterly to the south-western boundary of homestead lease two hundred and twenty-nine, William Burns' ten thousand two hundred and forty acres; thence by part of that boundary, the north-western boundary of that homestead 20 lease, and the north-western boundary of George Maiden's homestead lease ninety-five of ten thousand two hundred and forty acres bearing respectively north-westerly and north-easterly to the northernmost corner of the last-mentioned homestead lease; thence by the north-westerly prolongation of the north-eastern boundary of that homestead lease bearing north-west three miles; thence by a direct line to the sixty-fifth mile peg 25 on the road from Silverton to Menindie bearing south-westerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the northern boundary of water and camping reserve six hundred and ninety-eight, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the northern and part of the eastern 30 boundaries of that reserve bearing respectively easterly and southerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the western boundary of homestead lease three hundred and forty aforesaid; and thence by part of the western, the northern, and the eastern boundaries of that homestead lease bearing respectively north, east, and 35 south, to the point of commencement.

THIRD SCHEDULE.

*Notice of Claim and Abstract.*

To the Promoters of the Menindie Irrigation Act.

IN pursuance of the "Menindie Irrigation Act" I (or we) hereby give you notice that I (or we) claim compensation for land hereunder described which has been resumed under 40 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, covenants, &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)

FOURTH SCHEDULE.

*Notice of Valuation.*

To A.B., claimant in respect of the land hereunder described resumed under the "Menindie 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 or compensation has been 60 lodged, has been valued at the sum of £

The Menindie Irrigation Settlement, (Limited),  
Promoters of the Menindie Irrigation Act.

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

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



Legislative Council.

56<sup>o</sup> VICTORIÆ, 1892.

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## A BILL

To enable and authorise the Menindie Irrigation Settlement (Limited), a Company duly incorporated under the Companies Acts of 1874 and 1888 of the Colony of New South Wales, to establish a system of Irrigation and Water Supply within the counties of Menindie and Tandora, in the said Colony; to acquire lands; to establish Irrigation Works; to authorise 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 Menindie Creek and Lake, and the other creeks and lakes mentioned herein, and to take water therefrom and from the river Darling, and for all other purposes which may be incidental thereto.

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**W**HEREAS it is expedient and would be to the advantage of the inhabitants of the counties of Menindie and Tandora, and of the public generally, to establish a system, whereby the waters of Lakes Menindie, Cawndilla, and Pamamaroo, and of the Darling River, in the said Colony, may be conserved and utilised for irrigation and domestic use, and for watering stock, and for other purposes: And whereas certain Crown lands situated in the parishes of Hume, Kars, Maiden, and Bellar, in the County of Tandora aforesaid, and more particularly described in the Second Schedule hereto, are suitable for agricultural and horticultural purposes, if provided with a permanent supply of water: And whereas the Minister for Lands, on the application of the Promoters, and as notified in the *Government Gazette* of the twenty-third day of July, one thousand eight hundred and ninety-two, has reserved from Lease for Irrigation purposes part of the lands described in the Second Schedule hereto: Be it therefore

Preamble.

enacted

c 12—A



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.

5

*Preliminary Provisions.*

Title.

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

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. 15

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.

Interpretation of terms.

4. In the construction of this Act, unless the context requires a different meaning, the expression— 20

"Construct" means, when used with reference to any irrigation work, to build, erect, make, lay, form, place, excavate, or embank, or to perform any other operation or work in connection with the carrying out of the irrigation works authorised by this Act. 25

"Crown Lands" means Crown Lands as defined by the "Crown Lands Act of 1884."

"Domestic use," when employed with reference to water, means use for household and all other purposes, save for irrigation of gardens or land. 30

"Gazette" means the *Government Gazette*.

"Governor" means the Governor with the advice of the Executive Council, for and on behalf of Her Majesty.

"Irrigation" means the use of water for flooding, moistening, or watering lands for agricultural and horticultural purposes and for watering stock. 35

"Irrigation Water Conservation Area" means the Lakes, Creeks, and Lands named and described in the First Schedule to this Act.

"Irrigation Works" means and includes all or any engines, pumps, 40 boilers, machinery, plant, canals, channels, ducts, flumes, pipes, water-gauges, water-meters, stop-cocks, ball-cocks, bridges, reservoirs, cisterns, dams, weirs, wells, flood-gates, filter-beds, culverts, tunnels, drains, aqueducts, sluices, stops, water-locks, outlets, cuttings, embankments, buildings, sheds, 45 instruments, apparatus, appliances, works incidental thereto, and other works of every description for the purpose of obtaining, conserving, storing, lifting, conveying, measuring, distributing, or delivering water for irrigation or domestic use, or otherwise suitable to the purposes of an irrigation 50 settlement.

"Irrigation Cultivation Area" means the lands and hereditaments described in the Second Schedule to this Act, and all other lands which may hereafter be acquired by the Promoters under this Act. 55

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

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

"Owner"



- “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.  
 5 “Regulations” means the regulations made under this Act.  
 “Stock” means and includes cattle, horses, sheep, and all other  
 domestic animals.  
 “The Promoters” means the said “Menindie Irrigation Settlement  
 (Limited),” and the Assignees of the said Company for the  
 10 time being.

