

68

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1910.

A BILL

To provide, in respect of works under the Barren Jack Dam and Murrumbidgee Canals Construction Act, 1906, for the acquisition and disposal of land, and the construction of works by the Government; for constituting irrigation areas, and regulating such areas; for the supply of water; for levying rates; for making charges for water and drainage; for establishing and maintaining demonstration farms; to amend the Country Towns Water and Sewerage Acts, 1880-1905, the Public Works Act, 1900, the Public Roads Act, 1902, the Local Government Act, 1906, and other Acts; and for purposes consequent thereon or incidental thereto.

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

PART I.

PRELIMINARY.

1. This Act may be cited as the "Murrumbidgee Canals Short title. Irrigation Act, 1910."

2. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—ACQUISITION AND DISPOSAL OF LAND AND CONSTRUCTION OF WORKS—*ss.* 5–12.

PART III.—CONSTITUTION AND MANAGEMENT OF IRRIGATION AREAS—*ss.* 13–25.

PART IV.—MISCELLANEOUS AND SUPPLEMENTAL—*ss.* 26–33.

3. In this Act, unless the context otherwise requires,—

Interpretation.

“Holding” means one portion of land or two or more portions of land contiguous to one another or separated only by roads or water-courses, and held by one person bona fide in his own interest.

“Irrigation area” means irrigation area constituted under this Act.

“Land” includes any improvements and buildings thereon.

“Part” means Part of this Act.

“The Construction Act” means the Barren Jack Dam and Murrumbidgee Canals Construction Act, 1906.

“Unimproved value” means the amount of the capital sum for which the fee-simple estate would sell under reasonable conditions of sale, assuming the actual improvements (if any) thereon had not been made.

“Water right” means right to such a quantity of water twelve inches deep as would cover an area of one acre.

4. None of the provisions relating to water supply of the Country Towns Water and Sewerage Acts, 1880–1905, or any Act amending the same, or of the Local Government Act, 1906, or any Act amending the same, shall apply within an irrigation area.

Certain Acts not to apply within irrigation areas.

PART II.

ACQUISITION AND DISPOSAL OF LAND AND CONSTRUCTION OF WORKS.

Acquisition and disposal of land.

5. (1) The Governor may, under the Public Works Act, 1900, but subject to the provisions hereinafter mentioned, purchase, resume, or appropriate any land which, in his opinion, would come within the beneficial influence of the works carried out or proposed to be carried out under the Construction Act or this Act; and such purchase, resumption, or appropriation shall be deemed to be made for an authorised work.

Power to acquire land within beneficial operation of works.

Such land, when so purchased, resumed, or appropriated, shall thereupon vest in the Secretary for Public Works for the purposes of this Act and the Construction Act, and the said Secretary shall for those purposes have all the powers of a Constructing Authority under the Public Works Act, 1900.

(2)

(2) Provided that the purchase money or compensation payable in respect of any such land which is purchased or resumed within five years after the commencement of this Act shall not exceed the value of the land at the time of the commencement of the Construction Act, with ten per centum thereof added to such value, together with the value of any improvements placed on such land after such commencement.

(3) Provided also that before land is resumed under this section an advisory board, constituted under the Closer Settlement (Amendment) Act, 1907, shall make a valuation and shall report to the Secretary for Public Works in respect of such land (without any limitation as to the value of the same) under section three of the said Act, and that the provisions of sections nine and ten of the said Act, as to the determination of the value of the land and improvements by a court, shall apply to any such resumptions, and the provisions of section of the Closer Settlement (Amendment) Act, 1909, relating to cost in the proceedings therein referred to shall, mutatis mutandis, apply to costs in any proceedings under this proviso for determining the value of land and improvements.

The above provisions shall be in lieu of the valuation under section ninety-six of the Public Works Act, 1900, and in lieu of the provisions of sections. ninety-seven, ninety-eight, and ninety-nine of the same Act.

