

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1925.

A BILL

To amend the law relating to water rights, water and drainage, and artesian wells; to amend the Water Act, 1912, and certain 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:—

1. This Act may be cited as the "Water (Amend- Short title.
ment) Act, 1925."

Water (Amendment).

2

2. (1) In this Act the expression the "Principal Act" means the Water Act, 1912, as amended by the Crown Lands and Irrigation (Amendment) Act, 1914, the Water (Amendment) Act, 1916, the Irrigation (Amendment) Act, 1918, the Water (Amendment) Act, 1919, the Water (Amendment) Act, 1924, and the Water (Costs Declaratory and Flood Prevention) Act, 1924.

(2) The Principal Act, as amended by this Act, may be cited as the Water Act, 1912-1925.

3. The Principal Act is amended as follows :—

(i) Section four: By omitting the definition of "The Commission" and substituting the following definition :—

"The Commission" means the Water and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by the Irrigation (Amendment) Act, 192 .

(ii) Section five :—

By adding to the definition "occupier" the words "and the word 'person' shall be deemed to include a municipal or shire council, any Department of the State, or corporate body other than the Commission acting on behalf of the State."

By adding at the end of the definition of "work" "and includes any excavation or well which affects the flow in such river or the quantity of water in any such lake."

(iii) Section six :—

Subsection one: By omitting where firstly and secondly occurring the word "Crown" and substituting therefor the word "Commission."

Subsection two :—

By omitting the words "It shall not be exercised in contravention of" and adding at the end of paragraph (a) "shall be preserved to the extent hereinafter provided for."

By inserting after the word "licenses" the words "or of authorities for private irrigation schemes."

(iv)

- (iv) Section seven : By omitting section seven and substituting the following section :—

7. (1) The occupier of land on the bank of a river or lake shall have the right to use the water then being in the river or lake for—

Rights of occupiers of riparian land.

- (i) stock watering (but not by means of a work other than one pumping plant with a motive power not exceeding five brake horse-power); and
- (ii) domestic purposes; and
- (iii) watering a garden not exceeding three acres in extent used solely in connection with a dwelling-house :

Provided that the occupier shall not be entitled to use or erect and use any work under the said right until he shall first have given the Commission notice of his intention to do so, and particulars of the proposed work.

Any occupier erecting and using a work under the provisions of this section without first giving the prescribed notice to the Commission shall, on conviction, be liable to a penalty not exceeding *ten* pounds, and to a further penalty not exceeding *five* shillings for each day he uses the work, without giving the said notice :

Provided that no person shall in respect of any work existing at the date of the passing of the Water (Amendment) Act, 1925, be deemed to have incurred this penalty until a period of six months has elapsed from such date.

(2) This section shall not be construed so as to give any occupier the right of constructing any work forming an obstruction of the flow of water in a river or being a dam in a lake.

- (v) Section eight : By omitting all words after the word "work" where secondly occurring and inserting the words "and the water contained therein or conserved or obtained thereby as against"

against all persons whomsoever, and shall be entitled to make such charges for the supply or use of the said water as may be prescribed."

(vi) Section ten: By adding subsection two as follows:—

(2) The application shall be accompanied by the prescribed deposit as security for the cost of investigation and inquiry into the application, and such deposit may be applied by the Commission in payment or part payment of the license fee payable by the applicant. In the event of the applicant withdrawing or abandoning the application, such deposit or any part thereof may in the discretion of the Commission be forfeited.

Application
for license to
construct
works.

(vii) Sections eleven and twelve: By omitting the sections and substituting the following new sections:—

11. (1) On application being made for a license under the last preceding section, the Commission shall cause to be advertised once in the Gazette and twice in a public newspaper circulating in the district where the work is situate, a notice—

Notification
of application
for license.

- (i) acknowledging receipt of the application;
- (ii) requesting all persons interested to advise the Commission whether they support the application or object thereto, and the reasons for so doing; and
- (iii) stating the last day on which such advice will be received and the person to whom it shall be sent stating his address.

(2) In the event of—

- (a) particulars of opposition to the granting of the application being received by the Commission on or before the said date; or
- (b) the Commission being of opinion that the application should not be granted,
the

the Commission shall, and in any other case the Commission may, direct the local land board or some person to hold a public inquiry as to the desirability of granting the application. The holding of the inquiry shall be notified as prescribed, and all persons whose interests appear to be affected by the granting of the application shall be permitted to attend at the inquiry and be heard in support of, or in opposition to the granting of the application. The local land board or person, as the case may be, holding the inquiry shall report in writing to the Commission.