And the Parts and sections of this Act are arranged in the order following, namely:—

Arrangement of  
parts and sections  
of Act.

- PART I.—*Preliminary provisions.*—ss. 1-4.  
 PART II.—*Powers and duties of the Promoters.*—ss. 5-44.  
 15 PART III.—*The reservation as an Irrigation Water Conserva-  
 tion Area of the Lakes, Creeks, and Lands described in the  
 First Schedule hereto.*—ss. 45-56.  
 PART IV.—*The occupation and acquisition by the Promoters of  
 the Crown Lands described in the Second Schedule hereto.*—  
 20 ss. 57-62.  
 PART V.—*The occupation and acquisition by the Promoters of  
 Lands other than those described in the First and Second  
 Schedules hereto.*—ss. 63-67.  
 PART VI.—*The ascertainment and payment of compensation in  
 25 respect of lands resumed and taken.*—ss. 68-79.  
 PART VII.—*Miscellaneous provisions—Legal procedure*—ss.  
 80-95.

## PART II.

### *Powers and Duties of the Promoters.*

- 30 5. 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:—
- (I) To construct, upon and across the channels between Lakes  
 Menindie and Pamamaroo and the Darling River, and the  
 35 channel between Lake Cawndilla and Lake Menindie, or any  
 of them, dams, weirs, flood-gates, or water-locks, or other  
 irrigation works, with the necessary offtakes and works, and  
 to alter and maintain the same.
- (II) To construct and place irrigation works within or without  
 40 the Areas described in the First and Second Schedules hereto  
 for the purpose of conserving, raising, or otherwise dealing  
 with any such waters as may be necessary for irrigation and  
 domestic use on the Irrigation Cultivation Area, or as may  
 be necessary or expedient for carrying out any of the purposes  
 of this Act, and to maintain and work the same.
- 45 (III) To take or divert water from Lakes Menindie, Cawndilla, and  
 Pamamaroo, or from any creek, channel, or water-course  
 leading to or from any of the said Lakes, or any of them, or  
 from the river Darling, and to convey to and distribute the  
 same within the Irrigation Cultivation Area or elsewhere as  
 50 hereinafter provided, in quantities not exceeding an average  
 of one cubic foot per minute for every five acres of land  
 within

Powers of  
promoters.



within the Irrigation Cultivation Area: Provided, nevertheless, that nothing contained in this Act shall authorise the use of water from the said river for any purpose, so as in any way to diminish the quantity to such an extent as to interfere with the navigation of the river, or reduce the flow of the water of the said river beyond such mean discharge as the Governor shall from time to time prescribe by notification to be published by the Minister in the *Gazette*. 5

- (iv) 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 areas described in the First and Second Schedules hereto. 10
- (v) To enter into and upon any lands and take and lay down levels of the same for the purpose of constructing irrigation works, and to set out such parts thereof as they shall think necessary. 15
- (vi) To enter upon, take, and hold any Crown or private lands, streets, roads, or thoroughfares, and to construct therein any irrigation works, and to maintain, repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any irrigation or other works being their property or under their control. 20

Compensation for  
damage done by  
promoters.

6. 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. 25

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

7. The plans of any dams, weirs, culverts, bridges, or other works which may interfere in any way with the flow of any natural channel shall be submitted to the Minister, and must receive his sanction before such works can be entered upon. 30

Compensation, how  
settled.

8. 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 manner provided in Part IV of this Act in respect of claims for compensation made thereunder: 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 power. 40

Power to open  
streets.

9. 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 may 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 the construction and maintenance of irrigation works as authorised by this Act: Provided nevertheless that permission be obtained from respective municipal councils when such streets are outside the Irrigation Cultivation Area. 50

Reinstatements of  
streets.

10. 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 55



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.

- 5 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.

- 10 11. 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, dam, embank, widen,  
15 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 irrigation works.

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

13. The Promoters shall not be liable, in the absence of express stipulation under any agreement for the supply of water, to any  
25 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.

14. The Promoters may let for hire to any person supplied with water by measure any meter, water-gauge, or other irrigation work,  
30 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.

15. Such meters, water-gauges, or other irrigation works shall not be subject to distress for rent of the premises where the same  
35 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 against or affecting the person using such water, or the occupier of the premises, or other the person in whose possession the meters,  
40 water-gauges, or other irrigation works may be.

16. 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  
45 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.

17. The Promoters or their officers or servants may enter in  
50 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, or other irrigation works, or for the purpose of ascertaining  
55 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, or other irrigation work, upon or affecting the property of the Promoters. And if any person hinders any such Promoter, officer,  
or

Diversion of water-courses.

Agreements to supply water.

Promoters not liable for accidental failure to supply water.

Promoters may let meters.

Meters of promoters not distrainable.

Meter to be supplied and maintained by consumer.

Power to officers or servants of promoters to inspect meter.



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.

