



ANNO DECIMO TERTIO

GEORGII V REGIS.

A.D. 1922.

No. 1546.

An Act to consolidate and amend certain Acts relating to Irrigation and Reclamation, to constitute an Irrigation Commission to exercise certain powers of Control, Management, and Supervision with respect to Irrigation, Reclamation, and Land Settlement within Irrigation Areas, to make provision with respect to the Administration of the Crown Lands Act, 1915, the Discharged Soldiers Settlement Act, 1917, and the Control of Waters Act, 1919, and for other purposes.

[Assented to, December 21st, 1922.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PRELIMINARY.

1. This Act may be cited as the "Irrigation Act, 1922."
2. This Act shall come into operation on a day to be fixed by proclamation.
3. This Act is incorporated with the Crown Lands Act, 1915, and that Act and this Act shall be read as one Act.

PART I.

- Short title.
- Commencement of Act.
- Incorporation with Crown Lands Act, 1915.

4. The

PART I.

Irrigation Act.—1922.

Division of Act.

4. The provisions of this Act are arranged as follows :—

PART I.—Preliminary.

PART II.—The Irrigation Commission—

DIVISION I.—Constitution of the Commission and Appointment of the Commissioners :

DIVISION II.—General Powers, Duties, and Functions of the Commission under this Act :

DIVISION III.—Officers and Employees of the Commission :

DIVISION IV.—Departmental Disputes.

PART III.—Reclamation of Swamp Lands and Proclamation of Irrigation Areas.

PART IV.—Acquisition, Tenure, and Transfer of Land within Irrigation Areas—

DIVISION I.—Blocks :

DIVISION II.—Town Allotments :

DIVISION III.—General Provisions.

PART V.—Management of an Irrigation Area—

DIVISION I.—General Powers, Duties, and Functions of the Commission :

DIVISION II.—Water Supply :

PART VI.—Lessees of Reclaimed Lands Loan Fund.

PART VII.—Powers, Duties, and Functions of the Minister of Irrigation and of the Commission under other Acts—

DIVISION I.—Under the Crown Lands Act, 1915 :

DIVISION II.—Under the Discharged Soldiers Settlement Act, 1917 :

DIVISION III.—Under the Control of Waters Act, 1919.

PART VIII.—Regulations.

PART IX.—Miscellaneous.

PART X.—Legal Procedure.

Acts repealed.

5. (1) The Acts mentioned in the First Schedule are hereby repealed.

(2) Such repeal shall not affect any lease, licence, loan, advance, mortgage, or agreement granted or made under any of the repealed Acts, and all such matters and things are, to the extent that they were respectively in force or subsisting immediately before the commencement of this Act, hereby preserved and continued and declared to be of the same force and effect as if this Act had been in force when they were granted or made respectively.

(3) Whenever

(3) Whenever in any deed, lease, transfer, mortgage, or other document or instrument of any kind any reference is made to any of the repealed Acts, or to any provision of any of the repealed Acts, such reference shall be read and construed as a reference to this Act, or to the corresponding provision of this Act.

6. In this Act, and in leases granted under or continued by this Act, and in proceedings taken under this Act, except where the context or subject matter requires a different construction—

Interpretation.

Cf. ibid., s. 5.

“Advance” means any advance made under this Act or any of the repealed Acts :

“By-law” means by-law made under any of the repealed Acts :

“Chairman” means Chairman of the Irrigation Commission :

“Channel” includes any irrigation or drainage pipe :

“Commission” means the Irrigation Commission constituted by this Act :

“Commissioner” means any Irrigation Commissioner appointed under this Act, and includes any Deputy Irrigation Commissioner :

“Embankment” means any bank or dyke constructed by the Commissioner of Crown Lands or the Minister of Agriculture and Irrigation under any of the repealed Acts, or by the Commission under this Act, to protect land from inundation by water from any river or the sea, or any inlet or arm of the sea :

“Fixed rate” means the annual rate of interest fixed by the Treasurer under section 97A of the Irrigation and Reclaimed Lands Act, 1914, or under section 137 of this Act, which was or is in force at the time when the moneys in question were expended or advanced respectively :

“Irrigation area” means an irrigation area continued by or proclaimed under this Act or any of the repealed Acts :

“Lessee” includes, as well as the original lessee of the land held under a lease issued pursuant to this Act or any of the repealed Acts, the transferee of such lease, and the executors or administrators of such lessee or transferee :

“Minister” or “Minister of Irrigation” means the Minister of Irrigation for the time being, or other the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor :

“Ratable land” means any land situated within an irrigation area other than unleased Crown lands :

“Reclaimed lands” means lands reclaimed from being swamp lands :

“Repealed

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Irrigation Act.—1922.

“ Repealed Acts ” means the Acts repealed by this Act and the Acts repealed by the Irrigation and Reclaimed Lands Act, 1914 :

“ River Murray ” includes any affluent, effluent, ana-branch, or extension of the River Murray, and any river, creek, stream, watercourse, spring, lake, lagoon, swamp, or marsh connected with the River Murray :

“ Surveyor-General ” means the Surveyor-General for the State, or the person for the time being discharging the duties of the office of such Surveyor-General.

PART II.

PART II.

THE IRRIGATION COMMISSION.

DIVISION I.

DIVISION I.—CONSTITUTION OF THE COMMISSION AND APPOINTMENT OF THE COMMISSIONERS.

Irrigation Commission constituted and incorporated.

7. (1) A Commission is hereby constituted for the purposes of this Act.

(2) Such Commission shall be a body corporate by the name of the “ Irrigation Commission,” and by that name shall have perpetual succession and a common seal.

Seal of Commission to be judicially noticed.

8. Judicial notice shall be taken of the incorporation and of the common seal of the Commission ; and the production of any deed, instrument, or writing, if sealed with the said seal, shall be sufficient evidence of the due making and execution of such deed, instrument, or writing.

Membership of Commission—
Appointment and tenure of office.

9. (1) The Commission shall consist of three members, to be called Irrigation Commissioners, who shall be appointed from time to time by the Governor.

(2) Each Commissioner shall be appointed for a term of five years ; and any Commissioner shall, from time to time, at the expiration of his term of office, be eligible for re-appointment for a further term of five years.

Salaries of Commissioners.

10. (1) The Commissioners shall be paid such salaries as are fixed by the Governor from time to time, and such salaries shall be paid to the Commissioners by the Treasurer out of the General Revenue on the warrant of the Governor, which warrant the Governor is hereby authorised and required to issue from time to time.

(2) The Governor shall fix each Commissioner’s salary before or at the time of his appointment, and such salary so fixed shall not be diminished during the term for which he was appointed.

Commissioners not to be subject to Public Service Act, 916.

11. Notwithstanding anything in the Public Service Act, 1916, or any other Act, the Commissioners shall not, in respect of their offices

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DIVISION I.

offices as such Commissioners, be officers in the Public Service of the State: Provided that any Commissioner who, immediately before the date of his appointment as Commissioner was an officer of the Public Service, shall—

- (a) whilst he is a Commissioner or upon ceasing to be a Commissioner, be as eligible, on the recommendation of the Public Service Commissioner, to be appointed to an office in the Public Service as if his service as a Commissioner were service as an officer in the said Public Service; and
- (b) whilst he is a Commissioner shall be as eligible to continue to be a subscriber to the Public Service Superannuation Fund as if his service as a Commissioner were service as an officer in the said Public Service.

12. (1) The Governor may, at any time, dismiss any Commissioner from his office— Dismissal from office.

- (a) for misbehaviour or incompetence; or
- (b) if he is adjudicated insolvent, or makes a statutory assignment for the benefit of his creditors, or compounds with his creditors for less than Twenty Shillings in the Pound; or
- (c) if he wilfully absents himself from his duty for a period of fourteen consecutive days, except on leave granted by the Governor; or
- (d) if he becomes in any way, except as a Commissioner, concerned or interested in any contract made by or on behalf of the Commission, or in any way participates or claims to be entitled to participate in the profits thereof, or in any benefit or emolument arising therefrom: Provided that this subdivision shall not apply in the case of a contract with an incorporated company of at least twenty members, of whom a Commissioner is one, unless he votes on some question relating to such contract.

(2) Except as provided by subsection (1) of this section, no Commissioner shall be dismissed from his office during the term thereof unless an address praying for his dismissal is presented to the Governor from both Houses of Parliament in one session, or from one House in one session and from the other House in the next session.

(3) If a Commissioner becomes a member of the Executive Council or of either House of the Parliament of the State or of the Commonwealth, he shall thereupon cease to hold office as a Commissioner.

13. The Governor may appoint one of the Commissioners to be the Chairman of the Commission, and another to be the Deputy Chairman of the Commission, and whenever a vacancy occurs in the office of Chairman or Deputy Chairman, may appoint one of the Commissioners to fill the vacancy.

Chairman and
Deputy Chairman.

14. (1) The

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Leave of absence
and Deputy Com-
missioners.

14. (1) The Governor may, for any reason he thinks fit, grant any Commissioner leave of absence for such period, and on such terms and conditions, as he thinks proper, and may appoint some person to be a Deputy Commissioner during such leave of absence, or, if there is a vacancy in the office of a Commissioner, until the vacancy is filled.

(2) Every Deputy Commissioner so appointed shall, until his appointment is terminated by notice in the *Government Gazette*, have all the powers and perform all the duties of a Commissioner.

(3) No person shall hold the office of Deputy Commissioner for a longer period than six months at any one time without reappointment.

Quorum.

15. Any two Commissioners shall constitute a quorum of the Commission.

Chairman to preside
and have a delibera-
tive vote only.

16. (1) At all meetings of the Commission the Chairman, or in his absence the Deputy Chairman, shall preside.

(2) The Chairman or Deputy Chairman so presiding shall have a deliberative vote only.

Acts of Commission
not invalidated by
vacancy.

17. No act or proceeding of the Commission shall be invalid or be prejudiced by reason only of the fact that, at the time when such act or proceeding is done, taken, or commenced, there is a vacancy in the office of any Commissioner.

DIVISION II.

DIVISION II.—GENERAL POWERS, DUTIES, AND FUNCTIONS OF
THE COMMISSION UNDER THIS ACT.

Commission to
administer Act
subject to control of
Minister as to
moneys to be
expended.

Cf. 1178, 1914, s. 6.

18. (1) The Commission is hereby charged with the duty of carrying this Act into execution.

(2) All the powers conferred by this Act upon the Commission shall be exercised when, where, and in such manner as the Commission thinks fit, unless otherwise expressly provided.

(3) The moneys required to be expended for the purposes of this Act (other than Part VI. of this Act) shall be expended by the Commission subject to the control of the Minister of Irrigation.

(4) The Commission shall be responsible to the Governor for the discharge of its powers, duties; and functions under this Act.

Transfer to Com-
mission of property,
rights, &c.

19. (1) All property, both real and personal, including all works for the irrigation of land or the reclamation of swamp lands, which at the commencement of this Act is vested in the Minister of Irrigation or the Director of Irrigation, is hereby transferred to and vested in the Commission.

(2) All the powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, and duties of the Minister of Irrigation, of the Director of Irrigation, or of any Irrigation Board arising under any of the repealed Acts, or under any other Act passed before the commencement of this Act, or under any document or instrument of any kind whatsoever in force

or

or subsisting at such commencement, whether arising before or after such commencement, are hereby transferred to the Commission.

(3) This section shall not apply to or in respect of the power of the Minister of Irrigation to grant leases in his name.

20. In any deed, lease, agreement, licence, permit, transfer, mortgage, or other document or instrument of any kind whatsoever in force or subsisting at the commencement of this Act, which concerns or affects any of the property, matters or things transferred by section 19 to the Commission, and in any Act passed before the commencement of this Act, all references to the Minister of Irrigation, the Director of Irrigation, or any Irrigation Board shall, so far as they concern or affect any property, matter, or thing so transferred, be read and construed as references to the Commission.

Consequential amendment of documents and instruments.

21. (1) The construction of any works which, at the commencement of this Act, are in course of construction by or for the Department of Irrigation and Reclamation Works or the Minister of Irrigation, shall be continued and carried on by or for the Commission; and all moneys appropriated by Parliament for the construction of any such works and unexpended at the commencement of this Act shall be expended by the Commission, subject to the provisions of this Act.

Works in course of construction to be completed by Commission.

(2) Without in any way limiting the operation of section 20, all contracts, deeds, agreements, and other instruments entered into or made and subsisting at the commencement of this Act with regard to any such works, and to which the Minister of Irrigation or the Director of Irrigation is a party, may be enforced by or against the Commission as fully and effectually as if the Commission instead of the Minister of Irrigation or the Director of Irrigation had been a party thereto.

Saving of contracts.

22. (1) It shall be the duty of the Commission forthwith upon the commencement of this Act to inquire into and report upon the following matters:—

Commission to investigate and report.

- (a) Complaints made in writing to the Commission with regard to the administration before the commencement of this Act of the Irrigation and Reclaimed Lands Act, 1914, and the Discharged Soldiers Settlement Act, 1917; and
- (b) whether the financial liabilities to the Government of the State under the said Acts of the lessees of irrigation blocks are such as will prevent the lessees from working their blocks with a reasonable likelihood of success.

Provided that if any member of the Commission was, at the passing of this Act, an officer of the Irrigation and Reclamation Works Department of the Public Service of the State, such member shall not take part in such inquiry or join in such report, and in such case the Governor may, for the purposes of such inquiry and report, appoint another person or persons to act in the stead of such member

member of the Commission, either generally or so far only as such inquiry and report concerns any specified area or areas. No person shall be so appointed who is in the employment of the Government of the State.

(2) The report of the Commission shall be forwarded to the Minister, and shall be laid before both Houses of Parliament within fourteen days after it is received by him, if Parliament is then sitting, and if Parliament is not then sitting, then within fourteen days after the commencement of the next session thereof.

Ancillary powers of Commission.

23. The Commission may, in its corporate name—

- I. purchase, take, receive, accept, hold, acquire, and possess lands, tenements and hereditaments in fee simple, or for any less estate or for any term of years or otherwise, and goods and chattels, and may grant, sell, convey, transfer, demise, assign, or otherwise dispose of the same ;
- II. arbitrate or sue, implead, and answer and be sued, impleaded and answered, in all Courts and before all Judges, Magistrates, Justices, and arbitrators whomsoever, in all actions, pleas, suits, disputes, causes, and matters whatsoever ; and
- III. do and exercise all such further acts and powers as it is by this Act authorised to do and exercise, or as may be necessary or convenient for the doing or exercising of any of such acts or powers, or for carrying into execution any of the objects or purposes of this Act.

Contracts for works.

24. (1) The Commission, by its corporate name, may enter into contracts with any person for the execution of any works directed by this Act or any other Act to be executed by the Commission, or which the Commission may think proper to do or to direct to be done under or by virtue of the powers conferred upon the Commission by this Act or any other Act, or for the supply of any matters or things whatsoever necessary for enabling the Commission to carry the purposes of this Act into full and complete execution, in such manner, and upon such terms, and for such sum of money, and under such stipulations, conditions, and restrictions, as the Commission thinks proper : Provided that no contract made by the Commission, the consideration for which exceeds Two Thousand Pounds, shall have any force or effect unless sanctioned by the Minister.