(3) Where any inquiry is held under this section by a person as aforesaid, the applicant or any person so interested as aforesaid shall have a right of appeal from the report of such person to the local land board.

12. (1) A short summary of the report of— License.

- (i) the person or the local land board holding the inquiry; or
- (ii) the local land board or Land and Valuation Court on appeal; or
- (iii) of the decision of the Commission as to the granting or otherwise of the application when no public inquiry is held,

shall be published in the Gazette, and the Commission shall, where the report recommends, or the decision of the Commission, as the case may be, is in favour of the issue of a license, issue a license to the applicant in the prescribed form, subject to such terms, limitations, and conditions, if any, as may be recommended in such report or contained in such decision.

(2) Provided that—

- (a) if an inquiry be held by a person or local land board as aforesaid, no license shall be issued until after the expiration of thirty days subsequent to the said publication of such summary of the report of such person or local land board;
- (b)

- (b) no license shall be issued under this section pending any appeal or reference; and
- (c) a license shall be issued only upon payment of a fee calculated in the manner and according to the scale prescribed by regulations under this Act; and
- (d) before granting a license the Commission may require such alterations to be made to or in connection with the work, or to the plans and specifications of the work, as may be recommended in the said report or required by the said decision as the case may be.

(3) The license if granted shall in every case be granted for a period not exceeding ten years except a license granted to a Department of State or a corporate body acting for the State or municipal or shire council.

(viii) Section fourteen: By omitting the section and substituting the following new sections fourteen and 14A :—

14. The license, if granted, shall (subject to ^{Renewal.} the provisions of this Part with regard to the renewal of licenses) be renewed from time to time by the Commission on payment of the fee prescribed by regulations under this Act, provided that such payment be made before the expiration of the period for which license was granted or last renewed, as the case may be: Provided further that no renewal, except in respect of a license granted to a Department of the State or a corporate body acting for the State or a municipal or shire council, shall be for a longer period than ten years.

14A. For the purpose of sections twelve and ^{Fees.} fourteen different fees may be prescribed differentiating according to the class of the work, the object or purpose of the work, the river or lake on which it is situate, and the benefit (if any) received from works constructed by the Crown.

(ix) Section fifteen: By omitting the section and substituting the following new section:—

15. A separate application for a license may be required in respect of each work except in such cases where, in the opinion of the Commission, two or more works form a combined work; and the determination as to what works may be included as a combined work in an application for a license shall rest with the Commission.

(x) Section seventeen:—

By inserting after the word "Crown" the words "and the Commission."

By inserting after the section the following new sections 17A, 17B, and 17C:—

17A. (1) If at any time during the currency of any license, or authority for a private irrigation scheme, it is proved to the satisfaction of the Commission that—

- (a) a licensee or the person authorised has conserved, diverted, taken, or used any quantity of water in excess of the quantity expressly authorised by his license or authority; or
- (b) the licensee or such person has failed to observe and perform any of the limitations or conditions subject to which the license or authority respectively was issued and is held; or
- (c) any water diverted, taken, or used by any licensee or person authorised is being wasted,

the Commission may give the licensee or the said person, as the case may be, notice by registered letter addressed to the licensee or such person respectively at his address last known to the Commission that after the expiration of a period specified in the notice it is the intention of the Commission to revoke, suspend, or modify the license or authority.

At

At the expiration of the period mentioned in the notice, the license or authority shall be revoked, suspended, or modified as stated in the notice unless the Commission shall have annulled or withdrawn the notice in the meantime.

(2) If by reason of an actual or threatened shortage of water the Commission considers a license should be suspended or modified, or that the quantity of water authorised by the license to be taken thereunder should be reduced, the Commission may in a similar manner give the licensee notice to that effect, and thereupon the license shall be suspended or modified or the quantity of water reduced according to the tenor of the notice: Provided always that nothing in this subsection contained shall enable the Commission to take any action prejudicial to any priority of right conferred under and by virtue of this Act.

17B. Every person who is guilty of— Offences.

