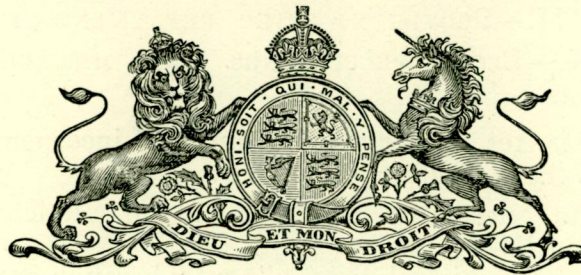


New South Wales.



ANNO SEXTO

EDWARDI VII REGIS.

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Act No. 54, 1906.

An Act to provide for an additional water supply for Broken Hill and district ; for that purpose to confer certain powers on and to vest certain lands in the municipal council of Broken Hill ; to authorise the transfer of such powers and lands to a trust to be constituted ; to confer certain other powers on such trust ; to apply and amend certain Acts ; and for purposes consequent thereon or incidental thereto. [Assented to, 28th December, 1906.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Broken Hill and Umberum- Short title. berka Water Supply Act, 1906."

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*Broken Hill and Umberumberka Water Supply.*

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Division of Act.

2. This Act is divided into parts, as follows :—

PART I.—THE CONSTRUCTION OF WATERWORKS AND ACQUISITION OF LANDS.

PART II.—SPECIAL PROVISIONS AS TO WATER SUPPLY.

PART III.—EXTENSION OF ACT TO OTHER COMPANIES.

PART IV.—THE TRUST.

PART V.—OFFICERS.

PART VI.—FINANCIAL PROVISIONS.

PART VII.—WATER SUPPLY FOR THE MINING COMPANIES AND DOMESTIC PURPOSES.

PART VIII.—PROVISIONS AFTER REPAYMENT OF DEBENTURES.

PART IX.—LEGAL PROCEEDINGS AND MISCELLANEOUS PROVISIONS.

Interpretation.

3. In this Act, and any part of any Act incorporated herewith, except where otherwise clearly intended :—

“Alderman” means an alderman of the municipal district of Broken Hill.

“Borough or municipal district” and “borough or municipality” mean the district.

“Catchment area” means the drainage area of the streams and other sources of water supply included within any boundaries set forth in any proclamation under this Act for the purpose.

“Chairman” means the chairman of the trust or the acting chairman thereof.

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

“Council” means the council of the municipal district of Broken Hill, and, except in Part IV, includes the trust.

“Council clerk” means the person authorised by the council to perform the duties of council clerk, and includes the secretary of the trust.

“District” and “municipal district” means the municipal district of Broken Hill, and includes any locality within which any of the powers conferred by this Act may be exercised.

“Domestic purposes” does not include a supply of water for stables or for manufacturing purposes or for irrigation, water power, fountains, or for any ornamental purposes.

“Incorporated” means that the legislation incorporated is to be read and construed as though the same were specifically enacted in this Act in aid of any of the purposes of this Act, whether such legislation refers to or depends on other legislation or not.

“Justice” means any justice of the peace.

“Mayor,”

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- “Mayor,” “mayor of the council,” or “mayor of such council” means the mayor of the municipal district, and includes any person acting in the office of mayor, and includes also the chairman of the trust and any person acting in the office of chairman of the trust.
- “Member” means a member of the trust.
- “Mines” means the several properties and undertakings of the mining companies respectively situated or carried on in Broken Hill or the vicinity thereof.
- “Mining companies” means the mining and treatment companies in the vicinity of Broken Hill contributing to the scheme, and includes any new company admitted to the benefits of this Act pursuant to Part III.
- “Mining company” means some one of the mining and treatment companies.
- “Minister” means Secretary for Public Works.
- “Owner” means any person who is in receipt of the rents and profits of any house, manufactory, or building, of whatsoever kind, or of any land.
- “Secretary” means the officer of the trust performing the duties of secretary of the trust.
- “Street” means any square, court, alley, highway, lane, road, thoroughfare, or public passage.
- “Trust” means the trust hereby authorised to be created.

## PART I.

*The construction of waterworks and acquisition of land.*

4. (1) The council may at any time within a period of twelve months, and subject to the approval of the plans by the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works, proceed to construct and carry out the scheme shortly described in the First Schedule, with such modifications, alterations, and extensions as the council may think necessary for the purpose of securing an additional water supply to the inhabitants of the district, and to assist the development of the mines. The scheme.

(2) If works in connection with the scheme are not bona fide commenced within the said period of twelve months, or if such works are thereafter for a continuous period of three months discontinued without the authority of the Governor in that behalf, the council shall forfeit all its rights and privileges under this Act, and the same shall become void, and all Crown lands vested in the council in pursuance of this Act shall revert to His Majesty absolutely free from all estates, interests, encumbrances, and easements created after the commencement of this Act.

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Vesting of necessary  
lands.

5. Such Crown lands as are included in the lands described in the Second Schedule are hereby vested in the council for an estate of inheritance in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rents, 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 council :

Provided that the council shall have no power to lease or sell any such lands, or to utilise such land for purposes other than those for which the trust may be created in pursuance of this Act.

Definition of  
"Crown lands."

6. "Crown lands" means all lands vested in His Majesty which have not been dedicated to any public purpose, or which have not been granted in fee or lawfully contracted to be so granted, or which are not under lease for purposes other than pastoral purposes.

Power to take other  
lands.

7. (1) The council may for the purpose and subject to the provisions of this Act acquire, purchase, or take on lease, sell, or exchange any land wherever situated, whether within or without its municipal district, and may also purchase any water privileges or easements which interfere with the proper drainage or with the supply of water.

Power to sell surplus  
lands.

(2) Any lands so acquired by the council, but not required for the purpose for which they were acquired, may, with the approval of the Governor, be sold or leased by the council, and the proceeds of such sale or lease shall be applied in discharging by means of a sinking fund or otherwise the liability in respect of any moneys borrowed for the purposes of this Act.

Incorporation of  
certain provisions of  
Act 14 of 44 Vic. as  
to taking of lands  
and compensations.

8. The whole of Part IV and the Third, Fourth, and Fifth Schedules (such Schedules being modified to suit the purposes of this Act) of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated.

Governor may  
define boundaries.

9. The Governor may at any time define by proclamation the boundaries of any catchment area and of any water district within which any of the powers hereby conferred may be exercised, and such boundaries may be outside the boundaries of the municipal district.

Power to make  
by-laws.

10. Section thirteen (except subsections twelve to fifteen, both inclusive, thereof, and except so much of that section as prescribes the distance from the water main of the council within which lands and tenements may be subject to water rates) and sections fourteen and fifteen of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated :

Provided that the said sections hereby incorporated shall apply only in respect of any land or premises supplied with water by the council or the trust under the provisions of section seventy-two of this Act or out of the surplus water referred to in section seventy-three of this Act.

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*Broken Hill and Umberumberka Water Supply.*

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## PART II.

*Special provisions as to water supply.*

11. The whole of Part II of the Country Towns Water and Sewerage Act of 1880 (except sections thirty-five to forty-one, both inclusive, and sections sixty and sixty-one) is hereby incorporated. Incorporation of provisions as to water supply in Act 14 of 44 Vic.

12. The following provisions of Act number forty-three of one thousand nine hundred and five are hereby incorporated, namely, sections five to eleven (both inclusive), twenty-one and twenty-two, the whole of Part III (except sections thirty-six and thirty-seven and subsection two of section thirty-eight), section sixty, and sections sixty-two to seventy (both inclusive), and Schedules A and B: Incorporation of certain provisions of Act 43 of 1905.

Provided that the incorporation of the said Part III shall be subject to the proviso contained in section ten of this Act.

## PART III.

*Extension of Act to other companies.*

13. Any company (hereinafter referred to as a "new company") desirous of obtaining the benefits and becoming subject to the liabilities by this Act conferred and imposed respectively on mining companies may by writing under its common seal apply to the trust that it may enjoy such benefits and become subject to such liabilities. Other companies may apply to obtain benefit of this Act.

14. The trust shall, on receipt of such application, consider the same, and may by resolution reject the same or accept the same conditionally upon such terms as the trust may in its absolute discretion think fit: Resolution of the trust on application.

Provided that such new company may, in the event of its being dissatisfied with such resolution, appeal to the Minister, who may confirm, vary, or alter the conditions contained in such resolution of the trust, and the trust shall be bound by the decision of the Minister.

15. On compliance with such terms the new company shall be deemed a mining company, and shall thereafter enjoy all the benefits, and thereafter be subject to all the liabilities, which the mining companies are thereafter entitled and subject to respectively. Extension of Act to the company applying.

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*Broken Hill and Umberumberka Water Supply.*

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## PART IV.

*The trust.*

The trust.

**16.** There shall be a trust to be called "Broken Hill and Umberumberka Water Trust."

Council may delegate powers and assign property to the trust.

**17.** (1) The council may, with the consent of the Governor-in-Council, from time to time, and at any time, assign, transfer, convey, and release to the trust any of the rights, powers, and authorities, privileges, liabilities, and obligations conferred and imposed upon the council by this Act, together with all lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired by, under, or in pursuance of, and purchased, occupied, or used in connection with the same. Upon and after the completion of such assignment, transfer, conveyance, and release, the trust, its assigns and its and their officers, agents, and servants may lawfully exercise and enjoy all such rights, powers, authorities, and privileges, and shall be and continue to be subject to all such liabilities, obligations, penalties, and forfeitures to which the council, its officers, agents, or servants would have been entitled or subject to had no such assignment, transfer, conveyance, and release been completed.

(2) Nothing hereinafter contained shall prejudice or affect any rights, accrued actions, or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by, the council before the completion of the said assignment, conveyance, and release.

Members of the trust.

**18.** The trust shall consist of seven members, three of whom shall be appointed by the council, three by the mining companies, and one by the Governor. When debentures have been issued pursuant to section fifty-five, and so long as any such debentures are outstanding, the number of the members of the trust shall be increased to nine by the appointment by the debenture holders of two additional members. When the debentures are paid off, the said additional members shall retire.

Representatives of the council.

**19.** The members to be appointed by the council shall be appointed by the council by a resolution of the majority of the members of that body present at a meeting convened and held for the purpose.

If at any meeting of the council convened for the purpose a resolution be carried by an absolute three-fourths majority of the council calling upon any member of the trust appointed by the council to retire from office, such member shall thereupon retire accordingly. The council may by the same or another resolution appoint some person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the council.

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20. No person shall be so appointed by the council who has not previously, by writing signed by him and delivered to the mayor or the council clerk, signified his willingness to act as a member and who does not at the time of his appointment hold office as alderman.

Council representatives must be aldermen.

21. Every appointment shall be certified by writing under the common seal of the council.

Appointment to be sealed.

22. The council shall notify the appointment in the Gazette.

Appointment to be Gazetted.

23. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made.

Gazette to be evidence.

24. The members to be appointed by the mining companies shall be appointed according to the provisions contained in the Third Schedule.

Representatives of the mining companies.

25. Every appointment by the mining companies shall be notified in the Gazette.

Appointment to be gazetted.

26. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made.

Gazette to be evidence.

27. The members to be appointed by the debenture holders shall be appointed in accordance with the provisions contained in the Fourth Schedule.

Representatives of the debenture holders.

28. In any case where there has, in the opinion of the Governor, been unreasonable delay in the appointment of a member by the council, the mining companies, or the debenture holders, the Governor may, on behalf of the council, mining companies, or debenture holders guilty of such delay, appoint the member or members required to be appointed by the council, mining companies, or debenture holders respectively.

On neglect to appoint, the Governor may appoint the representatives.

29. Members so appointed by the Governor shall be deemed to have been duly appointed by the council, mining companies, or debenture holders as the case may be.

Members appointed by the Governor to be deemed duly appointed.

30. The Governor shall, in the Gazette, notify the name or names of any persons so appointed, and on whose behalf such persons have been appointed. The Gazette containing such notification shall be conclusive evidence that such persons have been duly appointed by the council, mining companies, or debenture holders as mentioned in the notification.

Appointments to be gazetted and Gazette to be evidence of appointment.

31. When any vacancy occurs in the trust the same shall be filled up in manner hereinbefore provided, so far as applicable, by appointment by the council, the mining companies, or debenture holders according as such vacancy has been caused in respect of a member appointed by the council, the mining companies, or the debenture holders.

Vacancies.

32. Every member shall, subject as hereinafter mentioned, be deemed to have been appointed for three years.

Term of appointment.

33. (1) At the end of every year from the date of the appointment of the first member, one of the members appointed by the council, the mining companies, and the debenture holders respectively shall retire.

Retirement each year.

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Order of retirement.

(2) As between the respective members appointed respectively by the council, the mining companies, and the debenture holders, the member to retire shall be the one who has been longest in office since his last appointment, and in case of equality in length of service as member such retirement shall be determined by lot.

Retiring members to be eligible for reappointment.

**34.** A member retiring shall, except during the continuance of any disability as herein provided, be eligible for reappointment.

Disqualifications.

Cf. Act 23, 1897, s. 33.

**35.** Any member—

- (a) Having his estate placed under sequestration as bankrupt;
- (b) having executed any deed of assignment for the benefit of his creditors;
- (c) being absent without leave from the meetings of the trust for more than three consecutive months;
- (d) holding any office or place of profit (other than that of member) under or in the gift or disposal of the trust;
- (e) being directly or indirectly by himself or any partner engaged or interested in any contract or employment with, by, or on behalf of the trust;
- (f) being a member appointed by the council ceasing to hold office as alderman;
- (g) being of unsound mind;

shall thereby become disqualified and shall cease to hold office as a member.

Removal of disqualification.  
Cf. *ibid.* s. 40.

**36.** Every person becoming disqualified by reason of the sequestration of his estate or the execution of any deed of assignment as aforesaid shall, on obtaining his certificate or paying his debts in full, or obtaining an absolute release from his creditors, be capable of being reappointed.

Saving as to disqualification.  
Cf. *ibid.*, s. 38.

**37.** No member shall be disqualified or cease to hold office by reason of his being a shareholder or director of any joint stock company contracting with the trust.

Retirement of certain members.

**38.** Every member appointed by the mining companies or debenture holders respectively shall be disqualified and cease to hold office upon being requested to retire, as provided in the Third and Fourth Schedules respectively.

Trust may make regulations.

**39.** (1) The trust may make regulations for or relating to—

- (a) the times of its meetings;
- (b) the conduct of its proceedings and business;
- (c) the appointment, powers, and control of committees formed out of members of the trust;
- (d) the duties, control, supervision, and guidance of its officers and servants; and
- (e) the use of its common seal.

(2)



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(2) All such regulations shall be published in the Gazette, and the Gazette purporting to contain any such regulation or any amendment or repeal of a regulation shall be evidence thereof, and that such regulation, amendment, or repeal was duly made.

40. The trust may act notwithstanding any vacancy or vacancies in its membership. Trust may act, notwithstanding any vacancy.

41. The meetings of the trust shall be held at Broken Hill. Three members shall form a quorum. Place of meeting. Quorum.

42. The trust shall appoint one of the members appointed by the council to be chairman of the trust, who shall be chairman of every committee appointed by the trust, and he shall have a casting as well as a deliberative vote on the trust and on every committee of the trust. When the chairman is absent from any meeting, the members present shall appoint one of the members appointed by the council to be chairman to act during such absence, and he shall preside and have a casting as well as a deliberative vote. Chairman.

43. The chairman shall be paid out of the moneys of the trust an honorarium of one hundred pounds per annum, and each of the members shall be paid out of the said moneys an honorarium of fifty pounds per annum. No alderman, by reason of being a member of the trust, shall be disqualified from holding or shall cease to hold office as alderman. Remuneration to members.

44. The trust shall be a body corporate by the name of "The Broken Hill and Umberumberka Water Trust," and shall have perpetual succession and a common seal. Trust to be a body corporate.

45. All courts, judges, and persons acting judicially shall take judicial notice of such seal and shall presume that the same was properly affixed. Judicial notice of the seal.

46. Every instrument which it may be necessary for the trust to execute shall, subject to the provisions of section 90, have the seal affixed thereto. Seal to be affixed.

47. The trust—

- (a) may in its corporate name acquire, hold, and alienate property, and sue and be sued in all courts, and be a party to any arbitration; Powers of trust to deal with property, &c., and duties as to minutes, &c.
- (b) shall acquire from the Minister the tools, plant, and materials belonging to the Government at the site or in the vicinity of the dam at Umberumberka at a valuation to be determined upon.
- (c) may delegate to any committee, officer, or servant any of its powers as it thinks fit, and may alter, vary, or revoke such delegation;
- (d) may do all such acts and things as may be necessary and expedient for carrying out the purposes of this Act;

(e)

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*Broken Hill and Umberumberka Water Supply.*

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- (e) shall cause proper minutes or records of all its proceedings and the proceedings of any committee to be kept;
- (f) shall cause proper books of account to be kept to the satisfaction of the auditors;
- (g) shall each year appoint two auditors and fix their remuneration. No auditor shall hold office for more than two consecutive years. The auditors shall have access to the books of account and vouchers whenever they think necessary, and shall certify the balance-sheets;
- (h) shall cause a proper balance-sheet to be prepared to the satisfaction of the auditors every six months, and the same shall be published in the Gazette.

Ouster of office.  
Cf. Act 23, 1897  
s. 109.

**48.** (1) Upon affidavit that any member has been appointed to or holds or exercises such office of member being incapable under the provisions hereof of being or continuing such member, it shall be lawful for the Supreme Court, or any judge thereof, to grant a rule or order calling upon such person to show cause to the court why he should not be, by the said court, ousted of the said office, and where upon the return of such rule or order it appears to the court that such person so appointed or holding or exercising such office was at the time of his appointment, or while holding or exercising such office, incapable under the provisions hereof of being or continuing such member as the case may be, the court may make such rule or order absolute, or if the matter does not so appear, may discharge such rule or order, and in either and every such case with or without the payment of costs to or by either party as the court deems meet.

(2) The person against whom any rule is made absolute shall be deemed thereby to be ousted of any office accordingly.

(3) No order or rule shall in any case be granted if at the time of such application for any such rule or order more than three months have elapsed after the appointment or the time when the person against whom such application is made was disqualified.

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PART V.

*Officers.*

Officers and servants  
to be appointed  
Cf. *ibid.* s. 126.

**49.** The trust shall appoint such officers and servants as in their discretion they may deem necessary for the execution of the powers and duties hereby vested in the trust, and shall assign remuneration to such officers and servants by way of salaries, allowances, or wages, which shall be in lieu of all fees, perquisites, and other emoluments whatever.

**50.**

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*Broken Hill and Umberumberka Water Supply.*

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**50.** Every officer employed by the trust who exacts or accepts on account of anything done by virtue of his office, or in relation to the matters to be done under this Act, any fee or reward whatever other than the salary or allowance allowed by the Trust shall be liable to a penalty of not less than ten pounds nor more than one hundred pounds.

Penalty against  
bribery.  
Cf. Act 23, 1897,  
s. 127.

**51.** (1) Every officer or servant who, by reason of his office or employment under the trust, is entrusted with the custody or control of any moneys shall—

Duties of officers as  
to money belonging  
to the trust,  
Cf. *ibid.* s. 123.

- (a) give such security for faithfully and duly accounting for the same as the trust may think sufficient;
- (b) within seven days after having received any moneys or within such shorter time as the trust may appoint, pay over the same to some person appointed by the trust or into some bank selected by the trust;
- (c) as and when the trust may direct, deliver a list signed by him containing the names of all persons who have neglected or refused to pay any sums due by them;
- (d) when and as required by the trust make out and deliver a true and perfect account in writing under his hand and signature of all moneys received by him for the purposes of this Act, distinguishing how and to whom and for what purposes such moneys have been disposed of;
- (e) together with such account deliver the vouchers or receipts for all payments made by him, and shall pay over to or receive from the said person appointed by the trust mentioned in subsection (b) hereof or the chairman the balance of such accounts (if any).

(2) If any such officer or servant fails to render such account, or to produce and deliver up all vouchers and receipts in his possession or power, or to pay over any such moneys or balance as aforesaid, or if, for the space of seven days after being thereunto required, he fails to deliver up to the trust all books, papers, writings, property, effects, matters, and things in his possession or power belonging to the trust, he shall, on proof thereof before any justice, and on his still failing or refusing to do such or any other required act relating to the premises, be liable, on summary conviction before a justice, to be imprisoned for any term not exceeding three weeks or until he has done such act.

And if it appears that he has failed to pay over such moneys as aforesaid, and he still fails or refuses so to do, the justice may cause any such moneys as aforesaid to be levied by distress upon his goods and chattels, and in default of any sufficient distress may commit him to gaol without bail for any time not exceeding three months unless such moneys be sooner paid :

Provided

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Provided that upon proof on oath to any justice that there is probable cause for believing that any such officer or servant so charged is about to abscond, such justice may, without summons, cause him to be forthwith apprehended upon warrant, and may, upon prima facie proof on oath of the charge, require him to give bail for his subsequent appearance to answer the same :

Provided also that no such proceeding shall relieve any surety of the offender from any liability whatsoever, nor any such offender from being held to answer any criminal information, charge, or proceeding whatsoever.

52. (1) The chairman may suspend from office at any time any officer or servant of the trust who may, in his opinion, be guilty of misconduct or neglect, and if necessary may temporarily appoint and may take security from another officer or servant to fulfil the duties of such officer or servant so suspended as aforesaid :

Provided that at the then next meeting of the trust the chairman shall report the matter to the trust, and if the officer or servant so suspended is dismissed by the trust, no salary or wages shall be due or payable to him from or after the date of his suspension.

(2) Every officer or servant so temporarily appointed shall only hold office and receive remuneration (which remuneration shall in no case exceed that paid to the suspended officer or servant) until the trust decides whether the person suspended shall be reinstated or shall be dismissed and a successor appointed in his stead.

Suspension of  
officers.  
Cf. Act 53, 1897,  
s. 129.

PART VI.

*Financial provisions.*

Power to borrow.

53. The trust may, as hereinafter provided, borrow such money, not exceeding two hundred thousand pounds, as in the opinion of the trust may be required for any of the purposes of this Act.

Power to issue  
debentures.

54. The trust may, on the terms and conditions contained in the Fifth Schedule, issue debentures to secure the repayment of money borrowed with interest thereon to the lenders.

Judgment enforce-  
able against trust  
property only.

55. No judgment against the trust shall be enforced except as against or be recoverable except out of the property of the trust.

Mining companies to  
lend £200,000.

56. In the event of the trust determining to borrow moneys, it may at any time, not later than two years from the passing of this Act, and from time to time during such period by notice in writing under the seal of the trust, call upon the mining companies to lend to the trust any sum or sums of money not exceeding in the aggregate of all such demands two hundred thousand pounds.

*Broken Hill and Umberumberka Water Supply.*

57. Any such notice shall be deemed to have been duly given to the mining companies if the same has been advertised twice at least in the Gazette, and twice at least in one daily newspaper circulating in Broken Hill. Notice may be given by advertisement.

58. The notice shall specify the amount required to be lent by each mining company. Notice to specify amount.

59. The liability hereby imposed is a several liability, and the amount to be lent by each of the mining companies shall be ascertained and fixed mutually between the contributing mining companies and the trust. Contributions by the companies.

60. Each of the mining companies shall, within one month after the last advertisement of the notification mentioned in section fifty-eight, pay to the trust the moneys ascertained and fixed in accordance with section fifty-nine required to be lent by such company. Company to pay its contributions in a month.

61. The liabilities hereby created in favour of the trust against the several mining companies respectively shall, without prejudice to any other remedy, be enforceable against any property of the respective mining companies situated within the State of New South Wales, and the amount thereof may be levied by distress and sale of such property on a warrant of the chairman as though such amount were rent in arrear to the trust. Recovery of company's contribution.

62. Any of the mining companies may discharge the whole or part of the obligation hereby imposed in respect of the particular amount required to be lent by such company by finding some one or more persons (hereinafter referred to as "the substitutes") willing to lend and lending to the trust the particular amount required on the terms on which such mining company is liable so to do. Company may escape liability to contribute by finding substitutes.

63. In exchange for and to the amount of the moneys respectively lent, the trust shall deliver debentures to the respective mining company or substitutes. Debentures to be issued for moneys lent.

64. Such debentures shall be in the form in the Sixth Schedule and shall confer the rights and be issued on the terms and subject to the conditions mentioned in the Fifth Schedule. Form and terms of debentures.

65. The principal moneys respectively lent by the mining companies or substitutes shall be repaid to the registered holders for the time being of the debentures and in exchange for the debentures unless lost or destroyed (in which case such loss or destruction shall be proved to the satisfaction of the trust) on the date mentioned in the debentures respectively, not exceeding thirty years from the respective issue thereof as therein respectively mentioned, or such debentures may at any time be redeemed by the council. Such debentures shall bear interest at a rate not exceeding five pounds per centum per annum payable by half-yearly instalments on some dates appointed in the debentures respectively. Repayment of debentures.

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*Broken Hill and Umberumberka Water Supply.*

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Application of receipts while debentures are outstanding.

**66.** As long as any debenture issued by the trust remains unredeemed the trust shall, on the thirtieth day of June and thirty-first day of December in every year after making provision or allowance in account for—

- (a) payment of expenses incurred during the preceding six months in connection with the business of the trust, including maintenance;
- (b) a renewal fund to replace and to be applied solely in replacing the renewable parts of the undertaking then constructed;
- (c) estimated current expenses during the next following month in connection with such business,

apply the residue of its receipts—

- (a) in defraying the interest then payable on debentures; and
- (b) in forming a sinking fund to be invested in any way in which trust funds may be invested for the purpose of and to be applied and applicable solely for the redemption of the principal and interest moneys secured by the debentures.

Purchase of works constructed under this Act.

**67.** Upon the works referred to in the Broken Hill Water Supply Act, 1890, becoming vested in the Government, either by acquisition or reversion, it shall be lawful for the Governor, by notification in the Gazette, to notify to the council or trust his intention to acquire the works constructed under this Act, together with all lands and other property vested in the council or the trust in connection therewith; and the same shall, on a date to be fixed by the Governor, absolutely vest in His Majesty. The purchase money shall be as agreed upon between the Governor and the council or trust, and in case of dispute shall be determined by arbitration in accordance with the Acts then in force regulating the settlement of disputes by arbitration: Provided that the amount to be paid as such purchase money shall not exceed the cost of such works, land, and property.

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PART VII.

*Water supply for the mining companies and domestic purposes.*

Reserve requirements of companies may be notified.

**68.** Any of the mining companies may from time to time, by notice in writing under the hand of its manager, secretary, or other officer, from time to time appointed for the purpose, notify the trust of the amount of water (hereinafter called "the required reserve") such company requires the trust to keep in reserve for its use during the next ensuing twelve months.

**69.**

*Broken Hill and Umberumberka Water Supply.*

**69.** The trust shall, subject to this Act, and unless prevented by shortness of supply or unavoidable accident—

Reserve to be kept and supplied.

- (a) conduct its business so that the required reserve of every mining company shall be kept in reserve and applicable for the use of such mining company ;
- (b) supply each of the mining companies with water from time to time required by such mining company to the amount of the required reserve, delivered through meters on some part of the property of such mining company approved by the trust, at a rate not exceeding two shillings and sixpence per one thousand gallons.

**70.** If in any year, calculated from the first day of January to the thirty-first day of December, any one of the mining companies has not taken an amount of water equal to its highest required reserve, as notified to the trust during such year, and the trust has at all times during such year been ready and willing to supply such mining company with the same, the trust may demand and recover payment from such mining company for the difference between such amount and that during such year so taken at a rate not exceeding two shillings and sixpence per one thousand gallons.

Company to be bound to take the quantity required to be reserved.

**71.** When the supply of water from Stephen's Creek is, or is likely to become, exhausted, inadequate, unavailable, or unfit for domestic purposes, the council, on receipt of and in accordance with the certificate in writing of the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works to that effect, may, by resolution under its common seal, require the trust to keep in reserve the amount of water specified in such resolution for the domestic purposes of the population of Broken Hill.

Council may require water to be reserved for domestic purposes.

**72.** Upon receipt of such resolution the trust shall—

- (a) out of the water then available reserve for such domestic purposes the amount of water specified in the resolution, and sell and supply to the council water to the amount required to be reserved for domestic purposes, or so much thereof as may be required by the council at some point or points of delivery in Broken Hill determined by the trust on receiving payment for such water at the same rate as that chargeable to the mines ; and
- (b) cease to supply any mining company, or diminish the supply to any mining company, in order to secure a supply to the council of the amount required as aforesaid, to be reserved for domestic purposes.

Trust to comply with the council's demand.

**73.** (1) Subject to the rights hereby conferred in favour of a supply of water for the mining companies and for domestic purposes, the council may require the trust to sell and dispose of any surplus water to the council at the same rate per one thousand gallons as

Surplus water to be sold to the council.

that

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*Broken Hill and Umberumberka Water Supply.*

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that charged to the mines; such water to be delivered to the council in Broken Hill at some point or points of delivery nearest to the receiving tank station of the Broken Hill Water Supply, Limited, on reserve number three thousand and seventy-five.

Council may resell water.

(2) The council may resell any water so purchased at such rate to such persons and in such manner as the council thinks fit, and generally may exercise any of the powers conferred by this Act.

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PART VIII.

*Provisions after repayment of debentures.*

Membership of trust on redemption of debentures, price of water to the companies, and application of profits.

74. As soon as all the debentures issued by the trust have been redeemed—

- (a) the members appointed by the debenture holders shall retire from office;
- (b) subject to the special provisions relating to the supply of water for domestic purposes the trust shall supply water to the mining companies and the council at a price not exceeding, after making all proper allowances, the actual cost to the trust of such water delivered at the mines plus ten pounds per centum thereon;
- (c) the profits of the trust in every year shall be distributed as to one-half to the council for the general purposes of the council, and as to the remaining half shall be applied in reducing the cost of water pro rata to the mining companies during the ensuing twelve months.

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PART IX.

*Legal proceedings and miscellaneous provisions.*

Procedure in actions against trust.  
Cf. 14 of 44 Vic., s. 133.

75. The following provisions shall and may be applied in respect of all actions and proceedings taken in respect of claims for damages not within the meaning and operation of Part IV of the Country Towns Water and Sewerage Act of 1880, or any incorporated amendment thereof, namely:—

- (a) No action against the trust shall be maintainable in any court other than the Supreme Court, and no writ of execution shall be issued against the council until the expiration of fourteen days after final judgment has been signed.

(b)



*Broken Hill and Umberumberka Water Supply.*

- (b) No plaintiff shall recover in any such action unless notice in writing has been given to the defendant twenty-eight days before such action is commenced of such intended action, signed by the attorney of the plaintiff specifying the cause of such action, and the plaintiff shall not recover in any such action if tender of sufficient amends has been made to him or to his attorney by or on behalf of the defendant before such action brought. In case no such tender be made, it shall be lawful for the defendant in any such action, by leave of the court at any time before issue joined, to pay into court such sum of money as he thinks proper, whereupon such proceedings, order, and judgment shall be made and given by such court as in other actions where the defendant is allowed to pay money into court.
- (c) No such action or suit shall be brought after three months from the act committed. The defendant in every such action or suit may at his election plead specially or the general issue, and give this Act and the special matter in evidence at any trial, and prove that the same was in pursuance and under the authority of this Act. If the same appear to have been so done, or if such action or suit have been brought before the expiration of twenty-eight days next after such notice has been given as aforesaid, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same, or be brought in any other place than as aforesaid, the jury shall find a verdict for the defendant. Upon such verdict, or if the plaintiff be nonsuited or discontinue his action or suit after the defendant has appeared, or upon any demurrer, judgment be given against the plaintiff, the defendant shall recover full costs of suit and have such remedy for recovering the same as any other defendant has in other cases by law.

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

Method of determining amount of compensation before justices.

Cf. 14 of 44 Vic. s. 134.

*Broken Hill and Umberumberka Water Supply.*

Remedies in case of damage to property of trust.

