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## SCHEDULES

## RIVER MURRAY WATERS ACT, 1935<sup>1</sup>

being

River Murray Waters Act, 1935, No. 2222 of 1935 [Assented to 28th November, 1935]<sup>2</sup>.

**An Act to consolidate certain Acts ratifying and providing for carrying out certain agreements entered into between the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales, Victoria, and South Australia, and for other purposes.**

WHEREAS the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales, Victoria, and South Australia have entered into the agreements, copies of which are set out in the schedules to this Act, and those agreements have been ratified by the Parliaments of the Commonwealth and of the said States: And whereas it is desirable to consolidate the Acts ratifying and providing for carrying out those agreements: Be it therefore Enacted by the Governor of the State of South Australia with the advice and consent of the Parliament thereof, as follows:

Preamble.

### *Preliminary provisions*

1. This Act may be cited as the "River Murray Waters Act, 1935". Short title.
2. This Act shall bind the Crown. Act to bind the Crown.
3. This Act shall come into operation on a day to be fixed by proclamation<sup>2</sup>. Commencement of Act.
4. In this Act, unless inconsistent with the context or subject matter— Interpretation.  
1186, 1915, s. 4.  
1568, 1923, s. 8.
  - "commission" means the River Murray Commission appointed for the purposes of this Act;
  - "commissioner" means member of the commission;
  - "constructing authority" means the Government or Governments by which any works under this Act are constructed, or to be constructed, or any authority constituted or appointed for the purposes of such construction;
  - "contracting Government" means any Government which is a party to the agreement:

<sup>1</sup> For related legislation incorporating agreements amending the Agreement contained in the first schedule to this Act, and therein referred to as the Principal Agreement, see also the River Murray Waters Act Amendment Act, 1948; the River Murray Waters Act Amendment Act, 1954; the River Murray Waters Act Amendment Act, 1958; the River Murray Waters Act Amendment Act, 1963; the River Murray Waters Agreement Supplemental Agreement Act, 1963 and the River Murray Waters Act Amendment Act (No. 2), 1971, which are reprinted in chronological sequence in this volume following the reprint of this Act.

For the reader's convenience the Agreement contained in the first schedule to this Act, and referred to therein as the Principal Agreement, as amended by all amendments to the operative part thereof up to and including the amendments contained in the schedule to the River Murray Waters Act Amendment Act (No. 2), 1971, is also reprinted in this volume immediately following that last mentioned Act.

<sup>2</sup> Came into operation 1st June, 1937; *Gaz.* 25th March, 1937, p. 645.

“diversions” includes abstractions, impoundings, and appropriations of water that diminish or retard the volume of flow of a river:

“*Gazette*” means the *Commonwealth of Australia Gazette* or the *Government Gazette* of any of the said States:

“Governor-General” means the Governor-General with the advice of the Executive Council:

“justice” means justice of the peace for the State of South Australia:

“land” includes Crown lands and buildings, messuages, tenements, and hereditaments of any tenure, and any easement, right, or privilege in, over, or affecting any land:

“maintenance” includes repairs and (except in section 29) improvements and “maintaining” includes repairing:

“Minister” means the Commissioner of Public Works as incorporated by this Act<sup>1</sup>:

“purposes of this Act” includes purposes of the agreement:

“prescribed” means prescribed by this Act or by regulations made under this Act:

“proclamation” means proclamation by the Governor-General of the Commonwealth published in the *Commonwealth of Australia Gazette*, or by the Governor of any of the said States published in the *Gazette* of that State:

“river” and “tributary” respectively include any affluent, effluent, creek, anabranch, or extension of, and any lake or lagoon connected with, the river or tributary:

“the agreement” means the principal agreement as amended by the amending agreement and the further amending agreement<sup>2</sup>:

1186, 1915.

“the principal agreement” means the agreement set out in the first schedule to this Act, which agreement was ratified and approved by the River Murray Waters Act, 1915:

1568, 1923.

“the amending agreement” means the agreement set out in the second schedule to this Act, which agreement was ratified and approved by the River Murray Waters Act, 1923:

2165, 1934.

“the further amending agreement” means the agreement set out in the third schedule to this Act which agreement was ratified and approved by the River Murray Waters Act, 1934:

“under this Act” includes under the agreement:

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

Repeals.

##### 5. The Acts mentioned in the fourth schedule are hereby repealed<sup>3</sup>.

<sup>1</sup> See, however, s. 2 of the Commissioner of Public Works Incorporation Act, 1917, and s. 2 (1),(2) of Ministers' Titles Act, 1944.

<sup>2</sup> The Agreement contained in the first schedule to this Act, and referred to herein as the Principal Agreement, as amended by all amendments to the operative part thereof up to and including the amendments contained in the schedule to the River Murray Waters Act Amendment Act (No. 2), 1971, is reprinted in this volume immediately following that last mentioned Act.

<sup>3</sup> In addition to the repeals effected by s. 5, the River Murray Waters Acts Amendment Act, 1920, was repealed by the River Murray Waters Amendment Act, 1923, without having been brought into operation by proclamation.

6. (1) The Compulsory Acquisition of Land Act, 1925<sup>1</sup>, except sections 79 to 82 inclusive thereof, is incorporated with this Act.

Incorporation  
of Compulsory  
Acquisition of  
Land Act,  
1925<sup>1</sup>.  
Cf. 1186, 1915,  
s. 6.

(2) For the purposes of the said Act—

(a) the Minister shall be deemed to be the promoter of the undertaking where the particular works are, pursuant to the agreement, to be constructed, maintained, operated or controlled, as the case may be, by the Governor of the State or any other contracting Government or Governments; and

(b) this Act shall be deemed to be the special Act.

#### *Confirmation of ratification of the agreement*

7. (1) The ratification and approval of the principal agreement, the amending agreement, and the further amending agreement is hereby confirmed and continued of full force and effect as from the respective dates when those agreements were confirmed and approved by the Acts repealed by this Act.

Confirmation of  
ratification and  
approval of  
agreements.  
1186, 1915, s. 7;  
1568, 1923, s. 6;  
2165, 1934, s. 4.

(2) The said dates are as follows:—

(a) the date from which the ratification and approval of the principal agreement takes effect is the thirty-first day of January, 1917<sup>2</sup>;

(b) the date from which the ratification and approval of the amending agreement takes effect is the sixteenth day of November, 1923<sup>3</sup>; and

(c) the date of the ratification and approval of the further amending agreement is the twenty-third day of November, 1934<sup>4</sup>.

#### *Appointment of member of River Murray Commission*

8. (1) The Governor may, under this Act, appoint a commissioner and a deputy commissioner, who shall respectively be paid such salaries as may be provided by Parliament.

Appointment of  
commissioner.  
1186, 1915, s. 8.

(2) The commissioner and deputy commissioner holding office under the Acts repealed by this Act shall continue in office subject to this Act and all other relevant laws.

#### *Powers and duties of the commission*

9. (1) The commission may make regulations—

(a) for or relating to—

- I. the times and places of its meetings:
- II. the election of a chairman in the absence of the President of the commission:
- III. the conduct of its proceedings:
- IV. the duties and the control, supervision, and guidance of its officers and servants, and the time and mode in which they shall account to the commission for all moneys received by them on its behalf or account:

Regulations  
made by the  
commission.  
1186, 1915, s. 9.

<sup>1</sup> The Compulsory Acquisition of Land Act, 1925, and its amendments have been repealed by the Land Acquisition Act, 1969 (now Land Acquisition Act, 1969-1972).

<sup>2</sup> Reference to the year nineteen hundred and seventeen altered to 1917 pursuant to s. 7 (1) of the Acts Republiation Act, 1967, as amended.

<sup>3</sup> Reference to the year nineteen hundred and twenty-three altered to 1923 pursuant to s. 7 (1) of the Acts Republiation Act, 1967, as amended.

<sup>4</sup> Reference to the year nineteen hundred and thirty-four altered to 1934 pursuant to s. 7 (1) of the Acts Republiation Act, 1967, as amended.

v. the mode of making and the management and carrying out of contracts of the commission:

(b) prescribing—

i. what business shall be deemed formal for the purposes of the agreement:

ii. tolls, pursuant to this Act, that may be demanded and received in respect of vessels:

(c) prescribing a penalty, not exceeding one hundred dollars<sup>1</sup>, for a breach of any regulation made by the commission.

(2) Every regulation made under this section shall—

(a) be published in the *Commonwealth of Australia Gazette* and in the *Gazette* of each of the said States:

(b) take effect from the date of the latest publication thereof as aforesaid, or from a later date specified in the regulation.

(3) In addition, every regulation under paragraph (b) or (c) of subsection (1) of this section shall be laid before both Houses of the Parliament of the Commonwealth and of each of the said States, within fourteen days after the date of the latest publication thereof as aforesaid, or in the case of any Parliament not then sitting, within fourteen days after the next meeting of that Parliament. And if each House of any such Parliament passes a resolution (of which notice has been given in each House thereof at any time within fourteen sitting days after such regulation has been laid before such House) disallowing such regulation, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

Effect of regulations.  
1186, 1915,  
s. 10.