18. 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 Cultivation Area. 10
- (II) The assessment of the rate and price at which water shall be supplied, and the time of payment for the same, whether in advance or otherwise, and the order in which applicants may be served.
- (III) The determination and adjustment of the interest, if any, of the various landowners and others within the Irrigation Cultivation Area to and in the irrigation works. 15
- (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. 20
- (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 Irrigation Water Conservation Area or Irrigation Works. 25
- (VI) The protection of the water and every part of the irrigation and other works from trespass or injury.
- (VII) The protection, management, and use of places for watering stock, and for bathing and washing purposes.
- (VIII) The imposing of penalties for any breach of any regulation by this Act authorised to be made by the Promoters, not exceeding the sum of *fifty* pounds, and the enforcement of the same; and 30
- (IX) Generally for duly administering and carrying out the powers given to the Promoters. 35

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

Maximum price of water for domestic use in Irrigation Cultivation Area.

19. The price to be charged by the promoters for water sold to any person for domestic use within the Irrigation Cultivation Area shall in no case exceed *five* shillings per one thousand gallons. 40

PROTECTION OF THE WATER.

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

20. 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, such person shall be liable for any such offence to a penalty not exceeding *five* pounds in addition to the value of the water wasted or misused, and the Promoters may (without prejudice to any remedy against them in respect thereof) cut off any of the pipes, canals, or other irrigation works, 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. 45 50

POLLUTING THE WATER.

Penalty for bathing in water of promoters.

21. If any person bathe, or wash any article or stock, in any lake, stream, drain, reservoir, aqueduct, or other water-works within the Areas described in the First and Second Schedules hereto, except in such places as may be set aside by the Promoters for bathing and washing purposes, or throw, or cause to enter therein any animal, he shall for every such offence forfeit a sum not exceeding *five* pounds. 55



22. 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 lake, 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.

23. 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 lake, stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or over which they have any rights or control, or shall do any other act whereby the water of the Promoters shall be fouled, such person 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.

24. 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.

25. 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 authorised, 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 irrigation work 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 authorised 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 authorised or wilfully injuring any pipe liable to a penalty.

26. 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 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.

Charges and rates for water payable in advance.

27. 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 Mitchell.

Refusal to pay charges.

28. 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 unlawfully taking water.

29. If any person fix or refix any water-meter, water-gauge, or other irrigation work upon any pipe or other irrigation work the property of the Promoters, without having first obtained authority from the Promoters, he shall forfeit a sum not exceeding *ten* pounds.

Penalty for fixing uncertified meter, &c.



For removing or  
altering meter  
without notice.

30. If any person remove or alter the position of, or in any way interfere with, any irrigation work without having obtained authority as aforesaid, he shall for each such offence forfeit a sum not exceeding *twenty* pounds.

Notice of removal,  
&c., of meter.

31. Every person requiring to remove or alter the position of 5  
or to open any irrigation work shall leave twenty-one days notice in writing to that effect at the local office of the promoters, situated upon the Irrigation Cultivation Area. And if any person refuse or delay to have any irrigation work properly repaired and put in correct working order after having been required by any officer of the Promoters so to 10  
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 irrigation work shall have been properly repaired and certified by some officer of the Promoters as being in proper working order. 15

Water may be cut off  
if meter not in order.

Penalty for obstruct-  
ing construction of  
works.

32. Every person who shall wilfully obstruct any person acting under the authority of the Promoters in setting out the line of any irrigation 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 20  
so undertaken as aforesaid shall incur a penalty not exceeding *twenty* pounds for every such offence.

Penalty for  
destroying works.

33. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any irrigation work, road- 25  
way, or other part whatever of the machinery or works of the Pro-  
moters, or deface or destroy any sign, notice or advertisement belong-  
ing to or erected, or published by the Promoters, such person shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding *ten* years.

Power to take  
temporary  
possession of land.

34. It shall be lawful for the Promoters, and all persons by 30  
them authorised, to enter upon any lands, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorised by this Act, of the accommodation works connected there-  
with hereinafter mentioned, and to use the same for any of the following purposes, that is to say— 35

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 con-  
struction or repair of the water-works, or such accommodation  
works as aforesaid; or 40

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 45  
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 con-  
structing the said works, or any such roads as aforesaid, and for the  
purposes aforesaid to erect thereon workshops, sheds, and other build- 50  
ings 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: 55  
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



either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Promoters shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom.

5 35. If any such lands shall be used for any of the purposes aforesaid, the Promoters shall, if required so to do by the owner 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  
10 between the owners of such lands and the Promoters as to the necessity for such fences and gates, then with such fences and gates as the Minister shall deem necessary for the purposes aforesaid.

Promoters to separate the lands before using them.

36. In any of the cases aforesaid where the Promoters shall take temporary possession of lands by virtue of the powers herein  
15 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  
20 taking possession of his lands.

Compensation to be made for temporary occupation.

37. 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  
25 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, maintain such substituted road in a state as convenient for  
30 passengers and carriages as the road so interfered with, or as nearly so as may be.

Before roads interfered with others to be substituted.

38. If the road so interfered with can be restored compatibly with the due completion of any works authorised under this Act, the same shall be restored to as good a condition as it was in at the time  
35 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 circum-  
40 stances will allow, and the former road shall be restored, or the substituted road put into such condition as aforesaid as the case may be, with all reasonable expedition.

Period for restoration of roads interfered with.

39. If any irrigation work shall cross any highway, other than a public carriage-way, on the level, the Promoters shall make and at  
45 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 com-  
50 municate therewith.

