

An Act to enable Thomas Sellwood Huntley and Walter Barnard to establish a system of Water Supply and to construct Gas-works within the Borough and Suburbs of Penrith. [25th October, 1886.]

PENRITH WATER
AND GAS SUPPLY.

WHEREAS it is expedient that the Borough of Penrith and its Suburbs in the Colony of New South Wales should be provided with an adequate supply of water properly filtered from the Nepean River and should be supplied and lighted with gas And whereas Thomas Sellwood Huntley and Walter Barnard hereinafter designated the promoters desire to establish and carry out works for such purposes and other purposes incidental thereto in the said Borough and Suburbs And whereas the Municipal Council of the said Borough have at the request of the said Thomas Sellwood Huntley and Walter Barnard and in consideration of the benefits to arise from the establishment and carrying out such works consented to the vesting in the said Thomas Sellwood Huntley and Walter Barnard of all necessary powers and authorities so far as the rights and interests of the said Municipal Council are concerned Be it therefore enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Preamble.

PART I.

Preliminary—Powers and duties of the promoters as to Water and Gas supply &c.

1. This Act may be cited as the "Penrith Water and Gas Supply Act of 1886" Its provisions are arranged under Five Parts embracing the following subjects—

PART I.—Preliminary—Powers and duties of the promoters as to water and gas supply &c.

PART II.—Special provisions as to water supply.

PART III.—Special provisions as to gas supply.

PART IV.—The acquisition and occupation by the promoters of lands for purposes of water supply—ascertainment of compensation in respect thereof.

PART V.—Miscellaneous provisions—Legal procedure.

And in the construction of this Act the following words and expressions in inverted commas shall unless there be something in the context repugnant thereto or inconsistent therewith bear the meanings and include the persons or things hereby respectively set against such words and expressions that is to say:—

Interpretation of
terms.

"Central Authority"—The Board of Water Supply and Sewerage—or until such Board shall be constituted the Minister for Public Works.

"Conduit"—The canals tunnels aqueducts cuttings or pipes by means of which the main stream of water is supplied to the said Borough or Municipal District.

"Governor"—The Governor with the advice of the Executive Council.

"Justice"—Any Justice of the Peace.

"Owner"—

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“Owner”—Any person who is in the receipt of the rents and profits of any house manufactory or buildings of whatsoever kind or of any land.

“Street”—Any square court alley highway railway tramway lane road thoroughfare or other passage footpath or place whether public or private within the limits of this Act.

“Water District”—The area within which water is authorized to be supplied to the inhabitants of the said Borough or Municipal District.

“Promoters”—The said Thomas Sellwood Huntley and Walter Barnard their representatives or assigns owners for the time being of the Penrith Waterworks and Gasworks.

“Gasworks”—The Gasworks and works connected therewith by this Act authorized to be constructed.

“Town and Suburbs of Penrith”—All the districts which are included within the Municipality of Penrith.

Conditions prior to acquisition of lands.

2. Before the promoter shall put into force any of the provisions contained in this Part with respect to the acquisition of land otherwise than by agreement the following conditions and provisions shall be observed:—

- (I) The promoters shall publish once at the least in each of three consecutive weeks in some local newspaper circulating in the Municipality a notice describing shortly the nature of the undertaking in respect of which it is proposed to take any land naming the Council Chambers as the place where a plan of the proposed undertaking may be seen at all reasonable hours and stating the quantity of lands required.
- (II) The promoters shall serve a notice on every owner or reputed owner lessee or reputed lessee and occupier of such lands defining in each case the particular lands intended to be taken and requiring an answer stating whether the person so served assents dissents or is neutral in respect of taking such lands.
- (III) On compliance with the provisions of this section with respect to notices the promoters may if they think fit present a petition to the Governor and such petition shall state the lands intended to be taken and the purposes for which they are required and the names of the owners lessees and occupiers of lands who have assented dissented or are neutral in respect to the taking such lands or who have returned no answer to the notice And it shall pray that the promoters may with reference to such lands be allowed to put in force the powers contained in Part IV of this Act with respect to the acquisition of lands otherwise than by agreement and such prayer shall be supported by such evidence as the Governor may require.
- (IV) On the receipt of such petition and on due proof of the proper notices having been published and served the Governor shall take such petition into consideration and may either dismiss the same or direct a local inquiry as to the propriety of assenting to the prayer of such petition but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners lessees and occupiers thereof.
- (V) After the completion of such inquiry the Governor may by provisional order empower the promoters to put in force with reference to the lands referred to in such order the powers of the said Part with respect to the acquisition of lands otherwise than by agreement or any of them and either absolutely

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absolutely or with such conditions and modifications as the Governor may think fit and it shall be the duty of the promoters to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served.