(2) Every such contract may, if the Commission so thinks fit, specify the person to whose satisfaction the same is to be completed, and the mode of determining any dispute which may arise concerning or in consequence of such contract.

Mode of entering into contracts.

25. (1) The powers hereby granted to the Commission to make contracts may be exercised as follows :—

- I. Any contract which, if made between private persons, would be by law required to be in writing and under seal, the Commission may make in writing in its corporate name under its common seal, and in like manner may vary or discharge the same :
- II. Any

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DIVISION II.

- II. Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties thereto, the Commission may make in writing in its corporate name signed by any two Commissioners, and in like manner may vary or discharge the same :
- III. Any contract which, if made between private persons, would be by law valid although made by parol only and not reduced into writing, the Commissioners or any two of them (of whom the Chairman shall be one), acting by direction and on behalf of the Commission, may make by parol only without writing, and in like manner may vary or discharge the same.

(2) All contracts so made and duly executed by the parties thereto respectively shall be effectual in law and binding on the Commission and all other parties thereto, their successors, assigns, heirs, executors or administrators (as the case may be).

(3) In case of default in the execution of any such contract either by the Commission or by any other party thereto, such actions or suits may be instituted, either by or against the Commission in its corporate name or by or against the other parties failing in the execution thereof, and such damages and costs recovered, as might be instituted and recovered had the like contract been made between private persons.

26. It shall be lawful for the Commission from time to time to compound and agree with any person who has entered into any contract transferred by this Act to the Commission, or who has entered into any contract with the Commission, or against whom any action or suit is brought for any penalty contained in any such contract or in any bond or other security for the performance thereof, or for or on account of any breach or non-performance of any such contract, bond, or security, for such sum of money or other recompense as the Commission may think proper.

Power of Commission to compound for breaches of contracts.

27. (1) The Commission shall keep such proper books of account as the Commission deems necessary or as the Governor may direct, and all moneys payable to the Commission under or pursuant to this Act shall be collected and received for and on account of the General Revenue.

Proper books of account to be kept and moneys collected by Commission to be paid to public account.

(2) The accounts of the Commission shall, once at least in every year, and also whenever so directed by the Governor, be audited by the Auditor-General.

(3) The provisions of any Act now or hereafter in force for the collection and payment of the public moneys and the audit of the public accounts shall apply to and in respect of the moneys and books of account of the Commission.

Cf. 1166, 1914, ss. 32, 33.

28. (1) As soon as may be after the thirtieth day of June in each year the Commission shall cause to be prepared a report, statement, and estimates, as follows :—

Annual report, statement, and estimates to be made by Commission.

- I. Report of its proceedings during the financial year then next preceding setting forth the whole of the irrigation areas

areas and other areas administered by it, the lands brought under irrigated culture during the year, and the whole of the lands then under irrigated culture under its administration, the contracts entered into, works carried on or completed, and transactions generally of the Commission during the year :

- ii. A balance-sheet and financial statement with respect to each irrigation area :
- iii. A statement of the moneys received and disbursed by the Commission during the year, setting forth the matters in respect of which they have been received and the purposes for which they have been disbursed, and showing in regard to each of such matters and purposes the balance of receipts and disbursements brought forward from the previous year, and the balances at the end of the financial year dealt with in such statement :
- iv. An estimate of the moneys required in the ensuing year to recoup the amount to be provided by Parliament for expenses to be incurred by the Commission under this Act, and also of the sums required to be provided by the State to meet interest on its loan expenditure for irrigation and reclamation works in irrigation areas :
- v. An estimate of the moneys available from the revenues of the Commission to provide such amount of recoup :
- vi. A balance-sheet and a report upon the operation of Part VI. of this Act :
- vii. The report of the Auditor-General on the accounts of the Commission :
- viii. Any other annual report or statement required by this Act to be prepared or presented by the Commission :
- ix. A report, statement, estimate or balance-sheet as to such other matters as may be directed by the Minister.

(2) Such annual report, statement, and estimates shall be laid before both Houses of Parliament in the month of October in each year if Parliament is then sitting, and if Parliament is not then sitting then within fourteen days after the commencement of the next session thereof.

DIVISION III.

Officers of the
Commission.

DIVISION III.—OFFICERS AND EMPLOYEES OF THE COMMISSION.

29. (1) The Commission may appoint a secretary and an accountant to the Commission, and such engineers, surveyors, inspectors, valuers, clerks, and other officers and servants as may be necessary for the purposes of this Act.

(2) All persons appointed under subsection (1) hereof shall be subject to and entitled to all the advantages given to officers of the Public Service under the Public Service Act, 1916, but shall not be appointed by nor be under the control of the Public Service Commissioner, and the Commission shall in respect of such persons have

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have all the powers of the Public Service Commissioner under the Public Service Act, 1916.

(3) All persons appointed under subsection (1) shall, subject to the provisions of this section, be deemed to be officers of the Public Service as defined by the Public Service Act, 1916.

(4) The Commission shall not, without the consent of the Minister, appoint or promote any person appointed under subsection (1) hereof to any office the annual salary of which is more than Two Hundred and Fifty Pounds, or increase the salary attached to any office the annual salary of which is more than Two Hundred and Fifty Pounds.

30. The Commission may, subject to any direction of the Minister as to rates of wages, appoint at daily or weekly wages such persons as they deem proper for the purposes of the powers, duties, and functions of the Commission, and may dismiss such persons.

Appointment at daily or weekly wages by Commission.

31. All officers, servants, and other persons employed in or by the Irrigation and Reclamation Works Department of the Public Service of the State at the commencement of this Act shall be deemed to have been lawfully appointed under section 29 or section 30 in the respective offices or employment in which they were employed at such commencement.

Officers of Irrigation Department transferred to Commission.

32. All officers, servants, and other persons, whilst employed for the purposes of this Act, shall, subject to any direction of the Minister, be under the sole direction and control of the Commission.

Persons employed for purposes of Act to be under control of Commission.

33. Before any officer or other person appointed under this Act who is to be entrusted with the custody of money enters upon the duties of his office or employment, the Commission shall take from him such security as the Commission deems sufficient for the faithful execution thereof.

Certain officers to give security.

DIVISION IV.—DEPARTMENTAL DISPUTES.

DIVISION IV.

34. (1) If any dispute arises or is about to arise between the Commission and any officer or Department of the Government of the State with respect to—

Settlement of questions as to transfer of powers, etc., to Commission

- (a) any property, real or personal, vested in the Commission ;
- (b) any power, immunity, right, interest, title, privilege, function, obligation, liability, or duty transferred by this Act, or any question whether any such matter or thing is so transferred or not ;
- (c) any power, duty, or function conferred or imposed upon the Commission by this Act, or the exercise or discharge of or failure to exercise or discharge the same ; or
- (d) any other matter or thing arising under this Act,

the Governor shall determine such dispute in such manner as he thinks fit.

(2) For

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(2) For the purposes of making any such determination the Governor may appoint any officer to make such investigation and report as the Governor may direct, and the Governor, in making such determination, may act upon such report.

(3) The determination of the Governor shall be final and binding upon all the parties to the dispute and upon all other officers and Departments of the Government of the State.

PART III.

PART III.

RECLAMATION OF SWAMP LANDS AND PROCLAMATION OF IRRIGATION AREAS.

Reclamation and improvement of swamp lands.

1178, 1914, s. 7.

35. The Commission may reclaim and improve any swamp lands, whether such lands are or are not at the time included or intended to be included in any irrigation area, and may construct all such embankments and other works and do all such other things as they deem necessary for such reclamation and improvement.

Provision of moneys for reclamation and improvement of lands.

Ibid., s. 8.

1496, 1921, s. 3.

36. (1) The public moneys to be expended by the Commission in reclaiming and improving swamp lands and lands in irrigation areas, in constructing and improving embankments, and in carrying out the objects of this Act with regard to lands in irrigation areas, shall not exceed the amount provided by Parliament for that purpose.

(2) Such sums as are for the time being required for maintaining embankments shall be paid out of General Revenue, and the Governor may, without any authority other than this Act, pay all such sums to the Treasurer out of General Revenue.

No money to be spent in future irrigation areas unless approved by Parliament.

Cf. 1178, 1914, s. 9.

37. No money shall be spent by the Commission under this Act, otherwise than as provided by section 35, in any irrigation area other than an irrigation area proclaimed before the commencement of this Act, unless a resolution approving of such irrigation area has been carried by both Houses of Parliament.

Proclamation of irrigation areas.

Ibid., s. 10.

1496, 1921, s. 4.

38. (1) The Governor may by proclamation set apart any Crown lands as an irrigation area.

(2) Any such irrigation area may consist wholly of reclaimed or wholly of other lands, or partly of reclaimed and partly of other lands, and may include any embankment.

(3) All irrigation areas proclaimed before the commencement of this Act are hereby preserved and continued, and shall be irrigation areas for the purposes of this Act.

Power to alter boundaries of irrigation areas.

1178, 1914, s. 11.

39. The Governor may by proclamation—

(a) withdraw any land included in an irrigation area from such area ; and may, as to the whole or any part of the land so withdrawn,—

- I. proclaim it to be an irrigation area ; or
 - II. include it as part of a new irrigation area ; or
 - III. include it in an irrigation area then already proclaimed ; and
- (b) set

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(b) set apart any Crown lands (including embankments) and include the same in any irrigation area then already proclaimed.

40. Every proclamation of an irrigation area shall assign a name to such irrigation area.

Governor to assign names to irrigation areas.
New.

41. (1) The Commission shall cause the land included in any irrigation area, and the lands (if any) adjoining such irrigation area which are to be leased in connection therewith, to be surveyed and, subject to subsection (3) of this section, to be subdivided into blocks.

Survey and subdivision into blocks.

Ibid., s. 12.

(2) Such blocks shall be of such size as the Commission determines, and shall contain such class or classes of land as they think advisable.

(3) The Commission shall set apart such parts of the land included in any irrigation area as they think proper as Government reserves, reserves for roads, water channels, wharves, docks, commonage, and park lands, sites for towns, pumping stations, machinery and factories, and for any other purposes approved by them; and may from time to time set apart such other parts of the said land as they think proper for any of the said purposes.

(4) The Commission may cause sites for towns to be subdivided into allotments.

42. A plan, signed by the Surveyor-General, of the land in any irrigation area as so surveyed, subdivided, and reserved as aforesaid, showing the subdivisions thereof, and distinguishing the several blocks and town allotments by separate numbers, and the parts so reserved, shall be kept at the office of the Surveyor-General.

Plan.

Ibid., s. 13.

PART IV.

PART IV.

ACQUISITION, TENURE, AND TRANSFER OF LAND
WITHIN IRRIGATION AREAS.

DIVISION I.—BLOCKS.

DIVISION I.

43. The Commission shall fix the annual rent to be paid for each block in an irrigation area.

Commission to fix rent.

Cf. 1178, 1914, s. 17.

44. Each block shall be offered on perpetual lease at a rental as hereinafter mentioned.

Terms of lease.

Ibid., s. 18.

45. (1) The rent for each block for the first three years of the lease shall be payable as follows:—

Payment of rent.

1178, 1914, s. 22.

(a) for the first year, one-quarter of the annual rent fixed under section 43:

1496, 1921, s. 7.

(b) for the second year, one-half of such rent:

(c) for the third year, three-quarters of such rent:

(2) The provisions of subsection (1) hereof shall apply only in respect of any block which, at the time it is offered on perpetual lease,

New.

lease, has not been planted or otherwise brought under cultivation. If the Commission is of opinion, at the time any block is offered on perpetual lease—

- (a) that the whole or any portion of such block is in a complete state of cultivation and in full bearing ; or
- (b) that, although not in a complete state of cultivation or in full bearing, the block or any portion thereof is in such a state or stage of cultivation that the provisions of subsection (1) thereof should not apply,

then the Commission, in offering the said block on perpetual lease, may direct that the provisions of subsection (1) hereof shall not apply in respect of such block, and shall fix what proportion of the annual rent fixed under section 43 (being the whole or any part thereof) shall be payable for the first, second, and third years of the lease respectively, having regard to the area of the block under cultivation at the time it is offered on perpetual lease, and the state or stage of such cultivation.

(3) For the fourth and each succeeding year of the lease of any block, the full amount of the annual rent fixed under section 43 shall be payable.

(4) All such rents shall be due and payable in advance.

Area of holdings.
1178, 1914, s. 23.

46. (1) There shall be no limit to the area of the land or the number of blocks which may be held under this Act by any person : Provided that of the land in any irrigation area so held by any person, whether held in his own name or in the name of any other person, not more than fifty acres in the aggregate shall be reclaimed or irrigable land. Of such fifty acres or any smaller area of reclaimed or irrigable land held as aforesaid by any person, the whole may be reclaimed land, or the whole may be irrigable land, or part may be reclaimed and part irrigable land.

(2) In this section “ irrigable land ” means land considered by the Commission to be irrigable land.

Area of holdings by
partners.
Ibid., s. 24.

47. (1) Notwithstanding the provisions of section 46, any persons who, in the opinion of the Commission, are *bona fide* carrying on business in partnership as agriculturists, dairymen, or gardeners on land within an irrigation area, may together hold more than fifty acres, but not more than one hundred and fifty acres, of irrigable or reclaimed land in such irrigation area : Provided that the area of such land shall in no case exceed the equivalent of fifty acres to each person in such partnership.

(2) In any such case as mentioned in subsection (1) of this section, if the number of partners is not more than three, only one of such partners may be required to personally reside on the land held by the partners, and if the number is more than three, only two of such partners may be required so to reside.

48. Any

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DIVISION I.

48. Any land offered for application under section 44 which remains unallotted for one year after being open to application may be let at such reduced rental as is fixed by the Commission, or on miscellaneous lease, as provided by section 187 of the Crown Lands Act, 1915.

Dealing with unallotted land.
Cf. *ibid.*, s. 26.

DIVISION II.—TOWN ALLOTMENTS.

DIVISION II.

49. (1) Subject to subsection (2) of this section, perpetual leases of town allotments shall be offered for sale by auction at an upset price fixed by the Commission, and shall be sold to the highest bidder at or above such upset price.

Town allotments may be offered by auction.

New.
Cf. 1399, 1919, s. 3 (1).

(2) In any case where, before any allotment is offered on perpetual lease, such allotment has been occupied by any person under licence from the Crown or the Commission, and permanent improvements, consisting of premises used or to be used for the purpose of residence, business, or manufacture, or for any religious purpose, have been carried out by him, and such person desires a perpetual lease of such allotment, such allotment shall be offered on perpetual lease to such person at a rent to be fixed by the Commission: Provided that in fixing the rent of such an allotment the rent of allotments in the immediate vicinity of such allotment which have been offered at auction shall be considered.

(3) Perpetual leases of town allotments offered for sale under subsection (1) and not sold may be sold by the Commission by private contract at any price not less than the upset price at which the same were last offered.

50. The Commission shall, prior to the offering for sale by auction of a perpetual lease of any town allotment, publish for not less than four consecutive weeks in the *Government Gazette* a statement setting forth the time and place of auction, the allotments, the upset price, and, if necessary, the purposes for which any of such allotments must be or may not be used, and the maximum number of allotments that may be held by any one person, or by any one person for any particular purpose or purposes.

