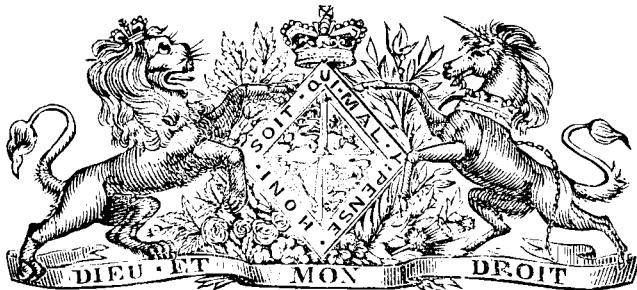


# New South Wales.



ANNO QUADRAGESIMO SEPTIMO

## VICTORIÆ REGINÆ.

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An Act to enable and authorise the Menindie Irrigation Settlement (Limited), a Company duly incorporated under the Companies Acts of 1874 and 1888 of the Colony of New South Wales, to establish a system of Irrigation and Water Supply within the counties of Menindie, Tandora, and Yanco-winna, in the said Colony; to acquire lands; to establish Irrigation Works; to authorise the sale and supply of water for irrigation and domestic use; and to construct, make, and lay dams, weirs, or flood-gates upon or across the Menindie Creek and Lake, and the other creeks mentioned herein, and to take water therefrom and from the river Darling, and for all other purposes which may be incidental thereto. [29th March, 1894.]

MENINDIE  
IRRIGATION.

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

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supply of water: And whereas the Minister for Lands, as notified in the *Gazette* of the twenty-third day of July, one thousand eight hundred and ninety-two, has reserved from lease for Irrigation purposes part of the lands described in the Second Schedule hereto: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART I.

*Preliminary Provisions.*

Short title.

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

Portions of Acts at variance with this.

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

Interpretation of terms.

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

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

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

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

"*Gazette*" means the *Government Gazette*.

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

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

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

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

"Irrigation Cultivation Area" means the lands and hereditaments described in the Second Schedule to this Act.

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

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

"Owner"

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“Owner” includes lessee or occupier and lessee or licensee under the Crown.

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

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

“Private land” means any land which is not Crown land or which is hereinafter expressly referred to as private land.

“Road” means a public road so constituted by reservation, proclamation, dedication, or otherwise, howsoever.

The intervention of a road or water-course (not being a permanent river) shall not prevent holdings or lands being held to be “adjoining.”

“Regulations” means the regulations made under this Act.

“Stock” means and includes cattle, horses, sheep, and all other domestic animals.

“The Promoters” means the said “Menindie Irrigation Settlement (Limited),” and the Assignees of the said Company for the time being.

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

Arrangement of parts and sections of Act.

PART I.—*Preliminary provisions.—ss. 1-3.*

PART II.—*Powers, duties, and liabilities of the Promoters.—ss. 4-45.*

PART III.—*The reservation as an Irrigation Water Conservation Area of the Lake, Creeks, and Lands described in the First Schedule hereto.—ss. 46-57.*

PART IV.—*The occupation and acquisition by the Promoters of the Crown Lands described in the Second Schedule hereto.—ss. 58-61.*

PART V.—*The ascertainment and payment of compensation in respect of lands resumed and taken.—ss. 62-71.*

PART VI.—*Miscellaneous provisions—Legal procedure—ss. 75-87.*

## PART II.

### *Powers, duties, and liabilities of the Promoters.*

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

Powers of Promoters.