PART II.

Special provisions as to Water Supply.

3. Subject to the provisions of this Act the promoters may exercise any of the powers in this Part contained for the construction of waterworks for the supply of water from the Nepean River to the town and suburbs of Penrith and for the purpose of carrying out the provisions of this Act promoters may

Authority of promoters to construct waterworks.

- (I) Enter upon any lands and take levels of the same and set out such parts thereof as they shall think necessary
- (II) Enter upon take and hold such land as they may from time to time deem necessary for the construction and maintenance of any of the works authorized or transferred by this Act or for obtaining or enlarging the supply of water or for improving the quality thereof for the purposes of this Act
- (III) Enter upon any Crown or private lands streets roads or thoroughfares and lay or place therein any pipes and may repair alter cut off or remove the same and may enter upon any such lands streets roads or thoroughfares for the purpose of repairing any watercourses or other works being their property or under their control

Provided always that in the exercise of any of the powers hereby conferred the promoters shall inflict as little damage as may be and in all cases where it can be done shall provide other watering-places drains and channels for the use of adjoining lands in place of any taken away or interrupted by them and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers Provided nevertheless that the promoters shall not be liable to make compensation in respect of any damage sustained by reason of the taking of water from the said river.

4. Every person who shall wilfully obstruct any person acting under the authority of the promoters in setting out the line of any works undertaken under the authority of this Part or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works or destroy or injure any works so undertaken as aforesaid shall incur a penalty not exceeding five pounds for every such offence.

Penalty for obstructing construction of works.

5. If any person unlawfully and maliciously destroy or damage or attempt to destroy or damage any reservoir dam tank tunnel water-course sluice main pipe aqueduct bridge road way or engine or other part whatever of the works of the promoters every such offender shall be guilty of felony and shall be liable to be imprisoned for any term not exceeding ten years.

Penalty for destroying works

6. The promoters may open and break up the soil and pavement of the several streets and bridges within the limits of its water district and may open and break up any sewers drains or tunnels within or under such streets and bridges and lay down and place within the same limits pipes conduits service-pipes and other works and engines and from time to time repair alter or remove the same and for the purposes aforesaid remove and use all earth and materials in and under

Power to open streets &c.

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under such streets and bridges and do all other acts which the promoters shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits.

Reinstatement of streets &c.

7. When the promoters shall open or break up the road or pavement of any street or bridge or any sewer drain or tunnel they shall with all convenient speed complete the work for which the same shall be broken up and fill in the ground and reinstate and make good the road or pavement of the sewer drain or tunnel so opened or broken up and carry away the rubbish occasioned thereby. And shall at all times whilst any such road or pavement shall be so open or broken up cause the same to be fenced and guarded and shall cause light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up.

Promoters not liable for accidental failure to supply water nor compellable to supply water.

8. The promoters shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any penalty or damages for not supplying such water if the want of such supply arises from unusual drought or other unavoidable cause or accident.

Agreements to supply water—what purposes not domestic.

9. The promoters may supply any person with water for domestic or other purposes by measure at such rates upon such terms and subject to such conditions as may be agreed upon by the promoters and the person requiring to be supplied.

Promoters may let meters.

10. The promoters may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed and any pipes and apparatus for the conveyance reception or storage of the water for such remuneration in money as may be agreed upon between the promoters and the consumer which shall be recoverable in the same manner as rates due to the promoters for water.

Meters of promoter not distrainable &c.

11. Such meters instruments pipes and apparatus shall not be subject to distress for rent of the premises where the same are used or to be attached or taken in execution under any process of any Court of Law of Equity or under or in pursuance of any sequestration or order in insolvency or other legal proceedings against or affecting the consumer of the water or the occupier of the premises or other the person in whose possession the meters pipes instruments and apparatus may be.

Meter to be supplied and maintained by consumer.

12. Every person who shall have agreed with the promoters for a supply of water by measure shall at his own expense unless he hire a meter from the promoters provide a meter and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the promoters and in the event of any repairs being required notice in writing shall be immediately given by such person to the promoters and a registration of the quantity used shall be taken before such repairs are effected.

Notice of removal &c. of meter.