Land to be gazetted before auction.
Cf. 1199, 1915, s. 230.

51. (1) The annual rent of a perpetual lease of a town allotment shall be the amount of the annual rent offered by the highest bidder at the sale by auction, or, in the case of land occupied as mentioned in subsection (2) of section 49, the annual rent fixed by the Commission, or, in the case of leases sold under subsection (3) of section 49, the contract price.

Provisions with respect to rent.
New.

(2) The said annual rent shall be payable in full and in advance from the commencement of the lease.

1399, 1919, s. 3 (2).

52. (1) The lessee of any town allotment or allotments shall, within a period of eighteen months from the date of the lease, or within such longer period as may be allowed by the Commission

Improvements by lessees.
New.

in

in writing, carry out, in respect of each allotment, permanent improvements on any part of the land comprised in the lease not less in value than an amount which is ten times the annual rent payable in respect of such allotment: Provided that—

- I. if any of such allotments has been set apart by the Commission for residential purposes, the value of the improvements carried out in respect of such allotment shall be not less than One Hundred and Fifty Pounds, or if any of such allotments has been set apart by the Commission for any other purpose or purposes, the value of the improvements carried out in respect of such allotment shall be not less than Two Hundred Pounds;
- II. if the land comprised in the lease comprises not less than three adjoining town allotments, all of which have been set apart by the Commission for any purpose or purposes other than residential purposes, such improvements shall be carried out on not less than two of the said allotments; and
- III. any permanent improvements on the land paid for by the lessee shall, for the purposes of this section, be deemed to have been carried out by the lessee.

(2) If, at any time, the Commission is of opinion that the business proposed to be carried on on any allotment set apart for business or manufacturing purposes does not require the carrying out of permanent improvements equal in value to the amount fixed under subsection (1) hereof, the Commission may fix the value of the improvements to be carried out by the lessee in respect of such allotment at a lesser amount. The Commission may fix such amount subject to such terms and conditions as they think fit. If the lessee carries out on any part of the said allotment permanent improvements equal in value to the amount so fixed by the Commission, and complies with the said terms and conditions (if any), the provisions of subsection (1) hereof shall be deemed to be complied with in respect of such allotment.

(3) If any portion of the land comprised in a lease is transferred, the provisions of this section shall be complied with by the lessee of every portion of such land, notwithstanding that prior to such transfer this section may have been complied with in respect of the land taken as a whole.

(4) The lessee of any town allotment shall not at any time erect any building, shed, or other permanent improvement on any portion of the land comprised in his lease without first obtaining the approval, in writing, of the Commission.

53. The Commission may, by the statement mentioned in section 50 of this Act, set apart any town allotments—

- (a) for residential, business, or manufacturing purposes, or for the purpose of any business or manufacture of any particular class or kind, or for any other purpose or purposes; or

(b) on

Allotments may be set apart for special purposes.

New.

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- (b) on which any particular business or manufacture, or any business or manufacture of any particular class or kind, shall not be carried on.

54. (1) The Commission may, by the statement mentioned in section 50 hereof, specify the maximum number of town allotments in any township which may be held, whether on freehold or leasehold tenure, by any person, or by any person for any particular purpose or purposes, whether in his own name or in the name of any other person, or partly in one way and partly in the other, or either by himself or conjointly with any other person: Provided that—

Number of holdings may be limited.
New.

- i. whether such number is so specified by the Commission or not, such number shall not exceed, in the case of allotments leased for residential purposes, three, or in the case of allotments leased for any other purpose, four; and
- ii. with the consent in writing of the Commission previously obtained, allotments in excess of such maximum number may be held by or on behalf of any one person.

(2) If it is shown to the satisfaction of the Commission that perpetual leases of more than such maximum number have been purchased by or on behalf of any person, the Commission may, by notice in the *Government Gazette*, cancel the sale of all or any of the perpetual leases purchased by or on behalf of such person, whereupon the sale of such leases shall become absolutely void, and such leases shall be forfeited to the Crown.

55. (1) Any lessee of any town allotment set apart for business or manufacturing purposes may, with the consent in writing of the Commission, also use such town allotment or any portion thereof for residential purposes in connection with such business or manufacturing purposes.

Commission may allow business allotments to be used for residential purposes.
New.

(2) Such consent may be given in respect of such period and subject to such terms and conditions as the Commission thinks fit.

56. (1) The Commission or any person authorised by them may grant a licence to any person to enter upon and occupy any one or more town allotments, to be specified in such licence, for any purpose approved by the Commission.

Commission may grant licences.
Cf. 1199, 1915, s. 245.

(2) Every licence shall continue in force for a period not exceeding one year from the date of the granting thereof, and shall be subject to the payment of such fee, and to such restrictions and conditions, as are determined by the Commission.

(3) If any holder of a licence uses any town allotment specified in such licence for any purpose not authorised by the Commission, or fails to observe any restriction or condition imposed by the Commission in respect of such licence, the Commission may forfeit such licence.

DIVISION

PART IV.

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DIVISION III.

DIVISION III.—GENERAL PROVISIONS.

Form of lease.

Cf. 1178, 1914, s. 25.

57. (1) Every lease of land within an irrigation area shall be granted by the Minister upon the recommendation of the Commission, and shall be granted in the name of the Minister.

(2) Every lease of any block within an irrigation area shall be in the form of lease in the Second Schedule and shall contain the terms, reservations, covenants, and conditions therein set out, or terms, reservations, covenants, and conditions to the like effect.

(3) Every lease of land within an irrigation area not being a block or blocks shall be in the form of lease in the Third Schedule, and shall contain the terms, reservations, covenants, and conditions therein set out, or terms, reservations, covenants, and conditions to the like effect.

(4) The form of any lease may be altered so far as is necessary to suit the circumstances of any particular case.

Incorporation of certain provisions of Crown Lands Act, 1915.

1496, 1921, s. 5.

58. For the purposes of this Act all the provisions of the Crown Lands Act, 1915, which relate to the fixing and reduction of rents, to invitations for and the consideration, acceptance, or rejection of applications for leases, to the allotment of lands, and to the interpretation, preparation, execution, registration, transfer, transmission, and forfeiture of leases, in so far as such provisions are not repugnant to this Act, shall, subject to Division I. of Part VII., apply, *mutatis mutandis*, to leases of blocks, of town allotments, of factory sites, and of other lands under this Act.

Rents to be paid to Commission.

New.

Cf. 1199, 1915, Div. V., Part X.

59. (1) All rents and other payments payable to the Minister of Irrigation—

(a) under all leases and licences granted before the commencement of this Act by the Minister of land within an irrigation area; and

(b) under all leases, permits, and licences granted or made by the Minister under or pursuant to this Act,

shall be payable to the Commission on behalf of the Minister.

(2) Payment of rent or any other payment made to the Commission or any person authorised in that behalf by the Commission shall be a sufficient discharge of such rent or money paid.

(3) If any rent or other payment payable to the Minister of Irrigation is in arrear, the Commission, without prejudice to the right to recover in any other way, may sue for the same, together with interest at the rate of five per centum per annum, and the costs attendant thereon, by action in the name of the Commission, in any Court of competent jurisdiction as a debt due to the Commission.

(4) The Commission may extend the time for payment of any amount payable to the Commission under this section: Provided that on all such extensions interest may, at the discretion of the Commission, be charged on such amounts at the rate of five per centum per annum.

(5) All such leases, permits, and licences granted or made by the Minister shall be construed to give effect to this section.

60. Any

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DIVISION III.

60. Any land purchased or otherwise acquired under Part X. of the Crown Lands Act, 1903, or under the Closer Settlement Acts, 1910 to 1912, or under Part X. of the Crown Lands Act, 1915, or under the Discharged Soldiers Settlement Act, 1917, which is included in any irrigation area, shall, notwithstanding the provisions of such Acts, and whether wholly or partially reclaimed or not, be leased under the provisions of this Act, and may be so leased with other lands adjoining such irrigation area.

Repurchased lands to be leased under Act.

Cf. 1178, 1914, s. 27
1212, 1915, s. 3.

61. (1) The lessee of any Crown lands included in any irrigation area proclaimed after the first day of December, nineteen hundred and nine, may tender a surrender of his lease for the purpose of obtaining a perpetual lease under this Act, and the Governor may, if he deems proper, accept such surrender in the name and on behalf of His Majesty the King.

Crown lessee may surrender for lease under this Act.

1178, 1914, s. 28.

(2) The surrender shall be in such form, and be made and executed in such manner, as prescribed by regulation, provided that until such form and manner are so prescribed the surrender shall be in the form, and be made and executed in the manner, prescribed for surrenders under the Crown Lands Act, 1915, with such variations as the case may require.

(3) The surrender shall be of no effect unless and until accepted in writing by the Governor.

62. (1) Notwithstanding anything contained in this Act, upon the acceptance of a surrender, as provided by section 61, the lessee shall be entitled to the grant of a perpetual lease under this Act of the land comprised in the surrendered lease at an annual rent to be fixed under this Act by the Commission.

Grant of lease and fixing of rent.

Ibid., s. 29f

(2) In fixing such rent, any improvements made in or upon the land by the surrendering lessee shall be disregarded, and the rent shall be fixed on the basis of the value of such land without such improvements.

63. If any person by or under any will, or as one of the next-of-kin, of any deceased person, or by reason of any estate or interest in expectancy falling into possession, or by survivorship, or by the foreclosure of any mortgage, becomes, or becomes entitled to be, the lessee of any block or town allotment and thereby contravenes the provisions of section 46 or of section 54, such person shall not be deemed to hold such land contrary to the provisions of either of the said sections until after the expiration of three years from the death of the testator, or intestate, or the falling of such estate or interest into possession, or the death of the person upon whose death any estate or interest accrues by survivorship to such first-named person or the foreclosure of such mortgage, as the case may be.

Privileges of beneficial owners of blocks or allotments.

Cf. Vic. 2629, 1915, s. 84 (3).

64. Persons under eighteen years of age, and persons of any Asiatic race who are not subjects of His Majesty the King, are disqualified from being lessees.

Disqualifications as leaseholder.

Cf. 1178, 1914, s. 19.

65. Every

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Agreement preventing fair competition at auction to be void.

Cf. 1199, 1915, s. 237.

65. Every agreement, whether in writing or otherwise, whereby any person promises or agrees, either directly or indirectly, to give or allow any sum of money, reward, benefit, or thing to any other person, in consideration of such other person not bidding at any auction under this Act, or of his not competing at any such auction, or in consideration of his bidding to a limited amount only, or of his withdrawing from competition at any such auction, or in consideration of his doing any other act or thing which in any way might tend to prevent free and open competition at any such auction, shall be wholly illegal and void.

Agreement to pay commission of more than two and a half per centum void.

Cf. *ibid.*, s. 238.

66. Any agreement by any person to pay more than two and a half per centum on the purchase-money to any other person for bidding or acting for such first-mentioned person at any auction under this Act shall be absolutely illegal and void.

PART V.

PART V.

MANAGEMENT OF AN IRRIGATION AREA.

DIVISION I.

DIVISION I.—GENERAL POWERS, DUTIES, AND FUNCTIONS OF THE COMMISSION.

Management by Commission.

Cf. 1178, 1914, s. 14.

67. All irrigation areas shall be managed and controlled by the Commission, subject always to the control of the Minister and of Parliament respecting the moneys to be expended on such areas.

Works and lands to be vested in the Commission.

Cf. *ibid.*, s. 71.

68. All roads, streets, commonage lands, and other reserves within every irrigation area and all irrigation and public works and factories, with the plant appertaining thereto, and all improvements made or constructed by the Minister or the Commission under the authority of this Act or the repealed Acts, shall, subject to the provisions of this Act, vest in and be under the control of the Commission: Provided that this section shall not apply to any main or district road or street within such area, so far as such road or street is situated within a District Council District constituted by or under the District Councils Act, 1914, or within a Municipality constituted by or under the Municipal Corporations Act, 1890.

Roads and streets to remain vested in local government authority.

Erection of appliances for storage and distribution of water.

Ibid., s. 15.

69. The Commission, upon an irrigation area being proclaimed, may from time to time purchase pumping machinery and erect the same thereon, construct irrigation works and channels, tanks, and catchment and storage dams and reservoirs, and acquire, provide, and maintain appliances and facilities for supplying and distributing water to the lessees, owners, or occupiers of blocks, town allotments, factory sites, and other lands within, adjacent, or near to the irrigation area, for irrigation, domestic, factory, and other purposes.

Construction of roads.

Cf. *ibid.*, s. 16.

70. The Commission may construct roads, streets, bridges, wharves, docks, and jetties upon any irrigation area.

Commission may require channels to be concreted.

New.

71. (1) The Commission may, by notice in writing served upon the lessee of any block within an irrigation area, require such lessee, within

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within a period to be specified in the notice, to line with concrete, or to render impervious to water by some other means to be specified in such notice, all channels, ditches, and other means of conveying water for irrigation purposes, situated on such block.

(2) If any lessee fails to comply with any of the requirements of any such notice, within the period specified in such notice any person authorised for the purpose by the Commission may—

- (a) enter upon such block ;
- (b) do all such things as are necessary to carry out the requirements of the said notice ; and
- (c) remain thereon for so long as is necessary to enable the work to be completed.

(3) The cost incurred by the Commission in doing such work shall be a debt due by the lessee to the Commission, and may be recovered by the Commission in any Court of competent jurisdiction, or summarily.

72. (1) The Commission may, by notice in writing served upon the lessee of any block within an irrigation area, require such lessee, within a period to be specified in the notice, to effectively drain such block so as to prevent seepage or drainage from such block on to, in to, or under any adjoining block or any other land.

Commission may require lessee to prevent seepage or drainage.
New.

(2) If any lessee fails to comply with any of the requirements of any such notice within the period specified in such notice, any person authorised for the purpose by the Commission may—

- (a) enter upon such block ;
- (b) do all such things as are necessary to carry out the requirements of the said notice ; and
- (c) remain thereon for so long as is necessary to enable the work to be completed.

(3) The cost incurred by the Commission in doing such work shall be a debt due by the lessee to the Commission, and may be recovered by the Commission in any Court of competent jurisdiction, or summarily.

73. The Commission, upon an irrigation area being proclaimed, may from time to time construct drains or drainage works for the prevention or removal of seepage conditions in such area and generally for the drainage and improvement thereof.

Commission may construct drains and drainage works.
Cf. 1309, 1917, s. 6.

74. (1) Upon the completion of the construction under section 73 of any drains or drainage works in any irrigation area, the Commission shall publish a notice in the *Gazette* stating the date of completion and the cost of construction of such drains or works, and what lands will be benefited by such drains or works.

Notice of cost of drains and lands benefited thereby.
Cf. *ibid.*, s. 7.

(2) Such notice shall be conclusive as to the date of completion and the cost of construction of the drains or works, and as to what lands will be benefited by the drains or works.

75. (1) The

Commission may
declare drainage
rate.

Ibid., s. 8.