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

40. The Promoters shall make and at all times thereafter main-  
tain the following works for the accommodation of the owners of lands adjoining any irrigation works authorised under this Act, that is to say—

Works for benefit of owners.

55 Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the side of, or leading to or from such irrigation works as shall be necessary for the purpose of making good any interruptions caused thereby to the use  
of

Gates, bridges, &c.



of the lands through which the same shall be made, and such accommodation works shall be made forthwith after the part of the irrigation works passing through or 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 irrigation works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners thereof from straying thereout by reason thereof, together with all necessary gates made to open towards such adjoining lands and not towards the said irrigation 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.

Drains.

Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under, or by the sides of such irrigation 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.

Accommodation works not to interfere with use of works, nor to be made where compensation given.

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 irrigation works authorised by this Act, nor to make any accommodation works with respect to which the owners of the lands shall have agreed to receive and shall have been paid compensation.

Differences as to accommodation works to be settled by Minister.

41. 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 Minister, who shall also appoint the time within which such works shall be commenced and executed.

Power to owners of lands to make additional accommodation works.

42. If any of the owners of lands affected by any irrigation work shall consider the accommodation works made by the Promoters, or directed by the Minister 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.

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

43. 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.

Penalty on persons omitting to fasten gates.

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



## PART III.

*The reservation as an Irrigation Water Conservation Area of the Lakes, Creeks, and Lands described in the First Schedule hereto.*

45. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the Lakes, Creeks, and Lands mentioned and described in the First Schedule hereto have been set apart as an Irrigation Water Conservation Area for irrigation purposes within the Counties of Menindie, Tandora, and Yancowinna.

Reservation to be gazetted.

46. Upon the publication of the notification in the *Gazette* declaring that the Lakes, Creeks, and Lands therein described are so required and set apart, such Lakes, Creeks, and Lands shall be vested in the Promoters in Trust for the purposes of this Act, for an estate of inheritance in fee-simple in possession, freed and discharged from all other trusts, obligations, estates, interests, contracts, charges, rates, right-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 in Trust as aforesaid.

Vesting, &c., of lands

47. Upon the publication of the said notification the Promoters shall be entitled to take and fence off the whole or any portion of the Irrigation Water Conservation Area: Provided always that when such fencing shall prevent access to any lake or creek previously in use by any owner of adjoining lands for watering stock or domestic use the Promoters shall provide, in lieu thereof, other convenient watering places for the use of such owner for the like purposes.

48. For so much only of the Irrigation Water Conservation Area as extends above the high-water level referred to in the Second Schedule hereto, and as shall be taken and fenced off under the authority of the preceding section, the owners thereof shall be entitled to claim compensation.

49. After the construction by the Promoters of all such Irrigation Works upon the Areas described in the First and Second Schedules hereto as they may consider necessary for the irrigation of the Irrigation Cultivation Area, it shall be lawful for any owner of land in the Counties of Menindie, Tandora, and Yancowinna to apply to the Promoters for the supply and delivery of water from the Irrigation Water Conservation Area upon such land for irrigation and domestic use for a term of years, at a price by measure or otherwise; and the Promoters shall supply such water on the conditions aftermentioned: Provided always that by so doing they shall not endanger due provision for, and the proper irrigation of, the Irrigation Cultivation Area.

Owners of land in Counties of Menindie and Tandora may apply for water.

50. Every such application for a supply of water on land situated outside the Irrigation Cultivation Area for irrigation or domestic use shall be accompanied by a plan of any special irrigation works necessary therefor, and a map or plan of the lands through which such special works are intended to pass, showing the position of such proposed works thereon and the names of the owners of such lands, together with an estimate by a competent engineer, of the cost of carrying out such special works.

Application to be accompanied by plan and map.

51. Before any part of such special irrigation works as may be carried out under this part of this Act shall be commenced, the plans and construction thereof shall be approved and authorised by the Minister, and such owner shall be obliged to prove to the satisfaction of the Promoters that such works will yield a reasonably permanent return at a remunerative rate upon the total cost thereof; and any such special works shall be constructed only under written agreement between the Promoters and such owner, and such agreement, whether under

Plans to be approved and works authorised by the Minister, and to be remunerative.



Works to be  
constructed by the  
Promoters.

under seal or not, shall be deemed a covenant running with such land, and the successive owners thereof, during the term of such agreement.

52. All such special irrigation works as may be constructed under this part of this Act shall be constructed by the Promoters, and under the superintendence of the Promoters' engineer, unless the Promoters shall otherwise agree with such owner, within a reasonable time after the approval and authority of the Minister as aforesaid shall have been obtained. 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.

Owners to be  
chargeable with  
annual water rates.

53. The Promoters shall be entitled to charge and recover from such owner in each year in name of water rates, payable half-yearly, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, and such sum shall include a fair and reasonable proportion of the following items of outlay and expense in respect of the irrigation works on the Irrigation Water Conservation Area, namely :—

- (I) Provision for a sinking fund for the maintenance and renewal of the irrigation works.
- (II) Annual cost of working and supervision of the irrigation works.
- (III) Interest at the rate of ten per centum per annum upon the total cost of the irrigation works, including the amount of compensation paid in respect thereof and of lands acquired therefor.