Cf. 14 of 41 Vic., s. 137.

**77.** If through any act, neglect, or default, on account whereof any person has incurred any penalty imposed by this Act, any damage to any conduit, main pipe, or property of the trust, used in connection therewith, has been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty. The amount of such damages shall, in case of dispute, be determined by the justices, by whom the party incurring such penalty has been convicted. 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.

Officers of trust may detain offenders in certain cases.

Cf. *ibid.*, s. 138.

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

Remedies in cases of nuisances preserved.

Cf. *ibid.* 110.

**79.** Nothing in this Act shall be construed to render lawful any act, matter, or thing whatsoever, which, but for this Act, would be deemed to be a nuisance, nor to exempt the trust, or any person, from any liability, prosecution, or punishment, to which the trust, or such person, would, but for this Act, have been subject.

Representation of trust in legal proceedings.

Cf. 23 of 1897, s. 250.

**80.** Any person appointed by the trust in that behalf shall have the same right and authority to represent the trust in instituting and conducting any action, suit, or other proceeding in any court of law, or in equity by, for, on account of, or against the trust, as if such action, suit, or proceeding had been brought or instituted by, for, on account of, or against such person individually.

Representative of trust in cases of bankruptcy.

Cf. *ibid.* 251.

**81.** If any person against whom the trust has any claim or demand takes the benefit of any Act relating to bankruptcy, any person appointed by the trust in that behalf, in all proceedings against the estate of such first-mentioned person, or under any sequestration or act of bankruptcy against such person, may represent the trust, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such person so appointed, and not of the trust.

General penalty clause.

Cf. *ibid.* 252.

**82.** Every person committing a breach of any provision of this Act, or of any by-law made hereunder, by wilful act or refusal, or neglect to act or otherwise, shall, when no specific penalty has been provided for such offence, be liable to a penalty not exceeding twenty pounds.

Penalties may be recovered summarily.

Cf. *ibid.* 253.

**83.** All fines, penalties, and forfeitures incurred under this Act, or under any by-law made hereunder, may, unless otherwise provided for, be recovered in a summary way before any two justices in petty sessions.

*Broken Hill and Umberumberka Water Supply.*

84. All fines, penalties, and forfeitures imposed and recovered as aforesaid shall, except when otherwise directed by this Act, be paid into the corporate fund of the body corporate suing therefor. Application of penalties.  
Cf. 23 of 1897, 254.

85. No person shall be liable to any incapacity, disability, fine, penalty, or forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after such incapacity, disability, forfeiture, or penalty has been incurred. Limitation of proceedings.  
Cf. *ibid.* 255.

86. Every entry in the minute book purporting to be a minute of the business transacted at any meeting of the trust, or a Committee, and signed by the chairman at the next meeting of the trust, or the chairman of such committee, which has been holden after such first-named meeting, shall be evidence that such business as is therein recorded was transacted at such meeting, without proof of the meeting having been duly convened or held, or of the persons attending such meeting having been or being duly authorised so to do, or of the fact of such chairman having been or being such chairman. Minutes to be in evidence.  
Cf. *ibid.* 122.

87. Every advertisement, order, direction, summons, notice, demand, or other such document requiring authentication by the trust, shall be sufficiently authenticated if signed by the chairman or by the secretary of the trust, and need not be under the common seal of the trust. And every such document may be in writing or in print, or partly in writing and partly in print. Notices how authenticated.  
Cf. *ibid.* 256.

88. No advertisement, order, direction, notice, demand, or other such document herein required to be published, made, or given, shall be held void for any want of form, provided the same is intelligible. Form of notices.  
Cf. *ibid.* 257.

89. Any summons or notice, or any writ or other process, document, writing, or other matter issued according to the course of any proceeding at law or in equity, and required to be served upon the trust, may be served by the same being sent through the post office directed to the trust at their office, or left at such office, or by being given personally to the chairman or secretary of the trust. Service of legal process.  
Cf. *ibid.* 258.

90. (1) Any notice required by this Act, or any by-law or regulation made thereunder, to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be in writing, or partly in writing and partly printed, or may be wholly printed. Notices.  
Cf. 14 of 44 Vic., s. 139.

(2) It shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier; or, if there be no occupier, if such notice be posted on some conspicuous part of such building or land.

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*Broken Hill and Umberumberka Water Supply.*

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(3) 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 the portion thereof affected by the notice, is situated.

Penalty for interfering with the business of the trust. Cf. 23 of 1897, s. 259.

**91.** Every person who wilfully hinders or interrupts, or causes or procures to be interrupted, the trust or their managers, surveyors, agents, servants, or workmen, or any of them, or the auditors in doing or performing any of the works, or in the exercise of any of the powers and authorities exercisable by or vested in them by law, shall for every such offence forfeit and pay any sum not exceeding ten pounds.

Penalty for neglect of duty. Cf. *ibid.* 260.

**92.** If any person neglects or refuses to do any matter or thing which by this Act he is directed to perform, he shall for every such offence be liable to a penalty not exceeding ten pounds.

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SCHEDULES.

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THE FIRST SCHEDULE.

*General description of proposed scheme.*

Section 4.

THIS scheme comprises the construction of a dam about ninety-six feet high across Umberumberka Creek, as a storage reservoir from which the water will be delivered through a main about nineteen miles long to the several service reservoirs and points of delivery to the council and the various mining companies at Broken Hill, and works contingent thereon.

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THE SECOND SCHEDULE.

*Description of lands vested in council.*

Section 5.

Area occupied by the dam and storage reservoir, together with such land as is included within thirty-three feet of the top water contour level with dam of the height described in the First Schedule, and the surface, and the land to a depth of fifty feet below the surface, of a strip of land seven and a half feet on either side of centre line of main, and such lands as the Governor may deem necessary for the carrying out of the scheme.

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THE

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*Broken Hill and Umberumberka Water Supply.*


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## THE THIRD SCHEDULE.

*Provisions relating to the appointment of members by the mining companies.*

1. The directors of any of the mining companies and on its behalf may, by writing Sections 24-38. under the seal of the company, appoint and at pleasure remove, reappoint, or make any new or other appointment of some person to act for the purposes herein mentioned. Such person is hereinafter called "the appointee."

2. Each of the mining companies shall forthwith on the appointment of the appointee notify in writing the other mining companies the full name, address, and description of such appointee.

3. Any appointee may convene a meeting of appointees. Such meeting shall be deemed to have been duly convened if notice in writing under the hand of the convener shall have been left at the registered offices of the several mining companies specifying a time not less than seven days and some place in Melbourne or Broken Hill at which such meeting is to be held. With the consent of all the appointees a meeting of appointees may be held elsewhere than at Melbourne or Broken Hill.

4. The appointees may by resolution of the majority of the appointees present elect one of their number to be chairman, and may by the like resolution from time to time remove and appoint another appointee to be chairman. The chairman shall when present preside at meetings of appointees, and shall have a casting as well as a deliberative vote. In the absence of the chairman the appointees present at any meeting may elect one of their number to be chairman for that meeting during such absence, and he shall while acting as chairman have a casting as well as a deliberative vote.

5. The appointees may by resolution of the appointees present at any meeting convened for the purpose, elect the first three persons to be members of the trust appointed by mining companies, and may in like manner from time to time fill up any vacancy in such membership. Such members shall be deemed to have been duly appointed members of the trust appointed by the mining companies.

6. If at any meeting of appointees convened for the purpose a resolution be carried by a three-fourths majority of all the appointees calling upon any member to retire from office, such member shall thereupon retire accordingly. The appointees may by the same or another resolution appoint some person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the mining companies.

7. Every member may retire from office as a member of the trust at any time, and shall retire therefrom on notification in writing under the hand of the chairman of the meeting of the appointees to such member that a resolution has been passed at a meeting of appointees calling upon such member to retire.

8. Any such notification shall be deemed to have been duly given to a member when the same shall have been left at the office of the trust in Broken Hill addressed to the member.

9. The appointees may at any meeting make any regulations not inconsistent with the provisions contained in this Schedule, or the Broken Hill and Umberumberka Water Supply Act, 1906—

- (a) for meetings of appointees ;
- (b) for the conduct of such meetings
- (c) generally for exercising any of the powers exercisable by the appointees

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*Broken Hill and Umberumberka Water Supply.*

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THE FOURTH SCHEDULE.

*Provisions relating to appointment of members by the debenture holders.*

Sections 27-38.

1. The secretary or other officer of the trust appointed for the purpose shall, whenever requested so to do by any one or more debenture holders registered as the holder or holders of at least one thousand pounds of debentures, convene a meeting of debenture holders. Such meeting shall be convened by circular, addressed to the debenture holders appearing in the register book of debenture holders.

2. Notice of every such meeting shall be deemed to have been duly given within forty-eight hours of the posting of such circulars in the post office at Broken Hill.

3. The secretary or other officer shall fix, and the circular shall specify the hour and date, and some place in Broken Hill where such meeting is to be held.

4. The debenture holders present at any meeting shall elect one of their number to be chairman of the meeting.

5. The debenture holders may by resolution of the debenture holders present at any meeting convened for the purpose personally or by proxy appoint two persons who are willing to act to be members of the trust appointed by the debenture holders. No such appointments shall be complete until a certificate of such resolution having been duly passed under the hand of the chairman of the meeting shall have been left at the office of the trust.

6. Every debenture holder shall be entitled to vote at any meeting personally or by proxy, and shall have one vote for every one hundred pounds of debentures of which he is at the time of meeting the registered holder.

7. Every resolution at any meeting of debenture holders shall, unless a poll be demanded, be determined in the first instance by a show of hands.

8. Any one or more debenture holder or holders holding individually or collectively at least one thousand pounds of debentures may demand a poll which shall be taken forthwith at such meeting, or at any time and place appointed for the purpose by the chairman of the meeting.

9. A certificate under the hand of the chairman of the meeting certifying that any resolution was passed at any meeting of debenture holders shall be conclusive evidence according to its tenor.

10. A proxy may be in the following form, and shall be attested by at least one witness:—

I, \_\_\_\_\_ of \_\_\_\_\_, being the registered holder of £ \_\_\_\_\_ of debentures issued by the Broken Hill and Umberumberka water trust, do hereby appoint \_\_\_\_\_ of \_\_\_\_\_ to attend and vote for me at a meeting of debenture holders to be held at \_\_\_\_\_ on the day of \_\_\_\_\_, and at all adjournments of such meeting.

As witness my hand the \_\_\_\_\_ day of \_\_\_\_\_

Witness to the signature of the said \_\_\_\_\_

11. Any meeting of debenture holders duly convened for the purpose may pass a resolution calling upon any member of the trust appointed by the debenture holders to retire from office.

12. On delivery at the office of the trust of a certificate under the hand of the chairman of the meeting of such debenture holders that such resolution was duly passed thereat, such member shall be deemed to have retired from office.

13. Any vacancy in the membership of the trust in respect of a member appointed by debenture holders may be filled up in the same way in which the original appointments may be made.

14. Any member may resign his office as a member of the trust at any time.

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*Broken Hill and Umberumberka Water Supply.*

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THE FIFTH SCHEDULE.

*Terms and conditions on which debentures are issued.*

1. All debentures to be issued by the trust pursuant to the power in the Broken Hill and Umberumberka Water Supply Act, 1906, reserved to issue debentures not exceeding in the aggregate two hundred thousand pounds are charged with such priorities one over another as the trust may determine on the undertaking of the trust, and all its property, present and future, and such charge is to be a floating security, but so that the trust is not to be at liberty to create any mortgage or charge in priority to the said debentures. Sections 54-64.

2. A register of debentures shall be kept at the head office of the trust, in Broken Hill, wherein there shall be entered the names, addresses, and descriptions of the registered holders, and particulars of the debentures held by them respectively, and such register shall, at all reasonable times during business hours, be open to the inspection of any registered holder of debentures and his legal personal representatives, and any person authorised in writing by him or them.

3. The registered holder, or his legal personal representatives, shall be regarded as exclusively entitled to the benefit of the debenture, and all persons may act accordingly, and the trust shall not be bound to enter in the register notice of any trust, or to recognise any right in any other person save as herein provided.

4. Every transfer of a debenture shall be in writing under the hand of the registered holder or his legal personal representative. The transfer shall be delivered at the office of the trust with a fee of two shillings and sixpence, and such evidence of identity or title as the trust may reasonably require, and thereupon the transfer will be registered, and a notice of such registration will be indorsed on the debenture. The trust shall be entitled to retain the transfer.

5. In the case of joint registered holders, the principal moneys and interest secured by a debenture shall be deemed to be owing to them upon a joint account.

6. No transfer will be registered during the seven days immediately preceding the days fixed for payment of interest.

7. In respect of each half-year's interest on a debenture, a warrant on the trust's bankers, payable to the order of the registered holder thereof, or, in case of joint holders, to the order of that one whose name stands first in the register as one of such joint holders, will be sent by post to the registered address of such registered holder, and the trust shall not be responsible for any loss in transmission, and the payment of the warrant, if purporting to be duly endorsed, shall be a good discharge to the trust.

8. The principal moneys and interest secured by the debentures shall be paid without regard to any equities between the trust and the original or any intermediate holder thereof, and the receipt of the registered holder for such principal moneys, and interest shall be a good discharge to the trust for the same.

9. The trust may at any time give notice in writing to the registered holder thereof, his executors or administrators, of its intention to pay off any debenture, and upon the expiration of six calendar months from such notice being given the principal moneys secured by such debenture shall become payable: Provided that the council may at any time redeem the whole of the outstanding debentures issued by the trust.

10. The principal moneys secured by any debenture shall immediately become payable if the trust makes default for a period of six calendar months in the payment of any interest thereby secured, and the registered holder thereof before such interest is paid, by notice in writing to the trust, calls in such principal moneys.

11. At any time after the principal moneys secured by any debenture become payable, the registered holder of such debenture may, with the consent in writing of the holders of the majority in value of the outstanding debentures issued by the trust, appoint, by writing, any person or persons to be a receiver or receivers of the property charged by the debentures, and such appointment shall, on confirmation thereof by the

Supreme

*Broken Hill and Umberumberka Water Supply.*

Supreme Court or a judge thereof, be as effective as if all the holders of debentures of the same issue had concurred in such appointment, and the said confirmation shall be conclusive evidence that the said appointment was duly made. And a receiver so appointed shall have power—

- (a) to take possession of the property charged by the debentures ;
- (b) to carry on or concur in carrying on the business of the trust ;
- (c) to sell or concur in selling any of the property charged by the debentures, and to give a good title to such property, including the statutory powers and privileges by this Act conferred ;
- (d) to make any arrangement or compromise which he or they shall think expedient in the interests of the debenture holders.

And all moneys received by such receiver or receivers shall, after providing and paying for all proper expenses, be applied in the first place in redemption of the moneys secured by the debentures, having regard to all priorities created, if any, and, in the next place, in discharge of any other liabilities of the trust, and the surplus moneys (if any) shall be paid to the council for the general purposes of the council.

12. The holders of three-fourths in value of the debentures issued by the trust for the time being outstanding may sanction any agreement with the trust for any modification or alteration of the rights of the holders of debentures as a class, including any release of any property charged thereby, and any postponement of the time for payment of any moneys secured thereby, and any increase or reduction of the rate of interest, and an agreement so sanctioned shall be binding on all the holders of such debentures, and notice thereof shall be given to each debenture holder, and each debenture holder shall be bound thereupon to produce his debentures to the trust, and to permit a note of such agreement, and the sanction thereof aforesaid, to be placed thereon.

13. The principal moneys and interest secured by a debenture will be paid at some bank in Broken Hill or at the office of the trust.

14. A notice may be served by the trust upon the holder of any debenture by sending it through the post in a prepaid letter addressed to such person at his registered address.

15. Any notice served by post shall be deemed to have been served at the expiration of forty-eight hours after it is posted, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

16. Debentures may be transferred by instrument in the following form :—

I, A.B., of \_\_\_\_\_, in consideration of the sum of \_\_\_\_\_ pounds, paid to me by C.D., of \_\_\_\_\_, do hereby transfer to the said C.D. (hereinafter called the transferee) the undermentioned debentures issued by the Broken Hill and Umberumberka water trust—that is to say—

[Here state date, character, amount, and numbers.]

and the full benefit thereof :

To hold the same unto the transferee subject to the several conditions on which I held the same immediately before the execution hereof ; and I, the transferee, do hereby agree to take the said debentures subject to the same conditions.

As witness our hands this \_\_\_\_\_ day of \_\_\_\_\_

Signed by the above-named A.B. in the presence of

[Witness' signature, address, and occupation.]



*Broken Hill and Umberumberka Water Supply.*

THE SIXTH SCHEDULE.

*Broken Hill and Umberumberka water trust.*

Issue of debentures of pounds each, carrying interest at per Section 64.  
centum per annum.

No. pounds

1. The Broken Hill and Umberumberka water trust (hereinafter called the trust) will on the day of , or on such earlier day as the principal moneys hereby secured become payable in accordance with the conditions contained in the Schedule to the Broken Hill and Umberumberka Water Supply Act, 1906, pay to of or other the registered holder for the time being, the sum of pounds.

2. The trust will, in the meantime, pay to such registered holder interest thereon at the rate of per centum per annum by half-yearly payments on the day of and the day of in each year, the first of such half-yearly payments to be made on the day of next.

3. Such payments are charged on the undertaking of the trust, and all its property present and future.

4. This debenture is issued subject to, and with the benefit of, the conditions mentioned in the Fifth Schedule to the Broken Hill and Umberumberka Water Supply Act, 1906, which are to be deemed part of it.

Given under the common seal of the trust, this day of

The common seal was affixed hereto in the presence of

By Authority: WILLIAM APPLGATE GULLICK, Government Printer, Sydney, 1907.

[1s. 3d.]

[1887]

THE SIXTH PART

THE SIXTH PART

1887

BROKEN HILL AND UMBERUMBERKA WATER SUPPLY BILL.

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*SCHEDULE of the Amendments referred to in Message of 17th December, 1906.*

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- Page 4, clause 10, line 44. Omit "seventy-three" insert "**seventy-two**"
- Page 4, clause 10, line 45. Omit "seventy-four" insert "**seventy-three**"
- Page 13, clause 59, line 8. Omit "mining company" insert "**of the mining companies**"
- Page 13, clause 60, line 11. Omit "mining company" insert "**of the mining companies**"
- Page 13, clause 60, line 14. Omit "sixty" insert "**fifty-nine**"
- Page 13, clause 62, line 23. Omit "mining company" insert "**of the mining companies**"
- Page 14, clause 68, line 33. Omit "mining company" insert "**of the mining companies**"
- Page 15, clause 69, line 6. Omit "every mining company" insert "each of the mining  
"companies"
- Page 15, clause 70, line 13. Omit "a mining company" insert "**any one of the mining  
"companies"**"
- Page 21, Schedule Three, line 3. Omit "mining company" insert "**of the mining  
"companies"**"
- Page 21, Schedule Three, line 7. Omit "Every mining company" insert "**Each of the  
"mining companies"**"
- Page 23, Schedule Five, lines 7 and 8. Omit "and are hereby charged thereon without  
"any preference or priority one over another."
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*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 11 December, 1906. }*

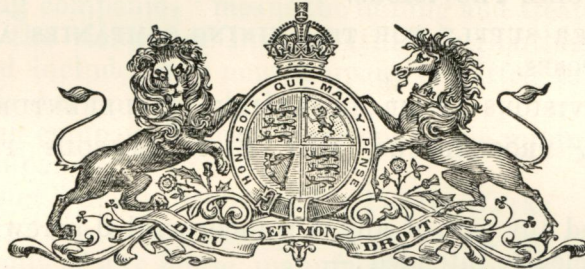
*RICHD. A. ARNOLD,  
Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, 17th December, 1906. }*

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

## New South Wales.



ANNO SEXTO

## EDWARDI VII REGIS.

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Act No. , 1906.

An Act to provide for an additional water supply for Broken Hill and district; for that purpose to confer certain powers on and to vest certain lands in the municipal council of Broken Hill; to authorise the transfer of such powers and lands to a trust to be constituted; to confer certain other powers on such trust; to apply and amend certain Acts; and for purposes consequent thereon or incidental thereto.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5      1. This Act may be cited as the "Broken Hill and Umberum- Short title.  
berka Water Supply Act, 1906."

88283

317—A

2.

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

*Broken Hill and Umberumberka Water Supply.*

2. This Act is divided into parts, as follows :—

Division of Act.

PART I.—THE CONSTRUCTION OF WATERWORKS AND ACQUISITION OF LANDS.

PART II.—SPECIAL PROVISIONS AS TO WATER SUPPLY.

5 PART III.—EXTENSION OF ACT TO OTHER COMPANIES.

PART IV.—THE TRUST.

PART V.—OFFICERS.

PART VI.—FINANCIAL PROVISIONS.

10 PART VII.—WATER SUPPLY FOR THE MINING COMPANIES AND DOMESTIC PURPOSES.

PART VIII.—PROVISIONS AFTER REPAYMENT OF DEBENTURES.

PART IX.—LEGAL PROCEEDINGS AND MISCELLANEOUS PROVISIONS.

3. In this Act, and any part of any Act incorporated herewith, Interpretation  
15 except where otherwise clearly intended :—

“Alderman” means an alderman of the municipal district of Broken Hill.

“Borough or municipal district” and “borough or municipality” mean the district.

20 “Catchment area” means the drainage area of the streams and other sources of water supply included within any boundaries set forth in any proclamation under this Act for the purpose.

“Chairman” means the chairman of the trust or the acting chairman thereof.

25 “Conduit” means the canals, tunnels, aqueducts, cuttings, or pipes by means of which the main stream of water is supplied.

“Council” means the council of the municipal district of Broken Hill, and, except in Part IV, includes the trust.

30 “Council clerk” means the person authorised by the council to perform the duties of council clerk, and includes the secretary of the trust.

“District” and “municipal district” means the municipal district of Broken Hill, and includes any locality within which any of the powers conferred by this Act may be exercised.

35 “Domestic purposes” does not include a supply of water for stables or for manufacturing purposes or for irrigation, water power, fountains, or for any ornamental purposes.

40 “Incorporated” means that the legislation incorporated is to be read and construed as though the same were specifically enacted in this Act in aid of any of the purposes of this Act, whether such legislation refers to or depends on other legislation or not.

“Justice” means any justice of the peace.

“Mayor,”

*Broken Hill and Umberumberka Water Supply.*

- 5 “Mayor,” “mayor of the council,” or “mayor of such council” means the mayor of the municipal district, and includes any person acting in the office of mayor, and includes also the chairman of the trust and any person acting in the office of chairman of the trust.
- “Member” means a member of the trust.
- 10 “Mines” means the several properties and undertakings of the mining companies respectively situated or carried on in Broken Hill or the vicinity thereof.
- “Mining companies” means the mining and treatment companies in the vicinity of Broken Hill contributing to the scheme, and includes any new company admitted to the benefits of this Act pursuant to Part III.
- 15 “Mining company” means some one of the mining and treatment companies.
- “Minister” means Secretary for Public Works.
- “Owner” means any person who is in receipt of the rents and profits of any house, manufactory, or building, of whatsoever kind, or of any land.
- 20 “Secretary” means the officer of the trust performing the duties of secretary of the trust.
- “Street” means any square, court, alley, highway, lane, road, thoroughfare, or public passage.
- “Trust” means the trust hereby authorised to be created.

25

## PART I.

*The construction of waterworks and acquisition of land.*

4. (1) The council may at any time within a period of twelve months, and subject to the approval of the plans by the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works, proceed to construct and carry out the scheme shortly described in the First Schedule, with such modifications, alterations, and extensions as the council may think necessary for the purpose of securing an additional water supply to the inhabitants of the district, and to assist the development of the mines. The scheme.
- 30
- 35 (2) If works in connection with the scheme are not bona fide commenced within the said period of twelve months, or if such works are thereafter for a continuous period of three months discontinued without the authority of the Governor in that behalf, the council shall forfeit all its rights and privileges under this Act, and the same shall become void, and all Crown lands vested in the council in pursuance of this Act shall revert to His Majesty absolutely free from all estates, interests, encumbrances, and easements created after the commencement of this Act.
- 40

5.

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5. Such Crown lands as are included in the lands described in the Second Schedule are hereby vested in the council for an estate of inheritance in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rents, rates, 5 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 council :

Vesting of necessary lands.

10 Provided that the council shall have no power to lease or sell any such lands, or to utilise such land for purposes other than those for which the trust may be created in pursuance of this Act.

6. "Crown lands" means all lands vested in His Majesty which have not been dedicated to any public purpose, or which have not been granted in fee or lawfully contracted to be so granted, or which 15 are not under lease for purposes other than pastoral purposes.

Definition of "Crown lands."

7. (1) The council may for the purpose and subject to the provisions of this Act acquire, purchase, or take on lease, sell, or exchange any land wherever situated, whether within or without its municipal district, and may also purchase any water privileges or 20 easements which interfere with the proper drainage or with the supply of water.

Power to take other lands.

(2) Any lands so acquired by the council, but not required for the purpose for which they were acquired, may, with the approval of the Governor, be sold or leased by the council, and the proceeds of 25 such sale or lease shall be applied in discharging by means of a sinking fund or otherwise the liability in respect of any moneys borrowed for the purposes of this Act.

Power to sell surplus lands.

8. The whole of Part IV and the Third, Fourth, and Fifth Schedules (such Schedules being modified to suit the purposes of this 30 Act) of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated.

Incorporation of certain provisions of Act 14 of 44 Vic. as to taking of lands and compensations.

9. The Governor may at any time define by proclamation the boundaries of any catchment area and of any water district within which any of the powers hereby conferred may be exercised, and such 35 boundaries may be outside the boundaries of the municipal district.

Governor may define boundaries.

10. Section thirteen (except subsections twelve to fifteen, both inclusive, thereof, and except so much of that section as prescribes the distance from the water main of the council within which lands and tenements may be subject to water rates) and sections fourteen and 40 fifteen of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated :

Power to make by-laws.

Provided that the said sections hereby incorporated shall apply only in respect of any land or premises supplied with water by the council or the trust under the provisions of section ~~seventy-three~~ **seventy-** 45 **two** of this Act or out of the surplus water referred to in section ~~seventy-~~ **four** ~~seventy-three~~ **seventy-three** of this Act.

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*Broken Hill and Umberumberka Water Supply.*

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## PART II.

*Special provisions as to water supply.*

11. The whole of Part II of the Country Towns Water and Sewerage Act of 1880 (except sections thirty-five to forty-one, both 5 inclusive, and sections sixty and sixty-one) is hereby incorporated. Incorporation of provisions as to water supply in Act 14 of 44 Vic.

12. The following provisions of Act number forty-three of one thousand nine hundred and five are hereby incorporated, namely, sections five to eleven (both inclusive), twenty-one and twenty-two, the whole of Part III (except sections thirty-six and thirty-seven and 10 subsection two of section thirty-eight), section sixty, and sections sixty-two to seventy (both inclusive), and Schedules A and B: Incorporation of certain provisions of Act 43 of 1905.

Provided that the incorporation of the said Part III shall be subject to the proviso contained in section ten of this Act.

## PART III.

15 *Extension of Act to other companies.*

13. Any company (hereinafter referred to as a "new company") 15 desirous of obtaining the benefits and becoming subject to the liabilities by this Act conferred and imposed respectively on mining companies may by writing under its common seal apply to the trust that it may 20 enjoy such benefits and become subject to such liabilities. Other companies may apply to obtain benefit of this Act.

14. The trust shall, on receipt of such application, consider the same, and may by resolution reject the same or accept the same conditionally upon such terms as the trust may in its absolute discretion think fit: Resolution of the trust on application.

25 Provided that such new company may, in the event of its being dissatisfied with such resolution, appeal to the Minister, who may confirm, vary, or alter the conditions contained in such resolution of the trust, and the trust shall be bound by the decision of the Minister.

30 15. On compliance with such terms the new company shall be deemed a mining company, and shall thereafter enjoy all the benefits, and thereafter be subject to all the liabilities, which the mining companies are thereafter entitled and subject to respectively. Extension of Act to the company applying.



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PART IV.

*The trust.*

16. There shall be a trust to be called "Broken Hill and Umberumberka Water Trust."

The trust.

5 17. (1) The council may, with the consent of the Governor-in-Council, from time to time, and at any time, assign, transfer, convey, and release to the trust any of the rights, powers, and authorities, privileges, liabilities, and obligations conferred and imposed upon the council by this Act, together with all lands, 10 tenements, hereditaments, estates, chattels, and effects of every kind acquired by, under, or in pursuance of, and purchased, occupied, or used in connection with the same. Upon and after the completion of such assignment, transfer, conveyance, and release, the trust, its assigns and its and their officers, agents, and servants may lawfully 15 exercise and enjoy all such rights, powers, authorities, and privileges, and shall be and continue to be subject to all such liabilities, obligations, penalties, and forfeitures to which the council, its officers, agents, or servants would have been entitled or subject to had no such assignment, transfer, conveyance, and release been completed.

Council may delegate powers and assign property to the trust.

20 (2) Nothing hereinafter contained shall prejudice or affect any rights, accrued actions, or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by, the council before the completion of the said assignment, conveyance, and release.

25 18. The trust shall consist of seven members, three of whom shall be appointed by the council, three by the mining companies, and one by the Governor. When debentures have been issued pursuant to section fifty-five, and so long as any such debentures are outstanding, the number of the members of the trust shall be increased to nine by the appointment by the debenture holders of two additional 30 members. When the debentures are paid off, the said additional members shall retire.

Members of the trust.

35 19. The members to be appointed by the council shall be appointed by the council by a resolution of the majority of the members of that body present at a meeting convened and held for the purpose.

Representatives of the council.

40 If at any meeting of the council convened for the purpose a resolution be carried by an absolute three-fourths majority of the council calling upon any member of the trust appointed by the council to retire from office, such member shall thereupon retire accordingly. The council may by the same or another resolution appoint some person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the council.

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20. No person shall be so appointed by the council who has not previously, by writing signed by him and delivered to the mayor or the council clerk, signified his willingness to act as a member and who does not at the time of his appointment hold office as alderman. Council representatives must be aldermen.
- 5 21. Every appointment shall be certified by writing under the common seal of the council. Appointment to be sealed.
22. The council shall notify the appointment in the Gazette. Appointment to be Gazetted.
23. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made. Gazette to be evidence.
- 10 24. The members to be appointed by the mining companies shall be appointed according to the provisions contained in the Third Schedule. Representatives of the mining companies.
25. Every appointment by the mining companies shall be notified in the Gazette. Appointment to be gazetted.
- 15 26. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made. Gazette to be evidence.
27. The members to be appointed by the debenture holders shall be appointed in accordance with the provisions contained in the Fourth Schedule. Representatives of the debenture holders.
- 20 28. In any case where there has, in the opinion of the Governor, been unreasonable delay in the appointment of a member by the council, the mining companies, or the debenture holders, the Governor may, on behalf of the council, mining companies, or debenture holders guilty of such delay, appoint the member or members required to be 25 appointed by the council, mining companies, or debenture holders respectively. On neglect to appoint, the Governor may appoint the representatives.
29. Members so appointed by the Governor shall be deemed to have been duly appointed by the council, mining companies, or debenture holders as the case may be. Members appointed by the Governor to be deemed duly appointed.
- 30 30. The Governor shall, in the Gazette, notify the name or names of any persons so appointed, and on whose behalf such persons have been appointed. The Gazette containing such notification shall be conclusive evidence that such persons have been duly appointed by the council, mining companies, or debenture holders as mentioned in 35 the notification. Appointments to be gazetted and Gazette to be evidence of appointment.
31. When any vacancy occurs in the trust the same shall be filled up in manner hereinbefore provided, so far as applicable, by appointment by the council, the mining companies, or debenture holders according as such vacancy has been caused in respect of a 40 member appointed by the council, the mining companies, or the debenture holders. Vacancies.
32. Every member shall, subject as hereinafter mentioned, be deemed to have been appointed for three years. Term of appointment.
- 45 33. (1) At the end of every year from the date of the appointment of the first member, one of the members appointed by the council, the mining companies, and the debenture holders respectively shall retire. Retirement each year.

