



ANNO PRIMO

GEORGII V REGIS.

A.D. 1910.

No. 1023.

An Act to authorise the Construction of Weirs, Dams, and Locks, and other Works on the Murray River for Navigation and Irrigation, and for other purposes.

[Assented to, December 7th, 1910.]

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.

PART I.

INTRODUCTORY.

1. This Act may be cited as "The Murray Works Act, 1910." Short title.
2. With this Act are incorporated— Incorporation.
The "Lands Clauses Consolidation Act" (except sections cx., cxiv., cxv., cxvi., cxvii., cxviii.) and the Acts amending the same. The Commissioner may, under the Acts so incorporated, at any time exercise, either compulsorily or by agreement, the powers mentioned in Part III. of this Act, and all other powers of acquiring land which he may require for the purposes of works under this Act. For the purposes of such Acts the Commissioner shall be deemed to be the promoter of the undertaking, and this Act a special Act, except that for the purposes of section 13 of the Act No. 202 of 1881 there shall be deemed to be no such special Act. Lands Clauses Consolidation Acts.
3. "The Murray Works Act, 1905," is hereby repealed. Repeal.
4. This

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Crown.

Parts.

4. This Act shall bind the Crown.**5.** This Act is divided into Parts, as follows:—

PART I.—Introductory:

PART II.—Incorporation of Commissioner: Power to Construct Works:

PART III.—Powers of Commissioner:

PART IV.—Financial: Vesting of Crown Lands:

PART V.—Tolls:

PART VI.—Compensation for Damage by Works:

PART VII.—Control and Use of Water:

PART VIII.—Officers: Regulations, &c.:

PART IX.—Miscellaneous.

Interpretation.

6. In this Act, except where otherwise clearly intended—

“This Act” includes regulations made under this Act:

“Commissioner” means the Commissioner of Public Works as incorporated by this Act:

“Maintenance” includes extension, improvement, and repair:

“Murray River” includes any channel, creek, affluent, effluent, ana-branch or extension of, and any lake or lagoon connected with, such River:

“River” includes the bed and banks:

“Prescribed” means prescribed by this Act:

“Work” includes any weir, dam, embankment, lock, reservoir, flume, race, channel, cutting, tunnel, pipe, sewer, tank, regulator, sluice, aqueduct, drain, cut, well, shaft, fence, building, and any machinery and appliances.

PART II.

PART II.

INCORPORATION OF COMMISSIONER.—POWER TO
CONSTRUCT WORKS.Commissioner to be
body politic.**7.** The Commissioner of Public Works and his successors in office shall for the purposes of this Act be a body corporate, with perpetual succession and a common seal, under the name of “The Commissioner of Public Works,” and by that name shall sue and be sued.**8.** For

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8. For the purposes of this Act the Commissioner may appoint officers, and may also authorise such person or persons as he thinks proper to do all or any of the acts, matters, and things which the Commissioner is by this Act empowered or required to do; and every person so authorised shall for the purposes of the said acts, matters, and things have and enjoy all such and the like powers as are hereby conferred on the Commissioner; and all such acts, matters, and things, when done under such authority, shall be as valid and effectual as if they had been done by the Commissioner; and every person so authorised shall have and enjoy, in respect of every such act, matter, or thing so done by him, all such immunities from personal liability as the Commissioner would have had or enjoyed if he had done such act, matter, or thing.

May appoint officers and delegate his powers.

9. The Commissioner shall not individually be subject to be sued or prosecuted in respect of the exercise of any of the powers conferred by this Act, nor shall he be liable to any execution of any legal process by reason of any contract or other instrument entered into by the Commissioner in the execution of his powers.

Commissioner not to be personally liable.

10. Subject to the provisions of this Act the Commissioner is authorised and empowered to construct, and maintain in, on, or across the Murray River, and in, on, or through the lands riparian thereto, works for damming, impounding, storing, conserving, or regulating, or otherwise utilising, or controlling the waters thereof for the purpose of navigation, irrigation, watering stock, domestic use, and general supply.

Power to construct works.

11. In addition to the works, and for the purposes, mentioned in section 10, the Commissioner, on entering into the agreement hereinafter mentioned with the State of New South Wales, may construct and maintain, with such variations, modifications, and extensions as he may consider desirable, the works at Lake Victoria (including two locks) recommended by the Inter-State Royal Commission on the Murray River, and more particularly described on page forty-two of the printed report of that Commission dated the ninth day of December, one thousand nine hundred and two, and shown on the plans accompanying the same.

Lake Victoria works.

With a view to and for the purposes of such works the Commissioner may—

1. Enter into an agreement with—

- (a) The State of New South Wales, and may acquire, on such tenure and such terms as may be so agreed, that piece of land situate in the said State and covered with water, now known as Lake Victoria, with the two water-courses known as Rufus River and Frenchman's Creek, connecting the River Murray with the said lake for and throughout their entire

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entire course from the said river to the said lake; and also so much of the banks and foreshores of the said lake and water-courses and of the land adjoining thereto as shall be sufficient for all purposes of access to and use and enjoyment of the said Lake Victoria works;

(b) The State of Victoria for the purchase, acquisition, or leasing of, lands in the said State;

together with such rights, licences, permissions, easements, privileges, powers, and immunities in the said States, or in respect of the use, flow, and control in the said States of the waters of the said river, as may be necessary for the construction, or necessary or conducive to the use and enjoyment, of the said works for the purposes of this Act.