- (i) To construct, upon and across the channels between Lake Menindie and the Darling River, and the channel between Lake Cawndilla and Lake Menindie, or any of them, dams, weirs, flood-gates, or water-locks, or other irrigation works, for the purpose of conserving water in Lake Menindie, with the necessary offtakes and works, and to alter and maintain the same.
- (ii) To construct and place irrigation works within or without the Areas described in the First and Second Schedules hereto for the purpose of conserving, raising, or otherwise dealing with any water authorised by this Act to be taken and used.
- (iii) To take or divert water from Lake Menindie, or from any creek, channel, or water-course leading to or from the said Lake, or from the river Darling, and to convey to and distribute the same within the Irrigation Cultivation Area or elsewhere

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

- (iv) After payment of compensation as hereinafter provided to widen or deepen, and use for drainage or any other purpose, any existing creek, lagoon, swamp, or water-course within or leading to or from the areas described in the First and Second Schedules hereto; and also to enter upon, take, and hold any Crown or private lands, streets, roads, or thoroughfares, and to construct therein any irrigation works, and to maintain, repair, alter, cut off, or remove the same, and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any irrigation or other works being their property or under their control.
- (v) And without such compensation to enter into and upon any lands and take, lay down, and set out levels of the same for the purpose of constructing irrigation works: Provided that the natural supplies of water received under existing circumstances by Lake Speculation and Lake Cawndilla from the river Darling shall not be diminished or rendered less useful, and that the Promoters shall have no right to the waters stored in Lake Speculation and Lake Cawndilla.

Rights of the Crown  
preserved.

- 5. Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation throughout the Colony; and whenever it shall be deemed necessary in the public interest the Governor may on giving the Promoters six months' notice in writing of his intention so to do take possession and control of the whole or any part of the lands, works, goods, chattels, and funds at the time belonging to or vested in the Promoters, subject to all liabilities and obligations attaching to the same, and with all the powers hereby created; and on publication of a notice in the *Gazette*, such lands, works, goods, chattels, and funds shall vest in the Crown. The claim of the Promoters to compensation, and all proceedings consequent thereon, and the assessment of compensation shall be made and ascertained in the manner provided in the "Lands for Public Purposes Acquisition Act," and any Act amending or repealing it.

Promoters to pay  
charges to Crown for  
water rights.

- 6. The Promoters shall make payment to the Crown of such amount in each year in name of charges for water rights as the Governor may from time to time prescribe, having regard to the cost of the Promoters' irrigation works and maintenance thereof, and in the event of any general legislation in reference to irrigation being hereafter enacted the amount of such charges shall be in accordance with the rates, if any, fixed in or appointed by any such general legislation, but not exceeding one penny for every thousand cubic feet of water supplied by the Promoters to the Irrigation Cultivation Area or elsewhere from Lake Menindie, or from any creek, channel, or water-course leading to or from that lake, and not exceeding twopence for every thousand cubic feet of water supplied as aforesaid from the river Darling.

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7. Any person authorised by the Minister in that behalf may at any time, except Sundays, between the hours of six in the morning and six at night, enter the lands of the Promoters and view and inspect the irrigation works thereon, and any irrigation works belonging to the Promoters, and may take such steps as he may deem necessary to gauge the discharge and flow of water at any part of the works, and the Promoters shall afford to such person every facility for making such inspection.

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

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

10. When any person claims compensation from the Promoters, on account of any injury, loss, or damage, and such claim is disputed by the Promoters, the compensation claimed shall be settled in manner provided in Part V of this Act in respect of claims for compensation made thereunder: Provided always that in the exercise of any of the powers hereby conferred the Promoters shall inflict as little damage as may be, and in all cases where it can be done shall provide other watering-places, drains, and channels for the use of adjoining lands in place of any taken away or interrupted by them, and shall make full compensation to all parties interested for all actual damage sustained by them through the exercise of such powers.

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

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

13. The Promoters may, within the areas described in the First and Second Schedules hereto from time to time, divert or alter, temporarily or permanently, any part of the course of any creeks or water-courses, roads, streets, or ways, in order the more conveniently to exercise any of the powers conferred on the Promoters, and may subject to the proviso contained in section four hereof, cut drains and deliver

Right of entry of  
person authorised by  
Minister to inspect  
works.

Compensation for  
damage done by  
Promoters.

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

Compensation, how  
settled.

Power to open  
streets.

Reinstatements of  
streets.

Diversion of water-  
courses.