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(2) As between the respective members appointed respectively by the council, the mining companies, and the debenture holders, the member to retire shall be the one who has been longest in office since his last appointment, and in case of equality in length of service as member such retirement shall be determined by lot. Order of retirement.

**34.** A member retiring shall, except during the continuance of any disability as herein provided, be eligible for reappointment. Retiring members to be eligible for reappointment.

**35.** Any member— Disqualifications.

- (a) Having his estate placed under sequestration as bankrupt; Cf. Act 23, 1897, s. 33.
- 10 (b) having executed any deed of assignment for the benefit of his creditors;
- (c) being absent without leave from the meetings of the trust for more than three consecutive months;
- 15 (d) holding any office or place of profit (other than that of member) under or in the gift or disposal of the trust;
- (e) being directly or indirectly by himself or any partner engaged or interested in any contract or employment with, by, or on behalf of the trust;
- 20 (f) being a member appointed by the council ceasing to hold office as alderman;
- (g) being of unsound mind;

shall thereby become disqualified and shall cease to hold office as a member.

**36.** Every person becoming disqualified by reason of the sequestration of his estate or the execution of any deed of assignment as aforesaid shall, on obtaining his certificate or paying his debts in full, or obtaining an absolute release from his creditors, be capable of being reappointed. Removal of disqualification. Cf. *ibid.* s. 40.

**37.** No member shall be disqualified or cease to hold office by reason of his being a shareholder or director of any joint stock company contracting with the trust. Saving as to disqualification. Cf. *ibid.*, s. 38.

**38.** Every member appointed by the mining companies or debenture holders respectively shall be disqualified and cease to hold office upon being requested to retire, as provided in the Third and **35** Fourth Schedules respectively. Retirement of certain members.

**39.** (1) The trust may make regulations for or relating to— Trust may make regulations.

- (a) the times of its meetings;
- (b) the conduct of its proceedings and business;
- 40 (c) the appointment, powers, and control of committees formed out of members of the trust;
- (d) the duties, control, supervision, and guidance of its officers and servants; and
- (e) the use of its common seal. (2)

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(2) All such regulations shall be published in the Gazette, and the Gazette purporting to contain any such regulation or any amendment or repeal of a regulation shall be evidence thereof, and that such regulation, amendment, or repeal was duly made.

5      **40.** The trust may act notwithstanding any vacancy or Trust may act, notwithstanding any vacancy.  
vacancies in its membership.

**41.** The meetings of the trust shall be held at Broken Hill. Place of meeting.  
Three members shall form a quorum. Quorum.

**42.** The trust shall appoint one of the members appointed by Chairman.  
10 the council to be chairman of the trust, who shall be chairman of every committee appointed by the trust, and he shall have a casting as well as a deliberative vote on the trust and on every committee of the trust. When the chairman is absent from any meeting, the members present shall appoint one of the members appointed by the council to be  
15 chairman to act during such absence, and he shall preside and have a casting as well as a deliberative vote.

**43.** The chairman shall be paid out of the moneys of the trust Remuneration to members.  
an honorarium of one hundred pounds per annum, and each of the members shall be paid out of the said moneys an honorarium of fifty  
20 pounds per annum. No alderman, by reason of being a member of the trust, shall be disqualified from holding or shall cease to hold office as alderman.

**44.** The trust shall be a body corporate by the name of "The Trust to be a body corporate.  
Broken Hill and Umberumberka Water Trust," and shall have  
25 perpetual succession and a common seal.

**45.** All courts, judges, and persons acting judicially shall take Judicial notice of the seal.  
judicial notice of such seal and shall presume that the same was properly affixed.

**46.** Every instrument which it may be necessary for the trust Seal to be affixed.  
30 to execute shall, subject to the provisions of section 90, have the seal affixed thereto.

**47.** The trust—

- (a) may in its corporate name acquire, hold, and alienate property, Powers of trust to deal with property, &c., and duties as to minutes, &c.  
and sue and be sued in all courts, and be a party to any  
35 arbitration ;
- (b) shall acquire from the Minister the tools, plant, and materials belonging to the Government at the site or in the vicinity of the dam at Umberumberka at a valuation to be determined upon.
- (c) may delegate to any committee, officer, or servant any of  
40 its powers as it thinks fit, and may alter, vary, or revoke such delegation ;
- (d) may do all such acts and things as may be necessary and expedient for carrying out the purposes of this Act ;

(e)

*Broken Hill and Umberumberka Water Supply.*

- (e) shall cause proper minutes or records of all its proceedings and the proceedings of any committee to be kept ;
- (f) shall cause proper books of account to be kept to the satisfaction of the auditors ;
- 5 (g) shall each year appoint two auditors and fix their remuneration. No auditor shall hold office for more than two consecutive years. The auditors shall have access to the books of account and vouchers whenever they think necessary, and shall certify the balance-sheets;
- 10 (h) shall cause a proper balance-sheet to be prepared to the satisfaction of the auditors every six months, and the same shall be published in the Gazette.

48. (1) Upon affidavit that any member has been appointed to or holds or exercises such office of member being incapable under the provisions hereof of being or continuing such member, it shall be lawful for the Supreme Court, or any judge thereof, to grant a rule or order calling upon such person to show cause to the court why he should not be, by the said court, ousted of the said office, and where upon the return of such rule or order it appears to the court that such person so appointed or holding or exercising such office was at the time of his appointment, or while holding or exercising such office, incapable under the provisions hereof of being or continuing such member as the case may be, the court may make such rule or order absolute, or if the matter does not so appear, may discharge such rule or order, and in either and every such case with or without the payment of costs to or by either party as the court deems meet.

(2) The person against whom any rule is made absolute shall be deemed thereby to be ousted of any office accordingly.

(3) No order or rule shall in any case be granted if at the time of such application for any such rule or order more than three months have elapsed after the appointment or the time when the person against whom such application is made was disqualified.

Ouster of office.  
Cf. Act 23, 1897  
s. 109.

## PART V.

*Officers.*

35 49. The trust shall appoint such officers and servants as in their discretion they may deem necessary for the execution of the powers and duties hereby vested in the trust, and shall assign remuneration to such officers and servants by way of salaries, allowances, or wages, which shall be in lieu of all fees, perquisites, and other emoluments whatever.

Officers and servants  
to be appointed  
Cf. *ibid.* s. 126.

*Broken Hill and Umberumberka Water Supply.*

50. Every officer employed by the trust who exacts or accepts on account of anything done by virtue of his office, or in relation to the matters to be done under this Act, any fee or reward whatever other than the salary or allowance allowed by the Trust shall be  
 5 liable to a penalty of not less than ten pounds nor more than one hundred pounds.

Penalty against bribery.  
 Cf. Act 23, 1897, s. 127.

51. (1) Every officer or servant who, by reason of his office or employment under the trust, is entrusted with the custody or control of any moneys shall—

Duties of officers as to money belonging to the trust,  
 Cf. *ibid.* s. 128.

- 10 (a) give such security for faithfully and duly accounting for the same as the trust may think sufficient;
- (b) within seven days after having received any moneys or within such shorter time as the trust may appoint, pay over the same to some person appointed by the trust or into some  
 15 bank selected by the trust;
- (c) as and when the trust may direct, deliver a list signed by him containing the names of all persons who have neglected or refused to pay any sums due by them;
- 20 (d) when and as required by the trust make out and deliver a true and perfect account in writing under his hand and signature of all moneys received by him for the purposes of this Act, distinguishing how and to whom and for what purposes such moneys have been disposed of;
- 25 (e) together with such account deliver the vouchers or receipts for all payments made by him, and shall pay over to or receive from the said person appointed by the trust mentioned in subsection (b) hereof or the chairman the balance of such accounts (if any).

30 (2) If any such officer or servant fails to render such account, or to produce and deliver up all vouchers and receipts in his possession or power, or to pay over any such moneys or balance as aforesaid, or if, for the space of seven days after being thereunto required, he fails to deliver up to the trust all books, papers, writings, property, effects, matters, and things in his possession or power  
 35 belonging to the trust, he shall, on proof thereof before any justice, and on his still failing or refusing to do such or any other required act relating to the premises, be liable, on summary conviction before a justice, to be imprisoned for any term not exceeding three weeks or until he has done such act.

40 And if it appears that he has failed to pay over such moneys as aforesaid, and he still fails or refuses so to do, the justice may cause any such moneys as aforesaid to be levied by distress upon his goods and chattels, and in default of any sufficient distress may commit him to gaol without bail for any time not exceeding three months unless  
 45 such moneys be sooner paid :

Provided

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Provided that upon proof on oath to any justice that there is probable cause for believing that any such officer or servant so charged is about to abscond, such justice may, without summons, cause him to be forthwith apprehended upon warrant, and may, upon  
5 prima facie proof on oath of the charge, require him to give bail for his subsequent appearance to answer the same :

Provided also that no such proceeding shall relieve any surety of the offender from any liability whatsoever, nor any such offender from being held to answer any criminal information, charge, or  
10 proceeding whatsoever.

52. (1) The chairman may suspend from office at any time any officer or servant of the trust who may, in his opinion, be guilty of misconduct or neglect, and if necessary may temporarily appoint and may take security from another officer or servant to fulfil the duties  
15 of such officer or servant so suspended as aforesaid :

Suspension of officers.  
Cf. Act 23, 1897,  
s. 129.

Provided that at the then next meeting of the trust the chairman shall report the matter to the trust, and if the officer or servant so suspended is dismissed by the trust, no salary or wages shall be due or payable to him from or after the date of his suspension.

20 (2) Every officer or servant so temporarily appointed shall only hold office and receive remuneration (which remuneration shall in no case exceed that paid to the suspended officer or servant) until the trust decides whether the person suspended shall be reinstated or shall be dismissed and a successor appointed in his stead.

25

## PART VI.

*Financial provisions.*

53. The trust may, as hereinafter provided, borrow such money, not exceeding two hundred thousand pounds, as in the opinion of the trust may be required for any of the purposes of this Act.

Power to borrow.

30 54. The trust may, on the terms and conditions contained in the Fifth Schedule, issue debentures to secure the repayment of money borrowed with interest thereon to the lenders.

Power to issue debentures.

55. No judgment against the trust shall be enforced except as against or be recoverable except out of the property of the trust.

Judgment enforce-  
able against trust  
property only.

35 56. In the event of the trust determining to borrow moneys, it may at any time, not later than two years from the passing of this Act, and from time to time during such period by notice in writing under the seal of the trust, call upon the mining companies to lend to the trust any sum or sums of money not exceeding in the aggregate  
40 of all such demands two hundred thousand pounds.

Mining companies to  
lend £200,000.

57.

*Broken Hill and Umberumberka Water Supply.*

57. Any such notice shall be deemed to have been duly given to the mining companies if the same has been advertised twice at least in the Gazette, and twice at least in one daily newspaper circulating in Broken Hill. Notice may be given by advertisement.
58. The notice shall specify the amount required to be lent by each mining company. Notice to specify amount.
59. The liability hereby imposed is a several liability, and the amount to be lent by each ~~mining company~~ of the mining companies shall be ascertained and fixed mutually between the contributing mining companies and the trust. Contributions by the companies.
60. Each ~~mining company~~ of the mining companies shall, within one month after the last advertisement of the notification mentioned in section fifty-eight, pay to the trust the moneys ascertained and fixed in accordance with section ~~sixty~~ fifty-nine required to be lent by such company. Company to pay its contributions in a month.
61. The liabilities hereby created in favour of the trust against the several mining companies respectively shall, without prejudice to any other remedy, be enforceable against any property of the respective mining companies situated within the State of New South Wales, and the amount thereof may be levied by distress and sale of such property on a warrant of the chairman as though such amount were rent in arrear to the trust. Recovery of company's contribution.
62. Any ~~mining company~~ of the mining companies may discharge the whole or part of the obligation hereby imposed in respect of the particular amount required to be lent by such company by finding some one or more persons (hereinafter referred to as "the substitutes") willing to lend and lending to the trust the particular amount required on the terms on which such mining company is liable so to do. Company may escape liability to contribute by finding substitutes.
63. In exchange for and to the amount of the moneys respectively lent, the trust shall deliver debentures to the respective mining company or substitutes. Debentures to be issued for moneys lent.
64. Such debentures shall be in the form in the Sixth Schedule and shall confer the rights and be issued on the terms and subject to the conditions mentioned in the Fifth Schedule. Form and terms of debentures.
65. The principal moneys respectively lent by the mining companies or substitutes shall be repaid to the registered holders for the time being of the debentures and in exchange for the debentures unless lost or destroyed (in which case such loss or destruction shall be proved to the satisfaction of the trust) on the date mentioned in the debentures respectively, not exceeding thirty years from the respective issue thereof as therein respectively mentioned, or such debentures may at any time be redeemed by the council. Such debentures shall bear interest at a rate not exceeding five pounds per centum per annum payable by half-yearly instalments on some dates appointed in the debentures respectively. Repayment of debentures.



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66. As long as any debenture issued by the trust remains unredeemed the trust shall, on the thirtieth day of June and thirty-first day of December in every year after making provision or allowance in account for—

Application of receipts while debentures are outstanding.

- 5 (a) payment of expenses incurred during the preceding six months in connection with the business of the trust, including maintenance;
- (b) a renewal fund to replace and to be applied solely in replacing the renewable parts of the undertaking then constructed;
- 10 (c) estimated current expenses during the next following month in connection with such business,
- apply the residue of its receipts—
- (a) in defraying the interest then payable on debentures; and
- 15 (b) in forming a sinking fund to be invested in any way in which trust funds may be invested for the purpose of and to be applied and applicable solely for the redemption of the principal and interest moneys secured by the debentures.

67. Upon the works referred to in the Broken Hill Water Supply Act, 1890, becoming vested in the Government, either by acquisition or reversion, it shall be lawful for the Governor, by notification in the Gazette, to notify to the council or trust his intention to acquire the works constructed under this Act, together with all lands and other property vested in the council or the trust in connection therewith; and the same shall, on a date to be fixed by the Governor, absolutely vest in His Majesty. The purchase money shall be as agreed upon between the Governor and the council or trust, and in case of dispute shall be determined by arbitration in accordance with the Acts then in force regulating the settlement of disputes by arbitration: Provided that the amount to be paid as such purchase money shall not exceed the cost of such works, land, and property.

Purchase of works constructed under this Act.

## PART VII.

*Water supply for the mining companies and domestic purposes.*

68. Any mining company of the mining companies may from time to time, by notice in writing under the hand of its manager, secretary, or other officer, from time to time appointed for the purpose, notify the trust of the amount of water (hereinafter called "the required reserve") such company requires the trust to keep in reserve for its use during the next ensuing twelve months.

Reserve requirements of companies may be notified.

69.

*Broken Hill and Umberumberka Water Supply.*

69. The trust shall, subject to this Act, and unless prevented by shortness of supply or unavoidable accident—

Reserve to be kept and supplied.

5 (a) conduct its business so that the required reserve of every mining company shall be kept in reserve and applicable for the use of such mining company ;

10 (b) Supply every ~~mining company~~ each of the mining companies with water from time to time required by such mining company to the amount of the required reserve, delivered through meters on some part of the property of such mining company approved by the trust, at a rate not exceeding two shillings and sixpence per one thousand gallons.

15 70. If in any year, calculated from the first day of January to the thirty-first day of December, a ~~mining company~~ any one of the mining companies has not taken an amount of water equal to its highest required reserve, as notified to the trust during such year, and the trust has at all times during such year been ready and willing to supply such mining company with the same, the trust may demand and recover payment from such mining company for the difference between such amount and that during such year so taken at a rate

Company to be bound to take the quantity required to be reserved.

20 71. When the supply of water from Stephen's Creek is, or is likely to become, exhausted, inadequate, unavailable, or unfit for domestic purposes, the council, on receipt of and in accordance with the certificate in writing of the Chief Engineer for Rivers, Water

25 Supply, and Drainage of the Department of Public Works to that effect, may, by resolution under its common seal, require the trust to keep in reserve the amount of water specified in such resolution for the domestic purposes of the population of Broken Hill.

Council may require water to be reserved for domestic purposes.

30 72. Upon receipt of such resolution the trust shall—

(a) out of the water then available reserve for such domestic purposes the amount of water specified in the resolution, and sell and supply to the council water to the amount required to be reserved for domestic purposes, or so much thereof as may be required by the council at some point or points of delivery in Broken Hill determined by the trust on receiving

35 payment for such water at the same rate as that chargeable to the mines ; and

Trust to comply with the council's demand.

40 (b) cease to supply any mining company, or diminish the supply to any mining company, in order to secure a supply to the council of the amount required as aforesaid, to be reserved for domestic purposes.

45 73. (1) Subject to the rights hereby conferred in favour of a supply of water for the mining companies and for domestic purposes, the council may require the trust to sell and dispose of any surplus water to the council at the same rate per one thousand gallons as that

Surplus water to be sold to the council.

*Broken Hill and Umberumberka Water Supply.*

that charged to the mines; such water to be delivered to the council in Broken Hill at some point or points of delivery nearest to the receiving tank station of the Broken Hill Water Supply, Limited, on reserve number three thousand and seventy-five.

- 5 (2) The council may resell any water so purchased at such rate to such persons and in such manner as the council thinks fit, and generally may exercise any of the powers conferred by this Act. Council may resell water.

## PART VIII.

*Provisions after repayment of debentures.*

- 10 74. As soon as all the debentures issued by the trust have been redeemed— Membership of trust on redemption of debentures, price of water to the companies, and application of profits.
- (a) the members appointed by the debenture holders shall retire from office;
- 15 (b) subject to the special provisions relating to the supply of water for domestic purposes the trust shall supply water to the mining companies and the council at a price not exceeding, after making all proper allowances, the actual cost to the trust of such water delivered at the mines plus ten pounds per centum thereon;
- 20 (c) the profits of the trust in every year shall be distributed as to one-half to the council for the general purposes of the council, and as to the remaining half shall be applied in reducing the cost of water pro rata to the mining companies during the ensuing twelve months.

## PART IX.

*Legal proceedings and miscellaneous provisions.*

- 25 75. The following provisions shall and may be applied in respect of all actions and proceedings taken in respect of claims for damages not within the meaning and operation of Part IV of the Procedure in actions against trust. Cf. 14 of 44 Vic., s. 133.
- 30 Country Towns Water and Sewerage Act of 1880, or any incorporated amendment thereof, namely:—

- (a) No action against the trust shall be maintainable in any court other than the Supreme Court, and no writ of execution shall be issued against the council until the expiration of fourteen days after final judgment has been signed.
- 35

(b)

*Broken Hill and Umberumberka Water Supply.*

- (b) No plaintiff shall recover in any such action unless notice in writing has been given to the defendant twenty-eight days before such action is commenced of such intended action, signed by the attorney of the plaintiff specifying the cause of such action, and the plaintiff shall not recover in any such action if tender of sufficient amends has been made to him or to his attorney by or on behalf of the defendant before such action brought. In case no such tender be made, it shall be lawful for the defendant in any such action, by leave of the court at any time before issue joined, to pay into court such sum of money as he thinks proper, whereupon such proceedings, order, and judgment shall be made and given by such court as in other actions where the defendant is allowed to pay money into court.
- (c) No such action or suit shall be brought after three months from the act committed. The defendant in every such action or suit may at his election plead specially or the general issue, and give this Act and the special matter in evidence at any trial, and prove that the same was in pursuance and under the authority of this Act. If the same appear to have been so done, or if such action or suit have been brought before the expiration of twenty-eight days next after such notice has been given as aforesaid, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same, or be brought in any other place than as aforesaid, the jury shall find a verdict for the defendant. Upon such verdict, or if the plaintiff be nonsuited or discontinue his action or suit after the defendant has appeared, or upon any demurrer, judgment be given against the plaintiff, the defendant shall recover full costs of suit and have such remedy for recovering the same as any other defendant has in other cases by law.

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

Method of determining amount of compensation before justices.

Cf. 14 of 44 Vic. s. 134.

*Broken Hill and Umberumberka Water Supply.*

77. If through any act, neglect, or default, on account whereof any person has incurred any penalty imposed by this Act, any damage to any conduit, main pipe, or property of the trust, used in connection therewith, has been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty. The amount of such damages shall, in case of dispute, be determined by the justices, by whom the party incurring such penalty has been convicted. 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.
78. It shall be lawful for any officer or servant of the trust, and all persons called by him to his assistance, to seize and detain any person who has committed any offence against the provisions of this Act, and whose name and residence is unknown to such officer or servant, and convey him with all convenient despatch before some justice, without any warrant or other authority than this Act, and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.
79. Nothing in this Act shall be construed to render lawful any act, matter, or thing whatsoever, which, but for this Act, would be deemed to be a nuisance, nor to exempt the trust, or any person, from any liability, prosecution, or punishment, to which the trust, or such person, would, but for this Act, have been subject.
80. Any person appointed by the trust in that behalf shall have the same right and authority to represent the trust in instituting and conducting any action, suit, or other proceeding in any court of law, or in equity by, for, on account of, or against the trust, as if such action, suit, or proceeding had been brought or instituted by, for, on account of, or against such person individually.
81. If any person against whom the trust has any claim or demand takes the benefit of any Act relating to bankruptcy, any person appointed by the trust in that behalf, in all proceedings against the estate of such first-mentioned person, or under any sequestration or act of bankruptcy against such person, may represent the trust, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such person so appointed, and not of the trust.
82. Every person committing a breach of any provision of this Act, or of any by-law made hereunder, by wilful act or refusal, or neglect to act or otherwise, shall, when no specific penalty has been provided for such offence, be liable to a penalty not exceeding twenty pounds.
83. All fines, penalties, and forfeitures incurred under this Act, or under any by-law made hereunder, may, unless otherwise provided for, be recovered in a summary way before any two justices in petty sessions.
- 84.

Remedies in case of damage to property of trust.

Cf. 14 of 44 Vic., s. 137.

Officers of trust may detain offenders in certain cases.

Cf. *ibid.*, s. 138.

Remedies in cases of nuisances preserved.

Cf. *ibid.* 140.

Representation of trust in legal proceedings.

Cf. 23 of 1897, s. 250.

Representative of trust in cases of bankruptcy.

Cf. *ibid.* 251.

General penalty clause.

Cf. *ibid.* 252.

Penalties may be recovered summarily.

Cf. *ibid.* 253.

*Broken Hill and Umberumberka Water Supply.*

84. All fines, penalties, and forfeitures imposed and recovered as aforesaid shall, except when otherwise directed by this Act, be paid into the corporate fund of the body corporate suing therefor.

Application of penalties.  
Cf. 23 of 1897, 254.

85. No person shall be liable to any incapacity, disability, fine, penalty, or forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after such incapacity, disability, forfeiture, or penalty has been incurred.

Limitation of proceedings.  
Cf. *ibid.* 255.

86. Every entry in the minute book purporting to be a minute of the business transacted at any meeting of the trust, or a Committee, and signed by the chairman at the next meeting of the trust, or the chairman of such committee, which has been holden after such first-named meeting, shall be evidence that such business as is therein recorded was transacted at such meeting, without proof of the meeting having been duly convened or held, or of the persons attending such meeting having been or being duly authorised so to do, or of the fact of such chairman having been or being such chairman.

Minutes to be in evidence.  
Cf. *ibid.* 122.

87. Every advertisement, order, direction, summons, notice, demand, or other such document requiring authentication by the trust, shall be sufficiently authenticated if signed by the chairman or by the secretary of the trust, and need not be under the common seal of the trust. And every such document may be in writing or in print, or partly in writing and partly in print.

Notices how authenticated.  
Cf. *ibid.* 256.

88. No advertisement, order, direction, notice, demand, or other such document herein required to be published, made, or given, shall be held void for any want of form, provided the same is intelligible.

Form of notices.  
Cf. *ibid.* 257.

89. Any summons or notice, or any writ or other process, document, writing, or other matter issued according to the course of any proceeding at law or in equity, and required to be served upon the trust, may be served by the same being sent through the post office directed to the trust at their office, or left at such office, or by being given personally to the chairman or secretary of the trust.

Service of legal process.  
Cf. *ibid.* 258.

90. (1) Any notice required by this Act, or any by-law or regulation made thereunder, to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be in writing, or partly in writing and partly printed, or may be wholly printed.

Notices.  
Cf. 14 of 44 Vic., s. 139.

(2) It shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier; or, if there be no occupier, if such notice be posted on some conspicuous part of such building or land.

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*Broken Hill and Umberumberka Water Supply.*

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(3) 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 the portion thereof affected by the notice, is situated.

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10  
15  
91. Every person who wilfully hinders or interrupts, or causes or procures to be interrupted, the trust or their managers, surveyors, agents, servants, or workmen, or any of them, or the auditors in doing or performing any of the works, or in the exercise of any of the powers and authorities exercisable by or vested in them by law, shall for every such offence forfeit and pay any sum not exceeding ten pounds.

Penalty for interfering with the business of the trust. Cf. 23 of 1897, s. 279.

92. If any person neglects or refuses to do any matter or thing which by this Act he is directed to perform, he shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty for neglect of duty. Cf. *ibid.* 260.

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SCHEDULES.

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THE FIRST SCHEDULE.

*General description of proposed scheme.*

20 THIS scheme comprises the construction of a dam about ninety-six feet high across Umberumberka Creek, as a storage reservoir from which the water will be delivered through a main about nineteen miles long to the several service reservoirs and points of delivery to the council and the various mining companies at Broken Hill, and works contingent thereon.

Section 4.

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THE SECOND SCHEDULE.

*Description of lands vested in council.*

25  
30 Area occupied by the dam and storage reservoir, together with such land as is included within thirty-three feet of the top water contour level with dam of the height described in the First Schedule, and the surface, and the land to a depth of fifty feet below the surface, of a strip of land seven and a half feet on either side of centre line of main, and such lands as the Governor may deem necessary for the carrying out of the scheme.

Section 5.

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THE

*Broken Hill and Umberumberka Water Supply.*

## THE THIRD SCHEDULE.

*Provisions relating to the appointment of members by the mining companies.*

1. The directors of any ~~mining company~~ of the mining companies and on its behalf may, by writing under the seal of the company, appoint and at pleasure remove, 5 reappoint, or make any new or other appointment of some person to act for the purposes herein mentioned. Such person is hereinafter called "the appointee." Sections 24-38.
2. ~~Every mining company~~ Each of the mining companies shall forthwith on the appointment of the appointee notify in writing the other mining companies the full name, address, and description of such appointee.
- 10 3. Any appointee may convene a meeting of appointees. Such meeting shall be deemed to have been duly convened if notice in writing under the hand of the convener shall have been left at the registered offices of the several mining companies specifying a time not less than seven days and some place in Melbourne or Broken Hill at which such meeting is to be held. With the consent of all the appointees a meeting of 15 appointees may be held elsewhere than at Melbourne or Broken Hill.
4. The appointees may by resolution of the majority of the appointees present elect one of their number to be chairman, and may by the like resolution from time to time remove and appoint another appointee to be chairman. The chairman shall when 20 present preside at meetings of appointees, and shall have a casting as well as a deliberative vote. In the absence of the chairman the appointees present at any meeting may elect one of their number to be chairman for that meeting during such absence, and he shall while acting as chairman have a casting as well as a deliberative vote.
5. The appointees may by resolution of the appointees present at any meeting convened for the purpose, elect the first three persons to be members of the trust 25 appointed by mining companies, and may in like manner from time to time fill up any vacancy in such membership. Such members shall be deemed to have been duly appointed members of the trust appointed by the mining companies.
6. If at any meeting of appointees convened for the purpose a resolution be carried by a three-fourths majority of all the appointees calling upon any member to 30 retire from office, such member shall thereupon retire accordingly. The appointees may by the same or another resolution appoint some person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the mining companies.
7. Every member may retire from office as a member of the trust at any time, and 35 shall retire therefrom on notification in writing under the hand of the chairman of the meeting of the appointees to such member that a resolution has been passed at a meeting of appointees calling upon such member to retire.
8. Any such notification shall be deemed to have been duly given to a member when the same shall have been left at the office of the trust in Broken Hill addressed to 40 the member.
9. The appointees may at any meeting make any regulations not inconsistent with the provisions contained in this Schedule, or the Broken Hill and Umberumberka Water Supply Act, 1906—
- 45 (a) for meetings of appointees ;  
 (b) for the conduct of such meetings ;  
 (c) generally for exercising any of the powers exercisable by the appointees.



*Broken Hill and Umberumberka Water Supply.*

## THE FOURTH SCHEDULE.

*Provisions relating to appointment of members by the debenture holders.*

1. The secretary or other officer of the trust appointed for the purpose shall, Sections 27-38.  
whenever requested so to do by any one or more debenture holders registered as the  
5 holder or holders of at least one thousand pounds of debentures, convene a meeting of  
debenture holders. Such meeting shall be convened by circular, addressed to the  
debenture holders appearing in the register book of debenture holders.
2. Notice of every such meeting shall be deemed to have been duly given within  
forty-eight hours of the posting of such circulars in the post office at Broken Hill.
- 10 3. The secretary or other officer shall fix, and the circular shall specify the hour  
and date, and some place in Broken Hill where such meeting is to be held.
4. The debenture holders present at any meeting shall elect one of their number  
to be chairman of the meeting.
- 15 5. The debenture holders may by resolution of the debenture holders present at  
any meeting convened for the purpose personally or by proxy appoint two persons who  
are willing to act to be members of the trust appointed by the debenture holders. No  
such appointments shall be complete until a certificate of such resolution having been  
duly passed under the hand of the chairman of the meeting shall have been left at the  
office of the trust.
- 20 6. Every debenture holder shall be entitled to vote at any meeting personally or  
by proxy, and shall have one vote for every one hundred pounds of debentures of which  
he is at the time of meeting the registered holder.
7. Every resolution at any meeting of debenture holders shall, unless a poll be  
demanded, be determined in the first instance by a show of hands.
- 25 8. Any one or more debenture holder or holders holding individually or collectively  
at least one thousand pounds of debentures may demand a poll which shall be taken  
forthwith at such meeting, or at any time and place appointed for the purpose by the  
chairman of the meeting.
9. A certificate under the hand of the chairman of the meeting certifying that  
30 any resolution was passed at any meeting of debenture holders shall be conclusive  
evidence according to its tenor.
10. A proxy may be in the following form, and shall be attested by at least one  
witness:—
- I,                    of                   , being the registered holder of £                    of  
35 debentures issued by the Broken Hill and Umberumberka water trust, do  
hereby appoint                    of                    to attend and vote for me at a  
meeting of debenture holders to be held at                    on the  
day of                   , and at all adjournments of such meeting.
- As witness my hand the                    day of                   .
- 40 Witness to the signature of the said                   .
11. Any meeting of debenture holders duly convened for the purpose may pass a  
resolution calling upon any member of the trust appointed by the debenture holders to  
retire from office.
12. On delivery at the office of the trust of a certificate under the hand of the  
45 chairman of the meeting of such debenture holders that such resolution was duly passed  
thereat, such member shall be deemed to have retired from office.
13. Any vacancy in the membership of the trust in respect of a member appointed  
by debenture holders may be filled up in the same way in which the original appointments  
may be made.
- 50 14. Any member may resign his office as a member of the trust at any time.