In applying any such provisions of the Closer Settlement Acts the word "Minister" shall mean the Secretary for Public Works.

6. The Secretary for Public Works may cause any land vested in him in pursuance of this Act to be surveyed, subdivided, and prepared for sale, with such roads, reserves, and sites for villages or towns or other public purposes as he may think fit. Preparation of land for sale.

7. (1) The said Secretary, by notice in the Gazette, may— Closing and opening of certain roads.
(a) close any roads passing through or between lands vested in him in pursuance of this Act;
(b) open, dedicate, and form as a public road, or reserve and dedicate for public recreation and use, or reserve for any other purpose any land vested in him in pursuance of this Act, and revoke any such dedication.

(2) On such closing of any such road, the land comprised therein shall vest in the said Secretary, freed and discharged from any rights to the same as a highway. Land to vest in said Secretary.

(3) The above provisions are in lieu of the provisions of the Public Roads Act, 1902, relating to the closing, opening, and dedicating of public roads. Public Roads Act.

(4) The provisions of the Local Government Act, 1906, or any Act amending the same, relating to the opening, diverting, or altering, or increasing the width of roads, or relating to the closing of any road or part of a road, shall not apply to roads passing through or between lands vested in the Secretary for Public Works in pursuance of this Act: Provided that nothing herein shall affect the powers Local Government Act.

powers or duties of the council of a municipality or shire under the Local Government Act, 1906, or any Act amending the same, with respect to the care, control, and maintenance of public places as defined in the said Act.

8. Where the said Secretary has acquired any land in pursuance of this Act, he may, with the approval of the Governor, in his discretion resell for a cash payment any portion of such land to any person from whom he has so acquired it at a price based upon the cost of acquiring such land. Resale to former owner.

9. (1) The Secretary for Public Works, with the approval of the Governor, may sell any lands vested in him in pursuance of this Act, and may lease until they are required for settlement any of such lands as are unoccupied. Disposal of land.

(2) Such sale or lease shall be at such price or rent and subject to such conditions as the said secretary, with the approval of the Governor, may think fit or as he may prescribe, and subject also to the following conditions and provisions:— Conditions of sale or lease.

- (a) Where land has been purchased or resumed in pursuance of this Act, the said Secretary shall fix the lowest price of the various subdivisions of such land so as at least to recoup the Crown for the sum paid for the land, with survey fees and other expenses connected with the purchase or resumption and the disposal thereof.
- (b) The said Secretary may agree for the payment for any land so sold with interest at the rate of four per centum per annum on the balance unpaid in each year, by fifteen equal annual instalments.
- (c) The annual rent reserved in any such lease the term of which exceeds or may exceed three years, shall not be less than five per centum of the lowest price of the land as fixed by the said Secretary under this section.

Construction of works.

10. (1) The Secretary for Public Works may, under and subject to the Public Works Act, 1900, and this Act— Powers of Secretary to construct works and acquire land for works.

- (a) construct railways or tramways for the purpose of affording access from any existing railway to any works constructed, or to be constructed, under the Construction Act or this Act, or to any land within an irrigation area; and may construct any such railway or tramway across, over, or along any streets or roads, anything in any Act to the contrary notwithstanding;
- (b) construct conduits, lay pipes, and erect posts through or on any lands or through or on streets or roads for the purpose

purpose of conveying or transmitting water or electrical or other power, or for any other purpose, and may fix any electric wires or cables to any buildings ;

- (c) construct drainage works ;
- (d) appropriate, purchase, or resume any land required in his opinion for any such work.

(2) For the above purposes any such work shall be an authorised work within the meaning of the Public Works Act, 1900, and section twenty-eight of the said Act shall not apply in respect of any such work. Public Works Act.

(3) Notwithstanding anything to the contrary in the Public Works Act, 1900, the amount of compensation payable in respect of land resumed under this section shall not exceed— Compensation.

