

*Segenhoe Estate Irrigation.*

An Act to authorise and enable the “Land Company of Australasia (Limited)” to establish a system of Irrigation and Water Supply in and upon the Segenhoe Estate, situate in the parishes of Macqueen, Russell, and Rouchel, in the counties of Durham and Brisbane and the lands adjacent thereto; to acquire lands to establish Irrigation Works; to authorise the Sale and Supply of Water for Irrigation and Domestic use; and to make, construct, and lay dams, weirs, or flood-gates upon and across the River Page and Rouchel Brook, and to take and divert water therefrom; and for all other purposes which may be incidental thereto. [13th June, 1893.]

SEGENHOE ESTATE  
IRRIGATION.

WHEREAS the “Land Company of Australasia (Limited)” have acquired a large area of land, known as the Segenhoe Estate, situate in the parishes of Macqueen, Russell, and Rouchel, in the counties of Durham and Brisbane, in the Colony of New South Wales, which are intersected by the River Page and Rouchel Brook, and are about to acquire other large areas of lands adjacent thereto, which lands are suitable for agricultural and horticultural purposes if provided with a supply of water: And whereas it is expedient and would be to the advantage of the inhabitants of the surrounding district and of the public generally to establish a system whereby the waters of the said river and brook, which now run to waste, should be conserved and utilised for irrigation and domestic use: Be it therefore enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART I.

*Preliminary—Powers and duties of Company.*

1. This Act may be cited as the “Segenhoe Estate Irrigation Act.”
2. Nothing contained in the “Municipalities Act of 1867,” or the “Country Towns Water and Sewerage Act of 1880,” shall be construed to control, limit, or restrict the operation of this Act, or to interfere with its provisions in respect of the construction or maintenance of works, or the storage, distribution, or supply of water.
3. Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation or irrigation throughout the Colony, and shall not in any way interfere with any right conferred before the passing of this Act.

Portions of Acts at  
variance with this  
Act.

Provisions subject to  
general legislation.

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Interpretation of  
terms.

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

“Crown Lands” means Crown Lands as defined by the “Crown Lands Act of 1889.”

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

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

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

“Irrigation area” means the Segenhoe Estate of about twenty-five thousand acres, more or less, in the parishes of Russell, Rouchel, and Macqueen, counties of Brisbane and Durham, and the land to be acquired by virtue of this Act.

“Justice” means any Justice or Justices of the Peace.

“Minister” means the Minister charged with the administration of this Act.

“Owner” means occupier or lessee.

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

“Prescribed” means by this Act or by the regulation thereunder.

“Regulations” means the regulations made under this Act.

“The Company” means the “Land Company of Australasia (Limited),” or their assignees for the time being.

Conditions prior to  
acquisition of land.

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

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

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

(III) On compliance with the provisions of this section with respect to notices, the Company may, if they think fit, present a petition to the Governor, and such petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners, lessees, and occupiers of lands who have assented, dissented, or are neutral in respect to the taking such lands, or who have returned no answer to the notice. And it shall pray that the Company may, with reference to such lands, be allowed to put in force the powers contained in Part II of this Act, with respect to the acquisition of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Governor may require.

(IV) On receipt of such petition, and on due proof of the proper notices having been published and served, the Governor shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of