10. The regulations of the commission made and to take effect as provided by this Act shall have the force of law.

Entry on land by commission.  
1186, 1915,  
s. 11.

11. For the purposes of this Act the commission and any person authorized by the commission may enter any lands and shall have free access to all works.

Writ to enforce performance of duty of commission.  
1186, 1915,  
s. 12.

12. The commission, or a commissioner, may be compelled by *mandamus* or other writ, issuing from the Supreme Court of any of the said States, or (so far as the High Court of Australia has or may be invested with jurisdiction in the matter) from the High Court of Australia, to perform any of the duties of the commission or the commissioner (as the case may be) under this Act.

Effect of orders of the commission.  
1186, 1915,  
s. 13.

13. Subject to this Act and the agreement, the orders, determinations, decisions, and declarations of the commission, made in the exercise of its powers and the discharge of its duties, shall bind the State and all persons and corporations, and may be made a rule or order of the Supreme Court, and shall be enforceable accordingly.

#### *Construction of works and incorporation of Commissioner of Public Works<sup>2</sup>—His general powers and functions*

Construction of works authorized.  
1186, 1915,  
s. 14.

14. Subject to this Act and the agreement, the construction, maintenance, operation, and control of the works, and the carrying out of the operations, referred to in the agreement are hereby authorized.

<sup>1</sup> Pursuant to s. 8 of the Acts Republishing Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

<sup>2</sup> See s. 2 of the Commissioner of Public Works Incorporation Act, 1917 and s. 2 (1),(2) of Ministers' Titles Act, 1944.

15. (1) The Commissioner of Public Works and his successors in office are hereby, for the purposes of this Act, constituted a body corporate, with perpetual succession and a common seal, under the name of the "Commissioner of Public Works"<sup>1</sup>, and by that name shall be capable of suing and being sued and of doing and suffering, in addition to anything expressly stated in this Act, all such things as may be necessary or convenient for carrying out the purposes of this Act.

Incorporation of Commissioner of Public Works<sup>1</sup>.  
1186, 1915,  
s. 15.

(2) All courts, judges, and persons acting judicially, shall take judicial notice of such seal when affixed to any instrument, and shall, until the contrary is shown, presume that the same was properly affixed thereto.

16. (1) For the purposes of this Act the Minister may appoint officers, and may also authorize such person or persons as he thinks proper to do all or any of the acts, matters, and things which the Minister is by this Act empowered or required to do.

Power of Minister to appoint officers and delegate.  
Cf. 1023, 1910,  
s. 8,  
1186, 1915,  
s. 16.

(2) Every person so authorized shall for the purposes of the said acts, matters and things have and enjoy all such powers as are hereby conferred on the Minister; 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 Minister.

(3) Every person so authorized 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 Minister would have had or enjoyed if he had done such act, matter, or thing.

17. The Minister shall not individually be subject to be sued or prosecuted in respect of the exercise of any of the powers or duties conferred or imposed by this Act, nor shall he be liable to any execution of any legal process by reason of any contract entered into or instrument executed by him in the execution of his powers or the discharge of his duties.

Minister not to be personally liable.  
Cf. 1023, 1910,  
s. 8,  
1186, 1915,  
s. 17.

18. Subject to the provisions of this Act and the agreement, the Minister is hereby authorized and empowered to exercise all the powers, and required to discharge and perform all the functions and obligations, of the State of South Australia under this Act and the agreement.

Minister to carry out the agreement.  
Cf. 1023, 1910,  
s. 8,  
1186, 1915,  
s. 18.

19. (1) The Governor may by proclamation vest in the Minister any Crown lands which may be necessary for the purposes of this Act or of the agreement; and the Minister may enter upon, take possession of, and acquire or resume, either compulsorily or by agreement, all such other lands as may be necessary for such purposes.

Acquisition and vesting of lands and works.  
1186, 1915,  
s. 19.

(2) All lands, works, and other property in any other State which under the agreement are to be transferred to and vested in the State of South Australia, shall be transferred to and vested in the Minister; and all works constructed in the State of South Australia under this Act shall be vested in the Minister.

20. All lands, works, and property vested in the Minister, or acquired or resumed by the Minister, as provided by the last preceding section, shall be held by him for the purposes of this Act: Provided that—

Lands and works to be held for purposes of this Act.  
Cf. 1023, 1910,  
ss. 14 and 16,  
iii.  
1186, 1915,  
s. 20.

- i. if the Minister certifies that any land vested in him by proclamation is not required for the purposes of this Act the Governor may by proclamation withdraw such land, which shall from the date of the

<sup>1</sup> See s.2 of the Commissioner of Public Works Incorporation Act, 1917 and s.2(1),(2) of Ministers' Titles Act, 1944.

publication of the proclamation in the *Gazette* be regarded for all purposes as Crown lands:

- II. the Minister shall have power to sell or lease any lands vested in him which prove not to be required for the purposes of this Act, and apply the proceeds thereof for the purposes of this Act.

Powers of  
Minister.  
Cf. 1023, 1910,  
s. 16.  
1186, 1915,  
s. 21.

21. The Minister in addition to all other powers and authorities vested in him, is hereby authorized and empowered, for the purposes and subject to the provisions of this Act and the agreement, to—

- I. reclaim lands:

- II. enter upon and occupy—

- (a) any lands, and make surveys, take levels, and set out any parts thereof, and set up and make any posts, stakes, trenches, pits and bores, 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 any works under this Act;

- (b) any lands adjoining or in the neighbourhood of any such work or contemplated work, 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, reconstructing, maintaining, altering, extending, operating, or controlling any such work, or which may hinder, prevent, or obstruct the construction, reconstruction, maintenance, alteration, extension, operation, or control of the same;

- (c) any lands, streets, or roads for the purpose of constructing, reconstructing, maintaining, altering, extending, operating, or controlling any such work; 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:

- III. impound, dam, conserve, store, set back, divert, abstract, or drain the waters of, or alter the course or level of, or embank, narrow, widen, deepen, cleanse, clear, scour, open, straighten, and remove obstructions from, the River Murray and its tributaries:

- IV. alter the course, width, or level of, or close, any roads, streets, or ways:

- v. alter, maintain, or reconstruct any such works, or discontinue the same and substitute others in their stead:

- VI. institute and maintain any proceeding in any court in respect of or in relation to works or lands or other property constructed by or vested in him for the purposes of this Act, or for any tolls prescribed under this Act:

- VII. generally do all other acts for constructing, reconstructing, maintaining, altering, extending, operating, controlling, or protecting from trespass or injury, any works constructed or being constructed under this Act, or works or lands or other property vested



in him, or for effectually exercising his powers and discharging his duties under this Act.

*Control and use of waters*

22. (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.  
1186, 1915,  
s. 22.

(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 River Murray 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.

23. Subject to the last preceding section, the Minister may, for such purposes and on such terms and conditions as are prescribed by regulations made by the Governor, sanction the taking, using, and diverting of any water impounded or conserved in the State of South Australia under this Act, which water is not required for the purposes of navigation; and the Minister may at any time withdraw any sanction so given.

Minister may sanction use of surplus water.  
1186, 1915,  
s. 23.

*Proceedings in aid of other Governments*

24. Upon the receipt of a request by a contracting Government (other than the Government of South Australia) which, pursuant to the agreement, is to or may construct, maintain, operate, or control any works under the agreement, stating that the lands specified therein and situate within the State of South Australia are required for the purpose of the construction, maintenance, operation, or control of any such works, the Governor may—

Acquisition of lands required for works by a contracting Government.  
1186, 1915,  
s. 24.

(a) in the case of Crown lands, by proclamation vest the same in the Minister, whereupon the Minister may enter upon and take possession thereof:

(b) in the case of other lands, direct the Minister to acquire the same, whereupon the Minister may enter upon and take possession of and acquire or resume the same, either compulsorily or by agreement;

and the Minister shall hold the lands so vested in or acquired or resumed by him for the purposes of this Act, and shall permit the same to be occupied and used by the first-mentioned Government, for such purposes or any of them.

25. (a) Any contracting Government (other than the Government of South Australia), which, pursuant to the agreement, is to construct, maintain, operate, or control any works under the agreement, or

Powers of another Government for purposes of works within this State.  
1186, 1915,  
s. 25.

(b) any authority or person authorized by such contracting Government to construct, maintain, operate, or control the said works, or empowered by the laws of the State of such contracting Government to construct, maintain, operate, or control works of a similar kind within the last-mentioned State,

may within the State of South Australia construct, maintain, operate, or control (as the case may require) the said works; and for that purpose is

hereby authorized and empowered, subject to the provisions of this Act and the agreement, to exercise all or any of the powers conferred upon the Minister by section 21.

### *Claims for compensation*

Notice of action  
for damage.  
Cf. 1023, 1910,  
s. 21, 1186,  
1915, s. 26.