- (a) in the case of land sold by the Secretary for Public Works under this Act, the price paid for such land together with the value of any improvements made on such land since such sale, and the damage (if any) caused by the severing of the land resumed from other lands of the owner ;
- (b) in the case of land subject to owner's rate, the unimproved value at the last assessment for such rate together with the value of any improvements on such land, and the damage (if any) caused by the severing of the land resumed from other lands of the owner ;
- (c) in the case of land other than that abovementioned, the unimproved value of the land together with the value of the improvements thereon, and damage caused by severance as aforesaid.

11. (1) The Secretary for Public Works—

- (a) shall, except as to a railway or tramway vested in the Chief Commissioner for Railways and Tramways, maintain and repair any works constructed under the Construction Act or this Act ;
- (b) may on any railway or tramway vested in him under this Act use any motive power, and may draw or propel thereby carriages and waggons for passenger and goods traffic, and may charge such fares or rates as he may fix or prescribe in respect of such traffic.

Traffic on railway or tramway.

(2) The provisions of this section shall apply, and be deemed to have applied, to the railway now constructed between Goondah and Barren Jack ; and such railway shall be deemed to have been constructed under the Construction Act. Goondah and Barren Jack railway.

12. (1) The Secretary for Public Works shall, within three months after the first allotment of water rights under this Act, and thereafter from time to time as works are completed, publish in the Gazette the total cost of the diversion works, canal works, and of all other works incidental thereto constructed under the Construction Act Gazettal of cost of works.

or

73

or this Act, and such portion of the cost of the Barren Jack storage works as, in his opinion, is proportionate to the volumes of water supplied from that storage to the irrigation areas.

(2) The said Secretary shall so fix the charges to be made under this Act that the revenue to be received when the works so completed are fully utilised and the full charges for water supplied therefrom are payable will as nearly as possible be equal to the amount required to meet the cost of maintenance of works, distribution of water, disposal of drainage water, and interest at three and a half per centum per annum on the cost of works gazetted as aforesaid, and to provide a sinking fund to repay the said cost in one hundred years.

Fixing of charges and assessments.

PART III.

CONSTITUTION AND MANAGEMENT OF IRRIGATION AREAS.

13. The Governor, on the recommendation of the Secretary for Public Works, may, by proclamation in the Gazette, constitute any specified area of land as an irrigation area; such proclamation shall also be published in some newspaper circulating in or in the neighbourhood of the area.

Governor may proclaim irrigation area.

14. (1) Every proclamation constituting an irrigation area shall—

Particulars to be contained in proclamation.

- (a) specify the boundaries of the area, and, if the area be divided into districts, the boundaries of such districts;
- (b) assign a name to the area, and a name or a number to each district;
- (c) state the number of water rights assigned to the area and the months of the year during which they will be delivered and the places at which they will be measured;
- (d) state the number of such water rights per acre which are a fixed charge on lands in the area or, if the area be divided into districts, in each such district;
- (e) fix the price for each such water right, being not less than five shillings;
- (f) contain such provisions not inconsistent with this Act as, according to the facts and circumstances of each case, the Governor thinks fit.

(2) Any such proclamation may be amended in any particular or revoked by the Governor by proclamation in the Gazette.

Amendment of Proclamation.

Supply of water.

15. (1) The Secretary for Public Works shall each year allot to the occupier or owner of any land within the irrigation area the number of water rights which, in pursuance of the proclamation constituting

Allotment of water rights.

constituting the area, or any proclamation amending the same, is a fixed charge on such land; and shall, at the times and in the quantities fixed by him, supply water in pursuance of the water rights so allotted to the boundary of any land sold or leased by the said Secretary and to the boundary, as existing at the commencement of this Act, of each holding which at such commencement was vested in some person other than His Majesty or the Secretary for Public Works, or to such other points as may be agreed upon.