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deliver water into, dam, embank, widen, or deepen any creek, water-course, lagoon, or swamp within such area, and may purchase or take on lease any existing water-works, and erect or construct thereon all necessary irrigation works.

**Agreements to supply water.**

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

**Promoters not liable for accidental failure to supply water.**

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

**Promoters may let meters.**

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

**Meters of Promoters not distrainable.**

17. Such meters, water-gauges, or other irrigation works shall not be subject to distress for rent of the premises where the same are used, or be liable to be attached or taken in execution under any process of any Court of Law or Equity, or under or in pursuance of any sequestration or order in insolvency, or other legal proceedings against or affecting the person using such water, or the occupier of the premises, or other the person in whose possession the meters, water-gauges, or other irrigation works may be.

**Meter to be supplied and maintained by consumer.**

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

**Power to officers or servants of Promoters to inspect meter.**

19. The Promoters or their officers or servants may enter in and upon any lands, houses, or buildings, and with or without horses or carriages, may enter in and upon any lands to, through, or into which water is supplied or carried by the Promoters to inspect the meters, or other irrigation works, or for the purpose of ascertaining the quantity of water supplied or consumed, or to examine if there be any waste or misuse of water; and may from time to time enter any house, building, or lands, for the purpose of removing or altering any meter, or other irrigation work, upon or affecting the property of the Promoters. And if any person hinders any such Promoter, officer, or servant from entering or making such inspection or alteration or effecting such removal, he shall for each such offence be liable to a penalty not exceeding five pounds, but except with the consent of a Justice a power of entry shall be exercised only between the hours of six in the forenoon and six in the afternoon.

**Promoters may make regulations.**

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

- (i) The supply and sale and distribution of water to any person within or without the Irrigation Cultivation Area.
- (ii) The assessment of the rate and price at which water shall be supplied, and the time of payment for the same, whether in advance or otherwise, and the order in which applicants may be served.
- (iii)

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- (iii) The determination and adjustment of the interest, if any, of the various landowners and others within the Irrigation Cultivation Area to and in the irrigation works.
- (iv) The management and maintenance of the irrigation works, and the payment of the annual working expenses, and the appointment of Water Managers or Trustees to supervise and control all or any matters referred to in this section.
- (v) The prevention and remedying of waste, undue consumption, theft, fouling or contamination of the water contained in or supplied from any part of the Irrigation Water Conservation Area or Irrigation Works.
- (vi) The protection of the water and every part of the irrigation and other works from trespass or injury.
- (vii) The protection, management, and use of places for watering stock, and for bathing and washing purposes.
- (viii) The imposing of penalties for any breach of any regulation by this Act authorised to be made by the Promoters, not exceeding the sum of fifty pounds, and the enforcement of the same; and
- (ix) Generally for duly administering and carrying out the powers given to the Promoters.

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

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

22. If any person supplied with water by the Promoters wrong-  
fully does, or causes or permits to be done, anything in contravention of any of the provisions of this Act or of the regulations of the Promoters, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the Promoters, such person shall be liable for the value of the water wasted or misused, and the Promoters may (without prejudice to any remedy against them in respect thereof) cut off any of the pipes, canals, or other irrigation works, by or through which water is supplied to such person or for his use, and may cease to supply such person with water so long as the cause of injury remains or is not remedied.

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

24. If any person wilfully and after due notice cause the water of any sink, sewer, or drain, or other filthy water belonging to him or under his control to run or be brought into any such lake, stream, drain, reservoir, aqueduct, or other water-works belonging to the Promoters, or over which they have any rights or control, or shall do any other act whereby the water of the Promoters shall be fouled, such person shall for each such offence forfeit a sum not exceeding twenty pounds, and a further sum of twenty shillings for each day (if more than one) that such offence continues.

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

POLLUTING THE  
WATER.

Penalty for throwing  
dirt therein.

Penalty for letting  
foul water flow  
therewith.

Penalty for  
wilful pollution.

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

Charges and rates for water and rent of meters.

Refusal to pay charges.

Penalty for unlawfully taking water.