- (a) constructing, erecting, or using without a license or authority a work to which this Part extends and for which a license or authority should be obtained or in contravention of any priority of right conferred under and by virtue of this Act; or
- (b) using such a work when the license or authority therefor is suspended, or revoked, or has expired or in contravention of any priority of right conferred under and by virtue of this Act; or
- (c) failing, in accordance with the direction of the Commission, to remove such a work (if unlawful) from lands occupied by him,

shall, upon conviction, be liable for the first offence to a penalty not exceeding *twenty* pounds, and for a subsequent offence to a penalty not exceeding *one hundred* pounds,
or

or where the offence is a continuing one, to a penalty not exceeding *five* pounds for every day during which the offence is continued.

17c. (1) The Commission may by any of its officers or servants enter upon any land and—

- (a) remove any dam, weir, or any other work forming an unlawful obstruction to the flow of water in a river or any unlawful levee for the prevention of the overflow of the water of a river or lake;
- (b) stop any unlawful diversion of water from a river or lake by dismantling a pump, blocking the offtake of a race, or by such other means as may be necessary.

Power to enter and remove works.

(2) The Commission may recover in any court of competent jurisdiction from the occupier or occupiers of the lands wherefrom the work is removed or whereon the stoppage of the diversion is effected, the costs and expense incurred by it in carrying out such removal or stopping such diversion.

(xi) Section eighteen :—

By omitting the word “amended” and substituting the word “additional.”

By omitting the word “hereinafter” and substituting the word “hereinbefore.”

By omitting the word “operations” and substituting the word “alterations.”

By inserting after the section the following new sections 18A, 18B, 18C, 18D, and 18E :—

18A. So soon as possible after the passing of the Water (Amendment) Act, 1925, the Commission shall—

Classification of river and lake systems.

- (i) divide the rivers and lakes of the State into river and lake systems and give each such system a name and number ;

(ii) notify in the Gazette—

- (a) the quantity of water within each such river or lake respectively which the Commission estimates should

- should be reserved for works undertaken by the State (and thereupon such water shall be deemed to be reserved for such purposes);
- (b) the allotment for all requirements other than the said works undertaken by the State, to each such river or lake system, of the balance of water of any such river or lake. The Commission may from time to time thereafter, as it deems expedient, alter, amend, or vary any such division into systems or such reservation or allotment.

18B. The Commission shall determine the order of precedence of rights under licenses under this Part and authorities for private irrigation schemes granted to occupiers, and the occupier having first priority shall be entitled to have his rights under his license or authority, as the case may be, satisfied before those of the occupier having second priority, and the latter shall be entitled to have his rights under his license or authority satisfied before those of the occupier having third priority, and so on, according to the numerical order of the priorities. In determining priorities, no distinction shall be made between licenses and authorities for private irrigation schemes. Separate priorities shall obtain in each river and lake system.

Determina-
tion of
priorities.

18C. In determining the order of precedence referred to in the next preceding section the purposes for which are used works to which this Part extends shall be deemed to be of the following classes:—

Order of
precedence.

- (i) conserving and obtaining water for domestic purposes; and
- (ii) town and village water supplies; and
- (iii) Government railway purposes,

of

of the first class for all other purposes, including private irrigation schemes, and excluding the irrigation of pasture lands of the second class, and irrigating pasture land shall be of the third class. All rights in respect of purposes of the first class shall take precedence over those in respect of purposes of the second class. Priority of right shall be decided by the order in time of receipt by the Commission of the applications for licenses and for authorities for private irrigation schemes: Provided that all applications for licenses and authorities for private irrigation schemes lodged within twelve months after the passing of the Water (Amendment) Act, 1925, by occupiers holding at such commencement licenses or authorities or rights to conserve and use the water of rivers and lakes shall be deemed to have been received simultaneously, and the rights of such occupiers so lodging applications shall upon the granting of such applications rank *pari passu inter se* and have priority as against all other rights granted for the purpose of either the first, second or third class, as the case may be.

18D. Where the provisions of any statute, ^{Repeals.} including the Local Government Acts and Mining Acts, are inconsistent with the provisions of this Part the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Subject to this Act all licenses and ^{Existing licenses, &c.} authorities held under this Part and all rights to conserve, take, and use water in rivers and lakes existing at the date of the commencement of the Water (Amendment) Act, 1925, except rights conferred under and by virtue of the provisions of the Metropolitan Water and Sewerage Acts and the Hunter District Water Supply and Sewerage Acts, shall cease and be determined at the expiration of twelve months from such date, and no compensation shall be payable