(2) The charge for such water rights at the price fixed by such proclamation shall commence to be payable from the date of notification by the said Secretary to the owner or occupier that water is available, and be paid by the said occupier or owner, whether the water is or is not taken by him, unless he proves that the water was not available. Payment for water rights.

The said Secretary, in his discretion, may, in respect of any land during the first five years after the first supply of water, collect less than the amount so payable, but so that such amount shall be not less than one-half for the first year, increasing uniformly so that the whole amount payable is levied at the end of the fifth year.

16. After providing for the water rights, which are a fixed charge, the Secretary for Public Works, on application by the occupiers of any lands within the area, may, by agreement with such occupiers, allot to them out of the remaining available water rights assigned to the area in proportion to the number of water rights provided for them respectively, as aforesaid, as a fixed charge, additional water rights for a period of twelve months. Other supplies for irrigation and other purposes.

Any such additional water rights not agreed for within a period prescribed by the said Secretary may be disposed of by him by agreement with the occupiers of land in the area, or in any other irrigation area.

All water supplied under this section shall be charged and paid for at the same rate as that charged for the water rights which are a fixed charge.

Owner's rate.

17. (1) The Secretary for Public Works shall each year after the seventh year from the commencement of this Act cause to be made and levied an annual rate payable by every owner of land in an irrigation area; such rate is hereinafter referred to as the "owner's rate": Owner's rate.

Provided that an owner's rate shall not be made or levied in respect of land sold by the Secretary for Public Works in pursuance of this Act, otherwise than under section eight.

(2) Such rate shall be two and one half per centum on the difference between the unimproved value of the land at the commencement of this Act and the unimproved value at the time of assessing the rate. Amount of rate.

Such

Such values shall be assessed by valuers to be appointed by the said Secretary; and in any such assessment the unimproved value at the commencement of this Act shall be based upon the assessment at that date in force under the Local Government Act, 1906, and the Local Government Amending Act, 1908, and any Act amending the same then in force.

(3) Such assessment shall be made once at least in every three years, or oftener if the said Secretary thinks fit. Any such assessment with respect to any land shall remain in force until a fresh assessment is made: Provided that an appeal from any assessment may be made under this Act each year at the time and in the manner prescribed.

Times of making assessment and of appeal therefrom.

18. The owner of any holding in an irrigation area in respect of which the owner's rate is not in arrear may redeem the same on paying into the Treasury an amount equal to twenty times the amount of the owner's rate then in force on such land. Such amount may be so paid by five equal annual payments, without interest. On such amount being paid, the land shall be exonerated from owner's rate as from the date of such payment or the first of such payments.

Redemption of owner's rate.

19. If the owner of a holding, subject to the owner's rate and subject to a fixed charge for water-rights, makes a subdivision of such holding, and—

On subdivision with approval of Secretary, land sold may be exempted from owner's rate.

- (a) obtains the approval by the Secretary for Public Works of such subdivision;
- (b) constructs channels to the approval of the said Secretary to deliver water to and for the drainage of each subdivision block;
- (c) transfers to the said Secretary such channels and a sufficient area of land for their protection and maintenance;
- (d) complies with sections ninety-nine and one hundred of the Local Government Act, 1906;
- (e) pays the amounts (if any) owing for owner's rate on the holding.

The said Secretary may—

- (f) on the application of the said owner exercise with respect to the holding the powers conferred on him by sections six and seven as if the holding were land vested in the said Secretary in pursuance of this Act, and thereupon the provisions of subsection four of the last-mentioned section shall apply to roads passing through such holding;
- (g) on the sale of any such subdivision block, the land contained therein shall be exempted from owner's rate, and the channel to such block transferred to the said Secretary as aforesaid shall be maintained by him.

Appeal

Appeal from valuations.

20. Any person aggrieved by any valuation or assessment for the purpose of annual rates under this Act may appeal therefrom,— Appeal from valuations.