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

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

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

- (i) To erect, make, lay, or construct upon and across the River Page, dams, weirs, flood-gates, or either, with the necessary offtake works, and also to erect, make, lay, or construct upon and across Rouchel Brook, dams, weirs, flood-gates, or either, with the necessary offtake works, and also to make, lay, and construct upon and across the said river and brook tunnels, aqueducts, and canals, and to maintain the same.
- (II) To erect such boilers, engines, pumps, and other machinery within or without the irrigation area to raise any such water as may be necessary and to work the same.
- (III) To erect, make, lay, or construct upon any part of the irrigation area such dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping machinery, reservoirs, dams, canals, water-courses, embankments, or other works as may be necessary or expedient for carrying out the purposes of this Act, and to maintain and work the same.
- (IV) To take or divert water from the said river and brook above such dams, weirs, or flood-gates, and to convey to and distribute the same within the irrigation area or elsewhere as hereinafter provided, in quantities not exceeding one cubic foot per minute for every five acres of land within the irrigation area.
- (v) To widen or deepen, and use for drainage or any other purpose, any existing creek, lagoon, swamp, or water-course within or leading to or from the irrigation area.
- (VI) To lay pipes, cut trenches, canals, or ducts within or without the irrigation area for the purpose of delivering water to owners of lands, within or without the irrigation area, and for the purposes of supplying water for domestic use, and to maintain the same.
- (VII) To enter into and upon any lands and take and lay down levels of the same for the purpose of making, laying, or constructing canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, channels, or other works incidental thereto, and to set out such parts thereby as they shall think necessary.
- (VIII) After payment of compensation as hereinafter provided to enter upon, take, and hold such land as they may from time to time deem necessary for the construction and maintenance of any of the works authorized by this Act.

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(ix) To enter upon any Crown lands or private lands, streets, roads, or thoroughfares, and to construct, maintain, lay, or place therein any canals, flood-gates, weirs, culverts, aqueducts, sluices, flumes, water-courses, embankments, pipes, bridges, or other works incidental thereto, and repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, thoroughfares for the purpose of repairing any water-courses or other works being their property or under their control.

Compensation for  
damage done by  
Company.

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

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

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

Arbitration.

9. When any person claims compensation from the Company on account of any injury, loss, or damage, and such claim is disputed by the Company, the compensation claimed shall be settled in accordance with the provisions of the "Public Works Act of 1888" in respect of claims for compensation made thereunder, the words "constructing authority" mentioned in the said Act being for this purpose read the "Company" as hereby defined: Provided always that in the exercise of any of the powers hereby conferred the Company shall inflict as little damage as may be, and shall make full compensation to all parties interested for all actual damage sustained by them through the exercise of such powers.

Power to open  
streets.

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

Reinstatement of  
streets.

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

Diversion of water-  
courses.

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

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

Agreements to supply water for domestic use.

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

Company not to be liable for accidental failure to water supply.

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

Company may let meters.

16. Such meters, water-gauges, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or liable to be attached or taken in execution under any process of any Court of law or equity, or under or in pursuance of any sequestration or order in bankruptcy, or other legal proceedings against or affecting the person using such water, or the occupier of the premises, or other the person in whose possession the meters, water-gauges, pipes, instruments, and apparatus may be.

Meters of Company not distrainable.

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

Meter to be supplied and maintained by consumer.

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

Maximum price of water.

19. The Company or their officers or servants may enter in and upon any lands, houses, or buildings, and with or without horses or carriages, may enter in and upon any lands to, through, or into which water is supplied or carried by the Company to inspect the meters, water-gauges, canals, dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, water-courses, embankments, or other works, and the instruments, pipes, and apparatus for the measuring, conveyance, reception, storage, or distribution of water, or for the purpose of ascertaining the quantity of water supplied or consumed, or to examine if there be any waste or misuse of water; and may from time to time enter any house, building, or lands for the purpose of removing or altering any meter, water-gauge, instrument, pipe, or apparatus, upon or affecting the property of the Company. And if any person hinders any such officer or servant of the Company from entering or making such inspection or alteration or effecting such removal, he shall for each such offence be liable to a penalty not exceeding five pounds, but except with the consent of a Justice a power of entry shall be exercised only between the hours of six in the forenoon and six in the afternoon.

Power to officers and servants of Company to inspect meters.

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

Company may make regulations.

- (I) The supply and sale and distribution of water to any person within or without the irrigation area.

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- (II) The rate and price at which water shall be sold, and the time of payment for the same, and the order in which applicants may be served.
- (III) The management and maintenance of the irrigation works, and the appointment of persons to supervise and control all or any matters referred to in this section.
- (IV) The prevention and remedying of waste, undue consumption, theft, fouling or contamination of the water contained in or supplied from any part of the Company's works.
- (V) The protection of the water and every part of the works from trespass or injury.
- (VI) The imposing of penalties for any breach of any regulation by this Act authorized to be made by the Company, not exceeding the sum of fifty pounds and the enforcement of the same.
- (VII) Generally for duly administering and carrying out the powers, given to the Company.