75. (1) The Commission may, after the publication in the *Gazette* of the certificate mentioned in section 74, declare on all or any of the lands which will be benefited by the drains or works a general drainage rate to defray the cost thereof.

(2) The drainage rate may be declared according to the assessment of such lands for water rates for the time being in force under this Act, or according to such other assessment or on such other basis as the Commission from time to time determines.

(3) Such rate shall be an annual rate, and shall be of such amount as will be sufficient, in the opinion of the Commission, to pay out of the proceeds thereof—

- (a) the cost of cleansing, repairing, and maintaining the drains or works ;
- (b) the expenses connected with the care, control, and management of the drains or works ;
- (c) interest at the fixed rate on the cost of construction of the drains or works, or on the balance of such cost for the time being remaining unpaid ; and
- (d) such amount as is sufficient to repay to the Commission the capital cost of the construction of the drains or works in forty equal yearly instalments.

Owner or lessee in
benefited area may
connect his private
drains with
Government drain.

Ibid., s. 9.

76. (1) Any owner or lessee of any land benefited by any drain constructed under section 73, which land is separated from such drain by the land of any other owner or lessee, may, subject to the approval and under the supervision of the Commission, connect his private drains or channels with such drain, and for that purpose may construct such private drains or channels across the land of such other owner or lessee.

(2) Any owner or lessee who constructs any private drain or channel across the land of any other owner or lessee under the authority of this section shall be liable to pay to such owner or lessee as compensation for the damage suffered by him in consequence of such construction such sum as the Commission thinks reasonable.

Settlers to drain
their blocks.

Of. ibid., s. 10.

77. (1) Upon the completion of the construction under section 73 of any drains or works in any irrigation area, all owners and lessees of land benefited by the construction of such drains or works shall take such measures, by the connection of their private drains or channels with such drains or otherwise, as the Commission considers necessary to effectively drain their land.

(2) If any owner or lessee fails to comply with the provisions of this section and such default continues for one month after service upon him of a notice in writing by the Commission requiring him to so comply, the Commission may take such measures as aforesaid on behalf of such owner or lessee, and the cost thereof shall be a debt due to the Commission by such owner or lessee.

78. (1) If

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78. (1) If any land within an irrigation area is not, as to the drainage of surface and storm water, drained by some efficient drain communicating with some watercourse, or some drain used under the authority of this Act, the Commission may construct through any land lying between the first-mentioned lands and the nearest such watercourse or drain an efficient drain suited for draining therefrom and from the intermediate lands such surface and storm water as aforesaid, but so that such drain shall not pass through or under any house, building, or other like structure.

Commission may drain surface and storm water.
1178, 1914, s. 80.

(2) All costs and expenses incurred in constructing such drain shall be apportioned by the Commission among the owners and lessees of land deriving any benefit therefrom, so far as possible in proportion to such benefit, and the amount so apportioned to each owner or lessee shall be repaid by such owner or lessee after notice in that behalf by the Commission.

Owners benefited thereby to pay costs.
Cf. *ibid.*, s. 81.

(3) If the amount so apportioned to any owner or lessee is not paid, the same may be sued for and recovered as a debt due to the Commission in any Court of competent jurisdiction, or summarily.

Power to reduce water in low-lying land and apportion cost.

Ibid., s. 82.

79. (1) The Commission may, by pumping or otherwise, reduce the water on any low-lying land within any irrigation area to such level as they think proper, and shall apportion the costs and expenses of so doing among the owners and lessees of all reclaimed land within the area in such proportions as the Commission thinks fair and reasonable.

(2) If the amount so apportioned to any owner or lessee is not paid, the same may be sued for and recovered as a debt due to the Commission in any Court of competent jurisdiction, or summarily.

Lessee to keep drains in repair.

New.

Cf. 1178, 1914, s. 99.

80. (1) Every lessee shall keep in good repair and cleared and in clean condition all drains, channels, watercourses, and other irrigation and drainage works on the land comprised in his lease.

(2) If any lessee fails to comply with the provisions of this section and such default continues for one month after service upon him of a notice in writing by the Commission requiring him to so comply, the Commission or any person authorised by them may enter upon such land and do all things necessary in the opinion of the Commission or any person authorised by them to comply with this section, and the cost thereof, if not paid, may be sued for and recovered as a debt due to the Commission in any Court of competent jurisdiction, or summarily.

81. The Commission, in addition to all other powers, shall have and may exercise the following powers and authorities within irrigation areas :—

General powers of Commission.

Cf. *ibid.*, s. 72.

- I. to do all necessary acts, matters, and things for the making, construction, improving, altering, cleansing, repairing, widening, deepening, diverting, or extending of any channel, drain, or watercourse, or any bank or defence against waters :

To make drains, &c.

II. to

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DIVISION I.

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| To erect buildings, etc. | II. to erect all necessary buildings, bridges, irrigation works, and machinery, roads, ways, wharves, docks, and jetties, and to maintain, alter, or discontinue the same, subject as regards wharves, docks, and jetties to the approval of any Marine Board or Harbors Board or other similar body having authority over the same under any Act for the time being in force: |
| To break up soil, &c. | III. to break up and, if necessary, remove the soil of any road, way, bank, dam, or footpath : |
| To excavate trenches. | IV. to excavate and sink trenches for the purpose of laying down, making, and constructing channels and drains : |
| To connect drains. | V. to cause channels and drains to communicate with any stream or watercourse within or without the limits of the irrigation area : |
| To remove earth, stone, and clay. | VI. to enter themselves, or by their officers or agents, upon any lands within the irrigation area for the purpose of inspecting or removing any earth, stone, or clay therefrom, and of making, constructing, and diverting drains, channels, and watercourses, and of regulating the supply of water to any land, or to any person, or by any drain, channel, or watercourse, or for any of the purposes of this Act : |
| To dig or bore. | VII. to enter themselves, or by their officers or agents, upon any lands or premises whereon or wherein it is proposed to execute any works, and on land adjacent thereto, and, if necessary, to dig or bore therein : |
| To examine and open sluices and floodgates. | VIII. to examine any weir, sluice, or floodgate within or without the area erected in or upon or adjacent to the sea or any inlet or arm of the sea, or any river, stream, lake, channel, watercourse, or other water; and to open or raise any floodgate or sluice within or without the area for any purpose whatever : |
| To use adjacent land. | IX. to use adjacent lands for making temporary roads or approaches to any work : |
| To execute all works for the betterment of the area. | X. to do all acts, matters, and things, and execute and carry out works of any kind, having for their object the betterment of the irrigation area, or to secure the health, comfort, or convenience of the owners and lessees of lands therein : |
| To levy rates. | XI. to levy rates on all ratable property in the irrigation area : |
| To raise a loan by special rate. | XII. to levy a special rate for making necessary tanks, channels, or watercourses, or repairs thereto, or any other incidental work : |

XIII. to

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XIII. to regulate and control all drainage waters in the main channels and drains : To regulate waters.

XIV. to regulate the height at which water may or shall be maintained in any channel or drain. To regulate height of water.

82. (1) The Commission may, in any irrigation area,

(a) cut and construct channels, drains, and watercourses on or across roads or streets within such area, notwithstanding that such roads or streets are vested in or under the control of a District Council or Municipal Corporation ; Commission may construct drains across roads, but shall reinstate the roads.
Cf. *ibid.*, s. 75.

(b) from time to time improve, alter, cleanse, repair, widen, deepen, divert, or extend any such channel, drain, or watercourse ;

(c) erect fences on or across such roads or streets for the protection of any such channel, drain, or watercourse ; and

(d) do all such acts, matters, and things as are necessary or convenient for carrying out the works authorised by this section.

(2) After such works are carried out, the Commission shall erect and keep in repair such bridges and culverts, and do such other things, as are necessary for reinstating such roads or streets.

83. The Commission may control the planting and cultivation of any block in an irrigation area and the making of improvements thereon in any case where it is deemed necessary by them or any Inspector or other officer appointed by them for the purpose. Cultivation of blocks.
Cf. *ibid.*, s. 30.

84. The Commission may, in any case where they have reason to believe that any irrigation block is being seriously neglected, and is thereby deteriorating in value, assume the general control and management of such block and cultivate and water the same, and take such other measures with respect thereto as are necessary to prevent such deterioration, and the expense incurred by the Commission in so doing shall be a charge on such land, and shall be payable by the owner, lessee, or occupier thereof for the time being, and may be recovered by the Commission by action in any Court of competent jurisdiction, or summarily. Commission may assume control of irrigation block in certain cases.
Cf. 1309, 1917, s. 5.

DIVISION II.—WATER SUPPLY.

DIVISION II.

85. Upon the construction, wholly or in part, of the works upon an irrigation area, the Commission may supply water— Commission may supply water.

(a) to lessees of blocks within the irrigation area, at such rates, in such quantities, for such periods, and upon and subject to such terms and conditions, as the Commission from time to time determines ; Ibid., s. 31.
1496, 1921, s. 8.

- (b) to the owners, lessees, and occupiers of town allotments, factory sites, and other lands within the irrigation area (not being blocks), at such rates, in such quantities, for such periods, and upon and subject to such terms and conditions, as the Commission from time to time determines; and
- (c) to owners, lessees, and occupiers of lands adjacent to the irrigation area, at such rates, in such quantities, for such periods, and upon and subject to such terms and conditions, as are agreed upon.

Annual irrigation
rate.

1178, 1914, s. 32.

1496, 1921, s. 9.

86. (1) The Commission may, as soon as a water supply is available for the whole or any portion of an irrigation area, declare an annual irrigation rate for the supply of water on—

- (a) blocks within the irrigation area, or the portion thereof for which a supply of water is available, and which are ratable lands; and
- (b) town allotments, factory sites, and other lands (not being blocks) within the irrigation area, which are ratable lands.

(2) The rate on blocks shall be of such an amount per acre of such blocks as may be determined by the Commission pursuant to subsection (4) hereof, with the approval of the Minister.

(3) The rate on town allotments, factory sites, and other lands (not being blocks) within the irrigation area shall be of such an amount in the Pound of the unimproved value of the land, as defined by the Taxation Act, 1915, as may be determined by the Commission pursuant to subsection (4) hereof.

No. 1200 of 1915.

(4) Such rates shall be of such respective amounts as the Commission determines and as will be sufficient, in the opinion of the Commission, to pay for the supply of water, including therein any or all of the following:—

- (a) the cost of cleansing, repairing, and maintaining the works necessary for such water supply;
- (b) the expenses connected with the care, control, and management of such works; and
- (c) interest at the fixed rate on the cost of construction of such works:

Provided that the annual rate in respect of any one piece of land shall not be less than One Pound.

(5) Notice of every irrigation rate declared by the Commission shall be published in the *Gazette*, and shall state the name of the irrigation area in respect of the lands in which such rate is declared, the amount in the Pound, or the amount per acre (as the case may be), of such rate, the period for which such rate is declared, the time and place where the rate is payable, and the quantity of water to be supplied in respect of such rate.

(6) All

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DIVISION II.

(6) All irrigation rates shall be due and payable by and recoverable from the owners, lessees, and occupiers for the time being of the lands upon which the same are respectively declared, and shall, until payment, be a continual charge upon such lands, and no statute of limitations shall affect any action or other proceedings which may be brought for the recovery or enforcement of such rates. The Commission shall have the like powers of distress and sale in cases where rates are unpaid as are conferred upon the Commissioner of Waterworks by the Waterworks Act, 1882.

No. 269 of 1882.

(7) If any irrigation rate is not paid within one month after it falls due, interest at the rate of Five Pounds per centum per annum from the time when it falls due until payment thereof shall be added to the amount of such rate, and shall be payable by the person liable to pay such rate.

Cf. Taxation Act,
1915, s. 7.

(8) For the purpose of computing the rates payable in respect of any block, a fractional part of a rood, if equal to or exceeding twenty perches, shall be deemed to be a rood; but if less than twenty perches, shall not be taken into account.

Cf. 1178, 1914, s. 79.

87. (1) The Commission shall cause a book to be kept by the officer in charge of an irrigation area, to be called the Irrigation Rate Assessment Book, which shall contain the following particulars as to such area :—

Irrigation Rate
Assessment Book to
be kept.Cf. 1178, 1914, s. 33.
1496, 1921, s. 10.

- I. the names of the several owners, lessees, and occupiers of the ratable lands assessed, so far as known;
- II. short descriptions of, or references to, the ratable lands;
- III. the unimproved value of town allotments, factory sites, and other lands not being blocks, adopting the assessment for land tax purposes for the time being in force, with such adjustments as may be necessary where the ratable land does not include the whole of the land included in the land tax assessment; and
- IV. the area of blocks within such area.

(2) No person shall be entitled to appeal against the valuation of his land appearing in the assessment book, but if the valuation is reduced for any reason by the Commissioner of Taxes the assessment book shall be amended accordingly.

88. (1) Any person who is liable to pay any irrigation rate in respect of any ratable land, and who has paid such rate, shall be entitled in respect of such rate to a supply from the Commission during the period for which such rates were payable of such a quantity of water for such land as the Commission determines at the time of declaring such rate.

Ratepayers entitled
to water supply in
return for rates.
New.

(2) Such quantity may be determined by the Commission so as to vary according to the amount of the rate payable, the area of the ratable land, whether the ratable land is a block, town allotment, factory

factory site, or other land, or according to any other matter, with or without the fixing of any maximum quantity or quantities.

(3) For all water supplied to such land in excess of the quantity so determined by the Commission, the owner, lessee, or occupier thereof for the time being, shall be liable to the Commission as for water supplied to him by measure under section 89.

Power of
Commission to
supply water by
measure.

1178, 1914, s. 34.

89. (1) The Commission may supply water by measure to any person for such period, upon such conditions, and at such charges, as the Commission from time to time determines.

(2) When the Commission supplies water to any person outside an irrigation area, the person so supplied shall pay therefor such charges as are agreed upon, and such charges may be sued for and recovered by the Commission, or by any person authorised by the Commission in writing, as a debt due to the Commission, in any Court of competent jurisdiction, or summarily.

Commission may
proportionately
reduce supply of
water.

Cf. *ibid.*, s. 35.

90. (1) If at any time the supply of water at the disposal of the Commission is insufficient, in the opinion of the Commission, to afford the quantities to which all persons having claims thereto would, if the supply were sufficient, be respectively entitled, it shall be competent for the Commission to deliver to such persons such quantities of water as are then at their disposal in reduced proportions, according to the quantities which such persons would have respectively been entitled to receive if there had been sufficient water available; and the charges to such persons for water supplied by measure may be reduced accordingly.

(2) In the arrangement of the reduced proportions, the Commission may, if they think fit, assign greater proportional quantities to the owners, lessees, or occupiers of lands planted with fruit trees, vines, or other like plants than to the owners, lessees, or occupiers of lands planted or sown with plants cultivated for a single year's crop only.

Commission may
regulate supply of
water in event of
drought, &c.

Ibid., s. 36.

91. In the event of the supply of water available for any irrigation area falling short at any time of the quantity necessary to supply all the claims upon the Commission for water, in sufficient quantity to be of practical service, it shall be lawful for the Commission, whenever and as often as the Commission is satisfied of the actual or approaching insufficiency of such supply, from time to time to make, alter, and repeal orders which shall regulate the order of priority in which the various irrigation areas, bodies, and persons so entitled to water shall be entitled to be supplied.