**26.** (1) No action, claim, or proceeding whatsoever shall be maintainable for or in respect of any damage occasioned by the construction, maintenance, operation, or control of any works under this Act; but the Minister, or the contracting Government or authority or person acting pursuant to the last preceding section (as the case may be), shall, subject to this section, be liable to make compensation to the person suffering such damage.

(2) No such compensation shall be made unless—

(a) notice in writing, stating the nature and extent of the damage complained of, has been furnished, within six months after the alleged damage has occurred to the Minister or such contracting Government or authority or person (whichever is liable to make compensation), and,

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

Principle of  
compensation  
for damage  
from works.  
Cf. 1023, 1910,  
s. 22, 1186,  
1915, s. 27,  
No. 392 of 1886.

**27.** (1) All claims for compensation for damage occasioned by the construction, maintenance, operation, or control of works under this Act shall be determined in accordance with the provisions of sections 180 and 181 of the Water Conservation Act, 1886<sup>1</sup>, which provisions shall, with such alterations, modifications, and substitutions as are necessary, and subject to the succeeding provisions of this section, apply to such claims.

(2) In applying the said section 180, the words “this Act” at the end of paragraph (2) thereof shall be read as meaning this Act.

(3) No compensation shall be awarded save in respect of some item set forth in the notice furnished under the last preceding section.

(4) In any case in which the amount awarded is less, by one-fourth of the amount claimed, than the amount claimed, the person claiming compensation shall pay to the other party his costs of the matter.

### *Tolls*

Prescribed tolls  
may be charged.  
1186, 1915,  
s. 28.

**28.** A contracting Government having, pursuant to the agreement, the control of any lock, or any authority or person thereto authorized by such Government, may, from time to time, demand and receive in respect of vessels carrying freight passing through such lock the tolls prescribed by regulations made by the commission.

For what  
purposes tolls  
may be  
prescribed.  
1186, 1915,  
s. 29.

**29.** No tolls shall be prescribed, demanded, or received, except towards the cost of lock-keeping and the maintenance of navigation works under this Act, nor except for the use of weirs and locks constructed for the purposes of the agreement.

Maximum tolls.  
1186, 1915,  
s. 30.

**30.** The tolls prescribed shall not exceed—

(a) sixpence per ton of the freight for every hundred miles or part of a hundred miles up to the first two hundred miles; or

<sup>1</sup> The provisions of sections 180 and 181 of the Water Conservation Act, 1886, have been substantially re-enacted in sections 67 and 68 of the Water Conservation Act, 1936.

- (b) fourpence 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; and an excess of less than twenty-five miles on a distance of a hundred miles or any multiple of a hundred miles shall not be taken into account in computing the toll.

### Miscellaneous

31. The powers of vesting Crown lands, and of entering upon and taking possession of and acquiring or resuming other lands conferred by this Act may, in addition to any other cases, be exercised with respect to any lands flooded or likely to be flooded through the construction, maintenance, operation, or control of any works under this Act.

Power to acquire lands likely to be flooded in consequence of works.  
1186, 1915, s. 31.

32. No rates, taxes, or charges whatsoever (whether State, municipal, or otherwise) shall be imposed, made, or levied in respect of any works under this Act or in respect of any land or other property vested in the Minister or occupied by any contracting Government or constructing authority for the purposes of such works.

Works exempt from rates and taxes.  
1186, 1915, s. 32.

33. The existing or accruing rights of a person in the public service of South Australia shall not be affected by reason of his being appointed a commissioner or deputy commissioner, or his being appointed or employed as an officer or servant of or by the commission; and service as a commissioner or deputy commissioner, or as such officer or servant, shall count as service in the said public service.

Saving of rights of State officers.  
1186, 1915, s. 33.

34. All reports, statements, and estimates received under this Act by the Governor shall be laid before both Houses of Parliament as soon as practicable.

Reports to be laid before Parliament.  
1186, 1915, s. 34.

### Regulations

35. (1) The Governor may, for carrying out any of the purposes of this Act for which the commission is not empowered to make regulations, make regulations and thereby provide a penalty not exceeding one hundred dollars<sup>1</sup> for any breach thereof.

Governor may make regulations.  
Cf. 1023, 1910, s. 25. 1186, 1915, s. 35.

(2) All regulations made under this section—

- (a) shall be published in the *Gazette*;
- (b) from the date of such publication or from a later date fixed by the order making the same shall (subject to subsection (3) hereof) be of the same effect as if they were enacted by this Act; and
- (c) shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is in session, and if not, then within fourteen days after the commencement of the next session of Parliament.

(3) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any date within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

<sup>1</sup> Pursuant to s. 8 of the Acts Replication Act, 1967, as amended, references to amounts of money expressed in decimal currency substituted for references to amounts of money expressed in the old currency.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same session or Parliament as that in which the regulation is laid before such House.

(4) When a resolution has been passed as mentioned in subsection (3) hereof, notice of such resolution shall be published in the *Government Gazette*.

#### *Penalty for injuring works*

Penalty for  
injuring works.  
Cf. 1023, 1910,  
s. 28, 1186,  
1915, s. 36.

36. Every person who unlawfully and maliciously destroys or damages or attempts to destroy or damage, any works or portion of works under this Act shall, in addition to his liability to any penalty provided by regulations under this Act, be guilty of a misdemeanour and be liable to imprisonment for any term not exceeding ten years.

#### *Evidence*

Evidence of  
records of the  
commission.  
1186, 1915,  
s. 37.

37. Every minute or record of the proceedings of the commission, if signed by the commissioners, or a copy thereof certified as correct under the hand of a commissioner or of the secretary of the commission, shall be presumed to be correct until the contrary is proved.

Evidence of  
arbitrator's  
decision.  
1186, 1915,  
s. 38.

38. A document signed by and purporting to contain the decision of an arbitrator appointed under the provisions of the agreement shall be evidence of such decision.

Evidence of  
regulation.  
1186, 1915,  
s. 39.

39. The production of a document purporting to be a copy of a regulation made by the commission and to be signed by a commissioner or the secretary of the commission, or of a *Gazette* in which such regulation was published, shall be *prima facie* evidence that such regulation was made and is in force.

#### *Proceedings for offences*

Information  
how laid in  
respect of  
property.  
Ibid., s. 29,  
1186, 1915,  
s. 40.

40. In any information preferred or proceedings instituted, by the Minister 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 Minister; and such statement or averment shall be taken to be true until the contrary is proved.

Summary  
proceedings for  
offences.  
1186, 1915,  
s. 41.

41. Proceedings in respect of offences against this Act, or any regulation under this Act, not being indictable offences, shall be heard and determined in a summary way.

Moneys for  
purposes of this  
Act.  
Cf. 1023, 1910,  
s. 17, 1186,  
1915, s. 44.

42. Subject to the provisions of the agreement, all moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for such purposes.

## SCHEDULES

Section 7.

### THE FIRST SCHEDULE

#### THE AGREEMENT

(In this Act called the "principal agreement")

AGREEMENT MADE THE NINTH DAY OF SEPTEMBER 1914 BETWEEN THE RIGHT HONOURABLE JOSEPH COOK PRIME MINISTER OF THE COMMONWEALTH OF AUSTRALIA FOR AND ON BEHALF OF THE COMMONWEALTH OF THE FIRST PART THE HONOURABLE WILLIAM ARTHUR HOLMAN PREMIER OF THE STATE OF NEW SOUTH WALES FOR AND ON BEHALF

OF THAT STATE OF THE SECOND PART THE HONOURABLE SIR ALEXANDER JAMES PEACOCK K.C.M.G. PREMIER OF THE STATE OF VICTORIA FOR AND ON BEHALF OF THAT STATE OF THE THIRD PART AND THE HONOURABLE ARCHIBALD HENRY PEAKE PREMIER OF THE STATE OF SOUTH AUSTRALIA FOR AND ON BEHALF OF THAT STATE OF THE FOURTH PART.

WHEREAS certain resolutions have from time to time been agreed to and agreements entered into by the Premiers for the time being of the States of New South Wales Victoria and South Australia with regard to the River Murray and its tributaries including an agreement bearing date the eleventh day of November One thousand nine hundred and eight and an agreement relating to works therein described as the Lake Victoria Works and bearing date the fifth day of January One thousand nine hundred and twelve none of which agreements has been ratified by Parliament:

AND WHEREAS at a Conference between the Prime Minister of the Commonwealth of Australia and the Premiers of the said States held on the seventh day of April One thousand nine hundred and fourteen certain resolutions were agreed to with a view to the economical use of the waters of the River Murray and its tributaries for irrigation and navigation and to the reconciling of the interests of the Commonwealth and the riparian States:

AND WHEREAS in order to carry into effect the last mentioned resolutions it is deemed desirable to enter into this Agreement:

NOW IT IS HEREBY AGREED AS FOLLOWS:—

#### I. RATIFICATION AND ENFORCEMENT

1. This Agreement is substituted for the said recited agreements bearing date the eleventh day of November One thousand nine hundred and eight and the fifth day of January One thousand nine hundred and twelve respectively; and is subject to ratification by the Parliaments of the Commonwealth and of the States of New South Wales Victoria and South Australia; and shall come into effect when so ratified. Substitution and ratification.