payable to any person by reason of this determination. The Commission may, however, credit any licensee or the holder of an authority for a private irrigation scheme whose license or authority is determined under this section, and who obtains a fresh license or authority, with payment of such proportion of the amount of the fee and charge for water paid by him in respect of the current period of the license or authority as the case may be so determined as the unexpired portion of such current period at the date of the determination of the license or authority bears to the whole of such period. The fee payable in respect of the fresh license or authority shall be reduced by the amount of such credited payment. No work to which this Part extends shall commence to be constructed by the Crown after the date of the commencement of the Water (Amendment) Act, 1925, for or on behalf of any municipal, shire, or county council or any person unless such council or person respectively shall first have obtained a license under this Part for the work: Provided that any such work in course of construction by such council or by the Crown on behalf of such council at the said date may be completed: Provided also that notwithstanding anything in this section hereinbefore contained rights existing at the date of the passing of the Water (Amendment) Act, 1925, of any such municipal, shire, or county council to use and maintain existing works to which this Part extends and similar works in course of construction, and to take and use the water conserved and obtained thereby, shall be fully preserved as if such Act had not been passed, and similarly the rights granted to any person under and by virtue of the provisions of the Mining Acts and existing at the date of the passing of the Water (Amendment) Act, 1925, shall likewise be preserved to the same extent.

18E. The Commission may determine at any time any license or authority for a private irrigation scheme on payment of fair compensation to the person entitled to the benefit of same. The Commission shall thereupon become the holder of the number of the priority held by such person.

Power to terminate license.

(xii) Section twenty-eight: By inserting in the appropriate alphabetical positions the following definitions:—

“Cost of the works” includes expenditure incurred in construction, cost of land proposed to be taken, cost of existing works to be utilised and acquired, the cost of designing the work (including survey), administration expenses, and expense incurred in supervising the construction of the work.

“Murray Basin” means the catchment area of the Murray River and its tributaries.

(xiii) Section thirty: By omitting the section and substituting the following section:—

30. (1) With respect to matters which relate to the prevention of floods or the control of flood waters (except at places in the Murray Basin) and to drainage, there shall be a Board consisting of such officers of the Department of Public Works as the Governor may appoint, and with respect to matters which relate to the prevention of floods or the control of flood waters in the Murray Basin and to water supply, water conservation, irrigation, and artesian wells, there shall be a Board consisting of such officers of the Water and Irrigation Commission as the Governor may appoint.

Flood Prevention Board.

(2) Where any of such matters (other than irrigation) also relates to the Western Division of the State the respective Boards shall include the members of the Western Land Board constituted under the Western Lands Act, 1901.

(xiv)

(xiv) Section thirty-two: By omitting section thirty-two and substituting the following section:—

32. Any such proposal shall contain— Contents of
Proposals.

- (a) a short general description of the purpose for which it is proposed to constitute the trust;
- (b) a plan and description of the works and of the land, whether covered with water or not, proposed to be taken or acquired for the purposes of such works, and of their cost or estimated cost;
- (c) rate of interest which shall be paid by the trust on the actual cost of the works or on the estimated cost thereof plus ten per centum, whichever is the less sum;
- (d) the charges to be paid by the trust for water to be supplied by the Crown, and the conditions of such supply;
- (e) a statement of the terms upon which the trust shall repay the cost of the works and interest, specifying—
 - (i) whether the trust shall repay the cost and interest by payment of the charges for water; or
 - (ii) whether by a sinking fund and payment of interest.

The interest shall be paid by the trust on the actual cost or estimated cost plus ten per centum, whichever is the less sum;

- (f) the maximum rate which may be assessed by the trust;
- (g) a description of the trust district;
- (h) the number of trustees, being either three or five;
- (i) the number of years within which the cost of the works shall be extinguished by a sinking fund, if such fund be required under the proposal;
- (j) any other provision not being inconsistent with this Part.

(xv) Section thirty-four: By inserting in lieu of the word "modifications," wherever occurring, the word "amendments."

(xvi) Section thirty-seven: By omitting section thirty-seven and substituting the following section:—

37. (1) The completion, acquisition, or the ^{Transfer to trust.} transfer to the trust of any works in respect of which a trust is constituted under this Part shall be notified in the Gazette, and thereupon the trust shall take over, administer, and manage the said works, upon the terms and conditions prescribed, and shall exercise all the powers contained in this Part except such as are conferred solely upon the Minister: Provided that the interest and charges payable by the trust shall commence to run from a date to be set out in such notification.

(2) Where the cost of the works is to be repaid by a sinking fund, the cost of such works may be determined by the Minister, and notified in the Gazette, at any time after the works have been completed and taken over as aforesaid, and the cost of the works as so notified shall in such case be the cost repayable by the trust. This subsection shall apply whether the works were completed before or after the commencement of the Irrigation and Water (Amendment) Act, 1924.