PART VI.

LESSEES OF RECLAIMED LANDS LOAN FUND.

92. (1) The Lessees of Reclaimed Lands Loan Fund under the repealed Acts is hereby continued, but from the commencement of this Act shall be under the control of the Commission in place of the Minister of Irrigation.

Continuation of Lessees of Reclaimed Lands Loan Fund.

Cf. *ibid.*, s. 83.

(2) In addition to the moneys of which such Fund consists at the commencement of this Act, such Fund shall consist of such moneys as are provided by Parliament for the purposes mentioned in this Part of this Act.

(3) Such Fund may be used for the purposes of this Part of this Act.

(4) The Commission shall keep accounts showing all operations on the said Fund, as well as all moneys paid to and received from each lessee to whom any advances were made under the Irrigation and Reclaimed Lands Act, 1908.

Cf. 1166, 1914, s. 32.

93. (1) All moneys advanced or expended under Part V. of the Irrigation and Reclaimed Lands Act, 1908, or under sections 13 and 14 of the Irrigation and Reclaimed Lands Act Further Amendment Act, 1912, or under Part V. of the Irrigation and Reclaimed Lands Act, 1914, and all interest thereon, which at the commencement of this Act are due, owing, or payable, or after the commencement of this Act would, but for this Act, become due, owing, or payable, to the Minister of Irrigation, shall become and be due, owing, and payable to the Commission in substitution for the said Minister.

Past advances repayable to Commission.

(2) All moneys so advanced to any person, or so expended on the land held by any person, shall, for the purposes of this Act, be deemed to be an advance made to such person by the Commission.

94. (1) All agreements made with the Minister of Irrigation, and all mortgages and other securities granted to the Minister of Irrigation before the commencement of this Act to secure the repayment of money advanced or expended by the said Minister under Part V. of the Irrigation and Reclaimed Lands Act, 1908, or under sections 13 and 14 of the Irrigation and Reclaimed Lands Act Further Amendment Act, 1912, or under Part V. of the Irrigation and Reclaimed Lands Act, 1914, which are in force or subsisting at the commencement of this Act, shall, after the commencement of this Act, be deemed to have been made with or granted to the Commission in substitution for the said Minister.

Commission to take over rights of Minister under mortgages.

(2) Every such agreement, mortgage, and security shall be construed so as to give effect to this section.

(3) The Commission shall take and exercise in substitution all the powers, duties, rights, and immunities of the said Minister,
of

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of the Director of Irrigation, and of the Land Board and any member of the Land Board, under every such agreement, mortgage, and security.

Advances to Settlers on Crown Lands Act, 1914, not to operate within irrigation areas.

Amounts due to Advances to Settlers Board to be paid to Commission.

95. After the commencement of this Act no advance under the Advances to Settlers on Crown Lands Act, 1914, shall be made in respect of any holding situated in an irrigation area.

96. (1) All moneys advanced under the Advances to Settlers on Crown Lands Act, 1914, to settlers with respect to any land within an irrigation area, and all interest thereon, which at the commencement of this Act are due, owing, or payable, or, after the commencement of this Act, would, but for this Act, become due, owing, or payable, to the Advances to Settlers Board, shall become and be due, owing, and payable to the Commission in substitution for the Advances to Settlers Board.

(2) All moneys so advanced to any settler shall, for the purposes of this Act, be deemed to be advances made to such settler by the Commission.

(3) All moneys advanced under the Advances to Settlers on Crown Lands Act, 1914, to settlers with respect to any land within an irrigation area which, pursuant to subsection (1) hereof, become or will become due, owing, and payable to the Commission shall, at the commencement of this Act, be debited to the lessees of Reclaimed Lands Loan Fund under this Act and credited to the Advances to Settlers Fund under the Advances to Settlers on Crown Lands Act, 1914, and the interest on such moneys shall be adjusted as between the said two Funds accordingly.

Commission to take over powers of Advances to Settlers Board under mortgages of irrigation lands.

97. (1) All mortgages of land within an irrigation area and all other securities in respect of any such land which were granted before the commencement of this Act to the Advances to Settlers Board as security for advances under the Advances to Settlers on Crown Lands Act, 1914, shall, after the commencement of this Act, be deemed to have been granted to the Commission in substitution for the Advances to Settlers Board.

(2) Every mortgage or other security made as security for such an advance shall be construed so as to give effect to this section.

(3) The Commission shall take and exercise in substitution all the powers, duties, rights, and immunities of the Advances to Settlers Board under every such mortgage or other security.

Principal moneys repaid to form part of Fund.

Cf. 1178, 1914, s. 84.

98. (1) All moneys received by the Commission in repayment of any advances to lessees made under Part V. of the Irrigation and Reclaimed Lands Act, 1908, and all moneys received by the Commission as deposits or premiums in respect of, or in repayment (wholly or in part) of, moneys advanced or expended by the Minister pursuant to sections 13 and 14 of the Irrigation and Reclaimed Lands Act Further Amendment Act, 1912, or to sections 85 and 86 of

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of the Irrigation and Reclaimed Lands Act, 1914, and all moneys received by the Commission pursuant to section 96 of this Act, and all moneys received by the Commission as deposits or premiums in respect of, or in repayment (wholly or in part) of, moneys advanced or expended by the Commission pursuant to this Part of this Act, shall be paid to the credit of the said Fund, and shall form part thereof.

(2) Moneys received as interest shall be paid to the Treasurer in aid of the General Revenue of the State.

Interest to be paid to Revenue.

99. (1) The Commission may, upon an irrigation area being proclaimed, improve such area or any portion or portions thereof by fencing, clearing, grading, and channelling, and by effecting such other improvements as they think fit.

Commission may effect improvements before leasing.

Cf. *ibid.*, s. 86.

(2) No lease shall be granted of any portion so improved unless the proposed lessee has paid, by way of premium for such lease, a sum equal to not less than fifteen per centum of such proportion of the amount expended by the Commission in improving such area as, in the opinion of the Commission, is attributable to the land to be comprised in such lease, and has executed a mortgage to the Commission in the prescribed form to secure the payment of the balance of the said proportion of the amount so expended.

(3) The proportion of the amount expended by the Commission under this section which is attributable to the land comprised in the lease shall be deemed to be an advance made by the Commission to the lessee with respect to such land, and the advance shall be deemed to be made on the granting of the lease.

100. (1) The Commission, upon the application, in the prescribed form, of any lessee of land in an irrigation area, may expend a sum not exceeding Thirty Pounds per acre of the irrigable land in such lessee's block in making the following improvements, or any of them, namely:—Fencing, clearing, and grading such lessee's block, and constructing channels, drains, and tanks thereon, and connecting such channels or drains with the nearest main channel or drain.

Commission may expend moneys in certain improvements.

Ibid., s. 85.

1496, 1921, s. 12 (2).

(2) The Commission shall not commence work on any block until the lessee has paid a deposit equal to not less than fifteen per centum of the Commission's estimate of the cost of carrying out such improvements, and has entered into an agreement with the Commission, in the prescribed form, agreeing to repay in manner prescribed all moneys expended by the Commission in making and carrying out such improvements, and to secure the repayment thereof by executing a mortgage to the Commission over such block.

(3) The moneys expended by the Commission under this section on any block shall be deemed to be an advance made by the Commission to the lessee with respect to such block, and the advance shall be deemed to be made on the date specified in or determined pursuant to the agreement, and by such instalments (if any) as are agreed upon therein.

101. (1) Subject

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Commission may
make advances to
lessees.

Cf. 1166, 1914, s. 14.

101. (1) Subject to the provisions of this Act, the Commission may, in its discretion, make advances to any lessee of land in any irrigation area on the prescribed security for any or all of the following purposes :—

- I. The clearing, grubbing, fencing, grading, irrigating, and general improvement of the land :
- II. The construction of channels, drains, or tanks on the land, and the connection of such channels or drains with the nearest main channel or drain :
- III. The erection of buildings on the land :
- IV. The purchase of implements, stock, seeds, plants, trees, and such other things as may be deemed necessary for the successful occupation and cultivation of the land :
- V. The discharge of any mortgage existing on the land :
- VI. Any other purpose.

(2) Advances may be made for the purposes mentioned in subdivisions I., II., or III. of subsection (1) hereof of any amount not exceeding Six Hundred and Fifty Pounds up to the fair estimated aggregate value of the lease and any improvements already made on the land and those in course of being made thereon.

(3) Advances may be made under subdivision IV. of subsection (1) hereof of any amount not exceeding Two Hundred Pounds.

(4) Advances may be made under subdivisions V. and VI. of subsection (1) hereof of any amount not exceeding three-fourths of the fair estimated aggregate value of the lease and any improvements already made on the land.

(5) When any land is held by two or more persons, each of such persons shall, for the purpose of estimating the limit of the amount of the advances which may be made to him, be deemed to be one lessee ; and for the said purpose the improvements on the land, or in course of being made thereon, shall be deemed to belong to such persons in the proportions of their respective interests in the lease under which they hold.

Limits of amount
to be advanced or
expended.

Cf. *ibid.*, s. 14 (5).
Cf. 1178, 1914, s. 85.

102. The total amount of moneys advanced or expended under this Act, the repealed Acts, and the Advances to Settlers on Crown Lands Act, 1914, with respect to any one piece of land within an irrigation area, shall not exceed an aggregate sum of Six Hundred Pounds or an aggregate sum of Thirty Pounds per acre of the irrigable portion of the land, whichever sum is the greater.

Applications for
advance.

Cf. 1166, 1914, s. 15.

103. Every application for an advance shall—

- (a) be made to the Commission, and in the prescribed form, and shall contain such particulars as are prescribed :
- (b) be supported by such (if any) evidence as is prescribed, or as the Commission requires.

104. (1) Any

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104. (1) Any advance may be made by instalments, subject to anything prescribed in that behalf, as the improvements are being effected.

Advances by instalments.
Cf. *ibid.*, s. 16.

(2) If at any time, in the opinion of the Commission, any advance, or instalment thereof, has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, the Commission may refuse to pay any further instalment of the proposed advance, and may at once call in the whole amount already advanced, whereupon the lessee shall forthwith repay the same, and in default the Commission shall have the same remedies for the recovery of the same as are provided by this Act for the recovery of sums payable by the lessee.

105. (1) No advance shall be made to any lessee except upon the security of a mortgage or mortgages in the prescribed form to the Commission of his lease, and his estate and interest in the land, as well as of the improvements already thereon, and the improvements with respect to which such advance is made, with or without such additional security as to the Commission seems fit. The lessee may, notwithstanding any enactment or law or anything in his lease to the contrary, lawfully execute such mortgage or other security.

Advance to be secured by mortgage.
Cf. *ibid.*, s. 18.

(2) The provisions of the Bills of Sale Act, 1886, shall not apply to any mortgage or other security executed under the provisions of this Act, or affect the validity of any such mortgage or security in respect of any chattels comprised therein.

No. 389 of 1886.

106. No moneys shall be expended or advanced on or with respect to any property which is encumbered by any previous mortgage or charge, other than a mortgage or charge under this Act or any of the repealed Acts or the Advances to Settlers on Crown Lands Act, 1917, or the Discharged Soldiers Settlement Act, 1917, or a charge in favor of the Crown; but a second mortgage may be taken as collateral security.

Advances only to be made on first mortgage.
Cf. 1166, 1914, s. 19.

107. (1) For the period of five years next following the date on which an advance is made, the lessee shall pay to the Commission interest on the advance at the fixed rate.

Repayment of advance.
Cf. *ibid.*, s. 21.
1198, 1915, s. 4.

(2) Such interest shall be payable half-yearly, the first payment to be made on the first day of the seventh calendar month commencing next after the advance is made.

Cf. 1178, 1914, s. 87.

(3) If any advance is made by instalments, interest shall be calculated on the actual amounts of the several instalments of such advance from the date when such instalments are respectively advanced.

(4) After the expiration of the said period of five years the lessee shall repay the advance to the Commission by seventy equal half-yearly instalments, together with simple interest on the balance of the advance for the time being unpaid at the fixed rate.

(5) The

(5) The first of such half-yearly instalments shall be paid on the first day of the sixth calendar month commencing next after the day upon which the last payment of interest is to be made under subsection (2) hereof.

(6) When any half-yearly payment required by this section is made within fourteen days next after the day upon which the same is required to be made, a rebate of interest at the rate fixed under section 138 which was in force at the time when the advance was made shall be allowed to the lessee.

(7) Any advance may, at the option of the lessee, be repaid at any time sooner than is herein provided, or be repaid in larger instalments.

(8) The provision of this section shall apply only to and in respect of advances made after the commencement of this Act.

Commission to determine mode of repayment of chattel advances.

Cf. 1166, 1914, s. 22.

108. When an advance has been made to a lessee for any of the purposes mentioned in subdivision iv. of subsection (1) of section 101, such lessee shall repay to the Commission such advance, together with simple interest on the balance thereof for the time being unpaid at the fixed rate, within such time and by such instalments and subject to such conditions as the Commission determines.

Breach of agreement or mortgage to render lease liable to forfeiture.

Ibid., s. 25.

1178, 1914, s. 88.

109. Any breach by the lessee in any of the terms, conditions, or covenants of any agreement, mortgage, or other security for the repayment of any advance shall be deemed a breach of the conditions of his lease, and shall render the lease liable to be cancelled or forfeited or, at the Minister's option, to be sold and transferred, in the same manner as Crown leases when rent is in arrear.

Remedies for recovery of instalments.

Cf. 1166, 1914, s. 26.

110. (1) In addition and without prejudice to any other remedy, if at any time any half-yearly payment required by this Act, or any part thereof, is unpaid for thirty days next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Commission may enter upon the land charged, or any part thereof, and recover the amount due by distress and sale of any goods and chattels on such land, or such amount may be recovered in any Court of competent jurisdiction by action, in the name of the Commission, from the lessee or occupier of such land for the time being.

(2) If at any time any half-yearly payment required by this Act, or any part thereof, is unpaid for three months next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Commission may enter upon and take possession of the land with respect to which the advance has been made, and may sell the estate and interest therein of the lessee and his lease, either by private sale or public tender or auction, and subject to any conditions of sale they think expedient, and after such notice of the time, place, terms, and conditions of sale as they may think just and expedient, and may transfer such land and the lease to the purchaser and give a good and valid title thereto.

(3) The

(3) The Commission shall apply the proceeds derived from such sale in payment, in the first instance, of all moneys due in respect of such land, and in redemption of any amount charged thereon in favor of the Commission, or of so much thereof as remains unpaid, and of all expenses incurred by the Commission in relation to such sale or otherwise with respect to such land, and shall pay the balance (if any) to the persons appearing to the Commission to be entitled to receive the same.

111. (1) The lessee of any land within an irrigation area over which a mortgage or other security has been given under the provisions of this Act, or any of the repealed Acts, or the Advances to Settlers on Crown Lands Act, 1914, shall, during the continuance of the same, to the satisfaction of the Commission keep in good and tenable repair all buildings, fences, fixtures, and improvements upon the land comprised in such mortgage or other security.