13. Every person requiring to remove or alter the position of any meter shall leave six days notice in writing to that effect at the registered office of the promoters hereinafter mentioned and a registration of the quantity of water used shall be taken before such removal or alteration is made.

Water may be cut off if meter not in order.

14. If any person refuse or delay to have such meter properly repaired and put in correct working order after having been required by any officer of the promoters so to do the promoters may shut off the supply of water from the premises of such person either by cutting the service-pipe or otherwise until such meter shall have been properly repaired and certified by some officer of the promoters as being in proper working order.

Penalty for fixing uncertified meter.

15. If any plumber or other person fix or refix any meter upon any premises supplied with water by the promoters without having first obtained a certificate from the promoters that the said meter has been examined and found in correct working order he shall forfeit a sum not exceeding ten pounds.

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16. If any person remove or alter the position of or in any way interfere with any meter without giving such notice as aforesaid he shall for each such offence forfeit a sum not exceeding twenty pounds. Provided that the promoters shall at all times have an office in the Town of Penrith and shall register the same at the Council Chamber of the said Municipal Council at Penrith.

For removing or altering meter without notice.

17. The officers of the promoters may enter any house building or lands to through or into which water is supplied by the promoters by measure in order to inspect the meters instruments pipes and apparatus for the measuring conveyance reception or storage of water or for the purpose of ascertaining the quantity of water supplied or consumed and may from time to time enter any house building or lands for the purpose of removing any meter instrument pipe or apparatus the property of the promoters and if any person hinders any such officer from entering or making such inspection or effecting such removal he shall for each such offence be liable to a penalty not exceeding five pounds but except with the consent of a Justice a power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

Power to officers of Promoters to inspect meter.

18. In all the pipes to which any fire-plug is fixed the promoters shall provide and keep constantly laid on for use unless prevented by unusual drought or other unavoidable accident or during necessary repairs a sufficient supply for the following purposes (that is to say) for cleansing the sewers and drains for cleansing and watering the streets and for supplying any public hospitals or charitable institutions or any public pumps baths and washhouses that may be established for the use of the inhabitants and paid for out of any municipal rates and such supply shall be provided at such rates and upon such terms and conditions as may be agreed upon by the said Municipal Council and the promoters or in case of disagreement as shall be settled by two Justices.

Supply of water for public purposes.

19. The promoters at the request of the Municipal Council shall fix proper fire-plugs in the main and other pipes belonging to them at such convenient distances and at such places as they may consider proper and convenient for the supply of water for extinguishing any fire which may break out within the Borough. And shall from time to time renew and keep in effective order every such fire-plug. And shall put up a public notice in some conspicuous place in each street in which such fire-plug is situated showing its situation. And such notice may be put up on any house or building in such street. And as soon as such fire-plug is completed they shall deposit a key thereof in each place where any public fire-engine is kept. The cost of such fire-plugs and the expense of fixing placing and maintaining the same in repair and of supplying such keys as aforesaid shall be defrayed by the said Municipal Council.

FIRE-PLUGS.

Promoters to place public fire-plugs in mains.

20. The promoters may at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road in which or within two hundred yards of which there shall be a pipe of the promoters place and maintain in effective order a fire-plug (to be used only for extinguishing fires) or near as conveniently may be to such manufactory or works.

Fire-plugs for manufactories &c.

21. The promoters shall at all times keep charged with water all their pipes to which fire-plugs are fixed unless prevented by drought or other unavoidable cause or accident or during necessary repairs. And shall allow all persons at all times to take and use such water for the purpose only of extinguishing fire without making compensation for the same.

Pipes to be kept charged and water taken for fires.

22. If except when prevented as aforesaid the promoters neglect or refuse to fix retain or repair such fire-plug or to furnish to the Municipal

Penalty for refusal to fix &c. fire-plugs or for occasional failure of supply of water.

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Municipal Council a sufficient supply of water for the public purposes aforesaid upon such terms as shall have been agreed on or settled as aforesaid or if except as aforesaid they neglect to keep their pipes charged as aforesaid or neglect or refuse to furnish to any owner or occupier liable to be rated under this Act during any part of the time for which such rates have been paid or tendered they shall be liable to a penalty of fifty pounds and shall also forfeit to the said Municipal Council or to every person having paid or tendered the rate the sum of twenty shillings for every day during which such refusal or neglect shall continue after notice in writing shall have been given to the promoters of the want of supply.

Notice to lay service pipes.