*Broken Hill and Umberumberka Water Supply.*

## THE FIFTH SCHEDULE.

*Terms and conditions on which debentures are issued.*

1. All debentures to be issued by the trust pursuant to the power in the Broken Hill and Umberumberka Water Supply Act, 1906, reserved to issue debentures not exceeding in the aggregate two hundred thousand pounds are charged with such priorities one over another as the trust may determine on the undertaking of the trust, and all its property present and future, and ~~are hereby charged thereon without any preference or priority one over another,~~ and such charge is to be a floating security, but so that the trust is not to be at liberty to create any mortgage or charge in priority to the said debentures.
2. A register of debentures shall be kept at the head office of the trust, in Broken Hill, wherein there shall be entered the names, addresses, and descriptions of the registered holders, and particulars of the debentures held by them respectively, and such register shall, at all reasonable times during business hours, be open to the inspection of any registered holder of debentures and his legal personal representatives, and any person authorised in writing by him or them.
3. The registered holder, or his legal personal representatives, shall be regarded as exclusively entitled to the benefit of the debenture, and all persons may act accordingly, and the trust shall not be bound to enter in the register notice of any trust, or to recognise any right in any other person save as herein provided.
4. Every transfer of a debenture shall be in writing under the hand of the registered holder or his legal personal representative. The transfer shall be delivered at the office of the trust with a fee of two shillings and sixpence, and such evidence of identity or title as the trust may reasonably require, and thereupon the transfer will be registered, and a notice of such registration will be indorsed on the debenture. The trust shall be entitled to retain the transfer.
5. In the case of joint registered holders, the principal moneys and interest secured by a debenture shall be deemed to be owing to them upon a joint account.
6. No transfer will be registered during the seven days immediately preceding the 30 days fixed for payment of interest.
7. In respect of each half-year's interest on a debenture, a warrant on the trust's bankers, payable to the order of the registered holder thereof, or, in case of joint holders, to the order of that one whose name stands first in the register as one of such joint holders, will be sent by post to the registered address of such registered holder, and the trust shall not be responsible for any loss in transmission, and the payment of the warrant, if purporting to be duly endorsed, shall be a good discharge to the trust.
8. The principal moneys and interest secured by the debentures shall be paid without regard to any equities between the trust and the original or any intermediate holder thereof, and the receipt of the registered holder for such principal moneys, and interest shall be a good discharge to the trust for the same.
9. The trust may at any time give notice in writing to the registered holder thereof, his executors or administrators, of its intention to pay off any debenture, and upon the expiration of six calendar months from such notice being given the principal moneys secured by such debenture shall become payable: Provided that the council may at any time redeem the whole of the outstanding debentures issued by the trust.
10. The principal moneys secured by any debenture shall immediately become payable if the trust makes default for a period of six calendar months in the payment of any interest thereby secured, and the registered holder thereof before such interest is paid, by notice in writing to the trust, calls in such principal moneys.
11. At any time after the principal moneys secured by any debenture become payable, the registered holder of such debenture may, with the consent in writing of the holders of the majority in value of the outstanding debentures issued by the trust, appoint, by writing, any person or persons to be a receiver or receivers of the property charged by the debentures, and such appointment shall, on confirmation thereof by the

Supreme

*Broken Hill and Umberumberka Water Supply.*

Supreme Court or a judge thereof, be as effective as if all the holders of debentures of the same issue had concurred in such appointment, and the said confirmation shall be conclusive evidence that the said appointment was duly made. And a receiver so appointed shall have power—

- 5 (a) to take possession of the property charged by the debentures ;  
 (b) to carry on or concur in carrying on the business of the trust ;  
 (c) to sell or concur in selling any of the property charged by the debentures, and to give a good title to such property, including the statutory powers and privileges by this Act conferred ;  
 10 (d) to make any arrangement or compromise which he or they shall think expedient in the interests of the debenture holders.

And all moneys received by such receiver or receivers shall, after providing and paying for all proper expenses, be applied in the first place in redemption of the moneys secured by the debentures, having regard to all priorities created, if any, and, in the next place,  
 15 in discharge of any other liabilities of the trust, and the surplus moneys (if any) shall be paid to the council for the general purposes of the council.

12. The holders of three-fourths in value of the debentures issued by the trust for the time being outstanding may sanction any agreement with the trust for any modification or alteration of the rights of the holders of debentures as a class, including  
 20 any release of any property charged thereby, and any postponement of the time for payment of any moneys secured thereby, and any increase or reduction of the rate of interest, and an agreement so sanctioned shall be binding on all the holders of such debentures, and notice thereof shall be given to each debenture holder, and each debenture holder shall be bound thereupon to produce his debentures to the trust, and  
 25 to permit a note of such agreement, and the sanction thereof aforesaid, to be placed thereon.

13. The principal moneys and interest secured by a debenture will be paid at some bank in Broken Hill or at the office of the trust.

14. A notice may be served by the trust upon the holder of any debenture by  
 30 sending it through the post in a prepaid letter addressed to such person at his registered address.

15. Any notice served by post shall be deemed to have been served at the expiration of forty-eight hours after it is posted, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put  
 35 into the post office.

16. Debentures may be transferred by instrument in the following form :—

I, A.B., of , in consideration of the sum of pounds, paid to me  
 by C.D., of , do hereby transfer to the said C.D. (hereinafter called the  
 40 transferee) the undermentioned debentures issued by the Broken Hill and Umberumberka water trust—that is to say—

[Here state date, character, amount, and numbers.]

and the full benefit thereof :

To hold the same unto the transferee subject to the several conditions on which I  
 held the same immediately before the execution hereof ; and I, the transferee  
 45 do hereby agree to take the said debentures subject to the same conditions.

As witness our hands this day of

Signed by the above-named A.B. in the presence of

[Witness' signature, address, and occupation.]

*Broken Hill and Umberumberka Water Supply.*

## THE SIXTH SCHEDULE.

*Broken Hill and Umberumberka water trust.*

Issue of debentures of pounds each, carrying interest at per Section 64.  
centum per annum.

5 No. pounds

1. The Broken Hill and Umberumberka water trust (hereinafter called the trust) will on the day of , or on such earlier day as the principal moneys hereby secured become payable in accordance with the conditions contained in the Schedule to the Broken Hill and Umberumberka Water Supply Act,

10 1906, pay to of or other the registered holder for the time being, the sum of pounds.

2. The trust will, in the meantime, pay to such registered holder interest thereon at the rate of per centum per annum by half-yearly payments on the day of and the day of in each year, the first of such half-yearly payments to be made on the day of next.

3. Such payments are charged on the undertaking of the trust, and all its property present and future.

4. This debenture is issued subject to, and with the benefit of, the conditions mentioned in the Fifth Schedule to the Broken Hill and Umberumberka Water Supply Act, 1906, which are to be deemed part of it.

Given under the common seal of the trust, this day of

The common seal was affixed hereto in the presence of

Sydney : William Applegate Gullick, Government Printer.—1906.

[1s. 3d.]

311-C

[17 24]

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THE SIXTH SCHEDULE

Broken Hill and Kimberley Water Supply

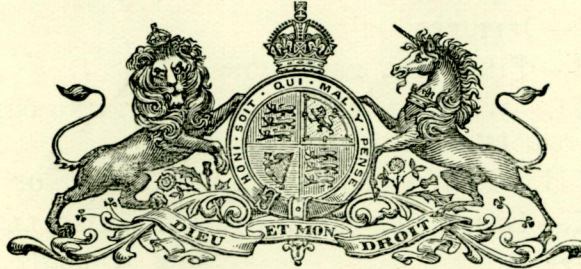
Act No. 1000

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

*Legislative Assembly Chamber,  
Sydney, 18 December, 1906.* }

RICHD. A. ARNOLD,  
*Clerk of the Legislative Assembly.*

## New South Wales.



ANNO SEXTO

## EDWARDI VII REGIS.

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### Act No. 54, 1906.

An Act to provide for an additional water supply for Broken Hill and district; for that purpose to confer certain powers on and to vest certain lands in the municipal council of Broken Hill; to authorise the transfer of such powers and lands to a trust to be constituted; to confer certain other powers on such trust; to apply and amend certain Acts; and for purposes consequent thereon or incidental thereto. [Assented to, 28th December, 1906.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Broken Hill and Umberum-berka Water Supply Act, 1906." Short title.

2.

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

W. H. WOOD,  
*Chairman of Committees of the Legislative Assembly.*

*Broken Hill and Umberumberka Water Supply.*

Division of Act.

2. This Act is divided into parts, as follows :—

PART I.—THE CONSTRUCTION OF WATERWORKS AND ACQUISITION OF LANDS.

PART II.—SPECIAL PROVISIONS AS TO WATER SUPPLY.

PART III.—EXTENSION OF ACT TO OTHER COMPANIES.

PART IV.—THE TRUST.

PART V.—OFFICERS.

PART VI.—FINANCIAL PROVISIONS.

PART VII.—WATER SUPPLY FOR THE MINING COMPANIES AND DOMESTIC PURPOSES.

PART VIII.—PROVISIONS AFTER REPAYMENT OF DEBENTURES.

PART IX.—LEGAL PROCEEDINGS AND MISCELLANEOUS PROVISIONS.

Interpretation.

3. In this Act, and any part of any Act incorporated herewith, except where otherwise clearly intended :—

“Alderman” means an alderman of the municipal district of Broken Hill.

“Borough or municipal district” and “borough or municipality” mean the district.

“Catchment area” means the drainage area of the streams and other sources of water supply included within any boundaries set forth in any proclamation under this Act for the purpose.

“Chairman” means the chairman of the trust or the acting chairman thereof.

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

“Council” means the council of the municipal district of Broken Hill, and, except in Part IV, includes the trust.

“Council clerk” means the person authorised by the council to perform the duties of council clerk, and includes the secretary of the trust.

“District” and “municipal district” means the municipal district of Broken Hill, and includes any locality within which any of the powers conferred by this Act may be exercised.

“Domestic purposes” does not include a supply of water for stables or for manufacturing purposes or for irrigation, water power, fountains, or for any ornamental purposes.

“Incorporated” means that the legislation incorporated is to be read and construed as though the same were specifically enacted in this Act in aid of any of the purposes of this Act, whether such legislation refers to or depends on other legislation or not.

“Justice” means any justice of the peace.

“Mayor,”

*Broken Hill and Umberumberka Water Supply.*

- “Mayor,” “mayor of the council,” or “mayor of such council” means the mayor of the municipal district, and includes any person acting in the office of mayor, and includes also the chairman of the trust and any person acting in the office of chairman of the trust.
- “Member” means a member of the trust.
- “Mines” means the several properties and undertakings of the mining companies respectively situated or carried on in Broken Hill or the vicinity thereof.
- “Mining companies” means the mining and treatment companies in the vicinity of Broken Hill contributing to the scheme, and includes any new company admitted to the benefits of this Act pursuant to Part III.
- “Mining company” means some one of the mining and treatment companies.
- “Minister” means Secretary for Public Works.
- “Owner” means any person who is in receipt of the rents and profits of any house, manufactory, or building, of whatsoever kind, or of any land.
- “Secretary” means the officer of the trust performing the duties of secretary of the trust.
- “Street” means any square, court, alley, highway, lane, road, thoroughfare, or public passage.
- “Trust” means the trust hereby authorised to be created.

## PART I.

*The construction of waterworks and acquisition of land.*

4. (1) The council may at any time within a period of twelve months, and subject to the approval of the plans by the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works, proceed to construct and carry out the scheme shortly described in the First Schedule, with such modifications, alterations, and extensions as the council may think necessary for the purpose of securing an additional water supply to the inhabitants of the district, and to assist the development of the mines. The scheme.

(2) If works in connection with the scheme are not bona fide commenced within the said period of twelve months, or if such works are thereafter for a continuous period of three months discontinued without the authority of the Governor in that behalf, the council shall forfeit all its rights and privileges under this Act, and the same shall become void, and all Crown lands vested in the council in pursuance of this Act shall revert to His Majesty absolutely free from all estates, interests, encumbrances, and easements created after the commencement of this Act.



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*Broken Hill and Umberumberka Water Supply.*

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Vesting of necessary lands.

5. Such Crown lands as are included in the lands described in the Second Schedule are hereby vested in the council for an estate of inheritance in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rents, 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 council :

Provided that the council shall have no power to lease or sell any such lands, or to utilise such land for purposes other than those for which the trust may be created in pursuance of this Act.

Definition of "Crown lands."

6. "Crown lands" means all lands vested in His Majesty which have not been dedicated to any public purpose, or which have not been granted in fee or lawfully contracted to be so granted, or which are not under lease for purposes other than pastoral purposes.

Power to take other lands.

7. (1) The council may for the purpose and subject to the provisions of this Act acquire, purchase, or take on lease, sell, or exchange any land wherever situated, whether within or without its municipal district, and may also purchase any water privileges or easements which interfere with the proper drainage or with the supply of water.

Power to sell surplus lands.

(2) Any lands so acquired by the council, but not required for the purpose for which they were acquired, may, with the approval of the Governor, be sold or leased by the council, and the proceeds of such sale or lease shall be applied in discharging by means of a sinking fund or otherwise the liability in respect of any moneys borrowed for the purposes of this Act.

Incorporation of certain provisions of Act 14 of 44 Vic. as to taking of lands and compensations.

8. The whole of Part IV and the Third, Fourth, and Fifth Schedules (such Schedules being modified to suit the purposes of this Act) of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated.

Governor may define boundaries.

9. The Governor may at any time define by proclamation the boundaries of any catchment area and of any water district within which any of the powers hereby conferred may be exercised, and such boundaries may be outside the boundaries of the municipal district.

Power to make by-laws.

10. Section thirteen (except subsections twelve to fifteen, both inclusive, thereof, and except so much of that section as prescribes the distance from the water main of the council within which lands and tenements may be subject to water rates) and sections fourteen and fifteen of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated :

Provided that the said sections hereby incorporated shall apply only in respect of any land or premises supplied with water by the council or the trust under the provisions of section seventy-two of this Act or out of the surplus water referred to in section seventy-three of this Act.

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*Broken Hill and Umberumberka Water Supply.*

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## PART II.

*Special provisions as to water supply.*

11. The whole of Part II of the Country Towns Water and Sewerage Act of 1880 (except sections thirty-five to forty-one, both inclusive, and sections sixty and sixty-one) is hereby incorporated. Incorporation of provisions as to water supply in Act 14 of 44 Vic.

12. The following provisions of Act number forty-three of one thousand nine hundred and five are hereby incorporated, namely, sections five to eleven (both inclusive), twenty-one and twenty-two, the whole of Part III (except sections thirty-six and thirty-seven and subsection two of section thirty-eight), section sixty, and sections sixty-two to seventy (both inclusive), and Schedules A and B: Incorporation of certain provisions of Act 43 of 1905.

Provided that the incorporation of the said Part III shall be subject to the proviso contained in section ten of this Act.

## PART III.

*Extension of Act to other companies.*

13. Any company (hereinafter referred to as a "new company") desirous of obtaining the benefits and becoming subject to the liabilities by this Act conferred and imposed respectively on mining companies may by writing under its common seal apply to the trust that it may enjoy such benefits and become subject to such liabilities. Other companies may apply to obtain benefit of this Act.

14. The trust shall, on receipt of such application, consider the same, and may by resolution reject the same or accept the same conditionally upon such terms as the trust may in its absolute discretion think fit: Resolution of the trust on application.

Provided that such new company may, in the event of its being dissatisfied with such resolution, appeal to the Minister, who may confirm, vary, or alter the conditions contained in such resolution of the trust, and the trust shall be bound by the decision of the Minister.

15. On compliance with such terms the new company shall be deemed a mining company, and shall thereafter enjoy all the benefits, and thereafter be subject to all the liabilities, which the mining companies are thereafter entitled and subject to respectively. Extension of Act to the company applying.

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*Broken Hill and Umberumberka Water Supply.*

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## PART IV.

*The trust.*

The trust.

**16.** There shall be a trust to be called "Broken Hill and Umberumberka Water Trust."

Council may delegate powers and assign property to the trust.

**17.** (1) The council may, with the consent of the Governor-in-Council, from time to time, and at any time, assign, transfer, convey, and release to the trust any of the rights, powers, and authorities, privileges, liabilities, and obligations conferred and imposed upon the council by this Act, together with all lands, tenements, hereditaments, estates, chattels, and effects of every kind acquired by, under, or in pursuance of, and purchased, occupied, or used in connection with the same. Upon and after the completion of such assignment, transfer, conveyance, and release, the trust, its assigns and its and their officers, agents, and servants may lawfully exercise and enjoy all such rights, powers, authorities, and privileges, and shall be and continue to be subject to all such liabilities, obligations, penalties, and forfeitures to which the council, its officers, agents, or servants would have been entitled or subject to had no such assignment, transfer, conveyance, and release been completed.

(2) Nothing hereinafter contained shall prejudice or affect any rights, accrued actions, or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by, the council before the completion of the said assignment, conveyance, and release.

Members of the trust.

**18.** The trust shall consist of seven members, three of whom shall be appointed by the council, three by the mining companies, and one by the Governor. When debentures have been issued pursuant to section fifty-five, and so long as any such debentures are outstanding, the number of the members of the trust shall be increased to nine by the appointment by the debenture holders of two additional members. When the debentures are paid off, the said additional members shall retire.

Representatives of the council.

**19.** The members to be appointed by the council shall be appointed by the council by a resolution of the majority of the members of that body present at a meeting convened and held for the purpose.

If at any meeting of the council convened for the purpose a resolution be carried by an absolute three-fourths majority of the council calling upon any member of the trust appointed by the council to retire from office, such member shall thereupon retire accordingly. The council may by the same or another resolution appoint some person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the council.

*Broken Hill and Umberumberka Water Supply.*

20. No person shall be so appointed by the council who has not previously, by writing signed by him and delivered to the mayor or the council clerk, signified his willingness to act as a member and who does not at the time of his appointment hold office as alderman.

Council representatives must be aldermen.

21. Every appointment shall be certified by writing under the common seal of the council.

Appointment to be sealed.

22. The council shall notify the appointment in the Gazette.

Appointment to be Gazetted.

23. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made.

Gazette to be evidence.

24. The members to be appointed by the mining companies shall be appointed according to the provisions contained in the Third Schedule.

Representatives of the mining companies.

25. Every appointment by the mining companies shall be notified in the Gazette.

Appointment to be gazetted.

26. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made.

Gazette to be evidence.

27. The members to be appointed by the debenture holders shall be appointed in accordance with the provisions contained in the Fourth Schedule.

Representatives of the debenture holders.

28. In any case where there has, in the opinion of the Governor, been unreasonable delay in the appointment of a member by the council, the mining companies, or the debenture holders, the Governor may, on behalf of the council, mining companies, or debenture holders guilty of such delay, appoint the member or members required to be appointed by the council, mining companies, or debenture holders respectively.

On neglect to appoint, the Governor may appoint the representatives.

29. Members so appointed by the Governor shall be deemed to have been duly appointed by the council, mining companies, or debenture holders as the case may be.

Members appointed by the Governor to be deemed duly appointed.

30. The Governor shall, in the Gazette, notify the name or names of any persons so appointed, and on whose behalf such persons have been appointed. The Gazette containing such notification shall be conclusive evidence that such persons have been duly appointed by the council, mining companies, or debenture holders as mentioned in the notification.

Appointments to be gazetted and Gazette to be evidence of appointment.

31. When any vacancy occurs in the trust the same shall be filled up in manner hereinbefore provided, so far as applicable, by appointment by the council, the mining companies, or debenture holders according as such vacancy has been caused in respect of a member appointed by the council, the mining companies, or the debenture holders.

Vacancies.

32. Every member shall, subject as hereinafter mentioned, be deemed to have been appointed for three years.

Term of appointment.

33. (1) At the end of every year from the date of the appointment of the first member, one of the members appointed by the council, the mining companies, and the debenture holders respectively shall retire.

Retirement each year.

(2)

*Broken Hill and Umberumberka Water Supply.*

Order of retirement.

(2) As between the respective members appointed respectively by the council, the mining companies, and the debenture holders, the member to retire shall be the one who has been longest in office since his last appointment, and in case of equality in length of service as member such retirement shall be determined by lot.

Retiring members to be eligible for reappointment.

**34.** A member retiring shall, except during the continuance of any disability as herein provided, be eligible for reappointment.

Disqualifications.  
Cf. Act 23, 1897,  
s. 38.

**35.** Any member—

- (a) Having his estate placed under sequestration as bankrupt;
- (b) having executed any deed of assignment for the benefit of his creditors;
- (c) being absent without leave from the meetings of the trust for more than three consecutive months;
- (d) holding any office or place of profit (other than that of member) under or in the gift or disposal of the trust;
- (e) being directly or indirectly by himself or any partner engaged or interested in any contract or employment with, by, or on behalf of the trust;
- (f) being a member appointed by the council ceasing to hold office as alderman;
- (g) being of unsound mind;

shall thereby become disqualified and shall cease to hold office as a member.

Removal of disqualification.  
Cf. *ibid.* s. 40.

**36.** Every person becoming disqualified by reason of the sequestration of his estate or the execution of any deed of assignment as aforesaid shall, on obtaining his certificate or paying his debts in full, or obtaining an absolute release from his creditors, be capable of being reappointed.

Saving as to disqualification.  
Cf. *ibid.*, s. 38.

**37.** No member shall be disqualified or cease to hold office by reason of his being a shareholder or director of any joint stock company contracting with the trust.

Retirement of certain members.

**38.** Every member appointed by the mining companies or debenture holders respectively shall be disqualified and cease to hold office upon being requested to retire, as provided in the Third and Fourth Schedules respectively.

Trust may make regulations.

**39.** (1) The trust may make regulations for or relating to—

- (a) the times of its meetings;
- (b) the conduct of its proceedings and business;
- (c) the appointment, powers, and control of committees formed out of members of the trust;
- (d) the duties, control, supervision, and guidance of its officers and servants; and
- (e) the use of its common seal.

(2)

*Broken Hill and Umberumberka Water Supply.*

(2) All such regulations shall be published in the Gazette, and the Gazette purporting to contain any such regulation or any amendment or repeal of a regulation shall be evidence thereof, and that such regulation, amendment, or repeal was duly made.

40. The trust may act notwithstanding any vacancy or vacancies in its membership.

Trust may act, notwithstanding any vacancy.

41. The meetings of the trust shall be held at Broken Hill. Three members shall form a quorum.

Place of meeting. Quorum.

42. The trust shall appoint one of the members appointed by the council to be chairman of the trust, who shall be chairman of every committee appointed by the trust, and he shall have a casting as well as a deliberative vote on the trust and on every committee of the trust. When the chairman is absent from any meeting, the members present shall appoint one of the members appointed by the council to be chairman to act during such absence, and he shall preside and have a casting as well as a deliberative vote.

Chairman.

43. The chairman shall be paid out of the moneys of the trust an honorarium of one hundred pounds per annum, and each of the members shall be paid out of the said moneys an honorarium of fifty pounds per annum. No alderman, by reason of being a member of the trust, shall be disqualified from holding or shall cease to hold office as alderman.

Remuneration to members.

44. The trust shall be a body corporate by the name of "The Broken Hill and Umberumberka Water Trust," and shall have perpetual succession and a common seal.

Trust to be a body corporate.

45. All courts, judges, and persons acting judicially shall take judicial notice of such seal and shall presume that the same was properly affixed.

Judicial notice of the seal.

46. Every instrument which it may be necessary for the trust to execute shall, subject to the provisions of section 90, have the seal affixed thereto.

Seal to be affixed.

47. The trust—

- (a) may in its corporate name acquire, hold, and alienate property, and sue and be sued in all courts, and be a party to any arbitration;
- (b) shall acquire from the Minister the tools, plant, and materials belonging to the Government at the site or in the vicinity of the dam at Umberumberka at a valuation to be determined upon.
- (c) may delegate to any committee, officer, or servant any of its powers as it thinks fit, and may alter, vary, or revoke such delegation;
- (d) may do all such acts and things as may be necessary and expedient for carrying out the purposes of this Act;

Powers of trust to deal with property, &c., and duties as to minutes, &c.

(e)

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*Broken Hill and Umberumberka Water Supply.*

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- (e) shall cause proper minutes or records of all its proceedings and the proceedings of any committee to be kept;
- (f) shall cause proper books of account to be kept to the satisfaction of the auditors;
- (g) shall each year appoint two auditors and fix their remuneration. No auditor shall hold office for more than two consecutive years. The auditors shall have access to the books of account and vouchers whenever they think necessary, and shall certify the balance-sheets;
- (h) shall cause a proper balance-sheet to be prepared to the satisfaction of the auditors every six months, and the same shall be published in the Gazette.

Ouster of office.  
Cf. Act 23, 1897  
s. 109.

48. (1) Upon affidavit that any member has been appointed to or holds or exercises such office of member being incapable under the provisions hereof of being or continuing such member, it shall be lawful for the Supreme Court, or any judge thereof, to grant a rule or order calling upon such person to show cause to the court why he should not be, by the said court, ousted of the said office, and where upon the return of such rule or order it appears to the court that such person so appointed or holding or exercising such office was at the time of his appointment, or while holding or exercising such office, incapable under the provisions hereof of being or continuing such member as the case may be, the court may make such rule or order absolute, or if the matter does not so appear, may discharge such rule or order, and in either and every such case with or without the payment of costs to or by either party as the court deems meet.

(2) The person against whom any rule is made absolute shall be deemed thereby to be ousted of any office accordingly.

(3) No order or rule shall in any case be granted if at the time of such application for any such rule or order more than three months have elapsed after the appointment or the time when the person against whom such application is made was disqualified.

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PART V.

*Officers.*

Officers and servants  
to be appointed  
Cf. *ibid.* s. 126.

49. The trust shall appoint such officers and servants as in their discretion they may deem necessary for the execution of the powers and duties hereby vested in the trust, and shall assign remuneration to such officers and servants by way of salaries, allowances, or wages, which shall be in lieu of all fees, perquisites, and other emoluments whatever.

*Broken Hill and Umberumberka Water Supply.*

50. Every officer employed by the trust who exacts or accepts on account of anything done by virtue of his office, or in relation to the matters to be done under this Act, any fee or reward whatever other than the salary or allowance allowed by the Trust shall be liable to a penalty of not less than ten pounds nor more than one hundred pounds.

Penalty against bribery.  
Cf. Act 23, 1897, s. 127.

51. (1) Every officer or servant who, by reason of his office or employment under the trust, is entrusted with the custody or control of any moneys shall—

Duties of officers as to money belonging to the trust,  
Cf. *ibid.* s. 128.

- (a) give such security for faithfully and duly accounting for the same as the trust may think sufficient;
- (b) within seven days after having received any moneys or within such shorter time as the trust may appoint, pay over the same to some person appointed by the trust or into some bank selected by the trust;
- (c) as and when the trust may direct, deliver a list signed by him containing the names of all persons who have neglected or refused to pay any sums due by them;
- (d) when and as required by the trust make out and deliver a true and perfect account in writing under his hand and signature of all moneys received by him for the purposes of this Act, distinguishing how and to whom and for what purposes such moneys have been disposed of;
- (e) together with such account deliver the vouchers or receipts for all payments made by him, and shall pay over to or receive from the said person appointed by the trust mentioned in subsection (b) hereof or the chairman the balance of such accounts (if any).

(2) If any such officer or servant fails to render such account, or to produce and deliver up all vouchers and receipts in his possession or power, or to pay over any such moneys or balance as aforesaid, or if, for the space of seven days after being thereunto required, he fails to deliver up to the trust all books, papers, writings, property, effects, matters, and things in his possession or power belonging to the trust, he shall, on proof thereof before any justice, and on his still failing or refusing to do such or any other required act relating to the premises, be liable, on summary conviction before a justice, to be imprisoned for any term not exceeding three weeks or until he has done such act.

And if it appears that he has failed to pay over such moneys as aforesaid, and he still fails or refuses so to do, the justice may cause any such moneys as aforesaid to be levied by distress upon his goods and chattels, and in default of any sufficient distress may commit him to gaol without bail for any time not exceeding three months unless such moneys be sooner paid :

Provided



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*Broken Hill and Umberumberka Water Supply.*

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Provided that upon proof on oath to any justice that there is probable cause for believing that any such officer or servant so charged is about to abscond, such justice may, without summons, cause him to be forthwith apprehended upon warrant, and may, upon prima facie proof on oath of the charge, require him to give bail for his subsequent appearance to answer the same:

Provided also that no such proceeding shall relieve any surety of the offender from any liability whatsoever, nor any such offender from being held to answer any criminal information, charge, or proceeding whatsoever.

Suspension of  
officers.  
Cf. Act 23, 1897,  
s. 129.

52. (1) The chairman may suspend from office at any time any officer or servant of the trust who may, in his opinion, be guilty of misconduct or neglect, and if necessary may temporarily appoint and may take security from another officer or servant to fulfil the duties of such officer or servant so suspended as aforesaid:

Provided that at the then next meeting of the trust the chairman shall report the matter to the trust, and if the officer or servant so suspended is dismissed by the trust, no salary or wages shall be due or payable to him from or after the date of his suspension.

(2) Every officer or servant so temporarily appointed shall only hold office and receive remuneration (which remuneration shall in no case exceed that paid to the suspended officer or servant) until the trust decides whether the person suspended shall be reinstated or shall be dismissed and a successor appointed in his stead.

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PART VI.

*Financial provisions.*

Power to borrow.

53. The trust may, as hereinafter provided, borrow such money, not exceeding two hundred thousand pounds, as in the opinion of the trust may be required for any of the purposes of this Act.

Power to issue  
debentures.

54. The trust may, on the terms and conditions contained in the Fifth Schedule, issue debentures to secure the repayment of money borrowed with interest thereon to the lenders.

Judgment enforce-  
able against trust  
property only.

55. No judgment against the trust shall be enforced except as against or be recoverable except out of the property of the trust.

Mining companies to  
lend £200,000.

56. In the event of the trust determining to borrow moneys, it may at any time, not later than two years from the passing of this Act, and from time to time during such period by notice in writing under the seal of the trust, call upon the mining companies to lend to the trust any sum or sums of money not exceeding in the aggregate of all such demands two hundred thousand pounds.

57.

*Broken Hill and Umberumberka Water Supply.*

57. Any such notice shall be deemed to have been duly given to the mining companies if the same has been advertised twice at least in the Gazette, and twice at least in one daily newspaper circulating in Broken Hill.

Notice may be given by advertisement.

58. The notice shall specify the amount required to be lent by each mining company.

Notice to specify amount.

59. The liability hereby imposed is a several liability, and the amount to be lent by each of the mining companies shall be ascertained and fixed mutually between the contributing mining companies and the trust.

Contributions by the companies.

60. Each of the mining companies shall, within one month after the last advertisement of the notification mentioned in section fifty-eight, pay to the trust the moneys ascertained and fixed in accordance with section fifty-nine required to be lent by such company.

Company to pay its contributions in a month.

61. The liabilities hereby created in favour of the trust against the several mining companies respectively shall, without prejudice to any other remedy, be enforceable against any property of the respective mining companies situated within the State of New South Wales, and the amount thereof may be levied by distress and sale of such property on a warrant of the chairman as though such amount were rent in arrear to the trust.

Recovery of company's contribution.

62. Any of the mining companies may discharge the whole or part of the obligation hereby imposed in respect of the particular amount required to be lent by such company by finding some one or more persons (hereinafter referred to as "the substitutes") willing to lend and lending to the trust the particular amount required on the terms on which such mining company is liable so to do.

Company may escape liability to contribute by finding substitutes.

63. In exchange for and to the amount of the moneys respectively lent, the trust shall deliver debentures to the respective mining company or substitutes.

Debentures to be issued for moneys lent.

64. Such debentures shall be in the form in the Sixth Schedule and shall confer the rights and be issued on the terms and subject to the conditions mentioned in the Fifth Schedule.

Form and terms of debentures.

65. The principal moneys respectively lent by the mining companies or substitutes shall be repaid to the registered holders for the time being of the debentures and in exchange for the debentures unless lost or destroyed (in which case such loss or destruction shall be proved to the satisfaction of the trust) on the date mentioned in the debentures respectively, not exceeding thirty years from the respective issue thereof as therein respectively mentioned, or such debentures may at any time be redeemed by the council. Such debentures shall bear interest at a rate not exceeding five pounds per centum per annum payable by half-yearly instalments on some dates appointed in the debentures respectively.

Repayment of debentures.

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*Broken Hill and Umberumberka Water Supply.*

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Application of receipts while debentures are outstanding.