Mortgagor to effect necessary repairs.

Cf. *ibid.*, s. 27

(2) If, after the expiration of two months' notice in writing by the Commission, any lessee has not complied with the requirements of this section—

- (a) the like consequences shall follow as are provided by sections 109 and 110 in case of breach of the terms or conditions of the mortgage or other security, or default made in the payment of any interest or instalment payable under the provisions of this Act; or
- (b) any person authorised for that purpose by the Commission may enter upon the land and effect all repairs which he deems necessary; and the expense thereby incurred, with interest at the same annual rate as that which is payable on the advance, shall be repaid on demand to the Commission by the lessee, and until repayment shall be a charge under the mortgage or other security upon the land.

112. (1) As between the Commission and the lessee of any land within an irrigation area with respect to which an advance has been made, the following conditions shall be imposed so long as the land is subject to any charge in favor of the Commission, namely:—

Conditions annexed to land while subject to advances.

1166, 1914, s. 28.

1178, 1914, s. 91.

- I. Such land shall not be sublet or let by such lessee, nor shall his lease be transferred, without the consent of the Commission:
- II. Every sublease or transfer contrary to the provisions of this section shall be void and of no effect:
- III. If such lessee sublets or lets such land, or any part thereof, or transfers his lease, in contravention of the provisions of this section, the Commission may cause the lessee's estate and interest in the land, and his lease, to be sold:

IV. When

iv. When the title to the lease is divested from such lessee under any law relating to insolvency, the Commission may cause the lessee's estate and interest in the land, and his lease, to be sold.

(2) The provisions of section 110, as to sale and application of proceeds of sale, shall apply to every sale made under the provisions of this section.

Extension of time for payment.

Cf. *ibid.*, s. 89.

Cf. 1166, 1914, s. 29.

113. In cases of hardship the Commission may extend the time for making any payment in respect of any advance: Provided that the deferred payments shall bear interest at a rate which is One Pound per centum per annum in excess of the fixed rate.

Arrears to bear interest.

New.

114. If any payment in respect of any advance is in arrear three months after the due date for payment thereof, then such payment shall bear interest from the due date for payment thereof at a rate which is One Pound per centum per annum in excess of the fixed rate.

Capitalization of overdue interest.

Cf. 1198, 1915, s. 6.

115. (1) The amount of any interest due and unpaid under a mortgage or other security granted to or enforceable by the Commission as security for the repayment of any advance may, at the option of the Commission, be capitalized and added to the advance; and every such mortgage or other security shall be deemed to provide for such capitalization and addition.

(2) When any addition is made under this section the amount added shall be repayable as if it were a further advance: Provided that the instalments in repayment thereof—

(a) shall be payable at the same times as the instalments in repayment of the advance to which the addition is made; and

(b) shall be of such number that the last of them shall be payable at the same time as the last instalment in repayment of the advance to which the addition is made.

Commission to obtain reports as to expenditure of advances.

Cf. 1166, 1914, s. 30.

116. The Commission from time to time shall obtain reports from the officers of the Commission as to the manner in which advances and instalments of advances have been expended and used by the lessees, and as to the state and condition of the improvements for the purpose of which such advances and instalments have been paid, or the money has been expended by the Commission, and generally as to the state and condition of the land with respect to which such advances and instalments have been paid, or the money expended.

Lessee not to remove, destroy, or injure improvements.

Cf. 1178, 1914, s. 90.

117. While any principal or interest moneys remain owing by any lessee in respect of any advance, the lessee shall not pull down or remove, or suffer to be pulled down or removed, or alter, or destroy, damage, or injure, or suffer to be altered, destroyed, damaged,

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damaged, or injured, any permanent building, erection, or fence, or any drain, dam, embankment, windmill, or other water improvement, erected or made upon the land comprised in his lease, without the consent in writing of the Commission thereto.

118. (1) The Commission shall keep a register or list of all advances, with the names of the lessees to whom the advances have been made, and also an alphabetical index of the names of such persons.

Register of advances to be kept for inspection.
1166, 1914, s. 31.

(2) Such register or list and index shall be open to public inspection on payment of a fee of One Shilling.

PART VII.

PART VII.

POWERS, DUTIES, AND FUNCTIONS OF THE MINISTER OF IRRIGATION AND OF THE COMMISSION UNDER OTHER ACTS.

DIVISION I.—UNDER THE CROWN LANDS ACT, 1915.

DIVISION I.

119. (1) Notwithstanding anything contained in the Crown Lands Act, 1915, the said Act shall, so far as it concerns or affects any lands within an irrigation area, be administered by the Minister of Irrigation and not by the Commissioner of Crown Lands.

Crown Lands Act, 1915, to be administered by Minister of Irrigation within irrigation areas.

(2) All the powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, and duties of the Commissioner of Crown Lands arising under the Crown Lands Act, 1915, or under any other Act passed before the commencement of this Act, or under any document or instrument of any kind whatsoever in force or subsisting at such commencement, whether arising before or after such commencement, are hereby, so far as they concern or affect any land within an irrigation area, transferred to the Minister of Irrigation.

120. All the powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, and duties arising under the Crown Lands Act, 1915, or any other Act passed before the commencement of this Act, or under any document or instrument of any kind whatsoever in force or subsisting at such commencement, whether arising before or after such commencement, of the Land Board, of the Chairman of the Land Board and of any member of the Land Board, are hereby, so far as they concern or affect any land within an irrigation area, transferred to the Commission, to the Chairman of the Commission, and to any member of the Commission respectively: Provided that, for the purposes of this section, the Chairman of the Commission shall have a deliberative vote only.

Functions of Land Board within irrigation areas to be discharged by Commission.

121. In any deed, lease, agreement, licence, permit, transfer, mortgage, or other document or instrument of any kind whatsoever in force or subsisting at the commencement of this Act, which concerns

Consequential amendments in Acts and instruments.

concerns or affects any of the matters or things transferred by section 119 or 120, and in any Act passed before such commencement,—

- (a) every reference to the Commissioner of Crown Lands shall, so far as it concerns or affects any matter or thing transferred by either of the said sections, be read and construed as a reference to the Minister of Irrigation ;
- (b) every reference to the Land Board shall, so far as it concerns or affects any matter or thing transferred by either of the said sections, be read and construed as a reference to the Commission ;
- (c) every reference to the Chairman of the Land Board shall, so far as it concerns or affects any matter or thing transferred by either of the said sections, be read and construed as a reference to the Chairman of the Commission ; and
- (d) every reference to any member of the Land Board shall, so far as it concerns or affects any matter or thing transferred by either of the said sections, be read and construed as a reference to any member of the Commission.

Commission may recommend acquisition of land to come under this Act.

122. (1) The Commission may at any time make a recommendation to the Commissioner of Crown Lands that—

- (a) any land suitable for reclamation or irrigation and adjacent to the River Murray, or adjoining land adjacent to the River Murray ; or
- (b) any land capable of being rendered suitable for extension of agriculture or closer settlement by means of irrigation with water from the River Murray, wherever such land is situated,

should be acquired under the provisions of Part X. of the Crown Lands Act, 1915, for the purposes of extension of agriculture and closer settlement.

(2) The Commission may at any time cancel or vary any such recommendation, unless the Commissioner of Crown Lands has commenced to act upon such recommendation.

(3) A certificate by the Commission stating—

- (a) that any land is or is not suitable for reclamation or irrigation, or is or is not adjacent to the River Murray, or does or does not adjoin land adjacent to the River Murray ; or
- (b) that any land is or is not capable of being rendered suitable for extension of agriculture or closer settlement by means of irrigation with water from the River Murray,

shall be conclusive as to the matters so stated.

(4) For

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DIVISION I.

(4) For the purposes of this section land shall not be deemed not to adjoin other land merely because separated therefrom by a public or other road or by a stream or watercourse (other than the main stream of the River Murray).

123. Upon the making of any recommendation and certificate referred to in section 122, and whilst such recommendation remains in force, all the provisions of Part X. of the Crown Lands Act, 1915, shall apply to and in respect of the land specified in the recommendation, and—

Effect of such
recommendation.

(a) the Commissioner of Crown Lands may acquire such land and any other land which the said Commissioner is required under the said Part X. to take in conjunction with such land without any further or other recommendation or certificate; and

(b) for the purposes of such acquisition the Commission shall have and may exercise in substitution all the powers, authorities, and functions of the Land Board, the Surveyor-General, the Director of Irrigation, and the Engineer-in-Chief under the said Part X.

124. (1) In any case where the owner of any land in respect of which a notice has been given under section 165 of the Crown Lands Act, 1915, has given notice to the Commissioner of Crown Lands under section 169 of the said Act requiring him to take all lands specified in the last-mentioned notice of which he is the owner, and which adjoin and are occupied together with the land comprised in the said notice under the said section 165, the said Commissioner may, at any time before proceedings are commenced for ascertaining by arbitration, as mentioned in section 172 of the said Act, the amount of the purchase price to be paid for the whole of the land together comprised in the said notices together with the improvements thereon, by notice to the owner revoke any notice already given or deemed to be given to such owner under the said section 165.

If owner requires
whole estate to be
taken, Minister may
withdraw.

(2) Subject to the provisions of subsection (1) hereof, the Commissioner shall revoke any such notice already given or deemed to be given if the Commission makes a recommendation to him to do so.

(3) If a copy of the notice so revoked has been sent to the Registrar-General, a copy of the notice of revocation under subsection (1) of this section shall also be sent to the Registrar-General, and shall be noted or registered (as the case requires) by him in the same manner as the said notice so revoked.

(4) The owner of any land in respect of which a notice has been revoked under subsection (1) of this section shall not have any claim
against

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DIVISION I.*Irrigation Act.—1922.*

against the said Commissioner for specific performance, damages, or any other remedy by reason—

- (a) of the giving of the notice so revoked ; or
- (b) of the revocation of the said notice.

Provisions as to receipt of rents not to apply to lands acquired pursuant to this Part.

125. Division V. of Part X. of the Crown Lands Act, 1915, shall not apply to or in respect of any land acquired as aforesaid pursuant to this Part of this Act.

Land acquired to be an irrigation area.

126. Any land acquired as aforesaid pursuant to this Part of this Act shall, upon such acquisition, be proclaimed an irrigation area or be added to an existing irrigation area.

Statement to be laid before Parliament.

127. The annual statement required by section 193 of the Crown Lands Act, 1915, to be prepared by the Secretary for Lands shall, so far as regards lands repurchased on the recommendation of the Commission pursuant to this Part of this Act, be prepared by the Commission and not by the Secretary for Lands.

DIVISION II.

DIVISION II.—UNDER THE DISCHARGED SOLDIERS SETTLEMENT ACT, 1917.

Discharged Soldiers Settlement Acts to be administered by Minister of Irrigation.

128. (1) Notwithstanding anything contained in the Discharged Soldiers Settlement Act, 1917 (hereinafter in this Division sometimes referred to as “the said Act”), the said Act, so far as it concerns or affects—

- (a) any land within an irrigation area ;
- (b) any land over which any person has been granted a lease, agreement, or permit under or pursuant to the said Act, or with respect to which any advance has been made under the said Act, such land being irrigated by water from the River Murray not supplied by the Commissioner of Waterworks or by the Commissioner of Water Conservation ;
- (c) any training farm, store, shed, factory, or building on any such land ; or
- (d) any advance under the said Act with respect to any such land,

shall be administered by the Minister of Irrigation and not by the Minister of Repatriation: Provided that the powers, duties, authorities, and functions of the Minister of Repatriation under sections 3 to 22 (both inclusive) of the Discharged Soldiers Settlement Act Further Amendment Act, 1919, shall not be exercised or discharged by the Minister of Irrigation, but shall continue to be exercised and discharged by the Minister of Repatriation.

No 1388 of 1919.

(2) Any

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(2) Any land mentioned in subsection (1) hereof, and any training farm, store, shed, factory, building, or any other property (real or personal) of any kind whatsoever on any such land which, at the commencement of this Act, is vested in, or is the property of, the Minister of Repatriation, whether in his personal or corporate capacity, is hereby transferred to, and shall be vested in or shall be the property of, the Minister of Irrigation.

(3) All the powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, and duties of the Minister of Repatriation and of the body corporate constituted by the Discharged Soldiers Settlement Act, 1917, under the name of the Minister of Repatriation, arising under the said Act or any other Act passed before the commencement of this Act, or under any document or instrument of any kind in force or subsisting at such commencement, whether arising before or after such commencement of this Act, so far as they concern or affect—

- (a) any land within an irrigation area ;
- (b) any land over which any person has been granted a lease, agreement, or permit under or pursuant to the said Act, or with respect to which any advance has been made under the said Act, such land being irrigated by water from the River Murray not supplied by the Commissioner of Waterworks or by the Commissioner of Water Conservation ;
- (c) any training farm, store, shed, factory, or building on any such land ; or
- (d) any advance under the said Act with respect to any such land,

are hereby transferred to the Minister of Irrigation.

129. All moneys advanced or expended by the Minister of Repatriation under the Discharged Soldiers Settlement Act, 1917, by way of an advance under that Act to any discharged soldier with respect to—

Advances to discharged soldiers on irrigation lands repayable to Minister of Irrigation.

- (a) any land within an irrigation area ; or
- (b) any land over which any person has been granted a lease, agreement, or permit under or pursuant to the said Act, or with respect to which any advance has been made under the said Act, such land being irrigated by water from the River Murray not supplied by the Commissioner of Waterworks or by the Commissioner of Water Conservation,

and all interest thereon, which moneys, at the commencement of this Act, are due, owing, or payable, or, after the commencement of this Act, would, but for this Act, become due, owing, or payable, to the Minister of Repatriation shall become and be due, owing and payable to the Minister of Irrigation in substitution for the Minister of Repatriation.

130. All

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Irrigation Act.—1922.

Functions of Land Board under Discharged Soldiers Settlement Act transferred to Commission.

130. All the powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, and duties of the Land Board, of the Chairman of the Land Board, and of any member of the Land Board, arising under the Discharged Soldiers Settlement Act, 1917, or under any other Act passed before the commencement of this Act, or under any document or instrument of any kind whatsoever in force or subsisting at such commencement, whether arising before or after such commencement, so far as they concern or affect—

- (a) any land within an irrigation area ;
- (b) any land, wherever situated, over which any person has been granted a lease, agreement, or permit under or pursuant to the said Act, or with respect to which any advance has been made under the said Act, such land being irrigated by water from the River Murray not supplied by the Commissioner of Waterworks or by the Commissioner of Water Conservation ;
- (c) any training farm, store, shed, factory, or building on any such land ; or
- (d) any advance under the said Act with respect to any such land,

are hereby transferred to the Commission, to the Chairman of the Commission, and to any member of the Commission, respectively : Provided that for the purposes of this Act—

- (a) no Inspector of Lands shall be a member of the Commission for the purposes of the said Act ; and
- (b) it shall not be necessary for any recommendation of the Commission to be concurred in by an Inspector of Lands.

Consequential amendments to Acts and instruments.