Penalty for fixing uncertified meter, &c.

For removing or altering meter without notice.

Notice of removal, &c., of meter.

Water may be cut off if meter not in order.

Penalty for obstructing construction of works.

Penalty for destroying works.

26. Any person who shall, without the authority of the Promoters, establish or re-establish, or permit to be established or re-established any connection which has not been authorised, or which may have been cut off, removed, or severed by the Promoters, or who shall in any manner wilfully injure or tamper with any irrigation work which may have been approved by the Promoters, so as to destroy, diminish, or endanger its efficiency, may be summoned for such offence before two Justices, and, on conviction thereof, shall be adjudged to pay the Promoters the amount of the charges and expenses which the Promoters may have incurred (and which they are hereby authorised to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall also forfeit and pay a penalty not exceeding ten pounds.

27. The charges for water and all sums due to the Promoters shall be paid by and be recoverable from the owner of the premises, or the occupier or person requiring, receiving, or using the water. When water is supplied by measure, all rates or charges for the same shall be paid at such time and in such manner as shall be provided for by the regulations of the Promoters. The rent payable for meters shall be payable in advance as and from the first day of January, April, July, and October in each year.

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

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

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

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

32. Every person requiring to remove or alter the position of or to open any irrigation work shall leave twenty-one days notice in writing to that effect at the local office of the Promoters, situated upon the Irrigation Cultivation Area. And if any person refuse or delay to have any irrigation work properly repaired and put in correct working order after having been required by any officer of the Promoters so to do, the Promoters may shut off the supply of water from the land or premises of such person, either by cutting the service-pipe or otherwise, until such irrigation work shall have been properly repaired and certified by some officer of the Promoters as being in proper working order.

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

34. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any irrigation work, roadway, or other part whatever of the machinery or works of the Promoters, such person shall be liable to be imprisoned for any term not exceeding four years.

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

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

And in exercise of such powers it shall be lawful for the Promoters and all other persons employed therein to deposit, and also to manufacture and work upon such lands, materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from or out thereof any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the said works, or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature: Provided always that nothing in this Act contained shall exempt the Promoters from an action for nuisance or other injury (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid: Provided also that no stone or slate quarry, brick-field, or other like place which, at the time of entry on the lands shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same, shall be taken or used by the Promoters either wholly or in part for any of the purposes lastly hereinbefore mentioned, and that the Promoters shall pay to the owner of the land a fair price for any timber, clay, stone, gravel, sand, or other things taken therefrom: Provided also that where such lands so entered upon are Crown Lands, nothing in this Act contained shall exempt the Promoters from the provisions of Part VI of the “Crown Lands Act of 1884.”

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

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

38. 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

Before roads interfered with others to be substituted.

Power to take temporary possession of land.

Promoters to separate the lands before using them.

Compensation to be made for temporary occupation.

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whether carriage-road, horse-road, or tram-road, or railway, either public or private, so as to render it impassable for, or dangerous, or more than usually inconvenient to passengers, or carriages, or to the persons entitled to the use thereof, the Promoters shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense, maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Period for restoration of roads interfered with.

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

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

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

Works for benefit of owners.

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

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

Fences, &c.

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

Drains.

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

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

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

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

43. If any of the owners of lands affected by any irrigation work shall consider the accommodation works made by the Promoters, or directed by the Minister to be made by the Promoters, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Promoters.

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

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

## PART III.

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

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

47. Upon the publication of the notification in the *Gazette* vesting, &c., of lands, declaring that the Lake, Creeks, and Lands therein described are so required and set apart, the Promoters shall have the right to use for the purposes of this Act, the water in, over, or upon such Lake, Creeks, and Lands, but the Governor shall have the right to use or to authorise the use of the water, in, over, or upon the said Lake, Creeks, and Lands; but if for irrigation purposes subject to due provision being made for the proper irrigation of the Irrigation Cultivation Area: Provided, also, that nothing in this section contained shall interfere with any rights already existing.