23. After pipes have been laid under the authority of this Act for the supply of water to any street or part thereof the promoters shall cause a notice in the form contained in the First Schedule hereto or to the like effect to be published in four consecutive numbers of some newspaper circulating in the borough or district and the owner or occupier of every tenement referred to in such notice shall within four weeks from the date of the last publication of such notice cause a proper pipe and stop-cocks to be laid so as to convey a supply of water to such tenement. And after fourteen days from such last publication the owner or occupier of such tenement shall unless the promoters refuse to supply him with water be liable to pay the rates and charges for such supply although no such pipe and stop-cocks be laid or no such water be used in such tenement.

PIPES LAID BY OWNERS OR OCCUPIERS.

Power to inhabitants to lay service pipes.

24. Any owner or occupier of any dwelling-house or part of a dwelling-house within the town and suburbs of Penrith who shall wish to have water from the waterworks of the promoters brought into his premises and who shall have paid or tendered to the promoters the portion of water rate in respect of such premises by this Act directed to be paid in advance may open the ground between the pipes of the promoters and his premises having first obtained the consent of the owners and occupiers of such ground and lay any pipes from such premises to communicate with the pipes of the promoters.

Notice to promoters of laying pipes.

25. Such pipes shall be of a strength and material approved of by some officer of the promoters and every such owner or occupier shall before he begins to lay any such pipe give to the promoters two days notice of his intention to do so.

Communication with pipes of promoters to be made under superintendence of surveyor.

26. Before any pipe is made to communicate with the pipes of the promoters the person intending to lay such pipes shall give two days notice to the promoters of the day and hour when such pipe is intended to be made to communicate with the pipes of the promoters and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the promoters. And the bore of such pipe shall not exceed three-quarters of an inch except with the consent of the promoters.

Bore of service pipes.

Service-pipes may be removed after giving notice.

27. Any person who shall have laid down any pipe or other works or who shall have become the proprietor thereof may remove the same after having first given six days notice in writing to the promoters of his intention so to do and of the time of such proposed removal and every such person shall make compensation to the promoters for any injury or damage to their pipes or works which may be caused by such removal.

Power to break up pavements.

28. Any such owner or occupier may open or break up so much of the pavement of any as shall be between the pipes of the promoters and his house building or premises and at any sewer or drain therein for any such purpose as aforesaid (doing as little damage as may be and making compensation for any damage done in the execution of any such work) Provided always that every such owner or occupier desiring

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desiring to break up the pavement of any street or any sewer or drain therein shall be subject to the same necessity of giving previous notice and shall be subject to the same control restrictions and obligations in and during the time of breaking up the same and also reinstating the same and to the same penalties for any delay in regard thereto as the promoters are subject to under the provisions of this Part Provided also that the service mains shall be laid in the centre of the streets.

29. If any person supplied with water by the promoters wrong-
fully does or causes or permits to be done anything in contravention
of any of the provisions of this Part or wrongfully fails to do anything
which under any of those provisions ought to be done for the pre-
vention of the waste misuse undue consumption or contamination of
the water of the promoters the promoters may (without prejudice to
any remedy against him in respect thereof) cut off any of the pipes
by or through which water is supplied to him or for his use and may
cease to supply him with water so long as the cause of injury remains
or is not remedied.

PROTECTION OF THE
WATER.
In case of any breach
of this Part of this
Act water may be
cut off.

30. If any person supplied with water by the promoters wil-
fully or negligently causes or suffers any pipe valve cock cistern bath
soil-pan water-closet or other apparatus or receptacle to be out of
repair or to be so used or contrived that the water supplied to him by
the promoters is or is likely to be wasted misused unduly consumed or
contaminated or so as to occasion or allow the return of foul air or
other noisome or impure matter into any pipe belonging to or connected
with the pipes of the promoters he shall for every such offence be liable
to a penalty not exceeding five pounds.

Penalty for waste
of water.

31. If any person—

- (I.) Not having from the promoters a supply of water for other than domestic purposes uses for other than domestic purposes any water supplied to him by the promoters or
- (II.) Having from the promoters a supply of water for any purpose other than domestic uses such water for any purpose other than those for which he is entitled to use the same

Penalty for misappli-
cation of water.

he shall for every such offence be liable to a penalty not exceeding forty shillings without prejudice to the right of the promoters to recover from him the value of the water misused.