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

PROTECTION OF THE  
WATER.

Water may be cut off in case of any breach of this part of this Act.

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

Penalty for mis-application of water.

22. If any person having from the Company a supply of water for any purpose, uses such water for any purpose other than that for which he is entitled to use the same, he shall for every such offence be liable to a penalty not exceeding five pounds without prejudice to the right of the Company to recover from him the value of the water so misused.

Penalty for bathing in water of the Company.

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

Penalty for throwing dirt therein.

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

Penalty for letting foul water flow thereinto.

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

Penalty for establishing any connection, unless authorized, or wilfully damaging any pipe, &c.

26. Any person who shall, without the authority of the Company, establish or re-establish, or permit to be established or re-established any connection which has not been authorized, or which may have been cut off, removed, or severed by the Company, or who shall

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shall in any manner wilfully injure or tamper with any connection-pipe, meter, water-gauge, sluice, canal, flume, ball-cock, stop-cock, or waste-pipe which may have been approved by the Company, so as to destroy, or diminish, or endanger its efficiency, may be summoned for such offence before two Justices, and, on conviction thereof, shall be adjudged to pay to the Company the amount of the charges and expenses which the Company may have incurred (and which they are hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Any such offender shall also forfeit and pay a penalty not exceeding ten pounds.

27. The charges for water and all sums due to the Company shall be paid by and be recoverable from the person requiring, receiving, or using the water. When the water is supplied by measure, all charges of the same for water shall be paid at such time and in such manner as shall be provided for by the regulations of the Company.

Charges and rates for water payable in advance.

28. If any person refuse or neglect to pay on demand to the Company any charge, or sum due by such person under this Act, the Company may recover the same with costs in any Court of competent jurisdiction.

Refusal to pay charges.

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

Penalty for fixing uncertified meter.

30. If any person remove or alter the position of, or in any way interfere with, any sluice, stop outlet, meter, water-gauge, or other instrument, without having first obtained authority as aforesaid, he shall, for each such offence, forfeit a sum not exceeding twenty pounds: Provided always that the Company shall have an office within the Police District of Seone.

Penalty for removing or altering meter without notice.

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

Notice of removal, &c., of meter.

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

Penalty for obstructing construction of works.

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

Penalty for destroying works.

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

Penalty on persons omitting to fasten gates.

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## PART II.

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

Lands required how  
acquired.

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

How and when lands  
can be taken.

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

Vesting of lands.

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

Effect of publication  
upon Crown Lands.

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

Compensation for  
private lands.

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

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

40. The estate and interest of every person entitled to lands required under this Act, or any portion thereof, and whether to the legal or equitable estate therein, shall, upon due payment of the amount of compensation tendered by the Company, or assessed by the jury as hereinafter provided, be deemed to have been as fully and effectually conveyed to the Company as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall, upon  
asserting



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asserting his claim as hereinafter provided, and making out his title in respect of any portion of the said resumed lands, be entitled to compensation on account of such resumption in manner hereinafter provided.

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

Notice of claim for compensation.

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

Claim and report thereon.

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

Compensation by action in Supreme Court.

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

Issue in action of compensation, verdict, and costs.

45. All moneys payable under this Act by way of compensation to any claimant, whether under the verdict of a jury or otherwise, shall be paid together with costs (if any) and interest at the rate of six pounds per centum per annum, reckoned from the date of the notification aforesaid within one month after the determination of such compensation to the person lawfully entitled thereto, or to his agent duly authorized in that behalf in writing, but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land.

Payment of compensation.

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

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reason of the severing of the lands taken from other lands, or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act, and they shall assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time of the resumption thereof, or the extent of the damage or injury sustained.

General power of entry.

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

Power to purchase lands by agreement.

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

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

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

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

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

51. It shall be lawful for the Company, and all persons by them authorized, to enter upon any lands, not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to a dwelling-house of the owner of any such lands than one hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by this

<sup>Power to take temporary possession of land.</sup>

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this Act, of the accommodation works connected therewith hereinafter mentioned, and to use the same for any of the following purposes, that is to say—

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

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

Company to  
separate the lands  
before using them.