(xvii) Section thirty-nine: By omitting all the words after the word "Board," where first occurring, and substituting the words "with a statement of the additional charge for any increased quantity of water to be supplied, and of the estimated cost of the works, if any, required to be constructed, utilised, or acquired in connection with the proposed alteration to the boundaries of the district. Such proposed alteration and statement shall be supplied to the trustees by the Board. Upon the receipt from the trustees of an intimation that the proposed alteration

alteration and statement have been approved by a special general meeting of the voters of the trust, of which not less than fourteen days' notice shall be given in the prescribed manner, the Board shall report to the Minister whether, in its opinion, the petition ought to be granted with or without amendments, whereupon the Minister may, by notification in the Gazette, alter the boundaries of such district accordingly and may increase the quantity of water supplied, and construct or acquire and transfer to the trust the required works.

On the completion, acquisition, or transfer to the trust of the works, a notification shall be sent by the Minister to the trustees and shall be published by him in the Gazette directing that the charge payable in respect of additional water supplied and the interest on the cost of such works shall be paid by the trust, and fixing the number of years within which the cost of the works shall be extinguished by a sinking fund. The charge for additional water, interest, and payments to sinking fund shall commence to run from the date of such notification; and such interest and payments into the sinking fund shall be calculated on a sum not exceeding the estimated cost of the works, plus ten per centum:

Provided that notwithstanding anything contained in this section the trust shall, subject to the approval of the Minister, have the option of repaying the cost of the work by a lump sum or in a less number of years than the period determined for extinguishing the cost of such work by a sinking fund.

(xviii) Section forty:—

By adding new subsection two as follows:—

(2) Nothing contained in this Act shall prevent lands within one trust district being included in another or other trust districts. The provisions of this subsection shall be deemed to have been in force from the twenty-sixth day of November, one thousand nine hundred and twelve.

By

By adding new section 40A as follows :—

40A. (1) On the joint application of trustees ^{Union of trusts.} of any two adjoining trust districts, duly approved by a majority of the voters of each district at separate meetings, of which at least fourteen days' notice has been given, the Minister may, by notification in the Gazette, excise any part of one such trust district and include such excised part within the other trust district.

(xix) Section forty-one: By the repeal of section forty-one, and the substitution of the following section :—

41. (1) If the trustees, by request in writing, ^{Extension or improvement of works.} desire the Minister to improve or extend any works under their charge or increase the quantity of water supplied, the Minister may prepare an estimate of the cost of the completion, utilisation, or acquisition of the proposed work and the interest and charges thereon payable by the trust, and a statement of the additional charge to be paid by the trust in respect of the increase of the quantity of water supplied. Such estimate and statement shall be supplied to the trustees.

Upon the receipt from the trustees of an intimation that the estimate and statement have been approved by a special general meeting of the voters in the trust, of which not less than fourteen days' notice shall be given in the prescribed manner, the Minister may proceed with the construction or acquisition of the proposed work, or transfer same to the trust as the case requires, or may increase the quantity of water supplied.

On the completion or acquisition or transfer to the trust of the work, or upon the increased quantity of water being supplied, a notification shall be sent by the Minister to the trustees, and shall be published by him in the Gazette, directing that the interest on the cost of such

such work and the charge for the increase of water supplied shall be paid by the trust, and determining whether the trust shall repay the cost of the work and interest by payment of the charge for the increase of water supplied or the number of years within which the cost of the work shall be extinguished by a sinking fund.

The charge for the increase of water, interest, and payments to sinking fund shall commence to run from the date of such notification, and such interest shall be calculated on a sum not exceeding the estimated cost, plus ten per centum :

Provided that notwithstanding anything contained in this section the trust shall, subject to the approval of the Minister, have the option of repaying the cost of the work by a lump sum or in a less number of years than the period determined for extinguishing the cost of such work by a sinking fund.

(2) The repayment by trusts by means of a sinking fund of the cost of all improvements or extensions of trust works carried out prior to the passing of the Water (Amendment) Act, 1925, is hereby validated.

(xx) Section forty-two: By omitting section forty-two and substituting the following section:—

42. (1) After the constitution of the trust, ^{Appointment of trustees, &c.} but before the completion, acquisition, or transfer to the trust of the works proposed to be constructed, acquired, or utilised, the Minister shall, by notice in the Gazette, appoint trustees and direct the first election of trustees in pursuance of this Part.