32. It shall not be lawful for the owner or occupier of any premises supplied with water by the promoters or any consumer of the water of the promoters or any other person to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to or used by such owner occupier consumer or any other person or to make any alteration in any such communication or service pipe or in any apparatus connected therewith without the consent in every such case of the promoters And if any person acts in any respect in contravention of the provisions of the present section he shall for every such offence be liable to a penalty not exceeding five pounds without prejudice to the right of the promoters to recover damages from him in respect of any injury done to their property and without prejudice to their right to recover from him the value of any water wasted misused or unduly consumed.

No pipe to be fixed
to consumer's pipe
without permission
of promoters.

33. If any person not being supplied with water by the promoters wrongfully takes or uses any water from any reservoir water-course conduit or pipe belonging to the promoters or from any pipe leading to or from any such reservoir watercourse conduit or pipe or from any cistern or other like place containing water belonging to the promoters or supplied by them for the use of any consumer of the water of the promoters he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalty for unlaw-
fully taking water.

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Inspection of water.

34. The surveyor or other person appointed for that purpose by the promoters may between the hours of ten o'clock in the forenoon and four o'clock in the afternoon enter into any house or premises supplied with water by the promoters in order to examine if there be any waste or misuse of such water and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid or be prevented from making such examination as aforesaid the promoters may turn off the water supplied by them from such house or other premises.

POLLUTING THE
WATER.

Penalty for bathing
in water of the
promoters.

Penalty for throwing
dirt therein.

35. If any person bathe in any stream reservoir aqueduct or other waterworks belonging to the promoters or wash throw or cause to enter therein any dog or other animal he shall for every such offence forfeit a sum not exceeding five pounds.

36. If any person throw convey or cause or permit to be thrown or conveyed any rubbish dirt filth or other noisome thing into any such stream reservoir aqueduct or other waterworks as aforesaid or wash or cleanse therein any cloth wool leather or skin of any animal or any clothes or other thing he shall for each such offence forfeit a sum not exceeding ten pounds.

Penalty for letting
foul water flow
thereinto.

37. If any person cause the water of any sink sewer or drain steam-engine boiler or other filthy water belonging to him or under his control to run or be brought into any stream reservoir aqueduct or other waterworks belonging to the promoters or shall do any other act whereby the water of the promoters shall be fouled he shall for each such offence forfeit a sum not exceeding twenty pounds and a further sum of twenty shillings for each day (if more than one) that such offence continues.

Penalty for per-
mitting substances
produced in making
gas to flow into
works.

38. Every person making or supplying gas within the limits of any water district who shall at any time cause or suffer to be brought or to flow into any reservoir aqueduct or waterworks belonging to the promoters or into any drain communicating therewith any washing or other substance which shall be produced in making or supplying gas or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such reservoir aqueduct or other waterworks shall be fouled or the pipes or conduits thereof injured shall forfeit to the promoters a sum not exceeding twenty pounds to be recovered with full costs of suit for each day during which such washing or other substance shall be brought or shall flow as aforesaid or during which the act shall continue by which such water is fouled after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the promoters.

Penalty on gasmakers
causing water to be
fouled.

39. Whenever the water supplied by the promoters shall be fouled by the gas of any person making or supplying gas within the district aforesaid such person shall forfeit to the promoters for every such offence a sum not exceeding twenty pounds and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine
gas pipes to ascertain
cause of water being
fouled.

40. For the purpose of ascertaining whether the water of the promoters be fouled by the gas of any person making or supplying gas within the said district the promoters may dig up the ground and examine the pipes conduits and works of the persons making or supplying gas Providing that before proceeding so to dig and examine the promoters shall give twenty-four hours notice in writing to the person so making or supplying gas of the time at which such digging and examining is intended to take place and shall give the like notice to the persons having the control or management of the pavements or place where such digging shall take place and shall be subject to the like

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like obligation of reinstating the road and pavement and to the same penalties for delay or any nonfeasance or misfeasance therein as herein-after provided with respect to roads and pavements broken up by the promoters for laying their pipes and if upon such examination it appears that such water has been fouled by any gas belonging to such person the expenses of the digging examination and repairs of the street or place disturbed in any such examination shall be paid by the person making or supplying gas but if upon such examination it appears that the water has not been fouled by the gas of such person then the promoters shall pay all the expenses of the examination and repair and also make good to the said person any injury which may be occasioned to his works by such examination.

The expense to abide the result of the examination.

41. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the promoters from all impurities from closets and other receptacles of faecal matter or urine—

Provisions as to connection of closet and other pipes with mains and as to cisterns &c.

(I) It shall not be lawful for any person to connect with the main any pipe delivering the water directly into the closet-pan or other receptacle for faecal matter or urine without the intervention of a cistern or cisterns into which the water from the main shall first be received and any person so offending shall forfeit and pay a penalty not exceeding fifty pounds.

No closet pipes hereafter to connect directly with the main.

(II) The promoters may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern [hereinafter termed "directly connected"] and which in the opinion of the promoters may endanger the purity of the water by the absorption of noxious gases or suction of faecal matter or urine into such pipe or into the main or otherwise. For the purpose of effecting such disconnection the promoters' artificers and workmen may enter into and upon the premises of any person or corporation whatsoever to do or cause to be done anything in his opinion requisite or necessary in relation thereto.

Promoters may disconnect pipes in certain cases.

(III) Whenever the promoters shall have caused any pipe to be cut off or disconnected or other work to be done in relation thereto they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred. And such owner or occupier shall pay the amount to the promoters and if the amount be paid by an occupier only he may deduct the same from the rent then due or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid the promoters may sue for and recover the same with full costs of suit.

The expense incurred by any disconnection to be paid by tenant and deducted from his rent.

(IV) The owner of every dwelling-house or premises which shall have therein or thereon any closet with a pipe or branch-pipe directly connected with the main shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet and every cistern shall be made of such materials and dimensions and of such model or plan of construction and with such ball-cocks stop-cocks waste-pipes and other appliances as shall be deemed requisite and have been approved by the promoters for securing the water from pollution through any noxious gases or matter evolved or derived from such closets or otherwise. Every owner neglecting to comply with the provisions of this sub-section shall forfeit and pay a penalty not exceeding five pounds.

Owners of premises shall fix closet-cisterns or be liable to a penalty.

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Upon neglect of owner the tenant after fourteen days notice to fix cistern and deduct the expense from rent.

Any person re-establishing any connection with the main unless authorized or wilfully injuring any pipe &c. liable to a penalty.

Where several houses supplied by one pipe each to pay.

WATER RATES.

Rates to be recoverable from either landlord or tenant.

Rates to be paid quarterly in advance.

Rates to be charged according to the annual value of the premises.

(v) Whenever any owner shall have neglected to fix and erect a cistern with its appliances as is in the last preceding section provided for the tenant or occupier of the premises is hereby authorized and required after receiving a written notice thereof from the promoters in that behalf to fix and erect such cistern with its appliances before-mentioned within fourteen days after the receipt of such notice and the said tenant or occupier shall upon payment by him of the charges and expense of such fixing and erection be entitled either to deduct the amount so paid from the rent then due or accruing or at his option to sue for and recover the same with full costs of suit from the owner as for money paid to his use.

(vi) Any person who shall without the authority of the promoters re-establish any such connection which may have been cut off removed or severed by him or who shall in any manner wilfully injure or tamper with any connection-pipe cistern ball-cock stop-cock or waste-pipe which may have been approved by the promoters so as to destroy diminish or endanger its efficiency may be summoned for such offence before two Justices and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the promoters may have incurred (and which he is hereby authorized to incur) in repairing or restoring the same to a state of efficiency Every such offender shall also forfeit and pay a penalty not exceeding ten pounds and the amount of charges and expenses and penalty respectively shall when recovered be paid over to the promoters.

42. Where several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe or where water is supplied to courts alleys and right-of-ways by stand pipes the several owners or occupiers of such houses or parts of houses or of the several houses or parts of houses in every such court alley or right-of-way shall be liable to the payment of the same rates for the supply of water as they would have been liable to each of such several houses or parts of houses had been supplied with water from the works of the promoters by a separate pipe.

43. The rates and charges for water and all sums due to the promoters under this Part shall be paid by and be recoverable from the owner of the premises or the occupier or person requiring receiving or using the supply of water and all rates shall be paid in advance by equal payments on the first day of January the first day of April the first day of July and the first day of October in each year and the first payment shall be made at the time when the owner or occupier of any tenement shall become liable to pay such rates and charges and all such rates and charges may be enforced and recovered in respect of any premises situate within one hundred and fifty feet from the alignment of any street or public highway along which a main water pipe belonging to the promoters is laid although such premises are not actually supplied with water from such main.