2. The Contracting Governments hereby agree to submit this Agreement for ratification to the respective Parliaments of the Commonwealth and of the said States during the present session of any such Parliament or if any such Parliament is not in session at the date of this Agreement then at the first session of such Parliament held after the date of this Agreement. Submission to Parliaments.

3. Each of the Contracting Governments as far as its jurisdiction extends and so far as may be necessary shall provide for or secure the execution and enforcement of the provisions of this Agreement and any Acts ratifying the same. Contracting Governments to provide for enforcement of Agreement and Acts.

#### II. THE COMMISSION

4. As soon as may be after the ratification of this Agreement a commission to be called "The River Murray Commission" (hereinafter called "the Commission") shall be appointed for the purposes of this Agreement and of the Acts ratifying the same and shall be charged with the duty of giving effect to this Agreement and the said Acts. Appointment.

5. The Commission shall consist of four Commissioners of whom one shall be appointed by the Governor-General of the Commonwealth one by the Governor of New South Wales one by the Governor of Victoria and one by the Governor of South Australia. Each Commissioner shall be appointed for a term not exceeding five years and shall be eligible for re-appointment. Constitution.

6. The four Commissioners shall be a quorum and the concurrence of all of them shall be necessary for the transaction of the business of the Commission except such business as the Commission may from time to time prescribe as formal. The Commission shall not prescribe as formal any business in which the interests of any two of the Contracting Governments are dissimilar. For the transaction of formal business three Commissioners shall be a quorum and the chairman shall have a deliberative vote and in the event of an equality of votes a casting vote also. Quorum.  
Formal business.

7. The Commissioner appointed by the Governor-General shall be the President of the Commission and shall have a deliberative vote but shall not have a casting vote except in the case of formal business. President.

8. Subject as aforesaid the Commissioners shall have equal powers; and each Commissioner shall receive such salary as the Parliament of the Commonwealth or of the State which he represents shall determine. Powers and salary.

9. On any vacancy occurring in the office of President the Governor-General shall appoint a person to such vacant office and on any vacancy occurring in the office of a Commissioner other than the President the Governor of the State by whom the Commissioner whose office is vacant was appointed shall appoint a person to the vacant office. Vacancies.

10. In case of the illness suspension or absence of a Commissioner the Governor-General or the Governor of the State by whose Governor he was appointed (as the case may be) may appoint a person to act as Deputy-Commissioner during such illness suspension or absence; and such Deputy shall while so acting have all the powers and perform all the duties and be entitled to the indemnities of the Commissioner in whose stead he so acts. Deputy Commissioners.

11. Each Contracting Government shall indemnify the Commissioner appointed by the Governor-General or the Governor of its State (as the case may be) in respect of any act done by him and of any losses costs or damages incurred by him in the *bona fide* execution of the powers vested in the Commission by or under this Agreement or any Act ratifying the same. Indemnity of Commissioner.

Officers and servants.

12. The Commission may from time to time appoint or employ such and so many officers and servants as it thinks fit and remove or dismiss them. All such officers and servants shall as such be subject to the sole control of the Commission.

Employment of officers in Public Service.

13. Persons employed in the Public Service of a Contracting Government may and as far as practicable shall be so appointed or employed by the Commission which may arrange with a Contracting Government for the performance by a person employed in the Public Service of such Government of any work or services for the Commission and for any matters which may require to be adjusted with regard to the performance of or payment for such work or services by such person.

Officers' services partly used.

14. The services of any such person may be made use of in part by the Commission and in part by the Contracting Government.

Commission to take security from officers intrusted with money.

15. Before any person intrusted with the custody or control of moneys whether as collector or other officer or servant of the Commission enters upon his office the Commission shall take sufficient security from him for the faithful execution of his office; and such security may be that of any incorporated company or guarantee society approved of by the Commission and in such form as the Commission may think fit.

Officers to account.

16. Every officer or person appointed or employed by the Commission shall from time to time when required by the Commission make out and deliver to it or to any person appointed by it for that purpose a true and faithful account in writing under his hand of all moneys received by him on behalf or account of the Commission. Such account shall state how and to whom and for what purpose such moneys have been disposed of. Together with such account such officer shall deliver the receipts and vouchers for such payments. Every such officer or person shall pay to the Commission or to any person appointed by it to receive the same all moneys which appear to be owing from him upon the balance of such account.

Records of proceedings.

17. The Commission shall cause proper minutes or records of all its proceedings to be kept.

Gaugings.

18. It shall be the duty of the Commission to carry on an effective and uniform system of making and recording continuous gaugings—

(a) of the main stream of the River Murray and of such of its tributaries within the boundaries of each of the States and at such points as the Commission deems necessary to determine the volume of the intake from the several portions of the drainage area the volume of flow at various points in the channels and the losses therefrom with their positions and modes of occurrence:

(b) of all diversions whether natural or artificial or partly natural and partly artificial from the main stream of the River Murray and its tributaries.

But the Commission in lieu of making any such gaugings may accept any gaugings made and recorded by any Contracting Government.

Duties of the Commission as to—

19. Subject to this Agreement and any Acts ratifying the same the Commission—

(a) Deliveries of water.

i. may declare from time to time so far as may be necessary for giving effect to this Agreement and the said Acts the quantities of and times for and means of verification of all deliveries of water provided for in this Agreement:

ii. in declaring the quantities and times for deliveries of water shall have regard to the quantities and times most suitable and convenient for the purposes of this Agreement:

(b) Reports and balance-sheet.

iii. shall before the first day of October in each year prepare and forward to each of the Contracting Governments a report as to—

(a) its proceedings during the twelve months ended on the thirtieth day of June then last past:

(b) the operations carried on by it or under its orders and particularly as to the gauging of and all deliveries of water during such period:

(c) the effect of the diversions to the said thirtieth day of June on the volume of the River Murray and its tributaries:

(d) the scope and effect of all works in pursuance of this Agreement:

(e) the names salaries allowances or wages positions and duties of officers or persons employed by it:

(f) its receipts and expenditure during the said period:

(g) its administration generally during the said period.

### III. WORKS TO BE CONSTRUCTED

Description of works.

20. The works to be provided for under this Agreement comprise—

i. the provision of a system of storage at Cumberoona or some other suitable site or sites on the Upper River Murray to be approved of by the Commission (hereinafter referred to as the "Upper Murray Storage");

ii. the provision of a system of storage at Lake Victoria:

iii. the construction of weirs and locks in the course of the River Murray from its mouth to Echuca:

iv. the construction of weirs and locks in the course of the River Murrumbidgee from its junction with the River Murray to Hay or alternately at the absolute discretion of the Government of New South Wales to be signified to the Commission within one year from the date on which this Agreement comes into effect, the construction of weirs and locks in the River Darling extending upstream from its junction with the River Murray and involving an equivalent amount of expenditure.

21. All of the works provided for in the next preceding clause to be constructed at points between the mouth of the River Murray and Wentworth shall be constructed by the Government of South Australia. The works on the River Murrumbidgee or on the River Darling above Wentworth (as the case may be) shall be constructed by the Government of New South Wales. The works on the River Murray above its junction with the River Darling shall be constructed by the Governments of New South Wales and Victoria severally or jointly as may be mutually agreed upon by those Governments or as in default of such agreement may be determined by the Commission.

Responsibility  
for  
construction.

22. The weirs and locks aforesaid shall be so constructed as to provide at all times of the year for vessels drawing five feet of water.

Capacity of  
weirs and locks.

23. The Governments of New South Wales Victoria and South Australia shall each as soon as practicable cause to be prepared and submitted to the Commission for its approval a general scheme of the works to be constructed by them respectively under this Agreement and before commencing the construction of any of such works shall cause to be prepared and submitted to the Commission for its approval designs and estimates of such work.

Preparation and  
submission of  
general scheme  
designs &c. for  
the approval of  
the  
Commission.

The Commission may approve of any such general scheme and of any such designs or estimates with or without alterations or additions or may from time to time refer the same for amendment to the Government submitting the same; and in considering the sites at which weirs and locks are to be constructed the Commission shall so far as practicable have regard to the suitability of the sites for the purpose also of affording convenient offtakes for irrigation requirements. The construction of the work shall be carried out in accordance with the designs so approved.

The provisions of this clause so far as they relate to the approval by the Commission of designs and estimates and sites shall not apply to any works mentioned in clause twenty hereof which have been commenced before this Agreement comes into effect nor shall the said provisions or the provisions of paragraph i. of clause twenty hereof so far as they relate to the approval of a site or sites apply to any site or sites for the Upper Murray Storage agreed upon by the Governments of New South Wales and Victoria before this Agreement comes into effect. Full particulars of any works so commenced and of any surveys made for any such site or sites (and in the case of the Upper Murray Storage whether agreed upon as aforesaid or not) and of the cost of such works and surveys shall as soon as may be after this Agreement comes into effect be furnished to the Commission by the Contracting Government or Governments by which the same have been so commenced or made.