11. Otherwise purchase, acquire, or lease lands in the said States, or either of them.

General scheme.
Plans to be prepared.

12. The Commissioner shall cause to be prepared, and may alter from time to time as may be necessary, a general scheme and estimate for carrying out the works for the purposes of this Act, indicating therein the places at which and the order in which the works are to be constructed; and from time to time as may be necessary shall cause plans and specifications to be prepared, and tenders to be called for the construction of the works, and may construct the works, although no tender shall be accepted: Provided that no tender shall be accepted nor shall the work be commenced until the plan showing and defining such work, signed by the Commissioner, shall have been deposited in the office of the Surveyor-General: Provided also that the works and purposes authorised by this Act shall not be commenced unless and until the said general scheme, estimates, and plans have been laid before and approved by both Houses of Parliament.

Entry and occupation
of land.

13. Subject, as regards the Lake Victoria works, to any agreements with the States of New South Wales and Victoria, the Commissioner and any person authorised by him may, for the purposes of works, or of this Act—

(a) Enter any lands, and have free access to all works:

(b) Occupy any land, and if necessary enter into any agreement for such occupation.

Works vested in
Commissioner.

14. All works constructed, or maintained, or being constructed and maintained, and all property acquired, by the Commissioner under this Act, shall be deemed to be vested in the Commissioner for the purposes of this Act.

Works exempted from
rates and taxes.

15. No rates, taxes, or charges whatsoever shall be imposed, made, or levied in respect of any works, or of any land or property in the State of South Australia vested in the Commissioner, for the purposes of this Act.

PART

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PART III.

PART III.

POWERS OF COMMISSIONER.

16. The Commissioner, in addition to all other powers and authorities vested in him, is authorised and entitled for the purposes of the construction or maintenance of any works under, or for any other purpose of, this Act, in the State of South Australia, to—

Powers of Commissioner.

- i. Purchase, take, acquire, or resume lands :
- ii. Reclaim lands :
- iii. Sell, let, or lease any lands which may become vested in him and not be required for the purposes of this Act :

iv. Enter upon and occupy—

(a) Any lands and make surveys and take levels and set out such parts thereof as he thinks necessary, and make and set up any posts, stakes, trenches, or other marks or works, and do any other acts or things whatsoever necessary for such surveys, or for ascertaining the suitability of land for works under this Act :

(b) Any lands adjoining or contiguous to the works, and bore, dig, cut, trench, embank, and sough, remove, or lay, search for, take, carry away, and use any earth, stone, timber, gravel, or sand, or any other materials proper or necessary for constructing, making, maintaining, altering, repairing, or using any work which the Commissioner is at the time authorised to construct or maintain, or which may hinder, prevent, or obstruct the construction, reconstruction, maintenance, altering, repairing, adding to, extending, or using the same respectively :

(c) Any lands, streets, or roads for the purpose of constructing, altering, or repairing any channel, aqueduct, conduit, or pipe line :

And may upon any of such lands, streets, or roads—

(d) Erect workshops, sheds, and buildings of a temporary character ; and

(e) Make roads and railways :

- v. Impound, dam, conserve, store, set back, divert, abstract, or drain the waters, or alter the course or level of, or embank, narrow, widen, or deepen the Murray River :
- vi. Alter the course, width, or level of, or close, any roads, streets, or ways :
- vii. Alter, repair, or discontinue works, or any of them, and substitute others in their stead :

viii. Institute

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- VIII. Institute and maintain any proceeding in any Court of justice in respect of or in relation to works or lands constructed or vested in him for the purposes of this Act, or for any tolls or charges prescribed under this Act:
- IX. Generally do all other acts for constructing, reconstructing, maintaining, altering, repairing, adding to, using, and protecting from trespass or injury any works constructed or being constructed under this Act, or works or lands vested in him, or for all or any of the purposes of this Act.

PART IV.

PART IV.

FINANCIAL: VESTING OF CROWN LANDS.

Money for purposes
of this Act.

17. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament.

Vesting of lands.

18. The Governor, by Proclamation in the *Government Gazette*, may vest in the Commissioner any Crown lands which may be necessary for the purposes of this Act, and, if the Commissioner certifies that any lands so vested in him are not required for the purposes of this Act, withdraw the same; and such lands, on proclamation that they are so withdrawn, shall revert in the Crown.

PART V.

PART V.

TOLLS.

Prescribed tolls.

19. The Commissioner may demand and receive, in respect of vessels carrying freight passing through a lock or locks, being portion of the works in the State of South Australia vested in him, the tolls prescribed by regulations under Part VIII. of this Act.