44. Such water rate shall be payable in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure or in respect of lands and tenements distant not more than one hundred and fifty feet from any main constructed by or vested in the promoters Provided that the valuation of any lands or tenements for the purposes of such water supply shall not exceed in any year the valuation (if any) of such lands or tenements during the same or the previous year by the Municipal Council of Penrith and no such rate shall exceed the amount of five pounds per centum on the assessed value.

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45. If any person refuse or neglect to pay on demand to the promoters any rate charge or sum due by him to the promoters under this Part the promoters may recover the same with costs in any Court of competent jurisdiction.

Promoters may sue for rates.

46. If any tenant of any premises be called on to pay and pay a greater amount of any rate charge or sum due to the promoters under this Part than is due for the period of his occupancy or pay any sum for laying down service pipes to such premises upon the refusal or neglect of the owner thereof to lay down such service pipes within one month of the last publication of the notice by the promoters as hereinbefore mentioned requiring such owner to lay down such pipes such tenant may deduct any sum so paid or recovered from the rent from time to time becoming due to such owner in respect of such premises or after demand may recover the same from such owner.

Tenant may recover from owner excessive payment or cost of laying services.

PART III.

Special provisions as to the supply of Gas.

47. The promoters are hereby fully authorized and empowered by its servants contractors agents workmen and others from time to time to make erect sink lay place fit maintain and repair such retorts gasometers or gasholders meters receivers cisterns engines machines cuts drains sewers watercourses pipes reservoirs buildings and other works and devices of such construction and in such manner as the promoters shall think necessary or proper for the purpose of carrying out the operations of the promoters in respect of and incidental to the making and supplying of gas in conformity with this Act and the said memorandum and articles of association and also for all such purposes to open and break up the soil and pavement of the several footpaths highways streets bridges roads ways lanes passages or other public place or thoroughfare or of any road way thoroughfare or place dedicated to or used by the public as such or any part or parts thereof within the limits of the town and suburbs aforesaid and to open and break up any sewers drains or tunnels within or under such streets and bridges and to erect posts pillars lamps lamp-iron and other apparatus in or upon the same streets and bridges highways roads streets ways lanes passages and other thoroughfares and places or against any wall or walls erected on or adjoining to any of them and to dig and sink trenches and drains and to lay mains and pipes and put stop-cocks syphons plugs or branches from such mains or pipes in under across or along such streets bridges roads ways lanes passages and other thoroughfares and places and also with such consent as hereinafter mentioned to do the like in under across or along any private roads ways lanes passages buildings and places and from time to time to cut stop remove alter repair replace and relay such main-pipes stop-cocks syphons plugs branches or other apparatus Provided always that nothing in this section contained shall be deemed to authorize the promoters their servants contractors agents or workmen to enter into or upon any private lands buildings or places for any of the purposes aforesaid or thereon to carry out any of the operations of the promoters without the previous consent in writing of the occupiers thereof except that the promoters may at any reasonable time by their servants agents or workmen enter upon any land or place wherein any pipe hath already been lawfully laid down or placed in pursuance of this Act and repair or alter the existing pipe or lay or place any new pipe in the stead thereof and provided also that the promoters shall unless

Authority to erect gasometers break up roads streets &c.

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unless in case of accident give twenty-four hours notice in writing to the Council Clerk of the said Municipality prior to the opening or breaking up of any street lane road pavement sewer drain or tunnel as aforesaid. Provided further that if in carrying out any of the operations of the promoters it shall be deemed necessary by the promoters to enter upon under across or along any public or private railway or tramway it shall be sufficient for the promoters to obtain the consent of the Minister for Works for the time being of the Colony of New South Wales anything hereinbefore contained to the contrary notwithstanding.

To make contracts for supply of gas and carry out works for that purpose.