Charge to repay cost  
of special works.

54. In addition to such charge in name of water rates permitted by the last-preceding section it shall be in the option of the Promoters either to charge and recover from such owner the total cost of special irrigation works constructed on the application of such owner, or to charge, and recover from such owner, in each year, in name of special water rates, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, to cover the cost of such special works.

55. Subject to the provisions of this Act, it shall be lawful for the Promoters to enter into an agreement in writing with the owner of any land within the Counties of Menindie, Tandora, or Yancowinna, for the supply and delivery of water upon such land for a term of years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement, and in every such agreement the owner of such land shall agree to pay such price for the term limited in the agreement, and to pay the Promoters for not less water in any year than the minimum quantity in such agreement specified, and such agreement by such owner, whether under seal or not, shall be deemed a covenant running with such land, and shall bind such land and the successive owners thereof during the said term. But nothing in such agreement shall be construed to create any obligation on the part of the Promoters to supply any stated quantity of water in the event of there being at the disposal of the Promoters an insufficient quantity of water as in this part of this Act provided.

When water available  
is insufficient,  
quantity supplied  
may be reduced.

56. If at any time the supply of water obtainable from the Irrigation Water Conservation Area, shall, in the opinion of the the Promoters, be insufficient to supply to any such owner the whole of the water to which such owner would otherwise have been entitled and liable to take, without endangering the due provision for, and the proper irrigation of, the Irrigation Area, the Promoters shall deliver to such owner, and such owner shall receive, such quantity only as the Irrigation Water Conservation Area can, in the opinion of the Promoters, supply; and if there be several such owners the Promoters shall in such event deliver to such owners respectively, and such owners



owners shall respectively be liable to take from the Promoters such amount of water only as the Irrigation Water Conservative Area can, in the opinion of the Promoters, properly supply in quantities in proportion to the quantities which such owners would, had there been sufficient water available without endangering the due provision for, and the proper irrigation of, the Irrigation Cultivation Area, have respectively been entitled and liable to take from the Promoters; but in such case such owner shall only pay for the water actually provided for him; and in no case shall any action, claim, demand, or other proceedings for not supplying water to any such owner be maintainable in any form in any case where it has been determined by the Minister that the Promoters have been, without negligence or wilful default upon their part, unable to supply such water or have refused to supply such water in virtue of any provisions of this Act.

Payment to be made for water supplied only.  
No claim to lie for inability to supply.

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## PART IV.

20 *The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.*

57. On the passing of this Act, it shall be notified by the Minister, by publication in the *Gazette*, that the land described in the Second Schedule hereto is required and has been set apart as an Irrigation Cultivation Area for the use of the Promoters, and that the same shall be held by them upon the conditions specified in this Act.

Reservation to be gazetted.

58. Upon the publication of the last-mentioned notification in the *Gazette* declaring that the lands therein described are so required and set apart, 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.

59. The effect of such publication shall be to withdraw the land described in the Second Schedule hereto from any lease or license or promise thereof, to cancel to the like extent any dedication or reservation of the said land made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending the same, and to vest the said land, to the extent aforesaid, in the Promoters, for the purposes mentioned, and for the estate mentioned 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 described in the Second Schedule.

60. The conditions upon which the Irrigation Cultivation Area shall be held and acquired by the Promoters shall be as follows, namely:—

Conditions upon which Irrigation Cultivation Area to be held.

- 50 (1) They shall expend upon or in connection with the Irrigation Cultivation Area, and within the period of twenty years from the passing of this Act, in the construction of irrigation works, and permanent improvements, a sum of not less than Thirty thousand pounds in the following manner, that is to say:—
- 55 During the first period of five years the sum of ten thousand pounds; before or during the second period of five years the further sum of seven thousand pounds; before or during the

Expenditure of £30,000.



the third period of five years the further sum of seven thousand pounds; and before or during the fourth period of five years the balance of six thousand pounds; and the said sum of thirty thousand pounds shall be expended as aforesaid, in addition to such sums of money as may be expended upon or in connection with the land described in the Second Schedule hereto in preparing and planting and cultivating the same. 5

To maintain works.

(II) They shall keep and maintain all irrigation works, and permanent improvements upon or in connection with the Irrigation Cultivation Area in good condition and repair during the said period of twenty years. 10

Restrictions on sale, lease, &c.

(III) They shall not sell, lease, or dispose of any land granted, or to be granted to them in fee simple in parcels exceeding eighty acres, if the land so sold shall be prepared and planted for fruit growing, or one hundred and sixty acres if prepared for growing other produce, or sell, lease, or dispose of more than one hundred and sixty acres of land to the same person. 15

Restriction on irrigated land held by Promoters.

(IV) They shall not at any time hold in their own possession, or in that of their agents, more than five thousand acres of cultivated irrigated land, out of the lands described in the the Second Schedule hereto. 20

Industries to be established.

(V) They shall use all reasonable efforts to establish within the period of five years from the passing of this Act, upon the Irrigation Cultivation Area the business and industries of fruit growing, fruit drying, preserving, and canning. 25

Vermis to be destroyed.

(VI) They shall take all reasonable measures to destroy all such animals and birds within and upon the Irrigation Cultivation Area as may be proclaimed to be vermin.