131. In any deed, lease, agreement, licence, permit, transfer, mortgage, or other document or instrument of any kind whatsoever in force or subsisting at the commencement of this Act, which concerns or affects any of the matters or things by sections 128, 129, and 130 transferred to the Minister of Irrigation, to the Commission, to the Chairman of the Commission, or to any member of the Commission, and in any Act passed before the commencement of this Act—

- (a) every reference to the Minister of Repatriation, whether in his personal or corporate capacity, shall, so far as it concerns or affects any matter or thing transferred by any of the said sections, be read and construed as a reference to the Minister of Irrigation ;
- (b) every reference to the Land Board shall, so far as it concerns or affects any matter or thing transferred by any of the said sections, be read and construed as a reference to the Commission ;

(c) every

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DIVISION II.

- (c) every reference to the Chairman of the Land Board shall, so far as it concerns or affects any matter or thing transferred by any of the said sections, be read and construed as a reference to the Chairman of the Commission; and
- (d) every reference to any member of the Land Board shall, so far as it concerns or affects any matter or thing transferred by any of the said sections, be read and construed as a reference to any member of the Commission.

132. The annual reports required by section 17 of the Discharged Soldiers Settlement Act, 1917, and by section 19 of the Discharged Soldiers Settlement Act Amendment Act, 1919, shall, so far as regards the administration by the Minister of Irrigation of the Discharged Soldiers Settlement Act, 1917, be prepared and presented by the Commission and not by the Minister of Repatriation.

Annual report to be prepared by Commission as to lands administered by them.

DIVISION III.—UNDER THE CONTROL OF WATERS ACT, 1919.

DIVISION III.

133. The Commissioner of Public Works shall not grant any application or licence, or direct any licence to be issued, under the provisions of the Control of Waters Act, 1919, in respect of the River Murray, except upon the recommendation of the Commission.

Commissioner of Public Works to act only on Commission's recommendation.

PART VIII.

PART VIII.

REGULATIONS.

134. (1) In addition to any power by any other section of this Act conferred on the Governor to make regulations as to any matter (which power shall in every case be implied for the purposes of any section in which regulations are referred to, or in which the word "prescribed" is used), the Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of this Act, or for better effecting the objects of this Act, and in particular (without limiting the effect of this section) for all or any of the following purposes, namely—

Governor may make regulations. 1178, 1914, s. 92. Cf. *ibid.*, s. 94.

- I. regulating the duties, powers, authorities, and privileges of all persons employed in the administration of this Act:
- II. regulating the meetings and proceedings of ratepayers:
- III. regulating the supply and distribution of water upon irrigation areas:
- IV. regulating

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Irrigation Act.—1922.

- IV. regulating the management of irrigation areas, and all improvements thereon, and the employment, duties, and privileges of owners, lessees, and occupiers of land :
- V. regulating the irrigation water supply and the flow of irrigation and drainage waters into, in, or through any channel, flume, or pipe, and the disposal of such waters :
- VI. regulating the fencing of supplies of water by owners, lessees, and occupiers of land :
- VII. regulating the making and dealing with applications, fixing of boundaries, areas, rents, and purchase-money and the making of surveys :
- VIII. regulating the form and contents of notices, applications, leases, licences, and all other instruments and documents, and the mode of executing, serving, or delivering the same :
- IX. regulating the making of assessments, and the declaring and recovery of rates :
- X. regulating transfers, transmissions, and forfeitures :
- XI. regulating the erection or carrying out of any buildings, sheds, or other improvements on any block, town allotment, factory site, or other land within irrigation areas :
- XII. regulating the time and manner in which any act, deed, matter, or thing required by this Act to be done, and as to which no time or procedure is provided, is to be done or performed :
- XIII. fees to be paid and charges to be made :
- XIV. prescribing the mode in which applications for advances are to be made :
- XV. regulating the consideration and granting of applications for advances :
- XVI. prescribing what inquiries and valuations shall be made in relation to applications for advances :
- XVII. adding to or altering the list of improvements for the making of which advances may be made :
- XVIII. prescribing the mode in which the value of improvements shall be determined :
- XIX. prescribing the forms of mortgages and securities to be taken by the Commission, and providing for the registration of such mortgages and securities :
- XX. prescribing the records, books, and accounts to be kept by the Commission :
- XXI. providing for the receipt and payment of moneys under this Act, and the safe custody of securities :
- XXII. prescribing

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- XXII. prescribing the fees to be paid in respect of advances :
- XXIII. rescinding or varying any by-law :
- XXIV. prescribing all other matters and things not herein expressly provided for which may be necessary or convenient for fully and effectively carrying out and giving full force and effect to the various objects, purposes, powers, and authorities of this Act, and guarding against evasions and violations thereof :
- XXV. prescribing penalties for breaches of any such regulations, and additional penalties for a repetition or continuance of any such breach : Provided that the penalty for any single breach shall not exceed in any case Twenty Pounds, nor for any continuance Two Pounds for each day of such continuance.
- (2) All such regulations shall be made on the recommendation of the Commission.

PART IX.

PART IX.

MISCELLANEOUS.

135. (1) Every irrigation area shall be deemed to be a District Council District under the District Councils Act, 1914, and the Commission shall be deemed to be the District Council under the District Councils Act, 1914, of each such District Council District, and with respect to such district shall have and may exercise all the powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, and duties which by the said Act are conferred or imposed upon the Council of a District Council District.

Commission to be a District Council for irrigation areas outside District Council Districts.
Cf. 1178, 1914, s 97 (2) (3).

(2) If an irrigation area or any portion thereof is, or becomes, situated within the boundaries of any District Council District, then the provisions of subsection (1) hereof shall not apply, or shall cease to apply, in respect of such irrigation area or portion.

136. (1) Notwithstanding anything contained in the District Councils Act, 1914, the Commission may, for the carrying out of any purpose within any town, cause an assessment to be made of, and declare and levy a special rate on, the ratable property in any town in any irrigation area, without obtaining the consent of the ratepayers, and notwithstanding that such assessment or rate has not been declared or levied in respect of the remainder or any other portion of such irrigation area.

Commission may levy special rates on town land.
Cf. 1182, 1914, s. 176.

(2) The Commission may declare and cause to be collected a special sanitary rate within any town in any irrigation area or within any portion of any irrigation area, notwithstanding that such sanitary rate is not declared or collected in respect of the remainder or any other portion of such irrigation area.

137. (1) The

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Treasurer may fix rate of interest.
1309, 1917, s. 3.
1198, 1915, s. 3 (1).

137. (1) The Treasurer may from time to time, by notice published in the *Government Gazette*, fix the annual rate of interest for the purposes of this Act, and may in the same manner annul any rate so fixed.

(2) Any such notice may provide for a rebate of such interest on condition of prompt payment of principal or of interest or on any other condition, and any provision of any mortgage or other security giving effect to any such rebate shall be valid.

(3) Any rate so fixed shall come into force on the fourteenth day after the date of the *Government Gazette* in which the same is published, and shall continue in force until the fourteenth day after the date of the *Government Gazette* in which the notice annulling the same is published.

Water may be taken from River Murray or other water.
1178, 1914, s. 98.

138. All water required by the Commission for the purposes of this Act may be taken from the River Murray, or any other river or watercourse, or from any creek, stream, lagoon, or other water within any irrigation area.

No damages recoverable by lessees on shortage of supply of water.
Ibid., s. 100.

139. Notwithstanding anything contained in this Act or in any lease or agreement, the Commission shall not be liable to any penalty or damages or to pay any compensation for not supplying water to any person if the want of such supply arises from drought, low river, influx of salt water, or the pollution of water, or from any other unavoidable cause or accident.

No liability for damage through insufficiency of water, or floods.
Ibid., s. 101.

140. (1) Nothing in this Act shall render the Commission or the Government of the State liable for damages consequent upon the insufficiency of water, or for injury to any land or other property which happens through or by such insufficiency, or through or by floodwaters or the overflowing of any river.

(2) Nothing in this Act shall render the Commission or the Government of the State liable for injury happening through or by the breaking of any dam, bank, watercourse, channel, drain, or sluice, unless such injury arises through neglect to keep such dam, bank, watercourse, channel, drain, or sluice in repair, and unless the occupier of the land or property injured had given written notice to the Commission warning them of the probability of such injury, and the Commission neglected within a reasonable time thereafter to make any reasonable repair of such dam, bank, watercourse, channel, drain, or sluice; and in such case the remedy shall be only against the Commission, and not against the individual Commissioners.

Provision as to powers and functions transferred.

141. When in this Act any provision is made for the transfer to, or the taking in substitution by, the Minister of Irrigation, the Commission, the Chairman of the Commission, or any member of the Commission of any powers, immunities, rights, interests, titles, privileges, functions, authorities, obligations, liabilities, or duties, such provision shall be construed as also providing that the matters

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or things so transferred or taken in substitution shall be vested in, conferred on, exercisable or enjoyable by, imposed on, or discharged by the Minister, the Commission, the Chairman of the Commission, or any member of the Commission, as the case may be, subject to the provisions of this Act.

142. (1) Notwithstanding anything contained in the Licensing Act, 1917, no licence for the sale of liquor shall be granted under the said Act to any person in respect of any premises situated within an irrigation area and not at the time of the passing of this Act licensed under the said Act for the sale of liquor, unless a petition is signed by a majority of the lessees in the area approving of the issue of such licence in such area: Provided that no such licence shall be issued for a period of at least two years after the commencement of this Act.

Licences for sale of liquor not to be granted without consent of a majority of the lessees.
1399, 1919, s. 4.

(2) In this section "lessee" means the lessee of an irrigation block or town allotment, and includes the wife of a lessee.

PART X.

PART X.

LEGAL PROCEDURE.

143. The production of a copy of the *Gazette* in which is published any proclamation, regulation, by-law, notice, appointment, or other notification, made or given, or purporting to be made or given, pursuant to this Act or any of the repealed Acts, shall be conclusive evidence in all Courts and before all tribunals that such proclamation, regulation, by-law, notice, appointment, or notification was duly made or given and is of full force and effect, and of the contents thereof, and of the matters stated, recited, or assumed therein.

Gazette to be evidence.
1178, 1914, s. 104.

144. No proclamation shall be invalid by reason of anything required as preliminary thereto not having been done, or not having been duly done.

Proclamation not invalid for preliminary defect.
Ibid., s. 105.

145. Every notice, document, or other writing requiring to be authenticated by the Commission may be sufficiently authenticated without the common seal of the Commission, if signed by the Chairman or by any two Commissioners.

Documents of Commission, how verified.
Ibid., s. 106.

146. (1) Service of any document on the Commission may be effected by giving the same personally to the Chairman or any Commissioner, or by leaving it at the office of the Commission with some adult person employed therein.

Service of notices.
Cf. *ibid.*, s. 107.

(2) Any notices required to be given, sent, or delivered by the Commission for the purposes of this Act may be given by post.

New.

147. Any offence against this Act for which no punishment is specified shall be punishable by a penalty not exceeding Twenty Pounds.

Penalty where none specified.
Ibid., s. 110.

148. Proceedings

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Who may lay informations, and hearing of same.
Cf. *ibid.*, s. 111.

148. Proceedings may be taken for any offence against this Act by any person, and all such proceedings shall be heard and determined, and all moneys, costs, and expenses shall be recovered, in a summary way.

Penalties to be paid to the Treasurer.
Ibid., s. 112.

149. Except where otherwise provided, all penalties shall, when recovered, be paid to the Treasurer.

Protection to persons acting in execution of this Act.
Ibid., s. 115.

150. (1) All actions for anything done, or purporting to be done, under the authority of this Act shall be commenced within six months after the cause of action arises, and not afterwards.

(2) Notice in writing of such action, and the cause thereof, shall be given to the defendant one month at least before the commencement of the action.

(3) In every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon.

(4) No plaintiff shall recover in any such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the defendant after action brought, together with the costs incurred up to that time.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.

Irrigation Act.—1922.

SCHEDULES.

THE FIRST SCHEDULE.

ACTS REPEALED.

Section 5.

Reference to Acts.	Title of Acts.
No. 1178 of 1914 ..	The Irrigation and Reclaimed Lands Act, 1914.
No. 1212 of 1915 ..	Irrigation and Reclaimed Lands Act Amendment Act, 1915.
No. 1309 of 1917 ..	Irrigation and Reclaimed Lands Act Further Amendment Act, 1917.
No. 1399 of 1919 ..	Irrigation and Reclaimed Lands Act Further Amendment Act, 1919.
No. 1496 of 1921 ..	Irrigation and Reclaimed Lands Act Further Amendment Act, 1921.

THE SECOND SCHEDULE.

SOUTH [Royal Arms] AUSTRALIA.

Crown Lease (Perpetual No.....) under the Irrigation Act, 1922.

I, the Honorable....., Minister of Irrigation of the State of South Australia, [or the Honorable.....[*here set out title of office*] of the State of South Australia, being the Minister of the Crown to whom the administration of the Irrigation Act, 1922, is committed by His Excellency the Governor of the said State in Executive Council] (hereinafter called "the Minister"), in exercise of the powers conferred upon me by the above-mentioned Act (hereinafter called "the said Act") do hereby lease to [*name of lessee*], of [*address and occupation*], his executors, administrators, and assigns (all of whom are hereinafter included in the term "lessee") all that land containing.....acres or thereabouts, and beingNo....., in the..... Irrigation Area, in the Hundred of....., County of....., as the same is delineated in the plan of the said irrigation area deposited in the Lands and Survey Office, in the City of Adelaide, to be held in perpetuity at the following rental, namely:—For the first year the sum of....., for the second year the sum of....., for the third year the sum of....., and for the fourth and every succeeding year the sum of....., such sums to be paid in advance on the.....day of.....in each year, and the first of such sums to be paid on the.....day of....., one thousand nine hundred and....., and at a further rent of Five Pounds per centum per annum on any rent in arrear, subject to the reservations, covenants, and conditions shortly stated below, and some of which are more fully set out in the Crown Lands Act, 1915.

Section 57 (2).

Reservations.

*Irrigation Act.—1922.**Reservations.*

1. There are reserved to the Crown all gold, silver, copper, tin, and other metals, all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oil, and all box gum timber outside the irrigable area, with incidental powers of search and mining.

2. There is reserved to the Irrigation Commission (hereinafter called "the Commission") the right at all times by themselves or by their officers or agents to enter into and upon the land hereby leased and therein to construct, alter, divert, cleanse, repair, and inspect water channels, drains, embankments, and all other reclamation, irrigation, drainage, and sanitary works, and to conserve water for the public use where required, and to exercise all powers conferred upon them respectively by the said Act without any payment to the lessee by way of compensation.

Covenants.