(2) Where the trust district consists wholly of land acquired under the Closer Settlement Act, 1901, or any Act amending the same, or unoccupied Crown lands, all the trustees shall be appointed by the Minister, and shall, subject to the provisions of this Part

Part, hold office until half the land in the district is occupied by persons who are liable to pay rates to the trust.

Thereafter, and in other cases where the number of the trustees is three, one, who shall be chairman, shall be appointed by the Minister, and two shall be elected; but where the number of the trustees is five, two shall be appointed by the Minister, one of whom he shall appoint also as chairman, and the remaining three shall be elected:

Provided that where the trust district is in the Western Division and the trust is not constituted in respect of a work of irrigation, the Western Land Board shall be sole trustees in lieu of the trustee or trustees hereinbefore mentioned:

Provided further that in respect of existing trusts, where the number of trustees is three, the trustee appointed by the Minister shall be chairman, and where the number of trustees is five, the Minister shall appoint one of the appointed trustees to be chairman.

- (xxi) Section forty-five: By omitting the words "the police magistrate having jurisdiction in" and substituting the words "a police magistrate having jurisdiction in any part of."
- (xxii) Section forty-eight: By omitting all the words after the words "returning officer" where first occurring and substituting the words "for succeeding elections the secretary to the trust shall be the returning officer, and where there is no secretary to the trust or where such secretary is a ratepayer the Minister shall appoint the returning officer."
- (xxiii) Section forty-nine: By omitting section forty-nine and substituting the following section:—
 49. The Minister shall appoint the date of ^{First election.} the first election and the polling-places; for any succeeding election, the returning officer shall appoint the date of election and polling-places

places. The Minister or the returning officer, as the case may be, shall notify the same in the Gazette and a local newspaper.

(xxiv) Section fifty-one: By adding at the end of the section the words—"Provided that notwithstanding anything contained in section forty-three of this Act the term of office of any person so elected shall only be for the remainder of the period for which his immediate predecessor was elected."

(xxv) Section fifty-three:—

By inserting at the end of paragraph (a) the following words:—"and renew such works where necessary."

By inserting after the word "maintenance" in paragraph (b) the word "renewal."

By omitting the words "and make due provision for a sinking fund" and substituting the words "and where necessary make due provision for a sinking fund."

By inserting the following proviso after paragraph (d):—

Provided that the trustees of trusts constituted in respect of works of water supply, water conservation, irrigation, or for the prevention of floods and the control of flood waters in the Murray Basin, shall make all payments through the Commission, which shall remit the sums received by it to the Treasury.

By adding new paragraphs (f) (1), (2), (3), and (4) as follows:—

(f) (1) They may borrow money as provided in this section, but shall not have power to do so for any other purpose or in any other way whatsoever.

(2) A loan by way of limited overdraft may be obtained for the purpose of meeting necessary legitimate expenditure prior to the first collection of rates or for the purpose of carrying out

out urgent works of renewal, or replacement or other emergency for which sufficient funds are not immediately available.

(3) On application by the trustees the Minister may issue a certificate of limit of overdraft, in which shall be named the purpose in respect of which the loan may be obtained and the limit of amount to be borrowed thereunder. The sum to be stated in the certificate as the limit of the overdraft shall be in the discretion of the Minister, but shall not exceed the estimated amount required for the purpose mentioned therein plus ten per centum of such amount.

(4) The loan shall be subject to any conditions inserted by the Minister in the certificate; and the money borrowed shall be deemed to be secured upon the income of the trust and shall be repaid within the time fixed in the certificate.

(xxvi) Section fifty-four: By adding new subsection two as follows:—

(2) Where a trust is constituted in respect of works of water supply or irrigation the trustees may for the more beneficial use or efficient distribution of the water supplied by such works—

(a) cease to supply water through any portion of the works in the trust district or to any lands within such district;

(b) deviate the course of a drain or channel or otherwise alter in any way the works in the trust district:

Provided always that the trustees before taking any such action shall obtain the written consent of the ratepayer or ratepayers whose benefit of the trust works will be lessened or totally

totally diminished by the action of the trustees or the supply of water or means of supply of water to whose lands will be affected and shall also obtain the written approval of the Commission of the trustees' proposed action.