Land to be cleared.

(VII) They shall, within the period of five years from the passing of this Act, use all reasonable means to effect the removal of all timber growing within the high water-mark of the Lakes specified in the First Schedule hereto, and may cut up, use, and dispose of the same. 30

Governor may resume.

(VIII) The Governor may resume any portion of the Irrigation Cultivation Area for railways, tramways, and roads. 35

Accounts to be submitted to Auditor-General.

(IX) For the purpose of ascertaining the actual cost of *bona fide* irrigation works and permanent improvements under this Act, the Promoters shall from year to year, until the said sum of thirty thousand pounds shall have been expended as aforesaid, submit to the Auditor-General accounts and proper vouchers of all irrigation works, and permanent improvements expended by them upon or in connection with the Irrigation Cultivation Area, and the amount of the accounts as passed by the Auditor-General shall be deemed to be the actual expenditure by the Promoters upon or in connection with such irrigation works, and permanent improvements. 40 45

Accounts to be subject to Audit Act of 1870.

(x) The accounts of the Promoters in and about the construction of the irrigation works and permanent improvements shall be subject to all the provisions of the "Audit Act of 1870," so far as may be in the same manner in all respects as if such accounts had been specifically mentioned therein. 50

Conditions on which grant in fee simple to issue.

61. For every two pounds expended by the Promoters upon or in connection with the Irrigation Cultivation Area in irrigation works and permanent improvements, the Governor shall, on payment to the Crown by the Promoters of the sum of one pound, in addition to said expenditure of two pounds, issue to the Promoters a grant of one acre of land required by the Promoters within the 55



the area described in the Second Schedule hereto, provided always that no such grant shall be issued except for a parcel of land containing not less than one hundred acres. And every such grant shall be for an estate of inheritance in fee-simple in possession, freed

- 5 and discharged from all 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.
- 10 62. Until such grant of each such parcel of land shall respectively have been applied for and issued to the Promoters, they shall hold the lands described in the Second Schedule hereto, or the balance thereof from time to time, of which no such grant shall have been issued, as Lessees from the Crown, and shall pay to the Crown an
- 15 annual sum in name of rent therefor at a rate not exceeding the average rent assessed from time to time on other Crown unimproved pastoral lands in the counties aforesaid. And until such grant of each such parcel of land shall respectively have been issued as aforesaid, the Promoters shall be entitled to sub-lease any such parcel of the lands
- 20 described in the Second Schedule hereto, or the balance thereof from time to time of which no such grant shall have been issued, and to enter into any contract of sale of any such parcel of land conditional upon the issue of any such grant thereof.

Promoters to be Crown Lessees until issue of Grant.

Promoters may sub-lease, &c.

#### PART V.

- 25 *The acquisition and occupation by the Promoters of Lands other than those described in the First and Second Schedules hereto.*

63. After the approval by the Governor of the acquisition of lands otherwise than by agreement, but not before, the Promoters shall be empowered to acquire or occupy any lands in the said Police District

Lands required how acquired.

- 30 of Mitchell other than the lands described in the First and Second Schedules hereto, in manner hereinafter provided, and in the case of Crown Lands such acquisition or occupation shall be made under and subject to the like conditions as are herein contained with respect to the lands described in the Second Schedule hereto.

- 35 64. 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 Mitchell, to declare that the land described in such notification is required under this Act for the purpose therein expressed, but the purpose so to be expressed shall be
- 40 limited to the acquisition of lands for purposes similar to those for which the lands described in the Second Schedule hereto are acquired under this Act by the Promoters.

How and when lands can be taken.

65. Upon the publication of the last mentioned notification in the *Gazette* declaring that the lands therein described are so required,
- 45 such lands shall 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
- 50 thereto or conferred by this Act, shall, subject to the provisions thereof, be vested in the Promoters.

Vesting, &c., of lands.

66. Where the land required under this part of this Act 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,
- 55 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
- 60 land made under the authority of the "Crown Lands Alienation Act of

Effect of publication upon Crown lands.



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 mentioned 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. 5

## PART VI.

### *The Ascertainment and Payment of Compensation in Respect of Lands Resumed and Taken.*

Compensation for private lands.

67. Where the land described in any notification under this Act 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. 15

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

68. 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 or arbitrators 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 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. 25

Notice of claim for compensation.

69. 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 Third Schedule hereto, but with any modifications required by the nature of the claim. 35 40

Claim and report thereon.

70. 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 by a competent valuator, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fourth Schedule hereto. 45

Compensation by action in Supreme Court.

71. 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 50



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.

72. 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.

Issue in action of compensation verdict and costs.

73. 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 authorised in that behalf in writing, but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land: Provided that in the case of land under the surface taken for the purpose of constructing a subterranean tunnel for water supply, no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed, or the support to such surface be destroyed or injuriously affected by the construction of such tunnel, or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

As to payment of compensation.

74. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," or any amendment thereof, have jurisdiction to try any such action of compensation at the District Court holder within the district wherein any land in respect of which any claim has arisen under this Act (or the greater portion of such land) is situated in any case where the whole amount of the claim in respect to such land served in pursuance of section sixty-nine of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Promoters and the Claimant by a memorandum signed by the Promoters' Attorney and the Claimants' Attorney agree thereto. For the purposes of this Act the provisions of the said District Courts Act, and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in any District Court hereunder.