Maximum tolls.

20. The tolls prescribed shall not exceed Six Pence per ton of the freight for every hundred, or part of a hundred, miles up to the first two hundred miles; or Four Pence per ton of the freight for every hundred miles, or part of a hundred miles, after the first two hundred miles of the distance for which such freight is consigned or is carried: Provided that an excess of less than twenty-five miles on a distance of a hundred, or any multiple of a hundred, miles shall not be taken into account in computing the toll, and that no toll shall be prescribed in respect of that portion of the Murray River the navigability of which is not improved by works under this Act.

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PART VI.

PART VI.

CLAIMS FOR COMPENSATION FOR DAMAGE.

21. No claim for compensation for damage occasioned by the construction or maintenance of works under this Act shall be maintainable—

Claims for compensation.

(1) Unless notice in writing stating the nature and extent of the damage complained of has been furnished to the Commissioner within six months after the damage in respect of which notice is given has been occasioned; and

To be by notice.

(2) Unless after giving the notice the person claiming compensation proceeds without unreasonable delay to obtain such compensation.

22. (1) All claims for compensation for damage occasioned by the construction or maintenance of works under this Act shall be determined in accordance with the provisions of sections 180 and 181 of the "Water Conservation Act, 1886," which shall, subject to the succeeding provisions of this section, *mutatis mutandis*, so far as applicable, apply to such claims.

Principle of compensation for damage from works.

(2) No compensation shall be awarded save in respect of some item set forth in the notice in writing referred to in section 21 of this Act.

Compensation in respect of items in notice only.

(3) In any case in which the amount awarded is less by one-fourth of the amount claimed in the suit than the amount so claimed the person claiming compensation shall pay to the other party the cost of the suit.

Costs in certain cases.

PART VII.

PART VII.

CONTROL AND USE OF WATER.

23. (1) Subject to the provisions of this Act, the right to the use and flow and to the control in the State of South Australia of any water dammed, impounded, stored, or conserved by any works constructed or maintained under this Act shall vest in the Crown.

Impounded waters vest in the Crown.

(2) Such right shall not be exercised in contravention of any right—

(a) Conferred on and lawfully exercisable by any person by or under the authority of any Act, or of any licence granted by the Crown:

(b) Of any occupier of land on either bank of the Murray River to use the water thereof for domestic purposes, and for watering stock:

Provided that the right of such person or occupier shall not extend to a greater use of the water than such person or occupier would lawfully be entitled to but for this Act.

24. Subject

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Commissioner may
sanction use of
surplus water.

24. Subject to section 23, the Commissioner may, for such purposes and on such terms and conditions as may be prescribed, sanction the taking, using, and diverting of any water impounded or conserved under this Act not required for the purposes of navigation, and may at any time withdraw such sanction.

PART VIII.

Governor may
make regulations, &c.

Publication of
regulations.

PART VIII.**OFFICERS, REGULATIONS, &c.**

25. The Governor may, for the purposes of this Act, make regulations and provide a penalty not exceeding Ten Pounds for any breach thereof.

All such regulations shall—

- I. Be published in the *Government Gazette* :
- II. Take effect from the date of such publication, or from a later date specified in the regulations ; and
- III. Be laid before both Houses of Parliament within fourteen days after such publication if Parliament is in Session, and if not, within fourteen days after the commencement of the next Session.

But if either House of Parliament passes a resolution of which notice is given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

PART IX.

Proceedings for
offences.

Recovery of
penalties.

PART IX.**MISCELLANEOUS.**

26. (1) All proceedings for offences against or breaches of this Act shall be taken before and determined in a summary way by any Special Magistrate or two Justices of the Peace for the said State.

(2) All such proceedings shall be regulated by Ordinance No. 6 of 1850, "The Justices Procedure Act, 1883-4," and any other Act that may be law in that behalf.

27. There shall be an appeal from any conviction by a Special Magistrates or Justices, or from any order dismissing any information or complaint under this Act, which appeal shall be to the Local Court of Adelaide of full jurisdiction ; and the proceedings of such appeal shall be conducted in manner prescribed for appeals to Local Courts by Ordinance No. 6 of 1850, "The Justices Procedure Amendment Act, 1883-4," or any other Act for the time being in force on that behalf.

28. Every

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28. Every person who shall unlawfully and maliciously destroy or damage any works, or part of the works, under this Act in the State of South Australia, shall, in addition to any penalty provided by the regulations under this Act, be liable on conviction to imprisonment with hard labor for any term not exceeding two years.

Penalty for injuring works.

29. In any information preferred, or proceedings instituted, by the Commissioner in relation to works, or any property or thing belonging to or vested in or under his control under or for the purposes of this Act, it shall be sufficient to state generally that the property or thing in respect of which such information is preferred, or proceedings instituted, is the property of the Commissioner, and such statement or averment shall be taken to be true unless disproved by the defendant to such information or proceeding.

Information how laid in respect of property.

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

DAY H. BOSANQUET, Governor.