(xxvii) Section fifty-five :—

Subsection three : By omitting the word " the " before the word " police " and substituting the letter " a " ; by inserting after the word " in " the words " any part of . "

By adding new sections 55A and 55B as follow :—

55A. If any rates or charges are unpaid at the expiration of three months from the due date, the amount due shall be increased by a sum calculated at the rate of ten per centum per annum from the date of the assessment, and the increase shall be deemed to be part of the rates or charges. Interest on unpaid rates.

55B. If any person liable to pay rates under this Part transfers his estate or interest in or abandons any ratable land he shall within thirty days of such transfer or abandonment give notice thereof to the trustees, and until such notice is given he shall remain liable for all rates which become payable in respect of such land prior to the giving of such notice. Notice of transfer.

(xxviii) Section fifty-seven : By adding at the end of the section the words " or if such surplus water is not required for any ratepayer, the trust may sell such water to any person . "

(xxix) Section fifty-nine : By omitting the words " remove a trustee or trustees (if any) and assume all powers, duties, and obligations by this Part conferred or imposed on the trustees, and may appoint a manager of the affairs of the trust , " and substituting the words " remove a trustee or trustees (if any) and may appoint a manager of the affairs of the trust ; and upon his appointment the manager shall have all the powers, duties, and obligations by this Part conferred or imposed on the trustees. Managers of

of the affairs of trusts at the date of the passing of the Irrigation and Water (Amendment) Act, 1923, shall have the said powers, duties, and obligations on and after that date."

(xxx) Section sixty: By omitting the second paragraph and substituting the following paragraph:—"If upon such inspection the Minister is of opinion that any of such works are not kept in repair and efficient working order, or any of such works need renewing, he may cause such repairs or renewals as he may think necessary to be made at the cost of the trust, and for the purpose of effecting such repairs or renewals he shall have the powers of the trustees. Such cost shall be repaid in the manner prescribed by regulations under this Act."

(xxxii) Section sixty-three: By omitting section sixty-three and substituting the following section:—

63. For the purpose of the construction or the maintenance and repair of any channel or embankment or any works incidental thereto proposed to be constructed, or constructed, utilised, or acquired under the authority of this Part, or to which this Part applies, the Minister or a trust having the control of or carrying out such construction, maintenance, or repair, shall be deemed to have had and shall have power at any time—

Powers incidental to powers to construct or maintain works.

(1) to enter—

- (a) any land of a width of sixteen and a half feet on either side of the centre line of a distributing channel ;
- (b) any land between lines distant sixty-six feet from the top of each bank of a water conservation, irrigation, or drainage channel, and including the site of such channel ;
- (c) any land between lines distant sixty-six feet from either toe of embankment measured outwards therefrom and including the site of such embankment ; and (2)

- (2) use such lands or sites for the said purposes, notwithstanding that no easement or right so to enter or use such lands or sites may have been granted or acquired.
- (xxxii) Section sixty-four: By omitting the word "cultivated" and substituting the words "which is at the time under cultivation."
- (xxxiii) Section seventy-three: By omitting the words "the works to be constructed for the Thule Creek Water Trust" and substituting the words "such work."
- (xxxiv) Section 73A:—
 By adding at the end of the section new subsections four, five, six, and seven, as follows:—
- (4) The reduction in the annual charge which, under this Act, the Dungle Ridge Bore Water Trust is liable to pay to the Crown for water supplied to such trust from the Dungle Ridge Bore from two hundred and ninety-one pounds to two hundred and sixteen pounds.
- (5) The reduction by seventy-eight pounds five shillings and tenpence of the amount which the Lyndhurst Water Trust is liable to repay to the Crown under this Act in respect of the works for which the said trust was originally constituted, and the reduction by thirty-five pounds twelve shillings and sixpence of the amount which the said trust is liable to repay to the Crown under this Act in respect of additional works constructed for the trust.
- (6) The reduction of the amount which the Burren Bore Water Trust is liable to repay to the Crown to six thousand three hundred and sixty-four pounds eight shillings and ninepence.
- (7) The liability of the Yanko, Colombo and Billabong Creeks Water Trust to the Crown being fixed at half the cost in lieu of the whole cost of the proposed works payable by the trust under the provisions of this Act.

By

By inserting after the section the following new section 73B:—

73B. Notwithstanding anything in this Act contained, the following provisions will apply to and have effect in respect of the Barooga Water Trust:—

Special provisions in respect of Barooga Water Trust.