Where claim may be prosecuted in a District Court.

75. In estimating or assessing the compensation, if any, to be paid under this Act, regard shall be had by the valuers and by the jury (on any issue), or by the arbitrators and their umpire to, and they are hereby authorised and empowered to apply the following principles so far as the same may be applicable in each case, namely:—

Principles upon which compensation may be awarded.

(1) Regard shall be had 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 the valuers, jury, or arbitrators, shall

Compensation for land taken, and severance.



- assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time notice was given of such lands being required or having been taken.
- No compensation where works incomplete. (II) No compensation shall be awarded in any case where the injury for which compensation is claimed appears to have been the result of the execution of works which were incomplete at the time of such injury, if it shall appear that such works are being *bona fide* prosecuted to completion. 5
- No compensation for loss of water, unless loss permanent. (III) No compensation shall be awarded for any diminution or deterioration of the supply of water to which any person may be entitled, unless such diminution or deterioration shall have so diminished or deteriorated the supply previously enjoyed by the claimant as to deprive him of the use of sufficient water for domestic purposes and the watering of stock, and is the direct and will be the permanent result of a completed irrigation work. 10 15
- No compensation for flood waters taken. (IV) No compensation shall be made for any injury, loss, or damage occasioned by the taking or diverting of surplus or flood water, either permanently, temporarily, or intermittently, from any lake, river, or creek. 20
- No compensation for maintenance of high-water level. (V) No compensation shall be payable by reason of the permanent, temporary, or intermittent maintenance of the high-water level referred to in the First Schedule hereto, or by reason of any irrigation works which the Promoters may construct upon any part of the Irrigation Water Conservation Area. 25
- Benefit to claimant of Promoters works to be taken into account. (VI) There shall be taken into consideration and given effect to by way of set-off or abatement of all or any claims for compensation for land taken, or for severance, or by reason of the construction of any irrigation works under this Act any enhancement in value of any property of the claimant wherever situated, which has been directly or indirectly caused, and any other benefit which shall have been gained by or become available to such claimant, by reason of such works, or by reason of any other irrigation works constructed or guaranteed to be constructed by the Promoters under this Act; but in no case shall this provision operate so as to require any payment to be made by such owner to the Promoters in consideration of such enhancement in value as aforesaid. 30 35 40
- But no payment to be made by claimant to Promoters. (VII) The measure of the compensation, if any, shall in all cases be the direct pecuniary injury done to the claimant by the loss of something of substantial benefit previously by him enjoyed, and shall not include remote, indirect, or speculative damages. 45
- Compensation to be for direct pecuniary injury. (VIII) In any case where the injury complained of may appear to be of a permanent or continuing character, or likely to be repeated, a sum may be awarded which the valutors, jury, or arbitrator may declare to be a compensation for all possible future repetitions of such injury as well as for the injury already done, and after such award no further compensation shall be made to any person whatsoever in respect of any future repetitions of such injury. 50
- Permanent or recurring injury. (IX) No compensation shall be made in respect of more than one claim for any act causing or likely to cause the same injury to the same property, and the valutors, jury, or arbitrators shall consider the damage or detriment caused to every estate in such lands, whether in possession or in reversion or remainder, 55
- Compensation to be made in respect of one claim in case of each property.



remainder, and shall decide what payment is to be made to the owner or occupier of the estate in possession, and to the owners of any future estate respectively.

5 76. 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 authorised 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.

15 77. Notwithstanding anything hereinbefore contained, it shall be lawful for the Promoters, if they think fit, to agree with any person claiming compensation in respect of any land required, or in respect of any works or other matter done under the authority of this Act, to refer such claim to the decision of two arbitrators and their umpire, and in such event this section shall be read and construed as a submission of such claim within the meaning of the "Arbitration Act, 1892."

Power to refer claims to arbitration.

20 78. 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 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.

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

79. 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

Incorporation of provisions of Government Railways Act.



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" 5 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 10 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 determination of compensation to absent parties. Sections forty-two to forty-four inclusive.
- (II) As to the deposit of compensation money in certain cases 15 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. 20
- (III) 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.
- (IV) As to the procedure by the Promoters in case the owner or 25 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.
- (V) As to the purchase or redemption of the interests of 30 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. 35
- (VI) As to the release of lands from rent-charges and other incumbrances, and procedure thereon. Sections seventy-one to seventy-four, both inclusive.
- (VII) 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.

## PART VII.

40

### *Miscellaneous provisions—Legal procedure.*

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

80. 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 45 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 50 satisfaction for the special damage in an action on the case.

81.



81. 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.

82. 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.

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

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

84. 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.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

85. 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.

Damage to be made good in addition to penalty.

86. 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

Transient offenders.



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.

87. Any notice required by this Act, or by any by-law or 5 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 10 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 15 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 20 by the notice is situated.

Indictment for nuisances.

88. 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 25 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 30 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.

Irrigation works and water to be the property of the Promoters.