24. The construction as provided by clause twenty-one of this Agreement both of the storage works and of the weirs and locks mentioned in clause twenty hereof shall be commenced by the Governments of the several States as soon as may be after this Agreement comes into effect and shall be continued without cessation (other than may be due to unavoidable causes) until all of the said storage works and weirs and locks are completed.

Commencement  
of continuous  
works.

The intention of the Contracting Governments is that so far as is reasonably practicable the Lake Victoria works shall be completed within four years the Upper Murray Storage works within seven years and all other works under this Agreement within twelve years after this Agreement comes into effect.

25. The Governments of New South Wales Victoria and South Australia shall each maintain the works constructed by them respectively under this Agreement and keep the same effective for the purposes for which they were respectively designed.

Maintenance of  
works.

26. After any weir or lock has been constructed under this Agreement across or in any river all necessary dredging and snagging upstream in the river (within the limits indicated by paragraph iii. or iv. of clause twenty of this Agreement) to the distance to which the navigability of the river is affected by such weir or lock shall be carried out by the Government by which it was constructed.

Dredging and  
snagging.

27. The works constructed by any Government under this Agreement shall be operated and controlled by such Government; and such Government, in the case of a weir or lock across or in a river the flow of which is regulated under this Agreement shall at all times (subject to clause fifty-one of this Agreement) maintain thereat a depth of water sufficient for navigation by vessels drawing five feet of water and shall also collect any tolls prescribed for the use thereof for purposes of navigation.

Operation and  
control of  
works and  
collection of  
tolls.

28. The Commission shall have full power to give directions to secure the uniformity stability and durability of works and to order and direct—

Directions of  
Commission.

- i. the order in point of time of the construction of particular works being part of the works to be constructed by any of the State Governments;
- ii. the rate of progress of works whether of construction or maintenance;
- iii. the method and extent of maintenance of works;

iv. if necessary what works shall be regarded as works of construction or of maintenance; and

v. such acts and things as it considers necessary for ensuring the due observance of this Agreement;

and any such directions shall be carried out by the constructing authority.

State Governments to facilitate construction and operations within their territories.

29. A Contracting Government within whose State any works for the purposes of this Agreement are to be or are being or have been constructed by another Contracting Government or constructing authority shall grant to such other Contracting Government or constructing authority all such powers licences and permissions in and to the use of or with respect to its territory as may be necessary for the construction maintenance operation and control of such works in addition to the powers of a constructing authority and for carrying out any operations authorised by this Agreement.

Works for joint benefit of New South Wales and Victoria.

30. It is agreed between the Governments of New South Wales and Victoria that the provisions of this Agreement shall *mutatis mutandis* apply to any works in the River Murray above Echuca for the purpose of the diversions of water allotted to them under this Agreement (other than any works mentioned in clause twenty of this Agreement) which may be constructed for the joint benefit of those States the cost of the construction of such works and of the maintenance thereof being borne by the Government of New South Wales and Victoria in proportion to the amount of water proposed to be diverted into each of the said States by such works. In the event of failure of the respective Governments to agree as to the proportion of water proposed to be diverted the Commission shall upon reference to it by the Governments or either of them finally determine the matter.

Performance of joint duties.

31. Where pursuant to this Agreement the duty of maintaining operating or controlling any works or of carrying out any operation is to be performed by any two Contracting Governments jointly any questions which may arise as to which of such Governments is to perform such duty shall unless mutually agreed upon between them be determined by the Commission.

#### IV. FINANCE

Apportionment of cost of construction.

32. The cost of carrying out the works mentioned in clause twenty of this Agreement is estimated at Four million six hundred and sixty-three thousand pounds and shall be borne by the Contracting Governments in the following proportions namely:—

	£
Commonwealth .....	1,000,000
New South Wales .....	1,221,000
Victoria .....	1,221,000
South Australia .....	1,221,000

Estimated cost of construction.

33. The estimated cost of the several works mentioned in clause twenty of this Agreement and herein more particularly specified is as follows namely:—

	£
Nine weirs and locks from Blanchetown to Wentworth .....	865,000
Seventeen weirs and locks from Wentworth to Echuca .....	1,700,000
Nine weirs and locks from the junction of the Rivers Murray and Murrumbidgee to Hay or alternatively locks and weirs from the junction of the River Darling with the River Murray up-stream in the River Darling and involving an equivalent amount of expenditure .....	540,000
Upper Murray Storage .....	1,353,000
Lake Victoria Storage .....	205,000

Proposed expenditure in any year.

34. The Commission shall in the month of March of each year prepare and forward to each of the Contracting Governments a detailed estimate of the amount of money required during the twelve months from the first day of July then next ensuing for all expenditure pursuant to this Agreement (other than expenses of the Commission or salaries and expenses of Commissioners) showing the manner in which it is proposed to expend such money; and the Contracting Governments shall provide their respective shares thereof in the proportions set out in clause thirty-two of this Agreement and pay the same to the Commission before the expiration of the said period of twelve months.

In the first estimate prepared under this clause there shall also be included any amounts of money expended or to be expended by any of the Contracting Governments pursuant to this Agreement before the beginning of the period of twelve months covered by such first estimate (including the cost referred to in the last paragraph of clause twenty-three of this Agreement); and the same shall be paid accordingly as provided by this clause and clause thirty-five of this agreement.

If in the opinion of the Commission it is necessary in any year to provide for any expenditure in excess of the amount set out in the estimate for that year the Commission shall prepare and forward to each of the Contracting Governments a detailed estimate of such excess expenditure; and the Contracting Governments shall provide their respective shares thereof in the proportions set out in clause thirty-two of this Agreement and pay the same to the Commission before the expiration of that year.

Payment by Commission to State.

35. In accordance with the estimates provided for in the next preceding clause of this Agreement the Commission shall in each year advance to any Government required by this Agreement to construct maintain operate or control any works or to carry on any operation an amount sufficient to defray the cost to be incurred by such Government for those purposes in that year.



36. If in the opinion of the Commission for the effective construction of any of the works provided for in this Agreement it is necessary to exceed the amount set out in clause thirty-three of this Agreement the Commission may pay to the Government constructing such work an amount in excess of that so set out and the amount of such excess expenditure shall be borne by the Contracting Governments in the proportions set out in clause thirty-two of this Agreement.

Excess expenditure in construction.

37. Where a Contracting Government or a constructing authority has made compensation for any damage occasioned by or arising out of anything done by it under this Agreement the amount of such compensation shall be contributed by the Contracting Governments *inter se* in the proportions set out in clause thirty-two of this Agreement.

Compensation for damage by works.

38. All expenses of the Commission (except the salary and expenses of each Commissioner which shall be paid by the Contracting Government which he represents) shall be borne by the Contracting Governments in equal shares.

Administrative expenses.

39. Of the moneys paid to the Commission by the Contracting Governments pursuant to this Agreement such balances as remain unexpended on the thirtieth day of June in any year shall be available for expenditure during the twelve months from the first day of July in that year.

Unexpended balances.

40. The books accounts and vouchers of the Commission shall be examined and audited at least once in every year by the Auditor-General of the Commonwealth or by such other officer as may be appointed for that purpose by the Governor-General and may at any reasonable time be examined and audited by any person appointed for that purpose by the Governor of any of the said States; and a report of the result of any examination and audit under this clause shall be furnished to each Contracting Government by the person making the same.

Audit and inspection of books.

41. The Commission shall account to the Contracting Governments for all moneys received by the Commission under or for the purposes of this Agreement.

Commission to account.

42. No tolls shall be collected in respect of navigation except such as are prescribed by the Commission for the use of weirs and locks constructed for the purposes of this Agreement. All such tolls when collected shall be paid to the Commission which shall credit the same to the Contracting Governments in the proportions set out in clause thirty-two of this Agreement.

Tolls.

#### V. PROCEEDINGS IN DEFAULT

43. If any Contracting Government whose duty it is under this Agreement or under any direction issued in accordance with this Agreement to construct or continue the construction of or to maintain operate or control any works or to carry on any operation or to provide its share of the cost of the construction maintenance operation or control of such works or of carrying on such operation refuses or neglects to do so after being thereunto required by the Commission the other Contracting Governments (or any one or more of them) with the sanction of the Commission—

Failure to perform works or contribute cost.

(a) may without prejudice to their or its other rights under this Agreement construct or continue and complete the construction of or maintain operate or control the whole of such works (or any portion thereof specified by the Commission) or carry on such operation (or any part thereof specified as aforesaid) and provide the cost thereof; and

(b) may in any court of competent jurisdiction recover as a debt from the Contracting Government so refusing or neglecting the share of such cost to be provided by such Contracting Government in pursuance of this Agreement together with interest on any sums expended at a rate to be determined by the Commission.

For the purpose of any act or thing to be done under this clause the Contracting Governments or any one or more of them as aforesaid shall have the rights and powers of a constructing authority; but the Contracting Governments so refusing or neglecting shall on completion of such act or thing and the payment of its share of the cost thereof be deemed to be the constructing authority.