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

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

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

Application to be accompanied by plan and map.

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

Works to be constructed by the Promoters.

Owners to be chargeable with annual water rates.

Charge to repay cost of special works.

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

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

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

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

53. All such special irrigation works as may be constructed under this part of this Act shall be constructed by the Promoters, and under the superintendence of the Promoters' engineer, unless the Promoters shall otherwise agree with such owner, within a reasonable time after the approval and authority of the Minister as aforesaid shall have been obtained. But the Promoters shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Promoters, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Promoters.

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

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

55. In addition to such charge in name of water rates permitted by the last-preceding section it shall be in the option of the Promoters either

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either to charge and recover from such owner the total cost of special irrigation works constructed on the application of such owner, or to charge, and recover from such owner, in each year, in name of special water rates, such sum as may be approved by the Minister, or as may be agreed upon by the Promoters with such owner, to cover the cost of such special works.

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

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

## PART IV.

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

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

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

Promoters to be Crown Lessees until grants issued.

Promoters may lease.

Conditions upon which Irrigation Cultivation Area to be held.

Expenditure of £30,000.

To maintain works.

Restrictions on sale, sub-lease, &c.

Restriction on cultivated irrigated land held by Promoters.

Industries to be established.

Vermin to be destroyed.

Land to be cleared.

59. The effect of such publication shall be to withdraw the lands described in the Second Schedule hereto from any lease or license or promise thereof, to cancel any dedication or reservation of the said land made under the authority of the "Crown Lands Alienation Act of 1861," or any Act or Acts amending or repealing the same.

60. Subject to the performance by them of the conditions specified in this Act the Promoters shall, on the publication of the said notice, hold the lands described in the Second Schedule hereto, or the balance thereof from time to time, under the provisions of this Act, as lessees from the Crown, and shall pay to the Crown an annual sum in name of rent, at a rate to be fixed as provided by the existing Lands Acts or any future amendment thereof. And the Promoters shall be entitled to a lease, the term of which shall be for a period of twenty-eight years, with the option to the lessees of a renewal of such lease for a further period of twenty-eight years; and such Promoters shall be entitled to grant sub-leases of any part of the lands described in the Second Schedule hereto, or the balance thereof from time to time.

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

- (i) They shall expend upon or in connection with the Irrigation Cultivation Area, and within the period of twenty years from the passing of this Act, in the construction of irrigation works, and permanent improvements, a sum of not less than thirty thousand pounds in the following manner, that is to say:— During the first period of five years the sum of ten thousand pounds; before or during the second period of five years the further sum of seven thousand pounds; before or during the third period of five years the further sum of seven thousand pounds; and before or during the fourth period of five years the balance of six thousand pounds; and the said sum of thirty thousand pounds shall be expended as aforesaid, in addition to such sums of money as may be expended upon or in connection with the land described in the Second Schedule hereto in preparing and planting and cultivating the same.
- (ii) They shall keep and maintain all irrigation works, and permanent improvements upon or in connection with the Irrigation Cultivation Area in good condition and repair.
- (iii) They shall not sub-lease any land in parcels exceeding eighty acres, if the land shall be prepared and planted for fruit growing, or one hundred and sixty acres if prepared for growing other produce, or sub-lease more than one hundred and sixty acres of land to the same person.
- (iv) They shall not at any time hold in their own possession, or in that of their agents, more than five thousand acres of cultivated irrigated land, out of the lands described in the Second Schedule hereto.
- (v) They shall use all reasonable efforts to establish within the period of five years from the passing of this Act, upon the Irrigation Cultivation Area the business and industries of fruit growing, fruit drying, preserving, and canning.
- (vi) They shall take all reasonable measures to destroy all such animals and birds within and upon the Irrigation Cultivation Area as may be proclaimed to be vermin.
- (vii) They shall, within the period of five years from the passing of this Act, use all reasonable means to effect the removal of all timber growing within the high water-mark of the Lake specified in the First Schedule hereto, and may cut up, use, and dispose of the same.