66. As long as any debenture issued by the trust remains unredeemed the trust shall, on the thirtieth day of June and thirty-first day of December in every year after making provision or allowance in account for—

- (a) payment of expenses incurred during the preceding six months in connection with the business of the trust, including maintenance;
- (b) a renewal fund to replace and to be applied solely in replacing the renewable parts of the undertaking then constructed;
- (c) estimated current expenses during the next following month in connection with such business,

apply the residue of its receipts—

- (a) in defraying the interest then payable on debentures; and
- (b) in forming a sinking fund to be invested in any way in which trust funds may be invested for the purpose of and to be applied and applicable solely for the redemption of the principal and interest moneys secured by the debentures.

Purchase of works constructed under this Act.

67. Upon the works referred to in the Broken Hill Water Supply Act, 1890, becoming vested in the Government, either by acquisition or reversion, it shall be lawful for the Governor, by notification in the Gazette, to notify to the council or trust his intention to acquire the works constructed under this Act, together with all lands and other property vested in the council or the trust in connection therewith; and the same shall, on a date to be fixed by the Governor, absolutely vest in His Majesty. The purchase money shall be as agreed upon between the Governor and the council or trust, and in case of dispute shall be determined by arbitration in accordance with the Acts then in force regulating the settlement of disputes by arbitration: Provided that the amount to be paid as such purchase money shall not exceed the cost of such works, land, and property.

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PART VII.

*Water supply for the mining companies and domestic purposes.*

Reserve requirements of companies may be notified.

68. Any of the mining companies may from time to time, by notice in writing under the hand of its manager, secretary, or other officer, from time to time appointed for the purpose, notify the trust of the amount of water (hereinafter called "the required reserve") such company requires the trust to keep in reserve for its use during the next ensuing twelve months.

69.

*Broken Hill and Umberumberka Water Supply.*

**69.** The trust shall, subject to this Act, and unless prevented by shortness of supply or unavoidable accident—

Reserve to be kept and supplied.

- (a) conduct its business so that the required reserve of every mining company shall be kept in reserve and applicable for the use of such mining company ;
- (b) supply each of the mining companies with water from time to time required by such mining company to the amount of the required reserve, delivered through meters on some part of the property of such mining company approved by the trust, at a rate not exceeding two shillings and sixpence per one thousand gallons.

**70.** If in any year, calculated from the first day of January to the thirty-first day of December, any one of the mining companies has not taken an amount of water equal to its highest required reserve, as notified to the trust during such year, and the trust has at all times during such year been ready and willing to supply such mining company with the same, the trust may demand and recover payment from such mining company for the difference between such amount and that during such year so taken at a rate not exceeding two shillings and sixpence per one thousand gallons.

Company to be bound to take the quantity required to be reserved.

**71.** When the supply of water from Stephen's Creek is, or is likely to become, exhausted, inadequate, unavailable, or unfit for domestic purposes, the council, on receipt of and in accordance with the certificate in writing of the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works to that effect, may, by resolution under its common seal, require the trust to keep in reserve the amount of water specified in such resolution for the domestic purposes of the population of Broken Hill.

Council may require water to be reserved for domestic purposes.

**72.** Upon receipt of such resolution the trust shall—

- (a) out of the water then available reserve for such domestic purposes the amount of water specified in the resolution, and sell and supply to the council water to the amount required to be reserved for domestic purposes, or so much thereof as may be required by the council at some point or points of delivery in Broken Hill determined by the trust on receiving payment for such water at the same rate as that chargeable to the mines ; and
- (b) cease to supply any mining company, or diminish the supply to any mining company, in order to secure a supply to the council of the amount required as aforesaid, to be reserved for domestic purposes.

Trust to comply with the council's demand.

**73.** (1) Subject to the rights hereby conferred in favour of a supply of water for the mining companies and for domestic purposes, the council may require the trust to sell and dispose of any surplus water to the council at the same rate per one thousand gallons as that

Surplus water to be sold to the council.

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*Broken Hill and Umberumberka Water Supply.*

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that charged to the mines; such water to be delivered to the council in Broken Hill at some point or points of delivery nearest to the receiving tank station of the Broken Hill Water Supply, Limited, on reserve number three thousand and seventy-five.

Council may resell water.

(2) The council may resell any water so purchased at such rate to such persons and in such manner as the council thinks fit, and generally may exercise any of the powers conferred by this Act.

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PART VIII.

*Provisions after repayment of debentures.*

Membership of trust on redemption of debentures, price of water to the companies, and application of profits.

74. As soon as all the debentures issued by the trust have been redeemed—

- (a) the members appointed by the debenture holders shall retire from office;
- (b) subject to the special provisions relating to the supply of water for domestic purposes the trust shall supply water to the mining companies and the council at a price not exceeding, after making all proper allowances, the actual cost to the trust of such water delivered at the mines plus ten pounds per centum thereon;
- (c) the profits of the trust in every year shall be distributed as to one-half to the council for the general purposes of the council, and as to the remaining half shall be applied in reducing the cost of water pro rata to the mining companies during the ensuing twelve months.

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PART IX.

*Legal proceedings and miscellaneous provisions.*

Procedure in actions against trust.  
Cf. 14 of 44 Vic., s. 133.

75. The following provisions shall and may be applied in respect of all actions and proceedings taken in respect of claims for damages not within the meaning and operation of Part IV of the Country Towns Water and Sewerage Act of 1880, or any incorporated amendment thereof, namely:—

- (a) No action against the trust shall be maintainable in any court other than the Supreme Court, and no writ of execution shall be issued against the council until the expiration of fourteen days after final judgment has been signed.

(b)

*Broken Hill and Umberumberka Water Supply.*

- (b) No plaintiff shall recover in any such action unless notice in writing has been given to the defendant twenty-eight days before such action is commenced of such intended action, signed by the attorney of the plaintiff specifying the cause of such action, and the plaintiff shall not recover in any such action if tender of sufficient amends has been made to him or to his attorney by or on behalf of the defendant before such action brought. In case no such tender be made, it shall be lawful for the defendant in any such action, by leave of the court at any time before issue joined, to pay into court such sum of money as he thinks proper, whereupon such proceedings, order, and judgment shall be made and given by such court as in other actions where the defendant is allowed to pay money into court.
- (c) No such action or suit shall be brought after three months from the act committed. The defendant in every such action or suit may at his election plead specially or the general issue, and give this Act and the special matter in evidence at any trial, and prove that the same was in pursuance and under the authority of this Act. If the same appear to have been so done, or if such action or suit have been brought before the expiration of twenty-eight days next after such notice has been given as aforesaid, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same, or be brought in any other place than as aforesaid, the jury shall find a verdict for the defendant. Upon such verdict, or if the plaintiff be nonsuited or discontinue his action or suit after the defendant has appeared, or upon any demurrer, judgment be given against the plaintiff, the defendant shall recover full costs of suit and have such remedy for recovering the same as any other defendant has in other cases by law.

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

Method of  
determining amount  
of compensation  
before justices.  
Cf. 14 of 44 Vic.  
s. 134.

*Broken Hill and Umberumberka Water Supply.*

Remedies in case of damage to property of trust.

Cf. 14 of 44 Vic., s. 137.

**77.** If through any act, neglect, or default, on account whereof any person has incurred any penalty imposed by this Act, any damage to any conduit, main pipe, or property of the trust, used in connection therewith, has been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty. The amount of such damages shall, in case of dispute, be determined by the justices, by whom the party incurring such penalty has been convicted. 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.

Officers of trust may detain offenders in certain cases.

Cf. *ibid.*, s. 138.

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

Remedies in cases of nuisances preserved.

Cf. *ibid.* 140.

**79.** Nothing in this Act shall be construed to render lawful any act, matter, or thing whatsoever, which, but for this Act, would be deemed to be a nuisance, nor to exempt the trust, or any person, from any liability, prosecution, or punishment, to which the trust, or such person, would, but for this Act, have been subject.

Representation of trust in legal proceedings.

Cf. 23 of 1897, s. 250.

**80.** Any person appointed by the trust in that behalf shall have the same right and authority to represent the trust in instituting and conducting any action, suit, or other proceeding in any court of law, or in equity by, for, on account of, or against the trust, as if such action, suit, or proceeding had been brought or instituted by, for, on account of, or against such person individually.

Representative of trust in cases of bankruptcy.

Cf. *ibid.* 251.

**81.** If any person against whom the trust has any claim or demand takes the benefit of any Act relating to bankruptcy, any person appointed by the trust in that behalf, in all proceedings against the estate of such first-mentioned person, or under any sequestration or act of bankruptcy against such person, may represent the trust, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such person so appointed, and not of the trust.

General penalty clause.

Cf. *ibid.* 252.

**82.** Every person committing a breach of any provision of this Act, or of any by-law made hereunder, by wilful act or refusal, or neglect to act or otherwise, shall, when no specific penalty has been provided for such offence, be liable to a penalty not exceeding twenty pounds.

Penalties may be recovered summarily.

Cf. *ibid.* 253.

**83.** All fines, penalties, and forfeitures incurred under this Act, or under any by-law made hereunder, may, unless otherwise provided for, be recovered in a summary way before any two justices in petty sessions.

**84.**

*Broken Hill and Umberumberka Water Supply.*

84. All fines, penalties, and forfeitures imposed and recovered as aforesaid shall, except when otherwise directed by this Act, be paid into the corporate fund of the body corporate suing therefor.

Application of penalties.  
Cf. 23 of 1897, 254.

85. No person shall be liable to any incapacity, disability, fine, penalty, or forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after such incapacity, disability, forfeiture, or penalty has been incurred.

Limitation of proceedings.  
Cf. *ibid.* 255.

86. Every entry in the minute book purporting to be a minute of the business transacted at any meeting of the trust, or a Committee, and signed by the chairman at the next meeting of the trust, or the chairman of such committee, which has been holden after such first-named meeting, shall be evidence that such business as is therein recorded was transacted at such meeting, without proof of the meeting having been duly convened or held, or of the persons attending such meeting having been or being duly authorised so to do, or of the fact of such chairman having been or being such chairman.

Minutes to be in evidence.  
Cf. *ibid.* 122.

87. Every advertisement, order, direction, summons, notice, demand, or other such document requiring authentication by the trust, shall be sufficiently authenticated if signed by the chairman or by the secretary of the trust, and need not be under the common seal of the trust. And every such document may be in writing or in print, or partly in writing and partly in print.

Notices how authenticated.  
Cf. *ibid.* 256.

88. No advertisement, order, direction, notice, demand, or other such document herein required to be published, made, or given, shall be held void for any want of form, provided the same is intelligible.

Form of notices.  
Cf. *ibid.* 257.

89. Any summons or notice, or any writ or other process, document, writing, or other matter issued according to the course of any proceeding at law or in equity, and required to be served upon the trust, may be served by the same being sent through the post office directed to the trust at their office, or left at such office, or by being given personally to the chairman or secretary of the trust.

Service of legal process.  
Cf. *ibid.* 258.

90. (1) Any notice required by this Act, or any by-law or regulation made thereunder, to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be in writing, or partly in writing and partly printed, or may be wholly printed.

Notices.  
Cf. 14 of 44 Vic., s. 139.

(2) It shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier; or, if there be no occupier, if such notice be posted on some conspicuous part of such building or land.



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*Broken Hill and Umberumberka Water Supply.*

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(3) 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 the portion thereof affected by the notice, is situated.

Penalty for interfering with the business of the trust  
Cf. 23 of 1897, s. 259.

**91.** Every person who wilfully hinders or interrupts, or causes or procures to be interrupted, the trust or their managers, surveyors, agents, servants, or workmen, or any of them, or the auditors in doing or performing any of the works, or in the exercise of any of the powers and authorities exercisable by or vested in them by law, shall for every such offence forfeit and pay any sum not exceeding ten pounds.

Penalty for neglect of duty.  
Cf. *ibid.* 260.

**92.** If any person neglects or refuses to do any matter or thing which by this Act he is directed to perform, he shall for every such offence be liable to a penalty not exceeding ten pounds.

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SCHEDULES.

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THE FIRST SCHEDULE.

*General description of proposed scheme.*

Section 4.

THIS scheme comprises the construction of a dam about ninety-six feet high across Umberumberka Creek, as a storage reservoir from which the water will be delivered through a main about nineteen miles long to the several service reservoirs and points of delivery to the council and the various mining companies at Broken Hill, and works contingent thereon.

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THE SECOND SCHEDULE.

*Description of lands vested in council.*

Section 5.

Area occupied by the dam and storage reservoir, together with such land as is included within thirty-three feet of the top water contour level with dam of the height described in the First Schedule, and the surface, and the land to a depth of fifty feet below the surface, of a strip of land seven and a half feet on either side of centre line of main, and such lands as the Governor may deem necessary for the carrying out of the scheme.

THE

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*Broken Hill and Umberumberka Water Supply.*

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## THE THIRD SCHEDULE.

*Provisions relating to the appointment of members by the mining companies.*

1. The directors of any of the mining companies and on its behalf may, by writing Sections 24-38. under the seal of the company, appoint and at pleasure remove, reappoint, or make any new or other appointment of some person to act for the purposes herein mentioned. Such person is hereinafter called "the appointee."

2. Each of the mining companies shall forthwith on the appointment of the appointee notify in writing the other mining companies the full name, address, and description of such appointee.

3. Any appointee may convene a meeting of appointees. Such meeting shall be deemed to have been duly convened if notice in writing under the hand of the convener shall have been left at the registered offices of the several mining companies specifying a time not less than seven days and some place in Melbourne or Broken Hill at which such meeting is to be held. With the consent of all the appointees a meeting of appointees may be held elsewhere than at Melbourne or Broken Hill.

4. The appointees may by resolution of the majority of the appointees present elect one of their number to be chairman, and may by the like resolution from time to time remove and appoint another appointee to be chairman. The chairman shall when present preside at meetings of appointees, and shall have a casting as well as a deliberative vote. In the absence of the chairman the appointees present at any meeting may elect one of their number to be chairman for that meeting during such absence, and he shall while acting as chairman have a casting as well as a deliberative vote.

5. The appointees may by resolution of the appointees present at any meeting convened for the purpose, elect the first three persons to be members of the trust appointed by mining companies, and may in like manner from time to time fill up any vacancy in such membership. Such members shall be deemed to have been duly appointed members of the trust appointed by the mining companies.

6. If at any meeting of appointees convened for the purpose a resolution be carried by a three-fourths majority of all the appointees calling upon any member to retire from office, such member shall thereupon retire accordingly. The appointees may by the same or another resolution appoint some person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the mining companies.

7. Every member may retire from office as a member of the trust at any time, and shall retire therefrom on notification in writing under the hand of the chairman of the meeting of the appointees to such member that a resolution has been passed at a meeting of appointees calling upon such member to retire.

8. Any such notification shall be deemed to have been duly given to a member when the same shall have been left at the office of the trust in Broken Hill addressed to the member.

9. The appointees may at any meeting make any regulations not inconsistent with the provisions contained in this Schedule, or the Broken Hill and Umberumberka Water Supply Act, 1906—

- (a) for meetings of appointees ;
- (b) for the conduct of such meetings
- (c) generally for exercising any of the powers exercisable by the appointees

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*Broken Hill and Umberumberka Water Supply.*

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THE FOURTH SCHEDULE.

*Provisions relating to appointment of members by the debenture holders.*

Sections 27-38.

1. The secretary or other officer of the trust appointed for the purpose shall, whenever requested so to do by any one or more debenture holders registered as the holder or holders of at least one thousand pounds of debentures, convene a meeting of debenture holders. Such meeting shall be convened by circular, addressed to the debenture holders appearing in the register book of debenture holders.

2. Notice of every such meeting shall be deemed to have been duly given within forty-eight hours of the posting of such circulars in the post office at Broken Hill.

3. The secretary or other officer shall fix, and the circular shall specify the hour and date, and some place in Broken Hill where such meeting is to be held.

4. The debenture holders present at any meeting shall elect one of their number to be chairman of the meeting.

5. The debenture holders may by resolution of the debenture holders present at any meeting convened for the purpose personally or by proxy appoint two persons who are willing to act to be members of the trust appointed by the debenture holders. No such appointments shall be complete until a certificate of such resolution having been duly passed under the hand of the chairman of the meeting shall have been left at the office of the trust.

6. Every debenture holder shall be entitled to vote at any meeting personally or by proxy, and shall have one vote for every one hundred pounds of debentures of which he is at the time of meeting the registered holder.

7. Every resolution at any meeting of debenture holders shall, unless a poll be demanded, be determined in the first instance by a show of hands.

8. Any one or more debenture holder or holders holding individually or collectively at least one thousand pounds of debentures may demand a poll which shall be taken forthwith at such meeting, or at any time and place appointed for the purpose by the chairman of the meeting.

9. A certificate under the hand of the chairman of the meeting certifying that any resolution was passed at any meeting of debenture holders shall be conclusive evidence according to its tenor.

10. A proxy may be in the following form, and shall be attested by at least one witness:—

I, \_\_\_\_\_ of \_\_\_\_\_, being the registered holder of £ \_\_\_\_\_ of debentures issued by the Broken Hill and Umberumberka water trust, do hereby appoint \_\_\_\_\_ of \_\_\_\_\_ to attend and vote for me at a meeting of debenture holders to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, and at all adjournments of such meeting.

As witness my hand the \_\_\_\_\_ day of \_\_\_\_\_

Witness to the signature of the said \_\_\_\_\_

11. Any meeting of debenture holders duly convened for the purpose may pass a resolution calling upon any member of the trust appointed by the debenture holders to retire from office.

12. On delivery at the office of the trust of a certificate under the hand of the chairman of the meeting of such debenture holders that such resolution was duly passed thereat, such member shall be deemed to have retired from office.

13. Any vacancy in the membership of the trust in respect of a member appointed by debenture holders may be filled up in the same way in which the original appointments may be made.

14. Any member may resign his office as a member of the trust at any time.

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*Broken Hill and Umberumberka Water Supply.*

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THE FIFTH SCHEDULE.

*Terms and conditions on which debentures are issued.*

1. All debentures to be issued by the trust pursuant to the power in the Broken Hill and Umberumberka Water Supply Act, 1906, reserved to issue debentures not exceeding in the aggregate two hundred thousand pounds are charged with such priorities one over another as the trust may determine on the undertaking of the trust, and all its property, present and future, and such charge is to be a floating security, but so that the trust is not to be at liberty to create any mortgage or charge in priority to the said debentures. Sections 54-61.

2. A register of debentures shall be kept at the head office of the trust, in Broken Hill, wherein there shall be entered the names, addresses, and descriptions of the registered holders, and particulars of the debentures held by them respectively, and such register shall, at all reasonable times during business hours, be open to the inspection of any registered holder of debentures and his legal personal representatives, and any person authorised in writing by him or them.

3. The registered holder, or his legal personal representatives, shall be regarded as exclusively entitled to the benefit of the debenture, and all persons may act accordingly, and the trust shall not be bound to enter in the register notice of any trust, or to recognise any right in any other person save as herein provided.

4. Every transfer of a debenture shall be in writing under the hand of the registered holder or his legal personal representative. The transfer shall be delivered at the office of the trust with a fee of two shillings and sixpence, and such evidence of identity or title as the trust may reasonably require, and thereupon the transfer will be registered, and a notice of such registration will be indorsed on the debenture. The trust shall be entitled to retain the transfer.

5. In the case of joint registered holders, the principal moneys and interest secured by a debenture shall be deemed to be owing to them upon a joint account.

6. No transfer will be registered during the seven days immediately preceding the days fixed for payment of interest.

7. In respect of each half-year's interest on a debenture, a warrant on the trust's bankers, payable to the order of the registered holder thereof, or, in case of joint holders, to the order of that one whose name stands first in the register as one of such joint holders, will be sent by post to the registered address of such registered holder, and the trust shall not be responsible for any loss in transmission, and the payment of the warrant, if purporting to be duly endorsed, shall be a good discharge to the trust.

8. The principal moneys and interest secured by the debentures shall be paid without regard to any equities between the trust and the original or any intermediate holder thereof, and the receipt of the registered holder for such principal moneys, and interest shall be a good discharge to the trust for the same.

9. The trust may at any time give notice in writing to the registered holder thereof, his executors or administrators, of its intention to pay off any debenture, and upon the expiration of six calendar months from such notice being given the principal moneys secured by such debenture shall become payable: Provided that the council may at any time redeem the whole of the outstanding debentures issued by the trust.

10. The principal moneys secured by any debenture shall immediately become payable if the trust makes default for a period of six calendar months in the payment of any interest thereby secured, and the registered holder thereof before such interest is paid, by notice in writing to the trust, calls in such principal moneys.

11. At any time after the principal moneys secured by any debenture become payable, the registered holder of such debenture may, with the consent in writing of the holders of the majority in value of the outstanding debentures issued by the trust, appoint, by writing, any person or persons to be a receiver or receivers of the property charged by the debentures, and such appointment shall, on confirmation thereof by the

Supreme

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*Broken Hill and Umberumberka Water Supply.*

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Supreme Court or a judge thereof, be as effective as if all the holders of debentures of the same issue had concurred in such appointment, and the said confirmation shall be conclusive evidence that the said appointment was duly made. And a receiver so appointed shall have power—

- (a) to take possession of the property charged by the debentures ;
- (b) to carry on or concur in carrying on the business of the trust ;
- (c) to sell or concur in selling any of the property charged by the debentures, and to give a good title to such property, including the statutory powers and privileges by this Act conferred ;
- (d) to make any arrangement or compromise which he or they shall think expedient in the interests of the debenture holders.

And all moneys received by such receiver or receivers shall, after providing and paying for all proper expenses, be applied in the first place in redemption of the moneys secured by the debentures, having regard to all priorities created, if any, and, in the next place, in discharge of any other liabilities of the trust, and the surplus moneys (if any) shall be paid to the council for the general purposes of the council.

12. The holders of three-fourths in value of the debentures issued by the trust for the time being outstanding may sanction any agreement with the trust for any modification or alteration of the rights of the holders of debentures as a class, including any release of any property charged thereby, and any postponement of the time for payment of any moneys secured thereby, and any increase or reduction of the rate of interest, and an agreement so sanctioned shall be binding on all the holders of such debentures, and notice thereof shall be given to each debenture holder, and each debenture holder shall be bound thereupon to produce his debentures to the trust, and to permit a note of such agreement, and the sanction thereof aforesaid, to be placed thereon.

13. The principal moneys and interest secured by a debenture will be paid at some bank in Broken Hill or at the office of the trust.

14. A notice may be served by the trust upon the holder of any debenture by sending it through the post in a prepaid letter addressed to such person at his registered address.

15. Any notice served by post shall be deemed to have been served at the expiration of forty-eight hours after it is posted, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

16. Debentures may be transferred by instrument in the following form :—

I, A.B., of \_\_\_\_\_, in consideration of the sum of \_\_\_\_\_ pounds, paid to me by C.D., of \_\_\_\_\_, do hereby transfer to the said C.D. (hereinafter called the transferee) the undermentioned debentures issued by the Broken Hill and Umberumberka water trust—that is to say—

[Here state date, character, amount, and numbers.]

and the full benefit thereof :

To hold the same unto the transferee subject to the several conditions on which I held the same immediately before the execution hereof ; and I, the transferee do hereby agree to take the said debentures subject to the same conditions.

As witness our hands this \_\_\_\_\_ day of \_\_\_\_\_

Signed by the above-named A.B. in the presence of

[Witness' signature, address, and occupation.]

*Broken Hill and Umberumberka Water Supply.*

THE SIXTH SCHEDULE.

*Broken Hill and Umberumberka water trust.*

Issue of debentures of pounds each, carrying interest at per Section 64.  
centum per annum.

No. pounds

1. The Broken Hill and Umberumberka water trust (hereinafter called the trust) will on the day of , or on such earlier day as the principal moneys hereby secured become payable in accordance with the conditions contained in the Schedule to the Broken Hill and Umberumberka Water Supply Act, 1906, pay to of or other the registered holder for the time being, the sum of pounds.

2. The trust will, in the meantime, pay to such registered holder interest thereon at the rate of per centum per annum by half-yearly payments on the day of and the day of in each year, the first of such half-yearly payments to be made on the day of next.

3. Such payments are charged on the undertaking of the trust, and all its property present and future.

4. This debenture is issued subject to, and with the benefit of, the conditions mentioned in the Fifth Schedule to the Broken Hill and Umberumberka Water Supply Act, 1906, which are to be deemed part of it.

Given under the common seal of the trust, this day of

The common seal was affixed hereto in the presence of

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

HARRY H. RAWSON,  
Governor.

*State Government House,  
Sydney, 28th December, 1906.*

21st December, 1900.  
 His Excellency General...

H. V. K. ...

In the name of His Majesty the King of the United Kingdom...

The following Schedule is hereby...

1. The following Schedule...

2. The following...

3. The following...

4. The following...

THE SIXTH SCHEDULE

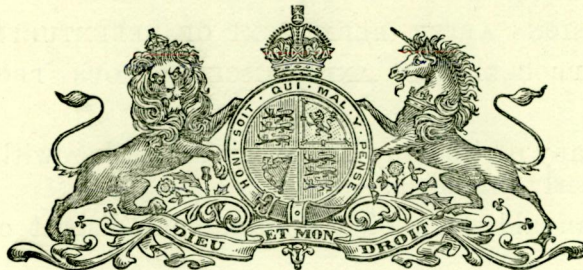
His Majesty the King of the United Kingdom...

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

*Legislative Assembly Chamber,  
Sydney, 11 December, 1906.* }

RICHD. A. ARNOLD,  
*Clerk of the Legislative Assembly.*

## New South Wales.



ANNO SEXTO

## EDWARDI VII REGIS.

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Act No. , 1906.

An Act to provide for an additional water supply for Broken Hill and district ; for that purpose to confer certain powers on and to vest certain lands in the municipal council of Broken Hill ; to authorise the transfer of such powers and lands to a trust to be constituted ; to confer certain other powers on such trust ; to apply and amend certain Acts ; and for purposes consequent thereon or incidental thereto.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5      1. This Act may be cited as the "Broken Hill and Umberum-berka Water Supply Act, 1906." Short title.



*Broken Hill and Umberumberka Water Supply.*

2. This Act is divided into parts, as follows :—

Division of Act

PART I.—THE CONSTRUCTION OF WATERWORKS AND ACQUISITION OF LANDS.

PART II.—SPECIAL PROVISIONS AS TO WATER SUPPLY.

5 PART III.—EXTENSION OF ACT TO OTHER COMPANIES.

PART IV.—THE TRUST.

PART V.—OFFICERS.

PART VI.—FINANCIAL PROVISIONS.

10 PART VII.—WATER SUPPLY FOR THE MINING COMPANIES AND DOMESTIC PURPOSES.

PART VIII.—PROVISIONS AFTER REPAYMENT OF DEBENTURES.

PART IX.—LEGAL PROCEEDINGS AND MISCELLANEOUS PROVISIONS.

3. In this Act, and any part of any Act incorporated herewith, Interpretation.  
15 except where otherwise clearly intended :—

“Alderman” means an alderman of the municipal district of Broken Hill.

“Borough or municipal district” and “borough or municipality” mean the district.

20 “Catchment area” means the drainage area of the streams and other sources of water supply included within any boundaries set forth in any proclamation under this Act for the purpose.

“Chairman” means the chairman of the trust or the acting chairman thereof.

25 “Conduit” means the canals, tunnels, aqueducts, cuttings, or pipes by means of which the main stream of water is supplied.

“Council” means the council of the municipal district of Broken Hill, and, except in Part IV, includes the trust.

30 “Council clerk” means the person authorised by the council to perform the duties of council clerk, and includes the secretary of the trust.

“District” and “municipal district” means the municipal district of Broken Hill, and includes any locality within which any of the powers conferred by this Act may be exercised.

35 “Domestic purposes” does not include a supply of water for stables or for manufacturing purposes or for irrigation, water power, fountains, or for any ornamental purposes.

40 “Incorporated” means that the legislation incorporated is to be read and construed as though the same were specifically enacted in this Act in aid of any of the purposes of this Act, whether such legislation refers to or depends on other legislation or not.

“Justice” means any justice of the peace.

“Mayor,”

*Broken Hill and Umberumberka Water Supply.*

- 5 “Mayor,” “mayor of the council,” or “mayor of such council” means the mayor of the municipal district, and includes any person acting in the office of mayor, and includes also the chairman of the trust and any person acting in the office of chairman of the trust.
- “Member” means a member of the trust.
- “Mines” means the several properties and undertakings of the mining companies respectively situated or carried on in Broken Hill or the vicinity thereof.
- 10 “Mining companies” means the mining and treatment companies in the vicinity of Broken Hill contributing to the scheme, and includes any new company admitted to the benefits of this Act pursuant to Part III.
- “Mining company” means some one of the mining and treatment companies.
- 15 “Minister” means Secretary for Public Works.
- “Owner” means any person who is in receipt of the rents and profits of any house, manufactory, or building, of whatsoever kind, or of any land.
- 20 “Secretary” means the officer of the trust performing the duties of secretary of the trust.
- “Street” means any square, court, alley, highway, lane, road, thoroughfare, or public passage.
- “Trust” means the trust hereby authorised to be created.

25

## PART I.

*The construction of waterworks and acquisition of land.*

4. (1) The council may at any time within a period of twelve <sup>The scheme.</sup> months, and subject to the approval of the plans by the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works, proceed to construct and carry out the scheme shortly described in the First Schedule, with such modifications, alterations, and extensions as the council may think necessary for the purpose of securing an additional water supply to the inhabitants of the district, and to assist the development of the mines.
- 30
- 35 (2) If works in connection with the scheme are not bona fide commenced within the said period of twelve months, or if such works are thereafter for a continuous period of three months discontinued without the authority of the Governor in that behalf, the council shall forfeit all its rights and privileges under this Act, and the same shall
- 40 become void, and all Crown lands vested in the council in pursuance of this Act shall revert to His Majesty absolutely free from all estates, interests, encumbrances, and easements created after the commencement of this Act.

5.

*Broken Hill and Umberumberka Water Supply.*

5. Such Crown lands as are included in the lands described in the Second Schedule are hereby vested in the council for an estate of inheritance in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rents, 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 council :

Vesting of necessary lands.

10 Provided that the council shall have no power to lease or sell any such lands, or to utilise such land for purposes other than those for which the trust may be created in pursuance of this Act.

6. "Crown lands" means all lands vested in His Majesty which have not been dedicated to any public purpose, or which have not been granted in fee or lawfully contracted to be so granted, or which are not under lease for purposes other than pastoral purposes.

Definition of "Crown lands."

7. (1) The council may for the purpose and subject to the provisions of this Act acquire, purchase, or take on lease, sell, or exchange any land wherever situated, whether within or without its municipal district, and may also purchase any water privileges or easements which interfere with the proper drainage or with the supply of water.

Power to take other lands.

(2) Any lands so acquired by the council, but not required for the purpose for which they were acquired, may, with the approval of the Governor, be sold or leased by the council, and the proceeds of such sale or lease shall be applied in discharging by means of a sinking fund or otherwise the liability in respect of any moneys borrowed for the purposes of this Act.

Power to sell surplus lands.

8. The whole of Part IV and the Third, Fourth, and Fifth Schedules (such Schedules being modified to suit the purposes of this Act) of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated.

Incorporation of certain provisions of Act 14 of 44 Vic. as to taking of lands and compensations.

9. The Governor may at any time define by proclamation the boundaries of any catchment area and of any water district within which any of the powers hereby conferred may be exercised, and such boundaries may be outside the boundaries of the municipal district.

Governor may define boundaries.

10. Section thirteen (except subsections twelve to fifteen, both inclusive, thereof, and except so much of that section as prescribes the distance from the water main of the council within which lands and tenements may be subject to water rates) and sections fourteen and fifteen of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated :

Power to make by-laws.

Provided that the said sections hereby incorporated shall apply only in respect of any land or premises supplied with water by the council or the trust under the provisions of section seventy-three of this Act or out of the surplus water referred to in section seventy-four of this Act.