89. All irrigation works, and every part of any irrigation work, which the Promoters may construct, and all water which at any time 35 is in any lake, creek, or irrigation work, vested in or under the control or management of the Promoters, shall be the property of the Promoters subject to the provisions of this Act.

Borrowing powers.

90. For any of the purposes of the Promoters authorised by this Act the Promoters may from time to time borrow money in such sum 40 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, irrigation works, rights, powers, authorities, privileges, and revenues or to mortgage the same; and notwithstanding 45 any forfeiture of the rights, powers, authorities, and privileges, conferred by this Act, any such debenture or mortgage shall remain good and valid and be a burden upon the Areas described in the First and Second Schedules hereto, to the extent to which the Promoters shall have money expended upon, or in connection with said Areas in 50 irrigation works or permanent improvements.

Assignment of water-rights to purchasers.

91. The Promoters shall assign and transfer to each and every purchaser of land within the Irrigation Cultivation Area at time of purchase such a water-right to attach as a perpetual easement to the land so purchased as the Promoters may determine, but subject to payment by the 55 purchaser of such water rate as may be fixed by assessment as hereinbefore provided, and such water-right, when assigned or transferred to such purchaser, 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



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 always that such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

92. 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, and having a registered office in New South Wales, all or any of the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed by this Act, together with all or any of the lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired 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 effect 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.

93. In the event of any dispute, question, or difference arising between the Promoters and the Minister, the same shall be referred to two arbitrators, one to be appointed by the Governor and the other by the Promoters, and in such event this section shall be read and construed as a submission within the meaning of the "Arbitration Act, 1892," of such dispute, question, or difference, to such arbitrators.

Disputes between  
Minister and  
Promoters referred  
to arbitration.

94. Upon the application of the Promoters the Governor may, by proclamation, declare that the provisions of this Act, or any of them, shall be extended to lands other than those within the Areas described in the First and Second Schedules hereto, and thereupon such lands which shall in such proclamation be described, shall be included within the provisions of this Act, in the same manner and, so far as possible, to the same extent and effect, as if such lands had been part of the lands described in the First Schedule to this Act originally.

Power to extend  
provisions of the Act.

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

Voidance of Act.

## SCHEDULES.

### FIRST SCHEDULE.

#### *The Irrigation Water Conservation Area.*

ALL that area of land in the Counties of Menindie and Tandora, consisting of and including the areas covered by Lakes Menindie, Cawndilla, and Pamamaroo, and Creeks leading into and from the same, all as filled to the high water level of the Flood of the Year One thousand eight hundred and ninety, and for a distance of ten chains above and beyond the said high water level.

### SECOND



SECOND SCHEDULE.

The Irrigation Cultivation Area, about 25,000 acres.

WESTERN Division—Land District of Willyama, within the resumed area of Kinchega Holding Number two hundred and forty-four, notified thirty-first July, one thousand eight hundred and eighty-five. 5

No. 16,083. County of Tandora, parishes of Hume, Kars, Maiden, and Bellar, containing an area of about twenty-five thousand acres. The Crown lands within the following boundaries: Commencing on the northern shore of Lake Menindie, at the south-eastern corner of Raimondo Pedroja's homestead lease three hundred and forty, of ten thousand two hundred and forty acres; and bounded thence by the northern shore of that lake easterly to the intersection of the south-western boundary of travelling stock reserve nine thousand eight hundred and sixty-seven, notified twelfth October, one thousand eight hundred and eighty-nine; thence by a line north-westerly to the south-western corner of camping and water reserve six hundred and ninety-nine, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the western and northern boundaries of that reserve and the eastern prolongation of the latter boundary bearing respectively northerly and easterly to the south-western boundary of homestead lease two hundred and twenty-nine, William Burns' ten thousand two hundred and forty acres; thence by part of that boundary, the north-western boundary of that homestead lease, and the north-western boundary of George Maiden's homestead lease ninety-five of ten thousand two hundred and forty acres bearing respectively north-westerly and north-easterly to the northernmost corner of the last-mentioned homestead lease; thence by the north-westerly prolongation of the north-eastern boundary of that homestead lease bearing north-west three miles; thence by a direct line to the sixty-fifth mile peg on the road from Silverton to Menindie bearing south-westerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the northern boundary of water and camping reserve six hundred and ninety-eight, notified twenty-sixth November, one thousand eight hundred and eighty-four; thence by the northern and part of the eastern boundaries of that reserve bearing respectively easterly and southerly to the north-eastern boundary of travelling stock reserve nine thousand eight hundred and sixty-seven aforesaid; thence by that boundary south-easterly to the western boundary of homestead lease three hundred and forty aforesaid; and thence by part of the western, the northern, and the eastern boundaries of that homestead lease bearing respectively north, east, and south, to the point of commencement. 10 15 20 25 30 35

THIRD SCHEDULE.

Notice of Claim and Abstract.

To the Promoters of the Menindie Irrigation Act.

IN pursuance of the "Menindie 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. 40

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, covenants, &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)

FOURTH SCHEDULE.

Notice of Valuation.

To A.B., claimant in respect of the land hereunder described resumed under the "Menindie 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 or compensation has been lodged, has been valued at the sum of £ 60

The Menindie Irrigation Settlement, (Limited),  
Promoters of the Menindie Irrigation Act.

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

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