- (a) The cost of the original works repayable by the trust is reduced by the sum of two thousand two hundred and fifty-five pounds: provided that such reduction shall not affect any provision or payment already made by the trust in regard to such cost;
- (b) the liability of the trust to the Crown in respect of the amount of one thousand seven hundred and ninety-six pounds three shillings and fourpence for additional protection works in connection with the syphon is extinguished;
- (c) the maximum liability of the trust to the Crown in respect of the manufacture, supply, and installation of a new syphon is fixed at six thousand pounds;
- (d) subject to the terms of the foregoing paragraphs (a) and (b) the arrears in the payments by the trust to the Crown at the time of the notification in the Gazette of the completion of the new syphon are to be consolidated with the unpaid debt of the trust to the Crown at such time. Such consolidated amount shall be extinguished by the trust by a sinking fund as in this Act provided for extinguishing the cost of the trust's works, but within a period of fifty years from the said notification of the completion of the new syphon, and the rate of interest payable by the trust shall be five and one-half per centum per annum. The said debt and interest shall commence to run from the date of the said notification.

(xxxv) Section seventy-four:—

By omitting the following:—

“(b) the election by the trustees of a chairman.”

By inserting after paragraph (h) new paragraph (hh) as follows:—

(hh) prescribing the method or methods to be adopted to determine the quantity of water to be paid for by the trust.

(xxxvi) Section one hundred and five: By inserting in their appropriate alphabetical positions the following definitions:—

“Board” means the Board constituted under section thirty of this Act with respect to matters which relate to the prevention of floods or the control of flood-waters in the Murray Basin, and to water supply, water conservation, irrigation, and artesian wells.

“The Commission” means the Water and Irrigation Commission constituted under the Irrigation Act, 1912, as amended by the Irrigation (Amendment) Act, 1924.

And by omitting the definition of “Minister.”

(xxxvii) Section one hundred and seven: By omitting the word “Minister” wherever occurring and substituting the word “Commission.”

(xxxviii) Section one hundred and eight: By omitting the word “Minister” wherever occurring and substituting the word “Commission.”

(xxxix) Section one hundred and nine: By omitting the words “Minister” and “he” wherever occurring and substituting the words “Commission” and “it” respectively.

(xl) Section one hundred and ten: By omitting the word “Minister” wherever occurring and substituting the word “Commission.”

(xli) Section one hundred and eleven: By omitting the word “Minister” and substituting the word “Commission.”

(xlii)

(xlii) Section one hundred and thirteen :—

By omitting the words “Commissioner for Water Conservation and Irrigation” and substituting the word “Commission.”

By omitting the word “Minister” and substituting the word “Commission.”

And by adding the following paragraph at the end of the section :—

Provided that the Commission, if in its opinion special circumstances so warrant, may notify the holding of such inquiry at a place other than within such land district.

(xliii) Section one hundred and fourteen : By omitting the word “Minister” wherever occurring and substituting the word “Commission.”

(xliv) Section one hundred and fifteen : By omitting the section and substituting the following section :—

115. If the Board reports in favour of the issuing of a license, the same shall be notified by the Commission in the Gazette, and on payment by the applicant of the prescribed fee the Commission shall issue a license to the applicant in the prescribed form, subject to such terms, limitations, and conditions as it may deem proper:

Provided that before granting a license the Commission may require such alterations to be made in or in connection with the work, or in the plans and specifications of the same, as the Commission may think fit.

(xlv) Section one hundred and sixteen :—

By omitting the word “Minister” wherever occurring and substituting the word “Commission.”

By inserting after the word “license” where secondly occurring the words “and on payment of the prescribed fee.”

By

By adding at the end of the section the following paragraph:—

The license shall lapse if the sinking of the artesian well or the enlarging, deepening, or altering of the well licensed be not commenced and completed within such times or extended times as may be notified by the Commission to the licensee.

(xlvi) Section one hundred and twenty, subsection two:—

By omitting the word "Minister" wherever occurring and substituting the word "Commission."

By omitting the word "him" where first occurring and substituting the word "it."

By omitting the word "he" and substituting the words "the Commission."

(xlvii) Section one hundred and twenty-three: By omitting the words "Minister" and "he" wherever occurring and substituting the words "Commission" and "it" respectively.

(xlviii) Section one hundred and twenty-four:—

By omitting the word "Minister" and substituting the word "Commission."

By omitting the word "him" wherever occurring and substituting the word "it."

(xlix) Section one hundred and twenty-nine: By inserting at the end of paragraph (d) the following words:—"the fees payable in respect of licenses and renewals thereof; and"