PART

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*Broken Hill and Umberumberka Water Supply.*

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## PART II.

*Special provisions as to water supply.*

11. The whole of Part II of the Country Towns Water and Sewerage Act of 1880 (except sections thirty-five to forty-one, both  
5 inclusive, and sections sixty and sixty-one) is hereby incorporated. Incorporation of provisions as to water supply in Act 14 of 44 Vic.

12. The following provisions of Act number forty-three of one thousand nine hundred and five are hereby incorporated, namely, sections five to eleven (both inclusive), twenty-one and twenty-two, the whole of Part III (except sections thirty-six and thirty-seven and  
10 subsection two of section thirty-eight), section sixty, and sections sixty-two to seventy (both inclusive), and Schedules A and B: Incorporation of certain provisions of Act 43 of 1905.

Provided that the incorporation of the said Part III shall be subject to the proviso contained in section ten of this Act.

## PART III.

*Extension of Act to other companies.*

13. Any company (hereinafter referred to as a "new company") desirous of obtaining the benefits and becoming subject to the liabilities by this Act conferred and imposed respectively on mining companies may by writing under its common seal apply to the trust that it may  
15 enjoy such benefits and become subject to such liabilities. Other companies may apply to obtain benefit of this Act.

14. The trust shall, on receipt of such application, consider the same, and may by resolution reject the same or accept the same conditionally upon such terms as the trust may in its absolute discretion think fit: Resolution of the trust on application.

25 Provided that such new company may, in the event of its being dissatisfied with such resolution, appeal to the Minister, who may confirm, vary, or alter the conditions contained in such resolution of the trust, and the trust shall be bound by the decision of the Minister.

15. On compliance with such terms the new company shall be  
30 deemed a mining company, and shall thereafter enjoy all the benefits, and thereafter be subject to all the liabilities, which the mining companies are thereafter entitled and subject to respectively. Extension of Act to the company applying.

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## PART IV.

*The trust.*

16. There shall be a trust to be called "Broken Hill and Umberumberka Water Trust." The trust.

5 17. (1) The council may, with the consent of the Governor-in-Council, from time to time, and at any time, assign, transfer, convey, and release to the trust any of the rights, powers, and authorities, privileges, liabilities, and obligations conferred and imposed upon the council by this Act, together with all lands, Council may delegate powers and assign property to the trust.  
 10 tenements, hereditaments, estates, chattels, and effects of every kind acquired by, under, or in pursuance of, and purchased, occupied, or used in connection with the same. Upon and after the completion of such assignment, transfer, conveyance, and release, the trust, its assigns and its and their officers, agents, and servants may lawfully  
 15 exercise and enjoy all such rights, powers, authorities, and privileges, and shall be and continue to be subject to all such liabilities, obligations, penalties, and forfeitures to which the council, its officers, agents, or servants would have been entitled or subject to had no such assignment, transfer, conveyance, and release been completed.

20 (2) Nothing hereinafter contained shall prejudice or affect any rights, accrued actions, or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by, the council before the completion of the said assignment, conveyance, and release.

25 18. The trust shall consist of seven members, three of whom shall be appointed by the council, three by the mining companies, and one by the Governor. When debentures have been issued pursuant to section fifty-five, and so long as any such debentures are outstanding, the number of the members of the trust shall be increased to nine by the appointment by the debenture holders of two additional  
 30 members. When the debentures are paid off, the said additional members shall retire. Members of the trust.

19. The members to be appointed by the council shall be appointed by the council by a resolution of the majority of the members of that body present at a meeting convened and held for the purpose. Representatives of the council.

35 If at any meeting of the council convened for the purpose a resolution be carried by an absolute three-fourths majority of the council calling upon any member of the trust appointed by the council to retire from office, such member shall thereupon retire accordingly. The council may by the same or another resolution appoint some  
 40 person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the council.

*Broken Hill and Umberumberka Water Supply.*

20. No person shall be so appointed by the council who has not previously, by writing signed by him and delivered to the mayor or the council clerk, signified his willingness to act as a member and who does not at the time of his appointment hold office as alderman. Council representatives must be aldermen.
- 5 21. Every appointment shall be certified by writing under the common seal of the council. Appointment to be sealed.
22. The council shall notify the appointment in the Gazette. Appointment to be Gazetted.
23. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made. Gazette to be evidence.
- 10 24. The members to be appointed by the mining companies shall be appointed according to the provisions contained in the Third Schedule. Representatives of the mining companies.
25. Every appointment by the mining companies shall be notified in the Gazette. Appointment to be gazetted.
- 15 26. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made. Gazette to be evidence.
27. The members to be appointed by the debenture holders shall be appointed in accordance with the provisions contained in the Fourth Schedule. Representatives of the debenture holders.
- 20 28. In any case where there has, in the opinion of the Governor, been unreasonable delay in the appointment of a member by the council, the mining companies, or the debenture holders, the Governor may, on behalf of the council, mining companies, or debenture holders guilty of such delay, appoint the member or members required to be appointed by the council, mining companies, or debenture holders respectively. On neglect to appoint, the Governor may appoint the representatives.
29. Members so appointed by the Governor shall be deemed to have been duly appointed by the council, mining companies, or debenture holders as the case may be. Members appointed by the Governor to be deemed duly appointed.
- 30 30. The Governor shall, in the Gazette, notify the name or names of any persons so appointed, and on whose behalf such persons have been appointed. The Gazette containing such notification shall be conclusive evidence that such persons have been duly appointed by the council, mining companies, or debenture holders as mentioned in the notification. Appointments to be gazetted and Gazette to be evidence of appointment.
- 35 31. When any vacancy occurs in the trust the same shall be filled up in manner hereinbefore provided, so far as applicable, by appointment by the council, the mining companies, or debenture holders according as such vacancy has been caused in respect of a member appointed by the council, the mining companies, or the debenture holders. Vacancies.
- 40 32. Every member shall, subject as hereinafter mentioned, be deemed to have been appointed for three years. Term of appointment.
- 45 33. (1) At the end of every year from the date of the appointment of the first member, one of the members appointed by the council, the mining companies, and the debenture holders respectively shall retire. Retirement each year.
- (2)

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(2) As between the respective members appointed respectively by the council, the mining companies, and the debenture holders, the member to retire shall be the one who has been longest in office since his last appointment, and in case of equality in length of service as member such retirement shall be determined by lot. Order of retirement.

**34.** A member retiring shall, except during the continuance of any disability as herein provided, be eligible for reappointment. Retiring members to be eligible for reappointment.

**35.** Any member— Disqualifications.

- (a) Having his estate placed under sequestration as bankrupt;
- 10 (b) having executed any deed of assignment for the benefit of his creditors;
- (c) being absent without leave from the meetings of the trust for more than three consecutive months;
- 15 (d) holding any office or place of profit (other than that of member) under or in the gift or disposal of the trust;
- (e) being directly or indirectly by himself or any partner engaged or interested in any contract or employment with, by, or on behalf of the trust;
- 20 (f) being a member appointed by the council ceasing to hold office as alderman;
- (g) being of unsound mind;

shall thereby become disqualified and shall cease to hold office as a member.

**36.** Every person becoming disqualified by reason of the sequestration of his estate or the execution of any deed of assignment as aforesaid shall, on obtaining his certificate or paying his debts in full, or obtaining an absolute release from his creditors, be capable of being reappointed. Removal of disqualification.  
Cf. *ibid.* s. 40.

**37.** No member shall be disqualified or cease to hold office by reason of his being a shareholder or director of any joint stock company contracting with the trust. Saving as to disqualification.  
Cf. *ibid.*, s. 38.

**38.** Every member appointed by the mining companies or debenture holders respectively shall be disqualified and cease to hold office upon being requested to retire, as provided in the Third and **35** Fourth Schedules respectively. OR Retirement of certain members.

**39.** (1) The trust may make regulations for or relating to— Trust may make regulations.

- (a) the times of its meetings;
- (b) the conduct of its proceedings and business;
- 40 (c) the appointment, powers, and control of committees formed out of members of the trust;
- (d) the duties, control, supervision, and guidance of its officers and servants; and
- (e) the use of its common seal. (2)

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(2) All such regulations shall be published in the Gazette, and the Gazette purporting to contain any such regulation or any amendment or repeal of a regulation shall be evidence thereof, and that such regulation, amendment, or repeal was duly made.

5 **40.** The trust may act notwithstanding any vacancy or vacancies in its membership. Trust may act, notwithstanding any vacancy.

**41.** The meetings of the trust shall be held at Broken Hill. Three members shall form a quorum. Place of meeting. Quorum.

**42.** The trust shall appoint one of the members appointed by the council to be chairman of the trust, who shall be chairman of every committee appointed by the trust, and he shall have a casting as well as a deliberative vote on the trust and on every committee of the trust. When the chairman is absent from any meeting, the members present shall appoint one of the members appointed by the council to be chairman to act during such absence, and he shall preside and have a casting as well as a deliberative vote. Chairman.

**43.** The chairman shall be paid out of the moneys of the trust an honorarium of one hundred pounds per annum, and each of the members shall be paid out of the said moneys an honorarium of fifty pounds per annum. No alderman, by reason of being a member of the trust, shall be disqualified from holding or shall cease to hold office as alderman. Remuneration to members.

**44.** The trust shall be a body corporate by the name of "The Broken Hill and Umberumberka Water Trust," and shall have perpetual succession and a common seal. Trust to be a body corporate.

**45.** All courts, judges, and persons acting judicially shall take judicial notice of such seal and shall presume that the same was properly affixed. Judicial notice of the seal.

**46.** Every instrument which it may be necessary for the trust to execute shall, subject to the provisions of section 90, have the seal affixed thereto. Seal to be affixed.

**47.** The trust—

- 35 (a) may in its corporate name acquire, hold, and alienate property, and sue and be sued in all courts, and be a party to any arbitration ; Powers of trust to deal with property, &c., and duties as to minutes, &c.
- (b) shall acquire from the Minister the tools, plant, and materials belonging to the Government at the site or in the vicinity of the dam at Umberumberka at a valuation to be determined upon.
- 40 (c) may delegate to any committee, officer, or servant any of its powers as it thinks fit, and may alter, vary, or revoke such delegation ;
- (d) may do all such acts and things as may be necessary and expedient for carrying out the purposes of this Act ;

(e)



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- (e) shall cause proper minutes or records of all its proceedings and the proceedings of any committee to be kept ;
- (f) shall cause proper books of account to be kept to the satisfaction of the auditors ;
- 5 (g) shall each year appoint two auditors and fix their remuneration. No auditor shall hold office for more than two consecutive years. The auditors shall have access to the books of account and vouchers whenever they think necessary, and shall certify the balance-sheets ;
- 10 (h) shall cause a proper balance-sheet to be prepared to the satisfaction of the auditors every six months, and the same shall be published in the Gazette.

48. (1) Upon affidavit that any member has been appointed to or holds or exercises such office of member being incapable under the provisions hereof of being or continuing such member, it shall be lawful for the Supreme Court, or any judge thereof, to grant a rule or order calling upon such person to show cause to the court why he should not be, by the said court, ousted of the said office, and where upon the return of such rule or order it appears to the court that such person so appointed or holding or exercising such office was at the time of his appointment, or while holding or exercising such office, incapable under the provisions hereof of being or continuing such member as the case may be, the court may make such rule or order absolute, or if the matter does not so appear, may discharge such rule or order, and in either and every such case with or without the payment of costs to or by either party as the court deems meet.

Ouster of office.  
Of. Act 23, 1897  
s. 109.

(2) The person against whom any rule is made absolute shall be deemed thereby to be ousted of any office accordingly.

(3) No order or rule shall in any case be granted if at the time of such application for any such rule or order more than three months have elapsed after the appointment or the time when the person against whom such application is made was disqualified.

## PART V.

*Officers.*

35 49. The trust shall appoint such officers and servants as in their discretion they may deem necessary for the execution of the powers and duties hereby vested in the trust, and shall assign remuneration to such officers and servants by way of salaries, allowances, or wages, which shall be in lieu of all fees, perquisites, and other emoluments whatever.

Officers and servants  
to be appointed  
Cf. *ibid.* s. 126.

*Broken Hill and Umberumberka Water Supply.*

50. Every officer employed by the trust who exacts or accepts on account of anything done by virtue of his office, or in relation to the matters to be done under this Act, any fee or reward whatever other than the salary or allowance allowed by the Trust shall be liable to a penalty of not less than ten pounds nor more than one hundred pounds.

Penalty against  
bribery.  
Cf. Act 23, 1897,  
s. 127.

51. (1) Every officer or servant who, by reason of his office or employment under the trust, is entrusted with the custody or control of any moneys shall—

Duties of officers as  
to money belonging  
to the trust,  
Cf. *ibid.* s. 128.

- 10 (a) give such security for faithfully and duly accounting for the same as the trust may think sufficient;
- (b) within seven days after having received any moneys or within such shorter time as the trust may appoint, pay over the same to some person appointed by the trust or into some bank selected by the trust;
- 15 (c) as and when the trust may direct, deliver a list signed by him containing the names of all persons who have neglected or refused to pay any sums due by them;
- (d) when and as required by the trust make out and deliver a true and perfect account in writing under his hand and signature of all moneys received by him for the purposes of this Act, distinguishing how and to whom and for what purposes such moneys have been disposed of;
- 20 (e) together with such account deliver the vouchers or receipts for all payments made by him, and shall pay over to or receive from the said person appointed by the trust mentioned in subsection (b) hereof or the chairman the balance of such accounts (if any).
- 25

(2) If any such officer or servant fails to render such account, or to produce and deliver up all vouchers and receipts in his possession or power, or to pay over any such moneys or balance as aforesaid, or if, for the space of seven days after being thereunto required, he fails to deliver up to the trust all books, papers, writings, property, effects, matters, and things in his possession or power belonging to the trust, he shall, on proof thereof before any justice, and on his still failing or refusing to do such or any other required act relating to the premises, be liable, on summary conviction before a justice, to be imprisoned for any term not exceeding three weeks or until he has done such act.

40 And if it appears that he has failed to pay over such moneys as aforesaid, and he still fails or refuses so to do, the justice may cause any such moneys as aforesaid to be levied by distress upon his goods and chattels, and in default of any sufficient distress may commit him to gaol without bail for any time not exceeding three months unless

45 such moneys be sooner paid :

Provided

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Provided that upon proof on oath to any justice that there is probable cause for believing that any such officer or servant so charged is about to abscond, such justice may, without summons, cause him to be forthwith apprehended upon warrant, and may, upon  
5 prima facie proof on oath of the charge, require him to give bail for his subsequent appearance to answer the same :

Provided also that no such proceeding shall relieve any surety of the offender from any liability whatsoever, nor any such offender from being held to answer any criminal information, charge, or  
10 proceeding whatsoever.

52. (1) The chairman may suspend from office at any time any officer or servant of the trust who may, in his opinion, be guilty of misconduct or neglect, and if necessary may temporarily appoint and may take security from another officer or servant to fulfil the duties  
15 of such officer or servant so suspended as aforesaid :

Provided that at the then next meeting of the trust the chairman shall report the matter to the trust, and if the officer or servant so suspended is dismissed by the trust, no salary or wages shall be due or payable to him from or after the date of his suspension.

20 (2) Every officer or servant so temporarily appointed shall only hold office and receive remuneration (which remuneration shall in no case exceed that paid to the suspended officer or servant) until the trust decides whether the person suspended shall be reinstated or shall be dismissed and a successor appointed in his stead.

25

## PART VI.

*Financial provisions.*

53. The trust may, as hereinafter provided, borrow such money, not exceeding two hundred thousand pounds, as in the opinion of the trust may be required for any of the purposes of this Act.

30 54. The trust may, on the terms and conditions contained in the Fifth Schedule, issue debentures to secure the repayment of money borrowed with interest thereon to the lenders.

55. No judgment against the trust shall be enforced except as against or be recoverable except out of the property of the trust.

35 56. In the event of the trust determining to borrow moneys, it may at any time, not later than two years from the passing of this Act, and from time to time during such period by notice in writing under the seal of the trust, call upon the mining companies to lend to the trust any sum or sums of money not exceeding in the aggregate  
40 of all such demands two hundred thousand pounds.

57.

*Broken Hill and Umberumberka Water Supply.*

57. Any such notice shall be deemed to have been duly given to the mining companies if the same has been advertised twice at least in the Gazette, and twice at least in one daily newspaper circulating in Broken Hill. Notice may be given by advertisement.
- 5 58. The notice shall specify the amount required to be lent by each mining company. Notice to specify amount.
59. The liability hereby imposed is a several liability, and the amount to be lent by each mining company shall be ascertained and fixed mutually between the contributing mining companies and the trust. Contributions by the companies.
- 10 60. Each mining company shall, within one month after the last advertisement of the notification mentioned in section fifty-eight, pay to the trust the moneys ascertained and fixed in accordance with section sixty required to be lent by such company. Company to pay its contributions in a month.
- 15 61. The liabilities hereby created in favour of the trust against the several mining companies respectively shall, without prejudice to any other remedy, be enforceable against any property of the respective mining companies situated within the State of New South Wales, and the amount thereof may be levied by distress and sale of such property on a warrant of the chairman as though such amount were rent in arrear to the trust. Recovery of company's contribution.
- 20 62. Any mining company may discharge the whole or part of the obligation hereby imposed in respect of the particular amount required to be lent by such company by finding some one or more persons (hereinafter referred to as "the substitutes") willing to lend and lending to the trust the particular amount required on the terms on which such mining company is liable so to do. Company may escape liability to contribute by finding substitutes.
- 25 63. In exchange for and to the amount of the moneys respectively lent, the trust shall deliver debentures to the respective mining company or substitutes. Debentures to be issued for moneys lent.
- 30 64. Such debentures shall be in the form in the Sixth Schedule and shall confer the rights and be issued on the terms and subject to the conditions mentioned in the Fifth Schedule. Form and terms of debentures.
- 35 65. The principal moneys respectively lent by the mining companies or substitutes shall be repaid to the registered holders for the time being of the debentures and in exchange for the debentures unless lost or destroyed (in which case such loss or destruction shall be proved to the satisfaction of the trust) on the date mentioned in the debentures respectively, not exceeding thirty years from the respective issue thereof as therein respectively mentioned, or such debentures may at any time be redeemed by the council. Such debentures shall bear interest at a rate not exceeding five pounds per centum per annum payable by half-yearly instalments on some dates appointed in the debentures respectively. Repayment of debentures.
- 40

*Broken Hill and Umberumberka Water Supply.*

66. As long as any debenture issued by the trust remains unredeemed the trust shall, on the thirtieth day of June and thirty-first day of December in every year after making provision or allowance in account for—

Application of receipts while debentures are outstanding.

- 5 (a) payment of expenses incurred during the preceding six months in connection with the business of the trust, including maintenance;
- (b) a renewal fund to replace and to be applied solely in replacing the renewable parts of the undertaking then constructed;
- 10 (c) estimated current expenses during the next following month in connection with such business,
- apply the residue of its receipts—
- (a) in defraying the interest then payable on debentures; and
- 15 (b) in forming a sinking fund to be invested in any way in which trust funds may be invested for the purpose of and to be applied and applicable solely for the redemption of the principal and interest moneys secured by the debentures.

67. Upon the works referred to in the Broken Hill Water Supply Act, 1890, becoming vested in the Government, either by acquisition or reversion, it shall be lawful for the Governor, by notification in the Gazette, to notify to the council or trust his intention to acquire the works constructed under this Act, together with all lands and other property vested in the council or the trust in connection therewith; and the same shall, on a date to be fixed by the Governor, absolutely vest in His Majesty. The purchase money shall be as agreed upon between the Governor and the council or trust, and in case of dispute shall be determined by arbitration in accordance with the Acts then in force regulating the settlement of disputes by arbitration: Provided that the amount to be paid as such purchase money shall not exceed the cost of such works, land, and property.

Purchase of works constructed under this Act.

## PART VII.

*Water supply for the mining companies and domestic purposes.*

68. Any mining company may from time to time, by notice in writing under the hand of its manager, secretary, or other officer, from time to time appointed for the purpose, notify the trust of the amount of water (hereinafter called "the required reserve") such company requires the trust to keep in reserve for its use during the next ensuing twelve months.

Reserve requirements of companies may be notified.

69.

*Broken Hill and Umberumberka Water Supply.*

69. The trust shall, subject to this Act, and unless prevented by shortness of supply or unavoidable accident—

Reserve to be kept and supplied.

(a) conduct its business so that the required reserve of every mining company shall be kept in reserve and applicable for the use of such mining company ;

(b) Supply every mining company with water from time to time required by such mining company to the amount of the required reserve, delivered through meters on some part of the property of such mining company approved by the trust, at a rate not exceeding two shillings and sixpence per one thousand gallons.

70. If in any year, calculated from the first day of January to the thirty-first day of December, a mining company has not taken an amount of water equal to its highest required reserve, as notified to the trust during such year, and the trust has at all times during such year been ready and willing to supply such mining company with the same, the trust may demand and recover payment from such mining company for the difference between such amount and that during such year so taken at a rate not exceeding two shillings and sixpence per one thousand gallons.

Company to be bound to take the quantity required to be reserved.

71. When the supply of water from Stephen's Creek is, or is likely to become, exhausted, inadequate, unavailable, or unfit for domestic purposes, the council, on receipt of and in accordance with the certificate in writing of the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works to that effect, may, by resolution under its common seal, require the trust to keep in reserve the amount of water specified in such resolution for the domestic purposes of the population of Broken Hill.

Council may require water to be reserved for domestic purposes.

72. Upon receipt of such resolution the trust shall—

(a) out of the water then available reserve for such domestic purposes the amount of water specified in the resolution, and sell and supply to the council water to the amount required to be reserved for domestic purposes, or so much thereof as may be required by the council at some point or points of delivery in Broken Hill determined by the trust on receiving payment for such water at the same rate as that chargeable to the mines ; and

Trust to comply with the council's demand.

(b) cease to supply any mining company, or diminish the supply to any mining company, in order to secure a supply to the council of the amount required as aforesaid, to be reserved for domestic purposes.

73. (1) Subject to the rights hereby conferred in favour of a supply of water for the mining companies and for domestic purposes, the council may require the trust to sell and dispose of any surplus water to the council at the same rate per one thousand gallons as that

Surplus water to be sold to the council.

*Broken Hill and Umberumberka Water Supply.*

that charged to the mines; such water to be delivered to the council in Broken Hill at some point or points of delivery nearest to the receiving tank station of the Broken Hill Water Supply, Limited, on reserve number three thousand and seventy-five.

- 5 (2) The council may resell any water so purchased at such rate to such persons and in such manner as the council thinks fit, and generally may exercise any of the powers conferred by this Act. Council may resell water.

## PART VIII.

*Provisions after repayment of debentures.*

- 10 74. As soon as all the debentures issued by the trust have been redeemed— Membership of trust on redemption of debentures, price of water to the companies, and application of profits.
- (a) the members appointed by the debenture holders shall retire from office;
- 15 (b) subject to the special provisions relating to the supply of water for domestic purposes the trust shall supply water to the mining companies and the council at a price not exceeding, after making all proper allowances, the actual cost to the trust of such water delivered at the mines plus ten pounds per centum thereon;
- 20 (c) the profits of the trust in every year shall be distributed as to one-half to the council for the general purposes of the council, and as to the remaining half shall be applied in reducing the cost of water pro rata to the mining companies during the ensuing twelve months.

25

## PART IX.

*Legal proceedings and miscellaneous provisions.*

75. The following provisions shall and may be applied in respect of all actions and proceedings taken in respect of claims for damages not within the meaning and operation of Part IV of the Country Towns Water and Sewerage Act of 1880, or any incorporated amendment thereof, namely:— Procedure in actions against trust. (f. 14 of 41 Vic., s. 133.)
- 30

- (a) No action against the trust shall be maintainable in any court other than the Supreme Court, and no writ of execution shall be issued against the council until the expiration of fourteen days after final judgment has been signed.
- 35

(b)

*Broken Hill and Umberumberka Water Supply.*

- (b) No plaintiff shall recover in any such action unless notice in writing has been given to the defendant twenty-eight days before such action is commenced of such intended action, signed by the attorney of the plaintiff specifying the cause of such action, and the plaintiff shall not recover in any such action if tender of sufficient amends has been made to him or to his attorney by or on behalf of the defendant before such action brought. In case no such tender be made, it shall be lawful for the defendant in any such action, by leave of the court at any time before issue joined, to pay into court such sum of money as he thinks proper, whereupon such proceedings, order, and judgment shall be made and given by such court as in other actions where the defendant is allowed to pay money into court.
- (c) No such action or suit shall be brought after three months from the act committed. The defendant in every such action or suit may at his election plead specially or the general issue, and give this Act and the special matter in evidence at any trial, and prove that the same was in pursuance and under the authority of this Act. If the same appear to have been so done, or if such action or suit have been brought before the expiration of twenty-eight days next after such notice has been given as aforesaid, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same, or be brought in any other place than as aforesaid, the jury shall find a verdict for the defendant. Upon such verdict, or if the plaintiff be nonsuited or discontinue his action or suit after the defendant has appeared, or upon any demurrer, judgment be given against the plaintiff, the defendant shall recover full costs of suit and have such remedy for recovering the same as any other defendant has in other cases by law.
76. Where by this Act any question of compensation, expenses, charges, or damages, or other matter is required to be referred to the determination of any one or more justices, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons, and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties, or any of them and their witnesses, on oath, and the cost of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

Method of  
determining amount  
of compensation  
before justices.

Cf. 14 of 44 Vic.  
s. 131.



*Broken Hill and Umberumberka Water Supply.*

77. If through any act, neglect, or default, on account whereof any person has incurred any penalty imposed by this Act, any damage to any conduit, main pipe, or property of the trust, used in connection therewith, has been committed by such person, he shall be liable to 5 make good such damage, as well as to pay such penalty. The amount of such damages shall, in case of dispute, be determined by the justices, by whom the party incurring such penalty has been convicted. 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 10 accordingly.
78. It shall be lawful for any officer or servant of the trust, and all persons called by him to his assistance, to seize and detain any person who has committed any offence against the provisions of this Act, and whose name and residence is unknown to such officer or 15 servant, and convey him with all convenient despatch before some justice, without any warrant or other authority than this Act, and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.
79. Nothing in this Act shall be construed to render lawful 20 any act, matter, or thing whatsoever, which, but for this Act, would be deemed to be a nuisance, nor to exempt the trust, or any person, from any liability, prosecution, or punishment, to which the trust, or such person, would, but for this Act, have been subject.
80. Any person appointed by the trust in that behalf shall 25 have the same right and authority to represent the trust in instituting and conducting any action, suit, or other proceeding in any court of law, or in equity by, for, on account of, or against the trust, as if such action, suit, or proceeding had been brought or instituted by, for, on account of, or against such person individually.
- 30 81. If any person against whom the trust has any claim or demand takes the benefit of any Act relating to bankruptcy, any person appointed by the trust in that behalf, in all proceedings against the estate of such first-mentioned person, or under any sequestration or act of bankruptcy against such person, may represent the trust, 35 and act in their behalf in all respects as if such claim or demand had been the claim or demand of such person so appointed, and not of the trust.
82. Every person committing a breach of any provision of this Act, or of any by-law made hereunder, by wilful act or refusal, or 40 neglect to act or otherwise, shall, when no specific penalty has been provided for such offence, be liable to a penalty not exceeding twenty pounds.
83. All fines, penalties, and forfeitures incurred under this Act, or under any by-law made hereunder, may, unless otherwise 45 provided for, be recovered in a summary way before any two justices in petty sessions.
- 84.

Remedies in case of damage to property of trust.

Cf. 14 of 44 Vic., s. 137.

Officers of trust may detain offenders in certain cases.

Cf. *ibid.*, s. 138.

Remedies in cases of nuisances preserved.

Cf. *ibid.* 140.

Representation of trust in legal proceedings.

Cf. 23 of 1897, s. 25).

Representative of trust in cases of bankruptcy.

Cf. *ibid.* 251.

General penalty clause.

Cf. *ibid.* 252.

Penalties may be recovered summarily.

Cf. *ibid.* 253.

*Broken Hill and Umberumberka Water Supply.*

84. All fines, penalties, and forfeitures imposed and recovered as aforesaid shall, except when otherwise directed by this Act, be paid into the corporate fund of the body corporate suing therefor.

Application of penalties.  
Cf. 23 of 1897, 254.

85. No person shall be liable to any incapacity, disability, fine, penalty, or forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after such incapacity, disability, forfeiture, or penalty has been incurred.

Limitation of proceedings.  
Cf. *ibid.* 255.

86. Every entry in the minute book purporting to be a minute of the business transacted at any meeting of the trust, or a Committee, and signed by the chairman at the next meeting of the trust, or the chairman of such committee, which has been holden after such first-named meeting, shall be evidence that such business as is therein recorded was transacted at such meeting, without proof of the meeting having been duly convened or held, or of the persons attending such meeting having been or being duly authorised so to do, or of the fact of such chairman having been or being such chairman.

Minutes to be in evidence.  
Cf. *ibid.* 122.

87. Every advertisement, order, direction, summons, notice, demand, or other such document requiring authentication by the trust, shall be sufficiently authenticated if signed by the chairman or by the secretary of the trust, and need not be under the common seal of the trust. And every such document may be in writing or in print, or partly in writing and partly in print.

Notices how authenticated.  
Cf. *ibid.* 256.

88. No advertisement, order, direction, notice, demand, or other such document herein required to be published, made, or given, shall be held void for any want of form, provided the same is intelligible.

Form of notices.  
Cf. *ibid.* 257.

89. Any summons or notice, or any writ or other process, document, writing, or other matter issued according to the course of any proceeding at law or in equity, and required to be served upon the trust, may be served by the same being sent through the post office directed to the trust at their office, or left at such office, or by being given personally to the chairman or secretary of the trust.

Service of legal process.  
Cf. *ibid.* 258.

90. (1) Any notice required by this Act, or any by-law or regulation made thereunder, to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be in writing, or partly in writing and partly printed, or may be wholly printed.

Notices.  
Cf. 14 of 44 Vic., s. 139.

(2) It shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier; or, if there be no occupier, if such notice be posted on some conspicuous part of such building or land.

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*Broken Hill and Umberumberka Water Supply.*

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(3) 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 the portion thereof affected by the notice, is situated.

5 **91.** Every person who wilfully hinders or interrupts, or causes or procures to be interrupted, the trust or their managers, surveyors, agents, servants, or workmen, or any of them, or the auditors in doing or performing any of the works, or in the exercise of any of the  
10 powers and authorities exercisable by or vested in them by law, shall for every such offence forfeit and pay any sum not exceeding ten pounds.

Penalty for interfering with the business of the trust. Cf. 23 of 1897, s. 279.

**92.** If any person neglects or refuses to do any matter or thing which by this Act he is directed to perform, he shall for every such  
15 offence be liable to a penalty not exceeding ten pounds.

Penalty for neglect of duty. Cf. *ibid.* 260.

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SCHEDULES.

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THE FIRST SCHEDULE.

*General description of proposed scheme.*

20 THIS scheme comprises the construction of a dam about ninety-six feet high across Umberumberka Creek, as a storage reservoir from which the water will be delivered through a main about nineteen miles long to the several service reservoirs and points of delivery to the council and the various mining companies at Broken Hill, and works contingent thereon.

Section 4.

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THE SECOND SCHEDULE.

*Description of lands vested in council.*

25 Area occupied by the dam and storage reservoir, together with such land as is included within thirty-three feet of the top water contour level with dam of the height described in the First Schedule, and the surface, and the land to a depth of fifty feet below the surface, of a strip of land seven and a half feet on either side of centre line of  
30 main, and such lands as the Governor may deem necessary for the carrying out of the scheme.

Section 5.

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THE

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*Broken Hill and Umberumberka Water Supply.*

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## THE THIRD SCHEDULE.