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(viii) The Governor may resume without compensation, except for buildings and other permanent improvements, any portion of the Irrigation Cultivation Area for Government railways, tramways, roads, schools, and other public purposes.

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

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

Provided always that if the Promoters should at any time fail to comply with the foregoing conditions or any of them, all their right, title, and interest in or to the lands in this part of the Act mentioned or referred to shall, subject to the provisions of this Act, absolutely cease and determine.

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

62. Where the land described in any notification under this Act, and resumed and taken for any of the purposes thereof, consists wholly or partly of land alienated by, or not the property of, the Crown, or is not Crown Land as defined by this Act, or is held under any lease or license from the Crown, the owners, lessees, or licensees thereof shall be entitled to receive such sum of money, by way of compensation, for the land so described, as shall be agreed upon, or otherwise ascertained, under the provisions hereinafter contained.

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

64. 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

Notice of claim for compensation.

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upon the Promoters, which notice shall set forth the nature of the estate or interest of the claimant in such land, together with an abstract of his title, and if he claims in respect of damage, the nature of the damage which he has sustained or will sustain by reason of the taking of his land, or of such work or matter as aforesaid, and such notice may be in the form of the Third Schedule hereto, but with any modifications required by the nature of the claim.

Claim and report thereon.

Compensation by action in Supreme Court.

Issue in action of compensation verdict and costs.

As to payment of compensation.

Where claim may be prosecuted in a District Court.

65. Within sixty days after the receipt of every such notice of claim, the Promoters shall cause a valuation of the land or of the estate or interest of the claimant therein to be made by a competent valuator, and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fourth Schedule hereto.

66. If within ninety days after the service of notice of claim the claimant and the Promoters shall not agree as to the amount of compensation, the claimant shall be at liberty to proceed to arbitration under the "Arbitration Act of 1892," or institute proceedings in the Supreme Court in the form of an action for compensation against the Promoters; and any such action may be tried before a Judge of the said Court, or in any Circuit Court, and a special jury of four persons: Provided always that upon proper application, either of the Promoters or of the claimant, a special jury of twelve may be summoned for the trial of such action: Provided also that with the consent in writing of the Promoters and the claimant, any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation, but not within fourteen days from service of the notice of valuation on such claimant.

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

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

69. A District Court shall, notwithstanding anything contained in the "District Courts Act of 1858," or any amendment thereof, have jurisdiction to try any such action of compensation at the District Court holden within the district wherein any land in respect of which any claim has arisen under this Act (or the greater portion of such land) is situated in any case where the whole amount of the claim in

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in respect to such land served in pursuance of section sixty-five of this Act does not exceed two hundred pounds, or if exceeding that amount in any case where the Promoters and the Claimant by a memorandum signed by the Promoters' Attorney and the Claimants' Attorney agree thereto. For the purposes of this Act the provisions of the said District Courts Act, and of any Act amending the same, together with all rules made or to be made thereunder, shall be deemed to apply to all proceedings taken in any District Court hereunder.

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

(i) Regard shall be had not only to the value of the land taken by the Promoters, but also to the damage, if any, to be sustained by the claimant by reason of the severing of the lands taken from other lands, or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act; and the valuators, jury, or arbitrators shall assess the same according to what they shall find to have been the value of such lands, estate, or interest at the time notice was given of such lands being required or having been taken.

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

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

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

73. It shall be lawful for all parties being seized, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the Promoters, and to enter into all necessary agreements for that purpose, and particularly it shall be lawful for all or any of the following parties so seized, possessed, or entitled as aforesaid so to sell, convey, or release, that is to say, all corporations, tenants in tail or for life, married women seized in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time-being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life or for lives and years or for years, or any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives and years or for years, or for any less interest, not only on behalf of themselves

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and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not as if they were sole and of full age, and as to such guardians on behalf of their wards, and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics, and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability; and as to such trustees, executors, or administrators on behalf of their *cestui que* trusts, whether infants, issue unborn, lunatics, *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability; and the power hereinafter given to release lands from any rent-charge or incumbrance, and to agree for the apportionment of any such rent-charge or incumbrance shall extend to, and may lawfully be exercised by, every party hereinbefore enabled to sell, and convey, or release lands to the Promoters.