- (a) where the amount of the annual rate which may be levied on such valuation or assessment does not exceed thirty pounds, to the nearest court of petty sessions;
- (b) where such amount exceeds thirty pounds, to the nearest district court.

The decision of any such court shall be final and conclusive.

Payment of rates and charges.

21. Every rate and charge made under this Act shall be paid as and when prescribed, and shall, when so prescribed, be paid in advance. Payment of rates and charges.

The proceeds of any such rate or charge, and any interest thereon, shall be carried to the Consolidated Revenue Fund.

22. (1) Every charge made and levied under this Act by the Secretary for Public Works in respect of the supply of water to any land, shall be recoverable by the said Secretary as a Crown debt from the occupier thereof, or, if there be no occupier, from the owner, in any court of competent jurisdiction. Rates and charges, how recoverable.

The owner's rate may be recovered in like manner from the owner.

(2) The amount of any rate or charge made under this Act shall be a charge upon the land in respect of which the same is levied or payable. Charge on land.

23. All rates and charges becoming due under this Act shall bear interest at the rate of four per centum per annum from the due date until payment is made. Such interest shall be a charge on the land in respect of which the rate or charge is due and may be recovered in the same manner as the rate or charge: Interest on overdue rates.

Provided that if any such rate or charge be paid within six months of its due date no interest thereon shall be charged.

24. (1) When rates or charges under this Act, or any interest thereon, have been unpaid for four years, the Secretary for Public Works may— Possession may be taken of unoccupied land for arrears of rates and charges.

- (a) take possession of the land;
- (b) hold the land against any person; and
- (c) lease the land from time to time for any term not exceeding seven years.

(2) Accounts shall be kept—

- (a) of the rents and other moneys received by the said Secretary in respect of the land, less the expenses of and incidental to the letting and the collection of the rents of the land; and
- (b) of the rates and charges and the interest thereon, and other sums due to the said Secretary in respect of the land. Accounts of receipts and of moneys due in respect of land.

(3)

(3) The moneys so received shall be applied in defraying the expenses necessarily incurred in executing the lease, in collecting such rents and moneys, and in paying the rates and charges and interest and other expenses due in respect of the land. The residue (if any) of such money shall belong to such person as would, when the same was received, have been entitled to receive the rents and profits of the land if this Act had not been passed.

Application of moneys.

(4) Within sixteen years after the land has been so taken possession of, any person who, but for this Act, would be entitled to the land may inspect the accounts kept in pursuance of this section, and may require the said Secretary, on payment of the balance (if any) due to the said Secretary, to put him in possession of the land, subject to any lease lawfully made under this section.

Persons entitled may demand land within specified period.

(5) Any tenant of the said Secretary shall attorn to the person so put in possession of the land.

Tenant to attorn.

(6) Unless some person within the said sixteen years so requires the said Secretary to put him in possession of the land, the land and all rents and moneys received under this section in respect thereof shall, on the expiration of such sixteen years, vest absolutely in the said Secretary, and shall be dealt with by him as in the case of land resumed under this Act.

After sixteen years land to vest in Secretary for Public Works.

Demonstration farms.

25. The Minister for Agriculture may use any land set apart for the purpose within an irrigation area for establishing thereon demonstration farms; such farms shall be under the control of the said Minister. The cost of working and maintaining such farms, and constructing and maintaining buildings in connection therewith, shall be defrayed from funds to be voted by Parliament for the purpose.

Land may be used for demonstration farms.

PART IV.

MISCELLANEOUS AND SUPPLEMENTAL.

Miscellaneous.

26. Any railway or tramway constructed by the Secretary for Public Works under this Act may be vested by him in the Chief Commissioner for Railways and Tramways, subject to the provisions of the Government Railways Act, 1901, and any Acts amending the same.

Vesting of railways or tramways in the Railway Commissioner.