*Provisions relating to the appointment of members by the mining companies.*

1. The directors of any mining company and on its behalf may, by writing under the seal of the company, appoint and at pleasure remove, reappoint, or make any new or other appointment of some person to act for the purposes herein mentioned. Such person is hereinafter called "the appointee." Sections 24-38.
2. Every mining company shall forthwith on the appointment of the appointee notify in writing the other mining companies the full name, address, and description of such appointee.
3. Any appointee may convene a meeting of appointees. Such meeting shall be deemed to have been duly convened if notice in writing under the hand of the convener shall have been left at the registered offices of the several mining companies specifying a time not less than seven days and some place in Melbourne or Broken Hill at which such meeting is to be held. With the consent of all the appointees a meeting of appointees may be held elsewhere than at Melbourne or Broken Hill.
4. The appointees may by resolution of the majority of the appointees present elect one of their number to be chairman, and may by the like resolution from time to time remove and appoint another appointee to be chairman. The chairman shall when present preside at meetings of appointees, and shall have a casting as well as a deliberative vote. In the absence of the chairman the appointees present at any meeting may elect one of their number to be chairman for that meeting during such absence, and he shall while acting as chairman have a casting as well as a deliberative vote.
5. The appointees may by resolution of the appointees present at any meeting convened for the purpose, elect the first three persons to be members of the trust appointed by mining companies, and may in like manner from time to time fill up any vacancy in such membership. Such members shall be deemed to have been duly appointed members of the trust appointed by the mining companies.
6. If at any meeting of appointees convened for the purpose a resolution be carried by a three-fourths majority of all the appointees calling upon any member to retire from office, such member shall thereupon retire accordingly. The appointees may by the same or another resolution appoint some person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the mining companies.
7. Every member may retire from office as a member of the trust at any time, and shall retire therefrom on notification in writing under the hand of the chairman of the meeting of the appointees to such member that a resolution has been passed at a meeting of appointees calling upon such member to retire.
8. Any such notification shall be deemed to have been duly given to a member when the same shall have been left at the office of the trust in Broken Hill addressed to the member.
9. The appointees may at any meeting make any regulations not inconsistent with the provisions contained in this Schedule, or the Broken Hill and Umberumberka Water Supply Act, 1906—
  - (a) for meetings of appointees ;
  - (b) for the conduct of such meetings ;
  - (c) generally for exercising any of the powers exercisable by the appointees.

*Broken Hill and Umberumberka Water Supply.*

THE FOURTH SCHEDULE.

*Provisions relating to appointment of members by the debenture holders.*

- 1. The secretary or other officer of the trust appointed for the purpose shall, Sections 27-38.  
whenever requested so to do by any one or more debenture holders registered as the  
5 holder or holders of at least one thousand pounds of debentures, convene a meeting of  
debenture holders. Such meeting shall be convened by circular, addressed to the  
debenture holders appearing in the register book of debenture holders.
- 2. Notice of every such meeting shall be deemed to have been duly given within  
forty-eight hours of the posting of such circulars in the post office at Broken Hill.
- 10 3. The secretary or other officer shall fix, and the circular shall specify the hour  
and date, and some place in Broken Hill where such meeting is to be held.
- 4. The debenture holders present at any meeting shall elect one of their number  
to be chairman of the meeting.
- 5. The debenture holders may by resolution of the debenture holders present at  
15 any meeting convened for the purpose personally or by proxy appoint two persons who  
are willing to act to be members of the trust appointed by the debenture holders. No  
such appointments shall be complete until a certificate of such resolution having been  
duly passed under the hand of the chairman of the meeting shall have been left at the  
office of the trust.
- 20 6. Every debenture holder shall be entitled to vote at any meeting personally or  
by proxy, and shall have one vote for every one hundred pounds of debentures of which  
he is at the time of meeting the registered holder.
- 7. Every resolution at any meeting of debenture holders shall, unless a poll be  
demanded, be determined in the first instance by a show of hands.
- 25 8. Any one or more debenture holder or holders holding individually or collectively  
at least one thousand pounds of debentures may demand a poll which shall be taken  
forthwith at such meeting, or at any time and place appointed for the purpose by the  
chairman of the meeting.
- 9. A certificate under the hand of the chairman of the meeting certifying that  
30 any resolution was passed at any meeting of debenture holders shall be conclusive  
evidence according to its tenor.
- 10. A proxy may be in the following form, and shall be attested by at least one  
witness :—  

I,                    of                   , being the registered holder of £                    of  
35 debentures issued by the Broken Hill and Umberumberka water trust, do  
hereby appoint                    of                    to attend and vote for me at a  
meeting of debenture holders to be held at                    on the  
day of                   , and at all adjournments of such meeting.

As witness my hand the                    day of                    .

40 Witness to the signature of the said                    .
- 11. Any meeting of debenture holders duly convened for the purpose may pass a  
resolution calling upon any member of the trust appointed by the debenture holders to  
retire from office.
- 12. On delivery at the office of the trust of a certificate under the hand of the  
45 chairman of the meeting of such debenture holders that such resolution was duly passed  
thereat, such member shall be deemed to have retired from office.
- 13. Any vacancy in the membership of the trust in respect of a member appointed  
by debenture holders may be filled up in the same way in which the original appointments  
may be made.
- 50 14. Any member may resign his office as a member of the trust at any time.

*Broken Hill and Umberumberka Water Supply.*

## THE FIFTH SCHEDULE.

*Terms and conditions on which debentures are issued.*

1. All debentures to be issued by the trust pursuant to the power in the Broken Sections 51-64. Hill and Umberumberka Water Supply Act, 1906, reserved to issue debentures not 5 exceeding in the aggregate two hundred thousand pounds are charged with such priorities one over another as the trust may determine on the undertaking of the trust, and all its property present and future, and are hereby charged thereon without any preference or priority one over another, and such charge is to be a floating security, but 10 so that the trust is not to be at liberty to create any mortgage or charge in priority to the said debentures.
2. A register of debentures shall be kept at the head office of the trust, in Broken Hill, wherein there shall be entered the names, addresses, and descriptions of the registered holders, and particulars of the debentures held by them respectively, and such register shall, at all reasonable times during business hours, be open to the inspection of any 15 registered holder of debentures and his legal personal representatives, and any person authorised in writing by him or them.
3. The registered holder, or his legal personal representatives, shall be regarded as exclusively entitled to the benefit of the debenture, and all persons may act accordingly, and the trust shall not be bound to enter in the register notice of any trust, or to 20 recognise any right in any other person save as herein provided.
4. Every transfer of a debenture shall be in writing under the hand of the registered holder or his legal personal representative. The transfer shall be delivered at the office of the trust with a fee of two shillings and sixpence, and such evidence of identity or title as the trust may reasonably require, and thereupon the transfer will be 25 registered, and a notice of such registration will be indorsed on the debenture. The trust shall be entitled to retain the transfer.
5. In the case of joint registered holders, the principal moneys and interest secured by a debenture shall be deemed to be owing to them upon a joint account.
6. No transfer will be registered during the seven days immediately preceding the 30 days fixed for payment of interest.
7. In respect of each half-year's interest on a debenture, a warrant on the trust's bankers, payable to the order of the registered holder thereof, or, in case of joint holders, to the order of that one whose name stands first in the register as one of such joint holders, will be sent by post to the registered address of such registered holder, and 35 the trust shall not be responsible for any loss in transmission, and the payment of the warrant, if purporting to be duly endorsed, shall be a good discharge to the trust.
8. The principal moneys and interest secured by the debentures shall be paid without regard to any equities between the trust and the original or any intermediate holder thereof, and the receipt of the registered holder for such principal moneys, and 40 interest shall be a good discharge to the trust for the same.
9. The trust may at any time give notice in writing to the registered holder thereof, his executors or administrators, of its intention to pay off any debenture, and upon the expiration of six calendar months from such notice being given the principal moneys secured by such debenture shall become payable: Provided that the council may 45 at any time redeem the whole of the outstanding debentures issued by the trust.
10. The principal moneys secured by any debenture shall immediately become payable if the trust makes default for a period of six calendar months in the payment of any interest thereby secured, and the registered holder thereof before such interest is paid, by notice in writing to the trust, calls in such principal moneys.
- 50 11. At any time after the principal moneys secured by any debenture become payable, the registered holder of such debenture may, with the consent in writing of the holders of the majority in value of the outstanding debentures issued by the trust, appoint, by writing, any person or persons to be a receiver or receivers of the property charged by the debentures, and such appointment shall, on confirmation thereof by the Supreme

*Broken Hill and Umberumberka Water Supply.*

Supreme Court or a judge thereof, be as effective as if all the holders of debentures of the same issue had concurred in such appointment, and the said confirmation shall be conclusive evidence that the said appointment was duly made. And a receiver so appointed shall have power—

- 5 (a) to take possession of the property charged by the debentures ;
- (b) to carry on or concur in carrying on the business of the trust ;
- (c) to sell or concur in selling any of the property charged by the debentures, and to give a good title to such property, including the statutory powers and privileges by this Act conferred ;
- 10 (d) to make any arrangement or compromise which he or they shall think expedient in the interests of the debenture holders.

And all moneys received by such receiver or receivers shall, after providing and paying for all proper expenses, be applied in the first place in redemption of the moneys secured by the debentures, having regard to all priorities created, if any, and, in the next place, 15 in discharge of any other liabilities of the trust, and the surplus moneys (if any) shall be paid to the council for the general purposes of the council.

12. The holders of three-fourths in value of the debentures issued by the trust for the time being outstanding may sanction any agreement with the trust for any modification or alteration of the rights of the holders of debentures as a class, including 20 any release of any property charged thereby, and any postponement of the time for payment of any moneys secured thereby, and any increase or reduction of the rate of interest, and an agreement so sanctioned shall be binding on all the holders of such debentures, and notice thereof shall be given to each debenture holder, and each debenture holder shall be bound thereupon to produce his debentures to the trust, and 25 to permit a note of such agreement, and the sanction thereof aforesaid, to be placed thereon.

13. The principal moneys and interest secured by a debenture will be paid at some bank in Broken Hill or at the office of the trust.

14. A notice may be served by the trust upon the holder of any debenture by 30 sending it through the post in a prepaid letter addressed to such person at his registered address.

15. Any notice served by post shall be deemed to have been served at the expiration of forty-eight hours after it is posted, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put 35 into the post office.

16. Debentures may be transferred by instrument in the following form :—

I, A.B., of \_\_\_\_\_, in consideration of the sum of \_\_\_\_\_ pounds, paid to me by C.D., of \_\_\_\_\_, do hereby transfer to the said C.D. (hereinafter called the transferee) the undermentioned debentures issued by the Broken Hill and 40 Umberumberka water trust—that is to say—

[Here state date, character, amount, and numbers.]

and the full benefit thereof :

To hold the same unto the transferee subject to the several conditions on which I held the same immediately before the execution hereof ; and I, the transferee 45 do hereby agree to take the said debentures subject to the same conditions.

As witness our hands this \_\_\_\_\_ day of \_\_\_\_\_

Signed by the above-named A.B. in the presence of

[Witness' signature, address, and occupation.]

*Broken Hill and Umberumberka Water Supply.*

## THE SIXTH SCHEDULE.

*Broken Hill and Umberumberka water trust.*

Issue of debentures of pounds each, carrying interest at per Section 64.  
centum per annum.

5 No. pounds

1. The Broken Hill and Umberumberka water trust (hereinafter called the trust) will on the day of , or on such earlier day as the principal moneys hereby secured become payable in accordance with the conditions contained in the Schedule to the Broken Hill and Umberumberka Water Supply Act,  
10 1906, pay to of or other the registered holder for the time being, the sum of pounds.

2. The trust will, in the meantime, pay to such registered holder interest thereon at the rate of per centum per annum by half-yearly payments on the day of and the day of in each year, the first of such  
15 half-yearly payments to be made on the day of next.

3. Such payments are charged on the undertaking of the trust, and all its property present and future.

4. This debenture is issued subject to, and with the benefit of, the conditions mentioned in the Fifth Schedule to the Broken Hill and Umberumberka Water Supply  
20 Act, 1906, which are to be deemed part of it.

Given under the common seal of the trust, this day of  
The common seal was affixed hereto in the presence of



C-118

[18 84]

The common law has been in the possession of  
 since the first of the year 1800.  
 10. 1800. In the year 1800, the common law was  
 in the possession of the people of the United States.  
 1. The common law was in the possession of the people of the United States in the year 1800.  
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 10. The common law was in the possession of the people of the United States in the year 1800.

THE SIXTH SCHEDULE

Articles III and IV of the Constitution

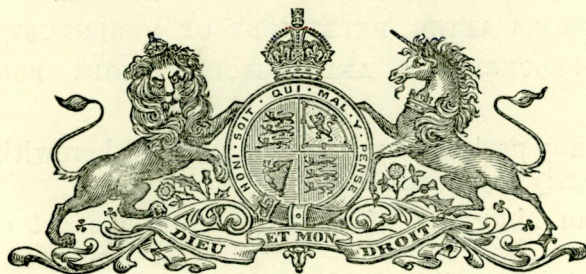
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*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 11 December, 1906.* }

RICHD. A. ARNOLD,  
*Clerk of the Legislative Assembly.*

## New South Wales.



ANNO SEXTO

## EDWARDI VII REGIS.

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Act No. , 1906.

An Act to provide for an additional water supply for Broken Hill and district; for that purpose to confer certain powers on and to vest certain lands in the municipal council of Broken Hill; to authorise the transfer of such powers and lands to a trust to be constituted; to confer certain other powers on such trust; to apply and amend certain Acts; and for purposes consequent thereon or incidental thereto.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5     1. This Act may be cited as the "Broken Hill and Umberum-berka Water Supply Act, 1906." Short title.

*Broken Hill and Umberumberka Water Supply.*

2. This Act is divided into parts, as follows :—

Division of Act

PART I.—THE CONSTRUCTION OF WATERWORKS AND ACQUISITION OF LANDS.

PART II.—SPECIAL PROVISIONS AS TO WATER SUPPLY.

5 PART III.—EXTENSION OF ACT TO OTHER COMPANIES.

PART IV.—THE TRUST.

PART V.—OFFICERS.

PART VI.—FINANCIAL PROVISIONS.

10 PART VII.—WATER SUPPLY FOR THE MINING COMPANIES AND DOMESTIC PURPOSES.

PART VIII.—PROVISIONS AFTER REPAYMENT OF DEBENTURES.

PART IX.—LEGAL PROCEEDINGS AND MISCELLANEOUS PROVISIONS.

15 3. In this Act, and any part of any Act incorporated herewith, Interpretation. except where otherwise clearly intended :—

“Alderman” means an alderman of the municipal district of Broken Hill.

“Borough or municipal district” and “borough or municipality” mean the district.

20 “Catchment area” means the drainage area of the streams and other sources of water supply included within any boundaries set forth in any proclamation under this Act for the purpose.

“Chairman” means the chairman of the trust or the acting chairman thereof.

25 “Conduit” means the canals, tunnels, aqueducts, cuttings, or pipes by means of which the main stream of water is supplied.

“Council” means the council of the municipal district of Broken Hill, and, except in Part IV, includes the trust.

30 “Council clerk” means the person authorised by the council to perform the duties of council clerk, and includes the secretary of the trust.

“District” and “municipal district” means the municipal district of Broken Hill, and includes any locality within which any of the powers conferred by this Act may be exercised.

35 “Domestic purposes” does not include a supply of water for stables or for manufacturing purposes or for irrigation, water power, fountains, or for any ornamental purposes.

40 “Incorporated” means that the legislation incorporated is to be read and construed as though the same were specifically enacted in this Act in aid of any of the purposes of this Act, whether such legislation refers to or depends on other legislation or not.

“Justice” means any justice of the peace.

“Mayor,”

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- 5 “Mayor,” “mayor of the council,” or “mayor of such council” means the mayor of the municipal district, and includes any person acting in the office of mayor, and includes also the chairman of the trust and any person acting in the office of chairman of the trust.
- “Member” means a member of the trust.
- 10 “Mines” means the several properties and undertakings of the mining companies respectively situated or carried on in Broken Hill or the vicinity thereof.
- “Mining companies” means the mining and treatment companies in the vicinity of Broken Hill contributing to the scheme, and includes any new company admitted to the benefits of this Act pursuant to Part III.
- 15 “Mining company” means some one of the mining and treatment companies.
- “Minister” means Secretary for Public Works.
- “Owner” means any person who is in receipt of the rents and profits of any house, manufactory, or building, of whatsoever kind, or of any land.
- 20 “Secretary” means the officer of the trust performing the duties of secretary of the trust.
- “Street” means any square, court, alley, highway, lane, road, thoroughfare, or public passage.
- “Trust” means the trust hereby authorised to be created.

25

## PART I.

*The construction of waterworks and acquisition of land.*

4. (1) The council may at any time within a period of twelve months, and subject to the approval of the plans by the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works, proceed to construct and carry out the scheme shortly described in the First Schedule, with such modifications, alterations, and extensions as the council may think necessary for the purpose of securing an additional water supply to the inhabitants of the district, and to assist the development of the mines. The scheme.
- 30
- 35 (2) If works in connection with the scheme are not bona fide commenced within the said period of twelve months, or if such works are thereafter for a continuous period of three months discontinued without the authority of the Governor in that behalf, the council shall forfeit all its rights and privileges under this Act, and the same shall
- 40 become void, and all Crown lands vested in the council in pursuance of this Act shall revert to His Majesty absolutely free from all estates, interests, encumbrances, and easements created after the commencement of this Act. 5.

*Broken Hill and Umberumberka Water Supply.*

5. Such Crown lands as are included in the lands described in the Second Schedule are hereby vested in the council for an estate of inheritance in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rents, 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 council:

Vesting of necessary lands.

Provided that the council shall have no power to lease or sell any such lands, or to utilise such land for purposes other than those for which the trust may be created in pursuance of this Act.

6. "Crown lands" means all lands vested in His Majesty which have not been dedicated to any public purpose, or which have not been granted in fee or lawfully contracted to be so granted, or which are not under lease for purposes other than pastoral purposes.

Definition of "Crown lands."

7. (1) The council may for the purpose and subject to the provisions of this Act acquire, purchase, or take on lease, sell, or exchange any land wherever situated, whether within or without its municipal district, and may also purchase any water privileges or easements which interfere with the proper drainage or with the supply of water.

Power to take other lands.

(2) Any lands so acquired by the council, but not required for the purpose for which they were acquired, may, with the approval of the Governor, be sold or leased by the council, and the proceeds of such sale or lease shall be applied in discharging by means of a sinking fund or otherwise the liability in respect of any moneys borrowed for the purposes of this Act.

Power to sell surplus lands.

8. The whole of Part IV and the Third, Fourth, and Fifth Schedules (such Schedules being modified to suit the purposes of this Act) of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated.

Incorporation of certain provisions of Act 14 of 44 Vic. as to taking of lands and compensations.

9. The Governor may at any time define by proclamation the boundaries of any catchment area and of any water district within which any of the powers hereby conferred may be exercised, and such boundaries may be outside the boundaries of the municipal district.

Governor may define boundaries.

10. Section thirteen (except subsections twelve to fifteen, both inclusive, thereof, and except so much of that section as prescribes the distance from the water main of the council within which lands and tenements may be subject to water rates) and sections fourteen and fifteen of the Country Towns Water and Sewerage Act of 1880 are hereby incorporated:

Power to make by-laws.

Provided that the said sections hereby incorporated shall apply only in respect of any land or premises supplied with water by the council or the trust under the provisions of section seventy-three of this Act or out of the surplus water referred to in section seventy-four of this Act.

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*Broken Hill and Umberumberka Water Supply.*

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## PART II.

*Special provisions as to water supply.*

11. The whole of Part II of the Country Towns Water and Sewerage Act of 1880 (except sections thirty-five to forty-one, both inclusive, and sections sixty and sixty-one) is hereby incorporated. Incorporation of provisions as to water supply in Act 14 of 44 Vic.

12. The following provisions of Act number forty-three of one thousand nine hundred and five are hereby incorporated, namely, sections five to eleven (both inclusive), twenty-one and twenty-two, the whole of Part III (except sections thirty-six and thirty-seven and subsection two of section thirty-eight), section sixty, and sections sixty-two to seventy (both inclusive), and Schedules A and B: Incorporation of certain provisions of Act 43 of 1905.

Provided that the incorporation of the said Part III shall be subject to the proviso contained in section ten of this Act.

## PART III.

*Extension of Act to other companies.*

13. Any company (hereinafter referred to as a "new company") desirous of obtaining the benefits and becoming subject to the liabilities by this Act conferred and imposed respectively on mining companies may by writing under its common seal apply to the trust that it may enjoy such benefits and become subject to such liabilities. Other companies may apply to obtain benefit of this Act.

14. The trust shall, on receipt of such application, consider the same, and may by resolution reject the same or accept the same conditionally upon such terms as the trust may in its absolute discretion think fit: Resolution of the trust on application.

25 Provided that such new company may, in the event of its being dissatisfied with such resolution, appeal to the Minister, who may confirm, vary, or alter the conditions contained in such resolution of the trust, and the trust shall be bound by the decision of the Minister.

15. On compliance with such terms the new company shall be deemed a mining company, and shall thereafter enjoy all the benefits, and thereafter be subject to all the liabilities, which the mining companies are thereafter entitled and subject to respectively. Extension of Act to the company applying.

*Broken Hill and Umberumberka Water Supply.*

## PART IV.

*The trust.*

16. There shall be a trust to be called "Broken Hill and Umberumberka Water Trust." The trust.

5       17. (1) The council may, with the consent of the Governor-in-Council, from time to time, and at any time, assign, transfer, convey, and release to the trust any of the rights, powers, and authorities, privileges, liabilities, and obligations conferred and imposed upon the council by this Act, together with all lands, 10 tenements, hereditaments, estates, chattels, and effects of every kind acquired by, under, or in pursuance of, and purchased, occupied, or used in connection with the same. Upon and after the completion of such assignment, transfer, conveyance, and release, the trust, its assigns and its and their officers, agents, and servants may lawfully 15 exercise and enjoy all such rights, powers, authorities, and privileges, and shall be and continue to be subject to all such liabilities, obligations, penalties, and forfeitures to which the council, its officers, agents, or servants would have been entitled or subject to had no such assignment, transfer, conveyance, and release been completed.

20       (2) Nothing hereinafter contained shall prejudice or affect any rights, accrued actions, or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by, the council before the completion of the said assignment, conveyance, and release.

25       18. The trust shall consist of seven members, three of whom shall be appointed by the council, three by the mining companies, and one by the Governor. When debentures have been issued pursuant to section fifty-five, and so long as any such debentures are outstanding, the number of the members of the trust shall be increased to nine 30 by the appointment by the debenture holders of two additional members. When the debentures are paid off, the said additional members shall retire.

19. The members to be appointed by the council shall be appointed by the council by a resolution of the majority of the members of that body present at a meeting convened and held for the purpose. Members of the trust. Representatives of the council.

35       If at any meeting of the council convened for the purpose a resolution be carried by an absolute three-fourths majority of the council calling upon any member of the trust appointed by the council to retire from office, such member shall thereupon retire accordingly. The council may by the same or another resolution appoint some 40 person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the council.

*Broken Hill and Umberumberka Water Supply.*

20. No person shall be so appointed by the council who has not previously, by writing signed by him and delivered to the mayor or the council clerk, signified his willingness to act as a member and who does not at the time of his appointment hold office as alderman. Council representatives must be aldermen.
- 5 21. Every appointment shall be certified by writing under the common seal of the council. Appointment to be sealed.
22. The council shall notify the appointment in the Gazette. Appointment to be Gazetted.
23. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made. Gazette to be evidence.
- 10 24. The members to be appointed by the mining companies shall be appointed according to the provisions contained in the Third Schedule. Representatives of the mining companies.
25. Every appointment by the mining companies shall be notified in the Gazette. Appointment to be gazetted.
- 15 26. The Gazette notifying such appointment shall be conclusive evidence that the same was duly made. Gazette to be evidence.
27. The members to be appointed by the debenture holders shall be appointed in accordance with the provisions contained in the Fourth Schedule. Representatives of the debenture holders.
- 20 28. In any case where there has, in the opinion of the Governor, been unreasonable delay in the appointment of a member by the council, the mining companies, or the debenture holders, the Governor may, on behalf of the council, mining companies, or debenture holders guilty of such delay, appoint the member or members required to be 25 appointed by the council, mining companies, or debenture holders respectively. On neglect to appoint, the Governor may appoint the representatives.
29. Members so appointed by the Governor shall be deemed to have been duly appointed by the council, mining companies, or debenture holders as the case may be. Members appointed by the Governor to be deemed duly appointed.
- 30 30. The Governor shall, in the Gazette, notify the name or names of any persons so appointed, and on whose behalf such persons have been appointed. The Gazette containing such notification shall be conclusive evidence that such persons have been duly appointed by the council, mining companies, or debenture holders as mentioned in 35 the notification. Appointments to be gazetted and Gazette to be evidence of appointment.
31. When any vacancy occurs in the trust the same shall be filled up in manner hereinbefore provided, so far as applicable, by appointment by the council, the mining companies, or debenture holders according as such vacancy has been caused in respect of a 40 member appointed by the council, the mining companies, or the debenture holders. Vacancies.
32. Every member shall, subject as hereinafter mentioned, be deemed to have been appointed for three years. Term of appointment.
33. (1) At the end of every year from the date of the 45 appointment of the first member, one of the members appointed by the council, the mining companies, and the debenture holders respectively shall retire. Retirement each year.



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(2) As between the respective members appointed respectively by the council, the mining companies, and the debenture holders, the member to retire shall be the one who has been longest in office since his last appointment, and in case of equality in length of service as member such retirement shall be determined by lot.

34. A member retiring shall, except during the continuance of any disability as herein provided, be eligible for reappointment.

Order of retirement.  
Retiring members to be eligible for reappointment.  
Disqualifications.  
Cf. Act 23, 1897, s. 33.

35. Any member—

- 10 (a) Having his estate placed under sequestration as bankrupt;
- (b) having executed any deed of assignment for the benefit of his creditors;
- (c) being absent without leave from the meetings of the trust for more than three consecutive months;
- 15 (d) holding any office or place of profit (other than that of member) under or in the gift or disposal of the trust;
- (e) being directly or indirectly by himself or any partner engaged or interested in any contract or employment with, by, or on behalf of the trust;
- 20 (f) being a member appointed by the council ceasing to hold office as alderman;
- (g) being of unsound mind;

shall thereby become disqualified and shall cease to hold office as a member.

25 36. Every person becoming disqualified by reason of the sequestration of his estate or the execution of any deed of assignment as aforesaid shall, on obtaining his certificate or paying his debts in full, or obtaining an absolute release from his creditors, be capable of being reappointed.

Removal of disqualification.  
Cf. *ibid.* s. 40.

30 37. No member shall be disqualified or cease to hold office by reason of his being a shareholder or director of any joint stock company contracting with the trust.

Saving as to disqualification.  
Cf. *ibid.*, s. 38.

35 38. Every member appointed by the mining companies or debenture holders respectively shall be disqualified and cease to hold office upon being requested to retire, as provided in the Third and Fourth Schedules respectively.

Retirement of certain members.

39. (1) The trust may make regulations for or relating to—

Trust may make regulation.

- 40 (a) the times of its meetings;
- (b) the conduct of its proceedings and business;
- (c) the appointment, powers, and control of committees formed out of members of the trust;
- (d) the duties, control, supervision, and guidance of its officers and servants; and
- (e) the use of its common seal.

(2)

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(2) All such regulations shall be published in the Gazette, and the Gazette purporting to contain any such regulation or any amendment or repeal of a regulation shall be evidence thereof, and that such regulation, amendment, or repeal was duly made.

5     **40.** The trust may act notwithstanding any vacancy or vacancies in its membership. Trust may act, notwithstanding any vacancy.

**41.** The meetings of the trust shall be held at Broken Hill. Place of meeting.  
Three members shall form a quorum. Quorum.

**42.** The trust shall appoint one of the members appointed by Chairman.  
10 the council to be chairman of the trust, who shall be chairman of every committee appointed by the trust, and he shall have a casting as well as a deliberative vote on the trust and on every committee of the trust. When the chairman is absent from any meeting, the members present shall appoint one of the members appointed by the council to be  
15 chairman to act during such absence, and he shall preside and have a casting as well as a deliberative vote.

**43.** The chairman shall be paid out of the moneys of the trust Remuneration to members.  
an honorarium of one hundred pounds per annum, and each of the members shall be paid out of the said moneys an honorarium of fifty  
20 pounds per annum. No alderman, by reason of being a member of the trust, shall be disqualified from holding or shall cease to hold office as alderman.

**44.** The trust shall be a body corporate by the name of "The Trust to be a body corporate.  
Broken Hill and Umberumberka Water Trust," and shall have  
25 perpetual succession and a common seal.

**45.** All courts, judges, and persons acting judicially shall take Judicial notice of the seal.  
judicial notice of such seal and shall presume that the same was properly affixed.

**46.** Every instrument which it may be necessary for the trust Seal to be affixed.  
30 to execute shall, subject to the provisions of section 90, have the seal affixed thereto.

**47.** The trust—

- Powers of trust to deal with property, &c., and duties as to minutes, &c.
- 35     (a) may in its corporate name acquire, hold, and alienate property, and sue and be sued in all courts, and be a party to any arbitration ;
- (b) shall acquire from the Minister the tools, plant, and materials belonging to the Government at the site or in the vicinity of the dam at Umberumberka at a valuation to be determined upon.
- 40     (c) may delegate to any committee, officer, or servant any of its powers as it thinks fit, and may alter, vary, or revoke such delegation ;
- (d) may do all such acts and things as may be necessary and expedient for carrying out the purposes of this Act ;

(e)

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- (e) shall cause proper minutes or records of all its proceedings and the proceedings of any committee to be kept ;
- (f) shall cause proper books of account to be kept to the satisfaction of the auditors ;
- 5 (g) shall each year appoint two auditors and fix their remuneration. No auditor shall hold office for more than two consecutive years. The auditors shall have access to the books of account and vouchers whenever they think necessary, and shall certify the balance-sheets ;
- 10 (h) shall cause a proper balance-sheet to be prepared to the satisfaction of the auditors every six months, and the same shall be published in the Gazette.

48. (1) Upon affidavit that any member has been appointed to or holds or exercises such office of member being incapable under the provisions hereof of being or continuing such member, it shall be lawful for the Supreme Court, or any judge thereof, to grant a rule or order calling upon such person to show cause to the court why he should not be, by the said court, ousted of the said office, and where upon the return of such rule or order it appears to the court that such person so appointed or holding or exercising such office was at the time of his appointment, or while holding or exercising such office, incapable under the provisions hereof of being or continuing such member as the case may be, the court may make such rule or order absolute, or if the matter does not so appear, may discharge such rule or order, and in either and every such case with or without the payment of costs to or by either party as the court deems meet.

(2) The person against whom any rule is made absolute shall be deemed thereby to be ousted of any office accordingly.

(3) No order or rule shall in any case be granted if at the time of such application for any such rule or order more than three months have elapsed after the appointment or the time when the person against whom such application is made was disqualified.

Ouster of office.  
Cf. Act 23, 1897  
s. 109.

## PART V.

*Officers.*

35 49. The trust shall appoint such officers and servants as in their discretion they may deem necessary for the execution of the powers and duties hereby vested in the trust, and shall assign remuneration to such officers and servants by way of salaries, allowances, or wages, which shall be in lieu of all fees, perquisites, and other emoluments whatever.

Officers and servants  
to be appointed  
Cf. *ibid.* s. 126.

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50. Every officer employed by the trust who exacts or accepts on account of anything done by virtue of his office, or in relation to the matters to be done under this Act, any fee or reward whatever other than the salary or allowance allowed by the Trust shall be  
 5 liable to a penalty of not less than ten pounds nor more than one hundred pounds.

Penalty against  
 bribery.  
 Cf. Act 23, 1897,  
 s. 127.