#### VI. DISTRIBUTION OF WATERS

44. Clauses forty-five to fifty-one inclusive of this Agreement shall not take effect until the Lake Victoria and Upper Murray Storage works are completed or declared by the Commission to be effective for the purposes of this Agreement or the expiration of the period of seven years from the time when the Agreement comes into effect (whichever first happens) and nothing in the said clauses or in this clause shall be taken as an admission prejudicial to the rights of any of the States of New South Wales Victoria or South Australia in the meantime.

Postponement of operation of clauses 45 to 51.

45. The flow of the River Murray at Albury including the natural or regulated flows of all tributaries of the River Murray above Albury as regulated by the Upper Murray Storage shall be shared equally by New South Wales and Victoria; subject to deduction from either State's share at Albury of such volumes as that State may by works divert from time to time from streams above Albury.

Flow at Albury.

46. New South Wales and Victoria shall each have the full use of all tributaries of the River Murray within its territory below Albury and shall have the right to divert store and use the flows thereof and shall have the right below the affluence with the River Murray of any such tributary to divert store and use volumes equivalent to those arriving at the place of diversion as the result of contribution by any such tributary in addition to any other share of the waters at the place of diversion to which each of the said States is respectively entitled under this Agreement.

Tributaries in New South Wales and Victoria below Albury.

Limitation of rights under clauses 45, 46.

47. All rights under clauses forty-five and forty-six of this Agreement shall be subject to provision by each of the said States of New South Wales and Victoria from the flow of its tributaries or from the flow of the River Murray at Albury or both of its contribution towards the share hereby allotted to South Australia and subject also to town supply domestic and stock supply and other uses within its territory from the main stream and to the provisions of clause fifty of this Agreement.

Proportion of waters allotted to South Australia to be contributed by New South Wales and Victoria respectively.

48. The proportion of the contributions by New South Wales and Victoria to the share hereby allotted to South Australia and for town supply domestic and stock supply and other uses from the main stream shall be that which the mean natural flow of the tributaries of each State below Albury measured at the points of affluence with the River Murray with half the actual mean flow at Albury added in each case bear to each other. In calculating the mean flow of the River Darling for this purpose a deduction shall be made to the extent of any water diverted by the State of Queensland the extent of such diversion being determined by the Commission.

Allowance to South Australia.

49. The minimum quantity to be allowed to pass for supply to South Australia in each year shall be sufficient to fill Lake Victoria Storage once and in addition to maintain with the aid of the water returned from Lake Victoria a regulated supply at Lake Victoria outlet of one hundred and thirty-four thousand acre feet per month during the months of January February November and December one hundred and fourteen thousand acre feet per month during the months of March September and October ninety-four thousand acre feet per month during the months of April May and August and forty-seven thousand acre feet per month during the months of June and July such quantities being the provisions for irrigation equivalent to a regulated supply of sixty-seven thousand acre feet per month during nine months and for domestic and stock supply losses by evaporation and percolation in Lake Victoria and like losses and lockage in the river from Lake Victoria to the river mouth (but not including Lakes Alexandrina and Albert).

Surplus.

50. After the utilization for irrigation by South Australia of the volumes set forth in the next preceding clause or by New South Wales of one million nine hundred and fifty-seven thousand acre feet per annum or by Victoria of two million two hundred and nineteen thousand acre feet per annum a further volume or further volumes may be allotted from time to time by the Commission out of any surplus over the quantities specified in this and the next preceding clause.

Drought

51. The Commission may in the case of a period of unusual drought such as the years One thousand nine hundred and two and One thousand nine hundred and three vary the provisions of this Agreement respecting the amount of water to be used by New South Wales and Victoria and the amount of water to be allowed to pass for supply to South Australia and respecting the depth of water to be maintained at weirs and locks constructed under this Agreement but in any case of restriction the reduction of supply to be suffered by each State shall be proportioned to the amounts to which the respective States would otherwise be entitled under the preceding clauses of this Agreement.

#### VII. DIVERSIONS AND STORAGES

Information to be given to Commission.

52. Before the commencement of any works to effect new or alter existing diversions of the waters of the River Murray or its tributaries the Contracting Government by or under permission from which such diversion is proposed to be effected shall inform the Commission in writing of the intention to commence such works.

Statement of existing diversions.

53. Within six months after the appointment of the Commission each of the Contracting Governments shall furnish the Commission with a statement containing a list of all actual and all permitted diversions existing within its territory at the time of such appointment with such particulars thereof as the Commission requires and such Contracting Government is able to supply.

#### VIII. LAKE VICTORIA WORKS

Construction to be facilitated.

54. The States of New South Wales and Victoria so far as they can do so and as may be necessary in pursuance of this Agreement will authorise and facilitate the construction and maintenance and the use by the State of South Australia of the Lake Victoria Works mentioned and described in Schedule A to this Agreement.

Transfer of site.

55. To the end and for the purposes mentioned in the next preceding clause of this Agreement the State of New South Wales will transfer to and vest in the State of South Australia for an estate in fee simple subject to the conditions hereinafter expressed the lands mentioned and described in Schedule B to this Agreement.

Power to store water in Lake Victoria.

56. After the commencement of the Lake Victoria Works the State of South Australia may at all times divert into Lake Victoria for impounding or storing therein the waters of the River Murray flowing at the site or sites of the offtake or offtakes for diversion into Lake Victoria except so much of such waters as under this Agreement New South Wales or Victoria shall have allowed to pass down the river for diversion supply or use to or in their respective territories or as may be required for the purposes of this Agreement at all places below any such site.

Waters stored in Lake Victoria.

57. Subject to this Agreement and to the Acts ratifying the same and to any right at the date when this Agreement comes into effect lawfully exercisable by an occupier of land on the bank of the said lake to use the water being in the said lake for domestic purposes or for watering cattle or other stock or for gardens not exceeding five acres in extent used in connection with a dwelling-house and to the general right of all persons to use such water for domestic purposes or for watering cattle or other stock at places on such lake to which at the said date there is access by public road or reserve the water impounded or stored in Lake Victoria shall be devoted to such uses as may be determined by the Government of South Australia which subject to any directions of the Commission may at the times and in the quantities it thinks proper release such water for

conveyance by the channel of the River Murray to the eastern boundary of the State of South Australia: Provided that the water so stored shall be used primarily for the purpose of aiding to maintain the regulated supplies of water at Lake Victoria outlet provided for in clause forty-nine of this Agreement: Provided also that the State of South Australia subject to this Agreement will at the request of the State of New South Wales make provision where necessary for and permit the reasonable use of the waters of the said lake by occupiers on the settlement of lands of a total area not exceeding 200,000 acres in the vicinity of Lake Victoria for domestic purposes and for watering their cattle and other stock: Provided further that if access to the watering-places aforesaid by public road or reserve be interfered with by the construction of the said Lake Victoria Works the State of South Australia will on the request of the State of New South Wales provide such other watering-places in lieu thereof as shall not interfere with the said works.

## IX. MISCELLANEOUS

58. If a difference of opinion arises among the Commissioners on any question not being a question of law or prescribed as formal business such question unless the Commissioners concur within two months after submission by a Commissioner of a resolution thereon shall as hereinafter provided be referred for decision to an arbitrator who shall be appointed by the Contracting Governments.

Arbitration.  
Difference to be  
referred.

A Contracting Government may give to the other Contracting Governments written notice to concur in the appointment of an arbitrator and to refer such question to such arbitrator for decision.

If the appointment be not made within two months after the giving of such notice the Chief Justice of the Supreme Court of Tasmania or other the person for the time being discharging the duties of that office may at the request of such Contracting Government appoint an arbitrator who shall have the like powers to act in the reference and to decide the question as if he had been appointed by the Contracting Governments.

The decision of an arbitrator appointed to decide such question shall be binding on the Commission and the Contracting Governments and shall be deemed to be the opinion of the Commission.

59. A Contracting Government shall on the request of the Commission furnish to the Commission all such information and particulars as the Commission may require for the purposes of this Agreement and as such Government is able to furnish.

Furnishing  
information and  
particulars.

60. All reports statements and estimates of the Commission required by this Agreement to be forwarded to the Contracting Governments or any of them and all reports of persons appointed to examine and audit books accounts and vouchers of the Commission shall be addressed to the Governor-General or the Governor (as the case may require).

Reports &c. to  
be sent to  
Governor-  
General or  
Governor.

## X. INTERPRETATION

61. In this Agreement save where inconsistent with the context—

"Constructing authority" means the Contracting Government or Governments by which any works are constructed or to be constructed or any authority constituted or appointed for the purpose of such construction.

"Contracting Government" means any Government which is a party to this Agreement.

"Diversions" includes abstractions impoundings and appropriations of water that diminish or retard the volume of flow of a river.

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

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

"Land" includes Crown lands and buildings messuages tenements and hereditaments of any tenure and any easement right or privilege in over or affecting any land.

"Maintenance" includes repairs and improvements.

"River" and "Tributary" respectively include any affluent effluent creek ana-branch or extension of and any lake or lagoon connected with the river or tributary.