18

27. Nothing in this Act shall be deemed to render it obligatory on the Secretary for Public Works to supply water to any area or person if by reason of drought, accident, or other cause, he is of opinion that it is impracticable to do so. Secretary not bound to supply water,

28. Any land occupied by works constructed under this Act or the Constructing Act, and any land covered by water used or intended to be used for the purposes of this Act, or the Construction Act, and any land used for the purposes of the railway from Goondah to Barren Jack, and any land purchased, resumed, or appropriated under this Act, and not leased or sold, shall be exempted from all rates under the Local Government Act, 1906, or any Act amending the same. Land exempted from Local Government rates.

29. The Secretary for Public Works may, with the approval of the Governor, make regulations,— Regulations made by Secretary for Public Works.

- (a) prescribing the procedure to be followed in selling land under this Act, and in particular where two or more persons apply for the same land ;
- (b) prescribing the maximum area of land sold under this Act which may be held by any one person ;
- (c) prescribing conditions as to residence which shall be observed in respect of any land so sold ;
- (d) prescribing the period after which and the conditions under which the holder of such land may sell or dispose of his interest in the same ;
- (e) for the prevention of the pollution of water conserved or distributed in works constructed under the Construction Act or this Act ;
- (f) for the prevention of injury to works ;
- (g) regulating traffic on railways and tramways maintained by the said Secretary, and the transmitting and the supply and sale of electrical or other power ;
- (h) levying tolls on traffic by waterways between Wagga Wagga and Narrandera ;
- (i) prescribing quantities and times of supply of water in pursuance of water rights ;
- (j) prescribing the procedure in and in connection with the disposal by agreement of additional water-rights ;
- (k) prescribing the charges for water supplied through pipes under pressure, and the conditions of such supply ;
- (l) prescribing the method of measuring water-rights and quantities of water ;
- (m) prescribing the forms of agreement for the sale or disposal of water or power ;
- (n) for the supply of water and for cutting off such supply to any land ;
- (o) for the prevention of nuisances or the waste of water or power ;

(p)

- (p) for preventing stock from straying on roads and public places in an irrigation area : regulations under this paragraph to be in addition to and not in substitution for ordinances under the Local Government Act, 1906, and any Act amending the same ;
- (q) for the appointment of valuers and prescribing the powers and duties of valuers ;
- (r) prescribing the notices to be given in respect of valuations and assessments under this Act ;
- (s) for making valuations and assessments, and for assessing, levying, and collecting rates and charges payable under this Act ;
- (t) prescribing the procedure in and in connection with appeals from valuations and assessments ;
- (u) prescribing the method of serving notices ;
- (v) generally for carrying out the provisions of this Act.

Regulations.

30. The Minister for Agriculture may, with the approval of the Governor, make regulations applicable to irrigation areas—

- (a) for the prevention of diseases in trees, vines, plants, fruit, seed, stock, or poultry, and the exclusion from an irrigation area of any trees, vines, plants, fruit, fruit-cases, and packages, seed, stock, or poultry which in his opinion would be likely to spread disease. Such regulations shall be in addition to and not in substitution for any enactments or any other regulations dealing with the above matters ;
- (b) regulating the working and control of demonstration farms established under this Part.

Minister for Agriculture to make regulations.

31. Every regulation made under this Act shall be published in the Gazette, and when so published shall have the force of law. Such regulations may impose any penalty, not exceeding *twenty* pounds for each breach of the same, or, where the breach is a continuing one, not exceeding *five* pounds for every day during which such breach continues.

Regulations to have force of law.

32. The production of a copy of the Gazette containing any regulation purporting to have been made under this Act shall be evidence, until the contrary is proved, of the due making of such regulation, and that all preliminary steps have been duly taken necessary to give full force and effect to the same.

Production of Gazette to be evidence of validity of regulations.

33. All regulations made under this Act shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then in session, and if not, then within fourteen days after the commencement of the next session.

Regulations to be laid before Parliament.