51. (1) Every officer or servant who, by reason of his office or employment under the trust, is entrusted with the custody or control of any moneys shall—

Duties of officers as  
 to money belonging  
 to the trust,  
 Cf. *ibid.* s. 128.

- 10 (a) give such security for faithfully and duly accounting for the same as the trust may think sufficient ;
- (b) within seven days after having received any moneys or within such shorter time as the trust may appoint, pay over the same to some person appointed by the trust or into some  
 15 bank selected by the trust ;
- (c) as and when the trust may direct, deliver a list signed by him containing the names of all persons who have neglected or refused to pay any sums due by them ;
- (d) when and as required by the trust make out and deliver a  
 20 true and perfect account in writing under his hand and signature of all moneys received by him for the purposes of this Act, distinguishing how and to whom and for what purposes such moneys have been disposed of ;
- (e) together with such account deliver the vouchers or receipts  
 25 for all payments made by him, and shall pay over to or receive from the said person appointed by the trust mentioned in subsection (b) hereof or the chairman the balance of such accounts (if any).

(2) If any such officer or servant fails to render such  
 30 account, or to produce and deliver up all vouchers and receipts in his possession or power, or to pay over any such moneys or balance as aforesaid, or if, for the space of seven days after being thereunto required, he fails to deliver up to the trust all books, papers, writings, property, effects, matters, and things in his possession or power  
 35 belonging to the trust, he shall, on proof thereof before any justice, and on his still failing or refusing to do such or any other required act relating to the premises, be liable, on summary conviction before a justice, to be imprisoned for any term not exceeding three weeks or until he has done such act.

40 And if it appears that he has failed to pay over such moneys as aforesaid, and he still fails or refuses so to do, the justice may cause any such moneys as aforesaid to be levied by distress upon his goods and chattels, and in default of any sufficient distress may commit him to gaol without bail for any time not exceeding three months unless  
 45 such moneys be sooner paid :

Provided

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Provided that upon proof on oath to any justice that there is probable cause for believing that any such officer or servant so charged is about to abscond, such justice may, without summons, cause him to be forthwith apprehended upon warrant, and may, upon  
5 prima facie proof on oath of the charge, require him to give bail for his subsequent appearance to answer the same :

Provided also that no such proceeding shall relieve any surety of the offender from any liability whatsoever, nor any such offender from being held to answer any criminal information, charge, or  
10 proceeding whatsoever.

52. (1) The chairman may suspend from office at any time any officer or servant of the trust who may, in his opinion, be guilty of misconduct or neglect, and if necessary may temporarily appoint and may take security from another officer or servant to fulfil the duties  
15 of such officer or servant so suspended as aforesaid :

Suspension of officers.  
Cf. Act 23, 1837, s. 129.

Provided that at the then next meeting of the trust the chairman shall report the matter to the trust, and if the officer or servant so suspended is dismissed by the trust, no salary or wages shall be due or payable to him from or after the date of his suspension.

20 (2) Every officer or servant so temporarily appointed shall only hold office and receive remuneration (which remuneration shall in no case exceed that paid to the suspended officer or servant) until the trust decides whether the person suspended shall be reinstated or shall be dismissed and a successor appointed in his stead.

25

## PART VI.

*Financial provisions.*

53. The trust may, as hereinafter provided, borrow such money, not exceeding two hundred thousand pounds, as in the opinion of the trust may be required for any of the purposes of this Act.

Power to borrow.

30 54. The trust may, on the terms and conditions contained in the Fifth Schedule, issue debentures to secure the repayment of money borrowed with interest thereon to the lenders.

Power to issue debentures.

55. No judgment against the trust shall be enforced except as against or be recoverable except out of the property of the trust.

Judgment enforceable against trust property only.

35 56. In the event of the trust determining to borrow moneys, it may at any time, not later than two years from the passing of this Act, and from time to time during such period by notice in writing under the seal of the trust, call upon the mining companies to lend to the trust any sum or sums of money not exceeding in the aggregate  
40 of all such demands two hundred thousand pounds.

Mining companies to lend £200,000.

*Broken Hill and Umberumberka Water Supply.*

57. Any such notice shall be deemed to have been duly given to the mining companies if the same has been advertised twice at least in the Gazette, and twice at least in one daily newspaper circulating in Broken Hill. Notice may be given by advertisement.
- 5 58. The notice shall specify the amount required to be lent by each mining company. Notice to specify amount.
59. The liability hereby imposed is a several liability, and the amount to be lent by each mining company shall be ascertained and fixed mutually between the contributing mining companies and the trust. Contributions by the companies.
- 10 60. Each mining company shall, within one month after the last advertisement of the notification mentioned in section fifty-eight, pay to the trust the moneys ascertained and fixed in accordance with section sixty required to be lent by such company. Company to pay its contributions in a month.
- 15 61. The liabilities hereby created in favour of the trust against the several mining companies respectively shall, without prejudice to any other remedy, be enforceable against any property of the respective mining companies situated within the State of New South Wales, and the amount thereof may be levied by distress and sale of such property on a warrant of the chairman as though such amount were rent in arrear to the trust. Recovery of company's contribution.
- 20 62. Any mining company may discharge the whole or part of the obligation hereby imposed in respect of the particular amount required to be lent by such company by finding some one or more persons (hereinafter referred to as "the substitutes") willing to lend and lending to the trust the particular amount required on the terms on which such mining company is liable so to do. Company may escape liability to contribute by finding substitutes.
- 25 63. In exchange for and to the amount of the moneys respectively lent, the trust shall deliver debentures to the respective mining company or substitutes. Debentures to be issued for moneys lent.
- 30 64. Such debentures shall be in the form in the Sixth Schedule and shall confer the rights and be issued on the terms and subject to the conditions mentioned in the Fifth Schedule. Form and terms of debentures.
- 35 65. The principal moneys respectively lent by the mining companies or substitutes shall be repaid to the registered holders for the time being of the debentures and in exchange for the debentures unless lost or destroyed (in which case such loss or destruction shall be proved to the satisfaction of the trust) on the date mentioned in the debentures respectively, not exceeding thirty years from the respective issue thereof as therein respectively mentioned, or such debentures may at any time be redeemed by the council. Such debentures shall bear interest at a rate not exceeding five pounds per centum per annum payable by half-yearly instalments on some dates appointed in the debentures respectively. Repayment of debentures.
- 40

*Broken Hill and Umberumberka Water Supply.*

66. As long as any debenture issued by the trust remains unredeemed the trust shall, on the thirtieth day of June and thirty-first day of December in every year after making provision or allowance in account for—

Application of receipts while debentures are outstanding.

- 5 (a) payment of expenses incurred during the preceding six months in connection with the business of the trust, including maintenance;
- (b) a renewal fund to replace and to be applied solely in replacing the renewable parts of the undertaking then constructed;
- 10 (c) estimated current expenses during the next following month in connection with such business,
- apply the residue of its receipts—
- (a) in defraying the interest then payable on debentures; and
- 15 (b) in forming a sinking fund to be invested in any way in which trust funds may be invested for the purpose of and to be applied and applicable solely for the redemption of the principal and interest moneys secured by the debentures.

67. Upon the works referred to in the Broken Hill Water Supply Act, 1890, becoming vested in the Government, either by acquisition or reversion, it shall be lawful for the Governor, by notification in the Gazette, to notify to the council or trust his intention to acquire the works constructed under this Act, together with all lands and other property vested in the council or the trust in connection therewith; and the same shall, on a date to be fixed by the Governor, absolutely vest in His Majesty. The purchase money shall be as agreed upon between the Governor and the council or trust, and in case of dispute shall be determined by arbitration in accordance with the Acts then in force regulating the settlement of disputes by arbitration: Provided that the amount to be paid as such purchase money shall not exceed the cost of such works, land, and property.

Purchase of works constructed under this Act.

## PART VII.

*Water supply for the mining companies and domestic purposes.*

68. Any mining company may from time to time, by notice in writing under the hand of its manager, secretary, or other officer, from time to time appointed for the purpose, notify the trust of the amount of water (hereinafter called "the required reserve") such company requires the trust to keep in reserve for its use during the next ensuing twelve months.

Reserve requirements of companies may be notified.

*Broken Hill and Umberumberka Water Supply.*

69. The trust shall, subject to this Act, and unless prevented by shortness of supply or unavoidable accident— Reserve to be kept and supplied.

- 5 (a) conduct its business so that the required reserve of every mining company shall be kept in reserve and applicable for the use of such mining company ;
- 10 (b) Supply every mining company with water from time to time required by such mining company to the amount of the required reserve, delivered through meters on some part of the property of such mining company approved by the trust, at a rate not exceeding two shillings and sixpence per one thousand gallons.

70. If in any year, calculated from the first day of January to the thirty-first day of December, a mining company has not taken an amount of water equal to its highest required reserve, as notified to the trust during such year, and the trust has at all times during such year been ready and willing to supply such mining company with the same, the trust may demand and recover payment from such mining company for the difference between such amount and that during such year so taken at a rate not exceeding two shillings and sixpence per one thousand gallons. Company to be bound to take the quantity required to be reserved.

71. When the supply of water from Stephen's Creek is, or is likely to become, exhausted, inadequate, unavailable, or unfit for domestic purposes, the council, on receipt of and in accordance with the certificate in writing of the Chief Engineer for Rivers, Water Supply, and Drainage of the Department of Public Works to that effect, may, by resolution under its common seal, require the trust to keep in reserve the amount of water specified in such resolution for the domestic purposes of the population of Broken Hill. Council may require water to be reserved for domestic purposes.

72. Upon receipt of such resolution the trust shall— Trust to comply with the council's demand.

30 (a) out of the water then available reserve for such domestic purposes the amount of water specified in the resolution, and sell and supply to the council water to the amount required to be reserved for domestic purposes, or so much thereof as may be required by the council at some point or points of

35 delivery in Broken Hill determined by the trust on receiving payment for such water at the same rate as that chargeable to the mines ; and

40 (b) cease to supply any mining company, or diminish the supply to any mining company, in order to secure a supply to the council of the amount required as aforesaid, to be reserved for domestic purposes.

73. (1) Subject to the rights hereby conferred in favour of a supply of water for the mining companies and for domestic purposes, the council may require the trust to sell and dispose of any surplus water to the council at the same rate per one thousand gallons as that Surplus water to be sold to the council.



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that charged to the mines; such water to be delivered to the council in Broken Hill at some point or points of delivery nearest to the receiving tank station of the Broken Hill Water Supply, Limited, on reserve number three thousand and seventy-five.

- 5 (2) The council may resell any water so purchased at such rate to such persons and in such manner as the council thinks fit, and generally may exercise any of the powers conferred by this Act. Council may resell water.

## PART VIII.

*Provisions after repayment of debentures.*

- 10 74. As soon as all the debentures issued by the trust have been redeemed— Membership of trust on redemption of debentures, price of water to the companies, and application of profits.
- (a) the members appointed by the debenture holders shall retire from office;
- 15 (b) subject to the special provisions relating to the supply of water for domestic purposes the trust shall supply water to the mining companies and the council at a price not exceeding, after making all proper allowances, the actual cost to the trust of such water delivered at the mines plus ten pounds per centum thereon;
- 20 (c) the profits of the trust in every year shall be distributed as to one-half to the council for the general purposes of the council, and as to the remaining half shall be applied in reducing the cost of water pro rata to the mining companies during the ensuing twelve months.

## PART IX.

*Legal proceedings and miscellaneous provisions.*

- 25 75. The following provisions shall and may be applied in respect of all actions and proceedings taken in respect of claims for damages not within the meaning and operation of Part IV of the Procedure in actions against trust. (f. 14 of 41 Vic., s. 133.)
- 30 Country Towns Water and Sewerage Act of 1880, or any incorporated amendment thereof, namely:—

- (a) No action against the trust shall be maintainable in any court other than the Supreme Court, and no writ of execution shall be issued against the council until the expiration of fourteen days after final judgment has been signed.
- 35

(b)

*Broken Hill and Umberumberka Water Supply.*

- (b) No plaintiff shall recover in any such action unless notice in writing has been given to the defendant twenty-eight days before such action is commenced of such intended action, signed by the attorney of the plaintiff specifying the cause of such action, and the plaintiff shall not recover in any such action if tender of sufficient amends has been made to him or to his attorney by or on behalf of the defendant before such action brought. In case no such tender be made, it shall be lawful for the defendant in any such action, by leave of the court at any time before issue joined, to pay into court such sum of money as he thinks proper, whereupon such proceedings, order, and judgment shall be made and given by such court as in other actions where the defendant is allowed to pay money into court.
- (c) No such action or suit shall be brought after three months from the act committed. The defendant in every such action or suit may at his election plead specially or the general issue, and give this Act and the special matter in evidence at any trial, and prove that the same was in pursuance and under the authority of this Act. If the same appear to have been so done, or if such action or suit have been brought before the expiration of twenty-eight days next after such notice has been given as aforesaid, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same, or be brought in any other place than as aforesaid, the jury shall find a verdict for the defendant. Upon such verdict, or if the plaintiff be nonsuited or discontinue his action or suit after the defendant has appeared, or upon any demurrer, judgment be given against the plaintiff, the defendant shall recover full costs of suit and have such remedy for recovering the same as any other defendant has in other cases by law.

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

Method of determining amount of compensation before justices.  
Cf. 14 of 44 Vic. s. 134.

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77. If through any act, neglect, or default, on account whereof any person has incurred any penalty imposed by this Act, any damage to any conduit, main pipe, or property of the trust, used in connection therewith, has been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty. The amount of such damages shall, in case of dispute, be determined by the justices, by whom the party incurring such penalty has been convicted. 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.
78. It shall be lawful for any officer or servant of the trust, and all persons called by him to his assistance, to seize and detain any person who has committed any offence against the provisions of this Act, and whose name and residence is unknown to such officer or servant, and convey him with all convenient despatch before some justice, without any warrant or other authority than this Act, and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.
79. Nothing in this Act shall be construed to render lawful any act, matter, or thing whatsoever, which, but for this Act, would be deemed to be a nuisance, nor to exempt the trust, or any person, from any liability, prosecution, or punishment, to which the trust, or such person, would, but for this Act, have been subject.
80. Any person appointed by the trust in that behalf shall have the same right and authority to represent the trust in instituting and conducting any action, suit, or other proceeding in any court of law, or in equity by, for, on account of, or against the trust, as if such action, suit, or proceeding had been brought or instituted by, for, on account of, or against such person individually.
81. If any person against whom the trust has any claim or demand takes the benefit of any Act relating to bankruptcy, any person appointed by the trust in that behalf, in all proceedings against the estate of such first-mentioned person, or under any sequestration or act of bankruptcy against such person, may represent the trust, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such person so appointed, and not of the trust.
82. Every person committing a breach of any provision of this Act, or of any by-law made hereunder, by wilful act or refusal, or neglect to act or otherwise, shall, when no specific penalty has been provided for such offence, be liable to a penalty not exceeding twenty pounds.
83. All fines, penalties, and forfeitures incurred under this Act, or under any by-law made hereunder, may, unless otherwise provided for, be recovered in a summary way before any two justices in petty sessions.
- 84.

Remedies in case of damage to property of trust.

Cf. 14 of 44 Vic., s. 137.

Officers of trust may detain offenders in certain cases.

Cf. *ibid.*, s. 138.

Remedies in cases of nuisances preserved.

Cf. *ibid.* 140.

Representation of trust in legal proceedings.

Cf. 23 of 1897, s. 250.

Representative of trust in cases of bankruptcy.

Cf. *ibid.* 251.

General penalty clause.

Cf. *ibid.* 252.

Penalties may be recovered summarily.

Cf. *ibid.* 253.

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84. All fines, penalties, and forfeitures imposed and recovered as aforesaid shall, except when otherwise directed by this Act, be paid into the corporate fund of the body corporate suing therefor.

Application of penalties.  
Cf. 23 of 1897, 254.

85. No person shall be liable to any incapacity, disability, fine, penalty, or forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after such incapacity, disability, forfeiture, or penalty has been incurred.

Limitation of proceedings.  
Cf. *ibid.* 255.

86. Every entry in the minute book purporting to be a minute of the business transacted at any meeting of the trust, or a Committee, and signed by the chairman at the next meeting of the trust, or the chairman of such committee, which has been holden after such first-named meeting, shall be evidence that such business as is therein recorded was transacted at such meeting, without proof of the meeting having been duly convened or held, or of the persons attending such meeting having been or being duly authorised so to do, or of the fact of such chairman having been or being such chairman.

Minutes to be in evidence.  
Cf. *ibid.* 122.

87. Every advertisement, order, direction, summons, notice, demand, or other such document requiring authentication by the trust, shall be sufficiently authenticated if signed by the chairman or by the secretary of the trust, and need not be under the common seal of the trust. And every such document may be in writing or in print, or partly in writing and partly in print.

Notices how authenticated.  
Cf. *ibid.* 256.

88. No advertisement, order, direction, notice, demand, or other such document herein required to be published, made, or given, shall be held void for any want of form, provided the same is intelligible.

Form of notices.  
Cf. *ibid.* 257.

89. Any summons or notice, or any writ or other process, document, writing, or other matter issued according to the course of any proceeding at law or in equity, and required to be served upon the trust, may be served by the same being sent through the post office directed to the trust at their office, or left at such office, or by being given personally to the chairman or secretary of the trust.

Service of legal process.  
Cf. *ibid.* 258.

90. (1) Any notice required by this Act, or any by-law or regulation made thereunder, to be served on or given to any owner or occupier of any building, land, or premises, or on or to any person, may be in writing, or partly in writing and partly printed, or may be wholly printed.

Notices.  
Cf. 14 of 44 Vic., s. 139.

(2) It shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last known place of abode or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier; or, if there be no occupier, if such notice be posted on some conspicuous part of such building or land.

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(3) 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 the portion thereof affected by the notice, is situated.

91. Every person who wilfully hinders or interrupts, or causes or procures to be interrupted, the trust or their managers, surveyors, agents, servants, or workmen, or any of them, or the auditors in doing or performing any of the works, or in the exercise of any of the powers and authorities exercisable by or vested in them by law, shall for every such offence forfeit and pay any sum not exceeding ten pounds.

Penalty for interfering with the business of the trust. Cf. 23 of 1897, s. 239.

92. If any person neglects or refuses to do any matter or thing which by this Act he is directed to perform, he shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty for neglect of duty. Cf. *ibid.* 260.

SCHEDULES.

THE FIRST SCHEDULE.

*General description of proposed scheme.*

20 This scheme comprises the construction of a dam about ninety-six feet high across Umberumberka Creek, as a storage reservoir from which the water will be delivered through a main about nineteen miles long to the several service reservoirs and points of delivery to the council and the various mining companies at Broken Hill, and works contingent thereon.

Section 4.

THE SECOND SCHEDULE.

*Description of lands vested in council.*

25 Area occupied by the dam and storage reservoir, together with such land as is included within thirty-three feet of the top water contour level with dam of the height described in the First Schedule, and the surface, and the land to a depth of fifty feet below the surface, of a strip of land seven and a half feet on either side of centre line of main, and such lands as the Governor may deem necessary for the carrying out of the scheme.

Section 5.

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*Broken Hill and Umberumberka Water Supply.*

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THE THIRD SCHEDULE.

*Provisions relating to the appointment of members by the mining companies.*

1. The directors of any mining company and on its behalf may, by writing under the seal of the company, appoint and at pleasure remove, reappoint, or make any new or  
5 other appointment of some person to act for the purposes herein mentioned. Such person is hereinafter called "the appointee." Sections 24-38.
2. Every mining company shall forthwith on the appointment of the appointee notify in writing the other mining companies the full name, address, and description of such appointee.
- 10 3. Any appointee may convene a meeting of appointees. Such meeting shall be deemed to have been duly convened if notice in writing under the hand of the convener shall have been left at the registered offices of the several mining companies specifying a time not less than seven days and some place in Melbourne or Broken Hill at which such meeting is to be held. With the consent of all the appointees a meeting of  
15 appointees may be held elsewhere than at Melbourne or Broken Hill.
4. The appointees may by resolution of the majority of the appointees present elect one of their number to be chairman, and may by the like resolution from time to time remove and appoint another appointee to be chairman. The chairman shall when present preside at meetings of appointees, and shall have a casting as well as a deliberative  
20 vote. In the absence of the chairman the appointees present at any meeting may elect one of their number to be chairman for that meeting during such absence, and he shall while acting as chairman have a casting as well as a deliberative vote.
5. The appointees may by resolution of the appointees present at any meeting convened for the purpose, elect the first three persons to be members of the trust  
25 appointed by mining companies, and may in like manner from time to time fill up any vacancy in such membership. Such members shall be deemed to have been duly appointed members of the trust appointed by the mining companies.
6. If at any meeting of appointees convened for the purpose a resolution be carried by a three-fourths majority of all the appointees calling upon any member to  
30 retire from office, such member shall thereupon retire accordingly. The appointees may by the same or another resolution appoint some person to be a member in place of the member called upon to retire, and such new member shall be deemed to have been duly appointed as a member appointed by the mining companies.
7. Every member may retire from office as a member of the trust at any time, and  
35 shall retire therefrom on notification in writing under the hand of the chairman of the meeting of the appointees to such member that a resolution has been passed at a meeting of appointees calling upon such member to retire.
8. Any such notification shall be deemed to have been duly given to a member when the same shall have been left at the office of the trust in Broken Hill addressed to  
40 the member.
9. The appointees may at any meeting make any regulations not inconsistent with the provisions contained in this Schedule, or the Broken Hill and Umberumberka Water Supply Act, 1906—
- 45 (a) for meetings of appointees ;  
(b) for the conduct of such meetings ;  
(c) generally for exercising any of the powers exercisable by the appointees.

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## THE FOURTH SCHEDULE.

*Provisions relating to appointment of members by the debenture holders.*

1. The secretary or other officer of the trust appointed for the purpose shall, Sections 27-38.  
whenever requested so to do by any one or more debenture holders registered as the  
5 holder or holders of at least one thousand pounds of debentures, convene a meeting of  
debenture holders. Such meeting shall be convened by circular, addressed to the  
debenture holders appearing in the register book of debenture holders.
2. Notice of every such meeting shall be deemed to have been duly given within  
forty-eight hours of the posting of such circulars in the post office at Broken Hill.
- 10 3. The secretary or other officer shall fix, and the circular shall specify the hour  
and date, and some place in Broken Hill where such meeting is to be held.
4. The debenture holders present at any meeting shall elect one of their number  
to be chairman of the meeting.
5. The debenture holders may by resolution of the debenture holders present at  
15 any meeting convened for the purpose personally or by proxy appoint two persons who  
are willing to act to be members of the trust appointed by the debenture holders. No  
such appointments shall be complete until a certificate of such resolution having been  
duly passed under the hand of the chairman of the meeting shall have been left at the  
office of the trust.
- 20 6. Every debenture holder shall be entitled to vote at any meeting personally or  
by proxy, and shall have one vote for every one hundred pounds of debentures of which  
he is at the time of meeting the registered holder.
7. Every resolution at any meeting of debenture holders shall, unless a poll be  
demanded, be determined in the first instance by a show of hands.
- 25 8. Any one or more debenture holder or holders holding individually or collectively  
at least one thousand pounds of debentures may demand a poll which shall be taken  
forthwith at such meeting, or at any time and place appointed for the purpose by the  
chairman of the meeting.
9. A certificate under the hand of the chairman of the meeting certifying that  
30 any resolution was passed at any meeting of debenture holders shall be conclusive  
evidence according to its tenor.
10. A proxy may be in the following form, and shall be attested by at least one  
witness :—
- 35 I,                    of                    , being the registered holder of £                    of  
debentures issued by the Broken Hill and Umberumberka water trust, do  
hereby appoint                    of                    to attend and vote for me at a  
meeting of debenture holders to be held at                    on the  
day of                    , and at all adjournments of such meeting.
- As witness my hand the                    day of                    .
- 40 Witness to the signature of the said                    .
11. Any meeting of debenture holders duly convened for the purpose may pass a  
resolution calling upon any member of the trust appointed by the debenture holders to  
retire from office.
12. On delivery at the office of the trust of a certificate under the hand of the  
45 chairman of the meeting of such debenture holders that such resolution was duly passed  
thereat, such member shall be deemed to have retired from office.
13. Any vacancy in the membership of the trust in respect of a member appointed  
by debenture holders may be filled up in the same way in which the original appointments  
may be made.
- 50 14. Any member may resign his office as a member of the trust at any time.

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*Broken Hill and Umberumberka Water Supply.*

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## THE FIFTH SCHEDULE.

*Terms and conditions on which debentures are issued.*

1. All debentures to be issued by the trust pursuant to the power in the Broken Sections 51-64. Hill and Umberumberka Water Supply Act, 1906, reserved to issue debentures not  
5 exceeding in the aggregate two hundred thousand pounds are charged with such  
priorities one over another as the trust may determine on the undertaking of the trust,  
and all its property present and future, and are hereby charged thereon without any  
preference or priority one over another, and such charge is to be a floating security, but  
so that the trust is not to be at liberty to create any mortgage or charge in priority to  
10 the said debentures.
2. A register of debentures shall be kept at the head office of the trust, in Broken  
Hill, wherein there shall be entered the names, addresses, and descriptions of the registered  
holders, and particulars of the debentures held by them respectively, and such register  
shall, at all reasonable times during business hours, be open to the inspection of any  
15 registered holder of debentures and his legal personal representatives, and any person  
authorised in writing by him or them.
3. The registered holder, or his legal personal representatives, shall be regarded  
as exclusively entitled to the benefit of the debenture, and all persons may act accordingly,  
and the trust shall not be bound to enter in the register notice of any trust, or to  
20 recognise any right in any other person save as herein provided.
4. Every transfer of a debenture shall be in writing under the hand of the  
registered holder or his legal personal representative. The transfer shall be delivered at  
the office of the trust with a fee of two shillings and sixpence, and such evidence of  
identity or title as the trust may reasonably require, and thereupon the transfer will be  
25 registered, and a notice of such registration will be indorsed on the debenture. The  
trust shall be entitled to retain the transfer.
5. In the case of joint registered holders, the principal moneys and interest secured  
by a debenture shall be deemed to be owing to them upon a joint account.
6. No transfer will be registered during the seven days immediately preceding the  
30 days fixed for payment of interest.
7. In respect of each half-year's interest on a debenture, a warrant on the trust's  
bankers, payable to the order of the registered holder thereof, or, in case of joint  
holders, to the order of that one whose name stands first in the register as one of such  
joint holders, will be sent by post to the registered address of such registered holder, and  
35 the trust shall not be responsible for any loss in transmission, and the payment of the  
warrant, if purporting to be duly endorsed, shall be a good discharge to the trust.
8. The principal moneys and interest secured by the debentures shall be paid  
without regard to any equities between the trust and the original or any intermediate  
holder thereof, and the receipt of the registered holder for such principal moneys, and  
40 interest shall be a good discharge to the trust for the same.
9. The trust may at any time give notice in writing to the registered holder  
thereof, his executors or administrators, of its intention to pay off any debenture, and  
upon the expiration of six calendar months from such notice being given the principal  
moneys secured by such debenture shall become payable: Provided that the council may  
45 at any time redeem the whole of the outstanding debentures issued by the trust.
10. The principal moneys secured by any debenture shall immediately become  
payable if the trust makes default for a period of six calendar months in the payment of  
any interest thereby secured, and the registered holder thereof before such interest is  
paid, by notice in writing to the trust, calls in such principal moneys.
- 50 11. At any time after the principal moneys secured by any debenture become  
payable, the registered holder of such debenture may, with the consent in writing of the  
holders of the majority in value of the outstanding debentures issued by the trust,  
appoint, by writing, any person or persons to be a receiver or receivers of the property  
charged by the debentures, and such appointment shall, on confirmation thereof by the  
Supreme



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Supreme Court or a judge thereof, be as effective as if all the holders of debentures of the same issue had concurred in such appointment, and the said confirmation shall be conclusive evidence that the said appointment was duly made. And a receiver so appointed shall have power—

- 5 (a) to take possession of the property charged by the debentures ;  
 (b) to carry on or concur in carrying on the business of the trust ;  
 (c) to sell or concur in selling any of the property charged by the debentures, and to give a good title to such property, including the statutory powers and privileges by this Act conferred ;  
 10 (d) to make any arrangement or compromise which he or they shall think expedient in the interests of the debenture holders.

And all moneys received by such receiver or receivers shall, after providing and paying for all proper expenses, be applied in the first place in redemption of the moneys secured by the debentures, having regard to all priorities created, if any, and, in the next place, 15 in discharge of any other liabilities of the trust, and the surplus moneys (if any) shall be paid to the council for the general purposes of the council.

12. The holders of three-fourths in value of the debentures issued by the trust for the time being outstanding may sanction any agreement with the trust for any modification or alteration of the rights of the holders of debentures as a class, including 20 any release of any property charged thereby, and any postponement of the time for payment of any moneys secured thereby, and any increase or reduction of the rate of interest, and an agreement so sanctioned shall be binding on all the holders of such debentures, and notice thereof shall be given to each debenture holder, and each debenture holder shall be bound thereupon to produce his debentures to the trust, and 25 to permit a note of such agreement, and the sanction thereof aforesaid, to be placed thereon.

13. The principal moneys and interest secured by a debenture will be paid at some bank in Broken Hill or at the office of the trust.

14. A notice may be served by the trust upon the holder of any debenture by 30 sending it through the post in a prepaid letter addressed to such person at his registered address.

15. Any notice served by post shall be deemed to have been served at the expiration of forty-eight hours after it is posted, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put 35 into the post office.

16. Debentures may be transferred by instrument in the following form :—

I, A.B., of \_\_\_\_\_, in consideration of the sum of \_\_\_\_\_ pounds, paid to me  
 by C.D., of \_\_\_\_\_, do hereby transfer to the said C.D. (hereinafter called the  
 40 transferee) the undermentioned debentures issued by the Broken Hill and  
 Umberumberka water trust—that is to say—

[Here state date, character, amount, and numbers.]

and the full benefit thereof :

To hold the same unto the transferee subject to the several conditions on which I  
 held the same immediately before the execution hereof ; and I, the transferee  
 45 do hereby agree to take the said debentures subject to the same conditions.

As witness our hands this \_\_\_\_\_ day of \_\_\_\_\_

Signed by the above-named A.B. in the presence of

[Witness' signature, address, and occupation.]

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## THE SIXTH SCHEDULE.

*Broken Hill and Umberumberka water trust.*

Issue of debentures of pounds each, carrying interest at per Section 64.  
centum per annum.

5 No. pounds

1. The Broken Hill and Umberumberka water trust (hereinafter called the trust) will on the day of , or on such earlier day as the principal moneys hereby secured become payable in accordance with the conditions contained in the Schedule to the Broken Hill and Umberumberka Water Supply Act, 10 1906, pay to of or other the registered holder for the time being, the sum of pounds.

2. The trust will, in the meantime, pay to such registered holder interest thereon at the rate of per centum per annum by half-yearly payments on the day of and the day of in each year, the first of such 15 half-yearly payments to be made on the day of next.

3. Such payments are charged on the undertaking of the trust, and all its property present and future.

4. This debenture is issued subject to, and with the benefit of, the conditions mentioned in the Fifth Schedule to the Broken Hill and Umberumberka Water Supply 20 Act, 1906, which are to be deemed part of it.

Given under the common seal of the trust, this day of

The common seal was affixed hereto in the presence of

311-0

[18 41]

- 10 The common way was... in the presence of...
- 11 The common way was... in the presence of...
- 12 The common way was... in the presence of...
- 13 The common way was... in the presence of...
- 14 The common way was... in the presence of...
- 15 The common way was... in the presence of...
- 16 The common way was... in the presence of...
- 17 The common way was... in the presence of...
- 18 The common way was... in the presence of...
- 19 The common way was... in the presence of...
- 20 The common way was... in the presence of...

THE SIXTH SCHEDULE

Brokers and Commission Agents

Act No. 1800