In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

Signed sealed and delivered by the above-named JOSEPH COOK, in the presence of—

P. MCM. GLYNN.

JOSEPH COOK. (L.S.)

Signed sealed and delivered by the above-named WILLIAM ARTHUR HOLMAN, in the presence of—

W. H. FORREST.

W. A. HOLMAN. (L.S.)

Signed sealed and delivered by the above-named ALEXANDER JAMES PEACOCK, in the presence of—

J. H. MCCOLL.

A. J. PEACOCK. (L.S.)

Signed sealed and delivered by the above-named ARCHIBALD HENRY PEAKE, in the presence of—

RICHARD BUTLER.

A. H. PEAKE. (L.S.)

## SCHEDULE A

A regulation reservoir with a storage capacity of about twenty-two and a half thousand millions of cubic feet at and about Lake Victoria in the State of New South Wales situate within three miles of the River Murray and about thirty-six miles in a direct line below the junction of the River Murray with the River Darling and about fourteen miles in a direct line above the eastern boundary of the State of South Australia which lake covers an area of approximately thirty thousand acres and is connected with the main stream of the River Murray by the Rufus River and Frenchman's Creek.

Such weirs and locks across and in the River Murray and such regulators as may be required for the purposes of the Lake Victoria storage or of the navigation of the River Murray.

## SCHEDULE B

That piece of land situated in the State of New South Wales 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 course from the said river to the said lake; also so much of the banks and foreshores of the said lake and watercourses and of the land adjoining thereto as shall be sufficient for all purposes of access to and use and enjoyment of the Lake Victoria works.

## Section 7.

## THE SECOND SCHEDULE

## THE AMENDING AGREEMENT

AGREEMENT made the tenth day of August One thousand nine hundred and twenty-three between the Right Honorable Stanley Melbourne Bruce Prime Minister of the Commonwealth of Australia for and on behalf of the Commonwealth of the first part the Honorable Sir George Warburton Fuller K.C.M.G. Premier of the State of New South Wales for and on behalf of that State of the second part the Honorable Harry Sutherland Wightman Lawson Premier of the State of Victoria for and on behalf of that State of the third part and the Honorable Sir Henry Newman Barwell K.C.M.G. Premier of the State of South Australia for and on behalf of that State of the fourth part:

WHEREAS on the ninth day of September One thousand nine hundred and fourteen an Agreement was entered into by the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales Victoria and South Australia with regard to the economical use of the waters of the River Murray and its tributaries for irrigation and navigation and to the reconciling of the interests of the Commonwealth and the said States which agreement was ratified by the Parliament of the Commonwealth of Australia and the Parliaments of the said States and which Agreement is hereinafter referred to as the Principal Agreement:

AND WHEREAS at Conferences between the Honorable Percy Gerald Stewart Minister for Works and Railways of the Commonwealth of Australia the Honorable Richard Thomas Ball Minister for Public Works of the State of New South Wales the Honorable Henry Angus Assistant Minister for Water Supply of the State of Victoria and the Honorable John George Bice Chief Secretary of the State of South Australia held on the twenty-third twenty-fourth and twenty-fifth days of May One thousand nine hundred and twenty-three certain resolutions were agreed to with a view to modifying certain of the provisions of the principal Agreement:

NOW IT IS HEREBY FURTHER AGREED AS FOLLOWS:—

## I. Ratification and Enforcement

## Ratification.

1. This Agreement is subject to ratification by the Parliaments of the Commonwealth and of the States of New South Wales Victoria and South Australia; and shall come into effect when so ratified.

## Submission to Parliament.

2. The Contracting Governments hereby agree to submit this Agreement for ratification to the respective Parliaments of the Commonwealth and of the said States during the present session of any such Parliament or if any such Parliament is not in session at the date of this Agreement then at the first session of such Parliament held after the date of this Agreement.

## Contracting Governments to provide for enforcement of Agreement and Acts.

3. Each of the Contracting Governments so far as its jurisdiction extends and so far as it may be necessary shall provide for or secure the execution and enforcement of the provisions of this Agreement and any Acts ratifying the same.

## Incorporation in Principal Agreement.

4. On and after the date of ratification of this Agreement the Principal Agreement shall be read and construed as if the amendments made therein by this Agreement were incorporated therein.

## II. Amendment of Principal Agreement

## Quorum.

5. Clause 6 of the Principal Agreement is amended by inserting after the word "and" (first occurring) the words "subject to clause 44 of this Agreement."

6. Clause 21 of the Principal Agreement is amended—
- (a) by inserting after the word "Wentworth" (first occurring) the words "(excepting the weir and lock to be constructed on the River Murray below its junction with the River Darling by the Government of New South Wales or by the Government of Victoria or by both those Governments jointly)"; and
- (b) by inserting after the words "River Darling" (last occurring) the words "and one weir and lock below the said junction."
7. After clause 24 of the Principal Agreement the following clause is inserted:—
- "24A. The construction of works provided for in this Agreement which will provide for the needs of irrigation shall have precedence over the construction of any such works which will be primarily for the requirements of navigation."
8. Clause 42 of the Principal Agreement is amended by omitting the words "Contracting Governments in the proportions set out in clause thirty-two of this Agreement" and inserting in their stead the words "State Contracting Governments in equal proportions to be used by them towards the cost of lock-keeping and the maintenance of navigation works constructed under this Agreement."
9. Clause 44 of the Principal Agreement is amended—
- (a) by omitting the word "seven" and inserting in its stead the word "twelve"; and
- (b) by adding at the end thereof the words "Until clauses forty-five to fifty-one inclusive of this Agreement take effect the Commission may from time to time determine by a three-fourths majority the amount of water to be allowed to pass for supply to South Australia."
10. Clause 58 of the Principal Agreement is amended—
- (a) by inserting after the word "business" the words "or in the case of a question to be determined under clause 44 of this Agreement if the Commissioners are equally divided,"; and
- (b) by inserting after the word "Commissioners" (second occurring) the words "or in the case of a question to be determined under clause 44 of this Agreement at least three of the Commissioners."
11. Notwithstanding anything contained in clause 32 of the Principal Agreement the Commonwealth Government agrees to increase to one quarter the proportion of the cost of carrying out the works mentioned in clause 20 of the Principal Agreement to be borne by the Commonwealth Government and for the purposes of clauses 34, 36 and 37 of the Principal Agreement the cost of carrying out the said works shall be deemed to be borne by the Contracting Governments in equal shares. The provisions of this clause are agreed to by the Commonwealth Government upon the understanding that it is the intention to carry out the Principal Agreement subject to such modifications thereof as are made by this Agreement or are at any time mutually agreed upon by all the Contracting Governments.

Responsibility  
for  
construction.Precedence of  
irrigation  
works.

Tolls.

Postponement  
of operation of  
clauses 45 to 51.

Arbitration.

Differences to  
be referred.Share of the  
Commonwealth  
in cost of  
works.

IN WITNESS WHEREOF the said parties to these presents have hereunto set their hands and seals the day and year first above-written.

Signed sealed and delivered by the above-named STANLEY MELBOURNE BRUCE, in the presence of—	P. G. STEWART.	}	S. M. BRUCE.	(L.S.)
Signed sealed and delivered by the above-named GEORGE WARBURTON FULLER, in the presence of—	R. T. BALL.	}	GEORGE W. FULLER.	(L.S.)
Signed sealed and delivered by the above-named HARRY SUTHERLAND WHIGHTMAN LAWSON, in the presence of—	HENRY ANGUS.	}	H. S. W. LAWSON.	(L.S.)
Signed sealed and delivered by the above-named HENRY NEWMAN BARWELL, in the presence of—	JOHN G. BICE.	}	H. N. BARWELL.	(L.S.)

## THE THIRD SCHEDULE

Section 7.

## THE FURTHER AMENDING AGREEMENT

AGREEMENT made the twenty-third day of July one thousand nine hundred and thirty-four between The Right Honourable Joseph Aloysius Lyons Prime Minister of the Commonwealth of Australia for and on behalf of the Commonwealth of the first part The Honourable Bertram Sydney Barnsdale Stevens Premier of the State of New South Wales for and on behalf of that State of the second part The Honourable Sir Stanley Seymour Argyle K.B.E. Premier of the State

of Victoria for and on behalf of that State of the third part and The Honourable Richard Layton Butler Premier of the State of South Australia for and on behalf of that State of the fourth part

WHEREAS on the ninth day of September one thousand nine hundred and fourteen an Agreement was entered into by the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales Victoria and South Australia with regard to the economical use of the waters of the River Murray and its tributaries for irrigation and navigation and to the reconciling of the interests of the Commonwealth and the said States which Agreement was ratified by the Parliament of the Commonwealth of Australia and the Parliaments of the said States and which Agreement is hereinafter referred to as the Principal Agreement

AND WHEREAS on the tenth day of August one thousand nine hundred and twenty-three a further Agreement (hereinafter referred to as the "Amending Agreement") was entered into by the Prime Minister of the Commonwealth of Australia and the Premiers of the States of New South Wales Victoria and South Australia modifying certain of the provisions of the Principal Agreement which further Agreement was ratified by the Parliament of the Commonwealth of Australia and by the Parliaments of the said States:

AND WHEREAS at a Conference between the Honourable John Arthur Perkins Minister for the Interior of the Commonwealth of Australia The Honourable Reginald Walter Darcy Weaver Minister for Public Works of the State of New South Wales The Honourable George Louis Goudie Minister of Water Supply of the State of Victoria and The Honourable Herbert Sydney Hudd Commissioner of Public Works of the State of South Australia held on the fifteenth day of November one thousand nine hundred and thirty-three certain resolutions were agreed to with a view to modifying certain of the provisions of the Principal Agreement as amended by the Amending Agreement.