Incorporation of provisions of Government Railways Act.

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

- (i) As to the determination of compensation to absent parties. Sections forty-two to forty-four both inclusive.
- (ii) As to the deposit of compensation money in certain cases with the Master in Equity and the application and investment thereof. As to payment of such money in certain cases to trustees or to the parties themselves, and the exoneration of the Promoters in respect thereof after payment. Sections forty-seven to fifty-two, both inclusive.
- (iii) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to make out a satisfactory title, and as to presumption of ownership. Sections fifty-three to fifty-six, both inclusive.
- (iv) As to the procedure by the Promoters in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Promoters from entering upon or taking possession of the same. Section sixty-one.
- (v) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage are taken. Sections sixty-five to seventy, both inclusive.

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(vi) As to the release of lands from rent-charges and other incumbrances, and procedure thereon. Sections seventy-one to seventy-four, both inclusive.

(vii) As to the apportionment of rent where lands taken are under lease, and as to compensation to tenants. Sections seventy-five to seventy-eight, both inclusive.

## PART VI.

*Miscellaneous provisions—Legal procedure.*

75. 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.

76. If it shall be proved to the satisfaction of any two Justices in Petty Sessions assembled, that the Promoters or any of their officers have been guilty of any default under this Act not otherwise provided for, they shall be liable for each and every such default to a penalty not exceeding five pounds, to be recovered in a summary way: Provided that the recovery of such penalty shall not release the Promoters from such other consequences of such default as are imposed by this Act.

77. 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.

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

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Damage to be made good in addition to penalty.

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

Notices.

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

Indictment for nuisances.

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

Borrowing powers

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

Assignment of water-rights to sub-lessees.

83. The Promoters shall assign and transfer to each and every sub-lessee of land within the Irrigation Cultivation Area such a water-right to attach as an easement to the land so sub-leased as the Promoters may determine, but subject to payment by the sub-lessee of such water rate as may be fixed by assessment or by agreement as hereinbefore provided, and such water-right, when assigned or transferred to such sub-lessee shall be expressed in or endorsed upon the sub-lease of such land; and in all cases such water-right shall, during the term of the sub-lease attach to the land to which the same has been assigned, and shall be held by and belong to the sub-lessee of such land for the time being: Provided always that such water-right shall in no case be inconsistent with the rights conferred on the Promoters under this Act.

*Menindie Irrigation.*

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

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

86. The Governor may, by proclamation, alter the boundaries of the Irrigation Cultivation Area, but so that the extent thereof shall not be increased or decreased.

87. This Act shall become null and void unless:—

*Voidance of Act.*

- (a) The construction of irrigation works be commenced by the Promoters within six months after the passing of this Act.
- (b) The sum of two thousand five hundred pounds be expended upon or in connection with the irrigation works and permanent improvements contemplated in this Act within one year after the passing of the Act.
- (c) The sum of five thousand pounds be expended upon or in connection with the irrigation works and permanent improvements contemplated in this Act within two years after the passing of the Act.

Provided that the Minister shall have power to extend the time in each of the aforesaid cases for a further period of six months, if reasonable cause be shown by the Promoters.

*Menindie Irrigation.***SCHEDULES.****FIRST SCHEDULE.***The Irrigation Water Conservation Area.*

ALL that land in the Counties of Menindie and Tandora, being the area covered by Lake Menindie, and the Creeks leading into and from the same.

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

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

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

**THIRD SCHEDULE.***Notice of Claim and Abstract.*

To the Promoters of the Menindie Irrigation Act.

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

*Abstract.*

Names and descriptions of parties claiming, and nature of their interests.	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)

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*McQuade Estate.*

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## FOURTH SCHEDULE.

*Notice of Valuation.*

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

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

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

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

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