3. The lessee must—

- i. Pay the rent at the times and in manner aforesaid :
- ii. Pay all rates and charges imposed upon or payable in respect of the land, and in particular all rates and charges imposed or charged by the Commission in exercise of the powers conferred by the said Act or by any Act amending or extending the same, and will also pay all amounts due or which may hereafter become due on account of loans granted under the Vermin Act, 1914, or any Act amending or extending the same :
- iii. Pay for all water supplied to him by the Commission at the rates or charges declared or determined by the Commission :
- iv. Enclose the land with cattle-proof fence or wall before the end of the first year of the lease, and during the remainder of the term hereby granted maintain and uphold such fence or wall in good and substantial repair :
- v. During the first two years of the lease, plant or bring under cultivation, to the satisfaction of the Commission, at least two-fifths of the reclaimed and of the irrigable land included in this lease and an additional one-fifth of such lands in each of the following three years until the whole of such lands are under such cultivation or planting :
- vi. Personally reside on the land for nine months at least in every year :
- vii. Keep in good repair all Crown improvements (if any) on the land and all improvements made by the Minister or the Commission and all buildings, orchards, vineyards, gardens, fences, walls, and other improvements thereon, and keep all fruit and other trees and plants thereon free as far as possible from insects, pests, and diseases :
- viii. Commence forthwith to destroy, and during the lease keep the land and the adjoining half width of all Government roads adjacent thereto free from all vermin and noxious weeds to the satisfaction of the Commission, and fill up all burrows on the land and said half width of road :
- ix. Insure and keep insured in the full insurable value thereof, all buildings, the property of the Crown or of the Commission upon the land, in the joint names of the Commission and the lessee, in some insurance office to be approved by the Commission, and forthwith lodge the policy of every such insurance in the office of the Commission, and forward to the Commission the receipts for the premiums payable in respect of such policy within seven days after the same shall become due. The Minister may insure on default by the lessee and recover all amounts paid for such insurance in like manner as the rent is recoverable :
- x. Permit the Crown, the Minister, the Commission, and the owner of any mining claim situated on the land or the holder of any mining lease of the whole or any portion of the land under any law for the time being relating to mining by itself, himself, or themselves, or its, his, or their officers or agents full and free liberty of access, ingress, egress, and regress into, upon, and from the land :

And

Irrigation Act.—1922.

And the lessee must not—

- i. Transfer, sublet, encumber, or mortgage without the written consent of the Minister first had in each case, and no transfer except by executors or administrators to devisees will be permitted within five years from the date of this lease unless the Minister shall be satisfied that refusal would inflict great hardship on the lessee :
- ii. Erect any brush fence or suffer or permit the same to be erected or to remain on the land.

Conditions.

- 4. The lease shall be liable to forfeiture in the following cases and no others :—
 - i. If default be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing requiring its payment ; or if
 - ii. Default be made in the performance of any covenant either express or implied ; or if
 - iii. The land shall be transferred, sublet, or mortgaged without the written consent of the Minister first had in such cases ; or if
 - iv. The lessee does not reside on the land nine months in each year ; or if
 - v. The lessee shall refuse to permit the Commission by themselves or by their officers or agents to enter upon the land hereby leased to construct, alter, divert, cleanse, repair, or inspect any water channel, drain, embankment, or other reclamation, irrigation, drainage, or sanitary works, or to conserve water for public use or otherwise to exercise any power conferred upon them by the said Act.

5. The land or any portion thereof may be resumed by the Crown for mining purposes or for roads, railways, tramways, or for sites for towns or for park lands or any other public work or purpose on giving three calendar months' notice to the lessee, full compensation being made to the lessee for loss, except where the land shall be resumed for the construction, alteration, or diversion of water channels, drains, embankments, or other reclamation, irrigation, drainage, or sanitary works, or for the conservation of water for the public use, in which cases no compensation whatever shall be made to the lessee.

6. Nothing in this lease shall render the Minister, the Commission, or the Government of the said State liable for damages consequent upon insufficiency of water or for injury to any land or other property which happens through or by such insufficiency or through or by flood waters or the overflowing of any river.

In witness whereof the hands and seals of the Minister and the lessee are hereunto set the.....day of....., 19.....

Signed, sealed, and delivered by the Minister of Irrigation [<i>or as the case may be</i>] in the presence of	} Minister of Irrigation [<i>or as the case may be.</i>]
Signed, sealed, and delivered by the above-named lessee in the presence of }	}

Irrigation Act.—1922.

THE THIRD SCHEDULE.

CROWN LEASE.—SOUTH AUSTRALIA.

(Perpetual No.....).

Under the Irrigation Act, 1922.

Section 57 (3).

I, the Honorable, Minister of Irrigation of the State of South Australia [or the Hon.....[*here set out title of office*] of the State of South Australia, being the Minister of the Crown to whom the administration of the Irrigation Act, 1922, is committed by His Excellency the Governor of the said State in Executive Council] (hereinafter called "the Minister"), in exercise of the powers conferred upon me by the abovementioned Act (hereinafter called "the said Act"), do hereby lease to....., his executors, administrators, and assigns (all of whom are hereinafter included in the term "lessee"), all that land containing or thereabouts, and being town allotment No., in the township of, in the Irrigation Area in the hundred of county of....., as the same is delineated in the plan of the said irrigation area deposited in the Lands and Survey Office in the city of Adelaide to be held in perpetuity [*where allotment is set apart for particular purpose*] for the purpose of.....] at the annual rental of £....., the whole of such annual rental to be paid in advance on the..... day of..... in each year, and at a further rent of Five Pounds per centum per annum of any rent in arrear subject to the reservations, covenants, and conditions stated below.

Reservations.

1. There are reserved to His Majesty the King, his heirs and successors, and all persons lawfully claiming under or authorised by him or them all gold, silver, copper, tin, and other metals, all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oil, with incidental powers of search and mining. And the Minister and all persons lawfully claiming under or authorised by him, shall have full and free liberty of access, ingress, egress, and regress, with or without horses, cattle, carts, drays, carriages, engines, and all other necessary implements and things, into, upon, and from the said premises for all reasonable purposes, and to cut, dig, sink, try, search, work, remove, and dispose of all or any of the said excepted and reserved things, full compensation being made to the lessee for any loss or damage sustained by him.

2. There is reserved to the Irrigation Commission (hereinafter called "the Commission") the right at all times, by themselves, or by their officers or agents, to enter into and upon the land hereby leased and therein to construct, alter, divert, cleanse, repair, and inspect water channels, drains, embankments, and all other reclamation, irrigation, drainage, and sanitary works, and to conserve water for the public use where required, and to exercise all powers conferred upon them by the said Act without any payment to the lessee by way of compensation.

Covenants.

3. The lessee hereby covenants with the Minister as follows:—

- i. The lessee shall pay the rent at the times and in manner aforesaid.
- ii. The lessee shall pay all rates and charges imposed upon or payable in respect of the land, and in particular all rates and charges imposed or charged by the Commission in exercise of the powers conferred by the said Act, and will also pay all amounts due or which may hereafter become due on account of loans granted under the Vermin Act, 1914:
- iii. The lessee shall pay for all water supplied to him by the Commission at the rates or charges declared or determined by the Commission.

iv. (1) The

Irrigation Act.—1922.

- iv. (1) The lessee shall, within a period of eighteen months from the date hereof, or within such longer period as is allowed by the Commission or an authorised person in writing, carry out on the land permanent improvements of a value of not less than £.....[where the land consists of not less than three allotments all of which have been set apart by the Commission for business or manufacturing purposes, add : Provided that such improvements shall be carried out on not less than two of the said allotments]: Provided that any permanent improvements on the land paid for by the lessee shall, for the purposes of this covenant, be deemed to have been carried out by the lessee :
- (2) Such improvements shall be carried out according to such designs and specifications, and in such a position on the land, as is approved in writing by the Commission or by an authorised person. One copy of such designs and specifications and of a plan showing the position in which any improvement is proposed to be carried out on the land shall be lodged with the Commission or an authorised person, and the Commission or such authorised person's approval shall be obtained thereto before the lessee commences to carry out such improvements :
- (3) The lessee shall not at any time erect any building, shed, or other permanent improvement on the land without first obtaining the approval in writing of the Commission or of an authorised person thereto :
- v. The lessee shall, within twelve months from the date hereof, enclose the land with a good and substantial fence, to the designs and specifications previously approved in writing by the Commission or an authorised person, and the lessee shall, during the remainder of the said term, maintain and uphold such fence in good and substantial repair to the satisfaction of the Commission or an authorised person. The lessee shall not erect a brush fence on the land or suffer or permit the same to be erected or remain on the land :
- vi. The lessee shall, at his own cost, during the said term keep and maintain in good and tenable repair and condition to the satisfaction of the Commission or an authorised person all permanent improvements on the land, by whomsoever made, and all buildings, orchards, vineyards, gardens, fences, walls, and other improvements thereon, and shall keep all fruit trees and other plants thereon free, as far as possible, from insects, pests, and diseases :
- vii. The lessee shall forthwith commence to destroy all rabbits on the land and on the half width of all Government roads adjacent thereto, and to fill up all burrows on the land and on the said half width of road to the satisfaction of the Commission or an authorised person, and will forthwith commence to destroy all such other vermin on the land and on the said half width of road as are, by or under the Vermin Act, 1914, or any other Act, declared to be vermin, and shall, during the said term, keep the land and the said half width of road free of all vermin to the satisfaction of the Commission or an authorised person, and shall destroy Bathurst bur and all other noxious weeds growing upon the land and upon the said half width of road :
- viii. The lessee shall insure and keep insured in the full insurable value thereof all buildings, the property of the Crown or of the Commission, upon the land in the joint names of the Commission and the lessee in some insurance office to be approved by the Commission, and forthwith lodge the policy of every such insurance in the office of the Commission and forward to the Commission the receipts for the premiums payable in respect of such policy within seven days after the same become due. The Minister may insure on default by the lessee and recover all amounts paid for such insurance in like manner as the rent hereby reserved is recoverable :

ix. The

Irrigation Act.—1922.

- ix. The lessee shall permit the Crown, the Minister, the Commission, and the owner of any mining claim situated on the land, or the holder of any mining lease of the whole or any portion of the land, under any law for the time being relating to mining, by itself, himself, or themselves, or its, his, or their officers or agents full and free liberty of access, ingress, egress, and regress into, upon, and from the land :
- x. The lessee shall not transfer, assign, sublet, encumber, or mortgage his interest in the land or any part thereof, without first obtaining the consent in writing of the Minister in each case, and such consent may be given upon and subject to such terms and conditions as the Minister determines. The Minister will not consent to any such transaction—
- (a) within a period of six years from the date hereof except in the case of death, or where he is satisfied that to refuse his consent would inflict great hardship on the lessee ; or
- (b) in the case of a transfer of portion only of the land, unless the lessee and proposed transferee both agree with the Minister to carry out, if not already carried out, on the portions of the land held or to be held by them respectively, permanent improvements in respect of each allotment comprised in the said portions equal in value to ten times the annual rent payable in respect of each such allotment or £....., whichever is the greater sum :
- xi. [*If any of the allotments must not be used for the purpose of any particular business or manufacture*]. The lessee shall not use the said land or any part thereof for.....
4. The Minister hereby covenants with the lessee that the lessee paying the rent hereby reserved, and observing and performing the several covenants and stipulations on his part contained, shall, subject to the provisions of this lease, peaceably hold and enjoy the land during the said term without any interruption by the Minister or any person rightfully claiming under or in trust for him.

Conditions.

Provided always and it is expressly agreed as follows :—

5. This lease shall be liable to forfeiture by the Minister in the following cases :—
- i. If default is made in payment of any rent for six months after the same falls due the lessee having had at least three months' previous notice in writing requiring its payment ; or
- ii. If the land is used for any purpose other than that for which it is hereby leased [*or, if necessary, for the purpose of.....*]; or
- iii. If the lessee without first obtaining the written consent of the Commission acquires, whether on freehold or leasehold tenure, more than..... allotments in the said township ; or
- iv. If default is made in the performance of any covenant on the part of the lessee, either express or implied ; or
- v. If the land, or any part thereof, is transferred, assigned, sublet, encumbered, or mortgaged without the written consent of the Minister being first obtained in each case ; or
- vi. If the lessee refuses to permit the Commission by themselves, or by their officers, or agents, to enter upon the land hereby leased, to construct, alter, divert, cleanse, repair, or inspect any water channel, drain, embankment, or other reclamation, irrigation, drainage, or sanitary works, or to conserve water for public use, or otherwise to exercise any power conferred upon them by the said Act.

In

Irrigation Act.—1922.

In the event of this lease becoming liable to forfeiture by the Minister as hereinbefore provided, His Majesty or the Minister, after three months' written notice, may re-enter and take possession of the land ; and it shall be lawful for the Minister, before or after re-entry, to cancel and determine this lease, and the Minister may thereupon insert a notice in the *Government Gazette* declaring this lease to be forfeited, and such notice appearing in the *Government Gazette* as having been published by the authority of the Minister shall, in all courts and elsewhere, and under all circumstances, be taken to be conclusive evidence that such lease has been legally cancelled and forfeited : Provided, however, that the Minister shall not (except in the case of rent being in arrear as aforesaid, or of the transfer, assignment, mortgage, encumbrance, or subletting of the land, or of any part thereof, without such consent as aforesaid) exercise the powers expressed in this clause in the case of default in the performance of a covenant before the expiration of the period of three months after notice has been given to the lessee of such default and requiring the performance of the covenant : Provided, nevertheless, that if notice has been given to the lessee of any default in the performance of a covenant no notice of any future default in the performance of the same covenant, or of the continuance of the same default, shall be necessary before the exercise of such powers.

6. Any notice to be served upon or given to the lessee under this lease shall be sufficiently served or given if the same be sent through the post office enclosed in an envelope addressed to the lessee at any address stated in any recent application, letter, or document received from him, or at his usual or last known place of abode in the said State, or to the care of any solicitor, attorney, or agent acting in the lessee's behalf in the particular matter in respect whereof such notice is given, and such notice shall be deemed to have been served or given, and time shall run from the day of the posting thereof as aforesaid.

7. The land, or any portion thereof, may at any time, and from time to time, be resumed by or on behalf of the Crown, the Minister, or the Commission for mining purposes or for roads, railways, tramways, or for any public work or purpose on giving three calendar months' notice to the lessee, full compensation being made to the lessee for loss, except where the land is resumed for the construction, alteration, or diversion of water channels, drains, embankments, or other reclamation, irrigation, drainage, or sanitary works, or for the conservation of water for the public use, in which cases no compensation whatever will be made to the lessee.

8. Nothing in this lease shall render the Minister, the Commission, or the Government of the said State, liable for damages consequent upon insufficiency of water or for injury to any land or other property which happens through or by such insufficiency, or through or by floodwaters or the overflowing of any river.

9. In this lease " authorised person " means a person authorised in writing by the Commission for the purposes of the said Act or of leases under the said Act in general, or of this lease in particular.

10. Wherever in this lease reference is made to any Act of Parliament such reference shall be deemed to include a reference to all Acts amending such Act and to all Acts amending such amending Acts or any of them, and to any Act substituted for such Act or for any such amending Act or Acts.

11. Except in so far as inconsistent with the provisions of this lease, all the provisions of the Crown Lands Act, 1915, and of the Irrigation Act, 1922, shall apply to and in respect of the said land and this lease.

In witness whereof the hands and seals of the Minister and the lessee are hereunto set the..... day of, one thousand nine hundred and

Signed, sealed, and delivered by the }
 said Minister of Irrigation in the }
 presence of }
 Minister of Irrigation.

Signed, sealed, and delivered by the }
 above-mentioned lessee in the presence }
 of }