NOW IT IS HEREBY FURTHER AGREED as follows:—

#### I. RATIFICATION AND ENFORCEMENT

1. This Agreement is subject to ratification by the Parliaments of the Commonwealth and of the States of New South Wales Victoria and South Australia and shall come into effect when so ratified.

2. The Contracting Governments hereby agree to submit this Agreement for ratification to the respective Parliaments of the Commonwealth and of the said States during the present session of any such Parliament or if any such Parliament is not in session at the date of this Agreement then at the first session of such Parliament held after the date of this Agreement.

3. Each of the Contracting Governments so far as its jurisdiction extends and so far as it may be necessary shall provide for or secure the execution and enforcement of the provisions of this Agreement and any Acts ratifying the same.

4. On and after the date of ratification of this Agreement the Principal Agreement as amended by the Amending Agreement shall be read and construed as if the amendments made therein by this Agreement were incorporated therein.

#### II. AMENDMENT OF PRINCIPAL AGREEMENT AS AMENDED BY AMENDING AGREEMENT

5. Clause 20 of the Principal Agreement is amended—

(a) by adding at the end of paragraph (i) the words "with a capacity of approximately 1,250,000 acre feet of water and with a roadway along the top of the containing dam the dam and the roadway to be constructed of such dimensions and at such a height as will permit of an extension of the storage to approximately 2,000,000 acre feet of water in the future"; and

(b) by omitting paragraphs (iii) and (iv) and inserting in their stead the following paragraphs:—

"(iii) the construction of a barrage in each of the following channels at the mouth of the River Murray, namely:—The Goolwa, Boundary Creek, Mundoo, Ewe Island and Tauwichee Island Channels;

(iv) the construction of fourteen weirs or locks in the course of the River Murray from its mouth to Yarrawonga; and

(v) the construction of two weirs in the course of the River Murrumbidgee from its junction with the River Murray to Hay."

6. The works to be provided for under clause 20 of the Principal Agreement as amended by this Agreement include such works of the kinds described in that clause as have been or are being constructed at the date of this Agreement.

7. Clause 21 of the Principal Agreement as amended by clause 6 of the Amending Agreement is amended—

(a) by omitting the words "points between the mouth of the River Murray" and inserting in their stead the words "places between the point of discharge of the River Murray into the Sea"; and

(b) by omitting the words "or on the River Darling above Wentworth (as the case may be)."

8. Clause 22 of the Principal Agreement is amended by omitting the words "weirs and".

9. Clause 23 of the Principal Agreement is amended by inserting in the second paragraph before the words "weirs and locks" the words "weirs or".

## 10. Clause 24 of the Principal Agreement is amended—

- (a) by inserting in the first paragraph before the words "weirs and locks" (twice occurring) the words "weirs or"; and
- (b) by omitting the second paragraph.

## 11. Clause 26 of the Principal Agreement is amended—

- (a) by inserting before the word "lock" (twice occurring) the words "weir and"; and
- (b) by omitting the numerals "(iii)" and "(iv)" and inserting in their stead the numerals "(iv)" and "(v)" respectively.

12. Clause 27 of the Principal Agreement is amended by omitting the words "weir or lock across or" and inserting in their stead the word "lock".

13. Clause 30 of the Principal Agreement is omitted and the following clause is inserted in its stead:—

"30. The States of New South Wales Victoria and South Australia may at any time extend the construction of the Upper Murray Storage to a capacity of not more than approximately 2,000,000 acre feet of water and in that event the cost of such extension and the maintenance of such extension when completed shall be borne by the said States or any one or more of them in such shares or wholly by any one State as may be mutually agreed upon by the said States and subject to this clause the provisions of this Agreement shall *mutatis mutandis* apply to the work of extension in all respects as if that work were a work mentioned in clause 20 of this Agreement."

14. Clause 32 of the Principal Agreement is amended by omitting the words and figures after the word "estimated" and inserting in their stead the words "not to exceed Twelve million pounds and shall be borne by the Contracting Governments in equal shares."

15. Clause 33 of the Principal Agreement is omitted and the following clause is inserted in its stead:—

"33. The cost of maintaining operating and controlling—

- (i) the gauging stations for the making and recording of the gaugings mentioned in clause 18 of this Agreement; and
- (ii) the works mentioned in clause 20 of this Agreement when completed,

shall be borne by the State Contracting Governments in equal shares."

## 16. Clause 34 of the Principal Agreement is amended—

- (a) by omitting the first paragraph and inserting in its stead the following paragraph—

"The Commission shall in the month of March of each year prepare detailed estimates of the amounts of money respectively required during the twelve months from the first day of July then next ensuing—

- (a) for the cost of carrying out the works mentioned in clause 20 of this Agreement; and
- (b) for the costs of maintenance operation and control mentioned in clause 33 of this Agreement

showing the manner in which it is proposed to expend such moneys. A copy of the detailed estimate of the amount of money required for the cost of carrying out the works mentioned in clause 20 of this Agreement shall be forwarded to each of the Contracting Governments and the Contracting Governments shall provide the amount of money so required according to the shares set out in clause 32 of this Agreement and pay the same to the Commission before the expiration of the said period of twelve months. A copy of the detailed estimate of the amount of money required for the costs of maintenance operation and control mentioned in clause 33 of this Agreement shall be forwarded to each of the State Contracting Governments and the State Contracting Governments shall provide the amount of money so required according to the shares set out in clause 33 of this Agreement and pay the same to the Commission before the expiration of the said period of twelve months"; and

- (b) by omitting the last paragraph and inserting in its stead the following paragraph:—

"If in the opinion of the Commission it is necessary in any year to provide for any expenditure in excess of the amount set out in the estimate of that expenditure for that year the Commission shall prepare a detailed estimate of such excess expenditure. If the excess expenditure relates to the cost of carrying out the works mentioned in clause 20 of this Agreement, a copy of the detailed estimate shall be forwarded to each of the contracting Governments and the Contracting Governments shall provide their respective shares thereof according to the shares set out in clause 32 of this Agreement and pay the same to the Commission before the expiration of that year. If the excess expenditure relates to the costs of maintenance operation and control mentioned in clause 33 of this Agreement a copy of the detailed estimate shall be forwarded to each of the State Contracting Governments and the State Contracting Governments shall provide their respective shares thereof according to the shares set out in clause 33 of this Agreement and pay the same to the Commission before the expiration of that year."

17. Clause 36 of the Principal Agreement is omitted.

18. Clause 37 of the Principal Agreement is amended by omitting the words "under this Agreement" and inserting in their stead the words "in carrying out the works mentioned in clause 20 of this Agreement."

19. Clause 51 of the Principal Agreement is amended by omitting the words "weirs and".

### III. INTERPRETATION

20. Clause 61 of the Principal Agreement is amended—

(a) by inserting after the definition of "Contracting Government" the following definition—

"'Contracting Governments' means all of the Governments which are parties to this Agreement"; and

(b) by adding at the end thereof the following definitions:

"'State Contracting Government' means any State Government which is a party to this Agreement;

'State Contracting Governments' means all of the State Governments which are parties to this Agreement."

IN WITNESS whereof the said parties to these presents have hereunto set their hands and seals the day and year first above-written.

Signed sealed and delivered by the above-named JOSEPH ALOYSIUS LYONS, in the presence of—  
J. H. STARLING. } J. A. LYONS. (L.S.)

Signed sealed and delivered by the above-named BERTRAM SYDNEY BARNSDALE STEVENS, in the presence of—  
R. H. DUNCAN. } B. S. STEVENS. (L.S.)

Signed sealed and delivered by the above-named STANLEY SEYMOUR ARGYLE, in the presence of—  
C. C. GALE. } STANLEY S. ARGYLE. (L.S.)

Signed sealed and delivered by the above-named RICHARD LAYTON BUTLER, in the presence of—  
M. A. F. PEARCE. } R. L. BUTLER. (L.S.)

## THE FOURTH SCHEDULE

### ACTS REPEALED

No. and Year of Act	Title of Act
No. 1186 of 1915 .....	River Murray Waters Act, 1915
No. 1230 of 1915 .....	River Murray Waters Amendment Act, 1915
No. 1568 of 1923 .....	River Murray Waters Amendment Act, 1923
No. 2165 of 1934 .....	River Murray Waters Act, 1934