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

Compensation to  
be made for  
temporary occu-  
pation.

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

Before roads  
interfered with  
others to be sub-  
stituted.

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

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

Period for restoration of roads interfered with.

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

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

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

Works for the benefit of owners.

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

Gates, bridges, &c.

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

Fences, &c.

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

Drains.

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

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

Differences as to accommodation works to be settled by Governor.

59. If any of the owners or occupiers of lands affected by such pipe, canal, or duct shall consider the accommodation works made by the Company, or directed by the Governor to be made by the Company, insufficient for the commodious use of their respective lands, it shall be lawful

Power to owners of lands to make additional accommodation works.

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lawful for any such owner or occupier, at any time at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Company.

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

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

## PART III.

*Miscellaneous Proceedings—Legal Procedure.*

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

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

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

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

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

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

Penalty for default not otherwise provided for.

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

Appeal to Quarter Sessions on giving security.

65. If any party shall feel aggrieved by any determination or adjudication of any Justices with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the nearest Quarter Sessions; but no such appeal shall be entertained unless

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unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought; nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice, conditioned duly to prosecute such appeal, and to abide the order of the Court thereon. At the Quarter Sessions, for which such notice shall be given, the Court shall proceed to determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following Sessions, and upon the hearing of such appeal, the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and also may order such further satisfaction to be made to the party injured, as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Court to make such order as they think reasonable.

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

Damage to be made good in addition to penalty.

67. It shall be lawful for any officer or servant of the Company, and all persons assisting him, to seize and detain any person who shall have committed any offence against the provisions of this Act, and whose name and residence shall be unknown to such officer or servant, and convey him, with all convenient despatch, before some Justice without any warrant or other authority than this Act, to be dealt with according to law.

Transient offenders.

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

Indictment for nuisances.

69. Any notice required by this Act, or by any by-law or regulation made thereunder to be served on, or given to, any owner or occupier of any building, land, or premises, or on or to any person, may be in writing, or partly in writing and partly printed, or may be wholly printed. And it shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner by registered letter addressed to his last-known place of abode or business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently above the age of fourteen years living at the place of abode of such owner or occupier, or if there be no occupier, if such notice be posted on some conspicuous part of such building or land. And any notice required to be served or given in respect

Notices.

*Segenhoe Estate Irrigation.*

respect of any public street, road, or lane may be served on or sent by post as aforesaid to the Council Clerk of the Borough or Municipal District wherein such street, road, or lane, or a portion thereof affected by the notice is situated.

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

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

Power to extend the  
provisions of the Act.

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

Company shall  
expend not less than  
£5,000 within  
twelve months.

72. The Company shall expend in actual work, to the satisfaction of the Minister, the sum of not less than five thousand pounds within twelve months of the passing of this Act, otherwise all rights and privileges granted under this Act shall be forfeited.

Payment by the  
Company for water.

73. The Company shall make payment to the Crown of such amount in each year in name of charges for water rights as the Governor may from time to time prescribe, having regard to the cost of the Company's irrigation works and maintenance thereof, and in the event of any general legislation in reference to irrigation being hereafter enacted the amount of such charges shall be in accordance with the rates, if any, fixed in or appointed by any such general legislation, but in the meantime shall not exceed one penny for every thousand cubic feet of water supplied by the Company to the Irrigation or Cultivation Area or elsewhere.



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*Scottish Australian Mining Company (Limited) Railway.*


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## SCHEDULE I.

*Notice of Claim and Abstract.*

To the "Land Company of Australasia (Limited)."

IN pursuance of the "Segenhoe Estate Irrigation Act" I (*or we*) hereby give you notice that I (*or we*) claim compensation for land hereunder described which has been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract.

*Abstract.*

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

(Signature)  
(Address)  
(Date)

## SCHEDULE II.

*Notice of Valuation.*

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

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

C.D.,  
(for the Company.)

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

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

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