48. It shall be lawful for the promoters to contract with any persons (whether corporate or individual) for supplying with gas any such person or persons or any streets ways lanes passages manufactories shops warehouses public or private houses buildings or places and for such purpose from time to time to lay down carry fit up connect and furnish any pipe branch or burner lamp meter or other apparatus from or in connection with any main pipe or to lay down any new main which for such purposes may be required and to let any such apparatus for hire for such sum as may be agreed upon which sum may be recovered in like manner as any rent or remuneration for the supply of gas. Provided always that in all cases where damage may be done by the promoters their agents workmen or others in the course of laying on or removing apparatus the said damage shall be made good at the expense of the promoters and in case the promoters shall delay within a reasonable time to make good such damage the owner or occupier of such premises may make good the same and recover the expenses thereof from the promoters in the same manner as is herein provided for the recovery of any sum of money payable under the provisions of this Act. Provided also that if any owner or occupier of any building tenement or place or any person acting for him shall refuse reasonable access in pursuance of the provisions of this section or the sixty-eighth section of this Act to the contractors agents workmen or servants of the promoters for the purpose of removing any such pipe burner meter or apparatus placed or introduced into any such building tenement or place by the promoters or shall prevent or obstruct such removal then the said owner occupier or person acting for him shall immediately make payment to the promoters for such pipe burner meter or apparatus and in default of his so doing within three days after demand thereof made at the same building tenement or place or the residence or last known residence of the party it shall be lawful for the promoters to make complaint to any Justice of the Peace who may cause to be issued a summons to the person so making default calling on him to show cause before the nearest Court of Petty Sessions to where the building tenement or place is situate why he refuses to pay such demand and thereupon the said Court shall proceed to the adjudication and enforcement of such demand in the manner hereinafter set forth. And if any person shall place or lay any pipe to communicate with any main pipe meter or other apparatus already laid placed or erected by the promoters or shall use additional burner or burners of larger dimensions or of other kind or description than that he has contracted with the promoters to use or shall keep the gas supplied by the promoters burning for longer time than he has contracted with the promoters to pay for or shall supply any person with any of the gas supplied to him by the promoters without the promoters' consent in writing first obtained or if any person shall wantonly or maliciously hinder or interrupt any of the contractors workmen agents or servants of the promoters in legally doing or performing any of the acts aforesaid or in exercising any of the powers and authorities by this Act given or if any person shall wilfully or negligently or accidentally do or cause

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cause to be done any injury or damage to any of the buildings machinery pipes burners lamps meters or apparatus of the promoters or remove the same or cause a waste or improper use of gas supplied by the promoters it shall be lawful for the promoters to make a complaint thereof before any Justice of the Peace who may cause to be issued a summons to the person or persons so offending to appear before the Court of Petty Sessions nearest to the place where such offence shall be committed and being thereof lawfully convicted such person shall forfeit and pay to the promoters any sum not exceeding five pounds over and above all damages done and over and above all costs such sum to be ascertained by such Court and to be enforced by distress and all proceedings under this Act not herein expressly provided for shall be regulated and conducted in accordance with the powers of the law in force for the time being respecting summary proceedings before Justices of the Peace and all such provisions shall so far as the same are applicable be enforced and observed in all proceedings under this Act not herein expressly provided for.

49. No pipe burner lamp meter or other apparatus of the said promoters being set up in any building tenement or place shall be subject to distress for rent or shall be taken in execution under any process or proceeding of any Court of Law or Equity or under any proceedings in bankruptcy or insolvency save so far as any process or proceedings against the promoters are concerned.

Apparatus not liable for distress execution &c.

50. When and so often as the promoters its servants contractors agents or workmen shall have opened broken up or removed the soil pavement stone or other material of any street or bridge as aforesaid or shall have opened or broken up any sewers drains or tunnels within or under any such streets or bridges the promoters shall make all reasonable dispatch in performance of the work to be done and shall on completion of such work forthwith carry away all rubbish and waste or surplus material and reinstate such pavement stone or other material and render such street or bridge and every such sewer drain and tunnel within or under the same as nearly as possible in the same condition as it was in previously to the disturbance thereof and during the continuance of such work and until such reinstatement the promoters shall set up sufficient barriers and keep lights burning at night in order to prevent accidents and also when and so often as any gas pitch-waste tar-waste liquids or other things shall escape or flow from any pipe receivers or drain being part of or incidental to the works to be erected under this Part so as to contaminate the air or any stream spring or other water-course or body of water natural or artificial and render the same unhealthy or offensive or unfit for use it shall be lawful for any person to give notice thereof in writing to the promoter who shall immediately take the most speedy and effectual measures to remedy and prevent the same and if the promoters shall make default in any of the matters so required by it to be performed it shall be lawful for any person to lodge complaint thereof before any Justice of the Peace who may summon the promoters before the nearest Court of Petty Sessions and on proof of such default the said Court of Petty Sessions shall order and direct that the said matters shall be done by the promoters within a reasonable time to be named by such Court and in default of compliance with such order any Justice of the Peace on proof of such default on the part of the promoters and on proof that the complainant or any other person has performed the said work so to be done and of the costs charges and expenses attending the same shall issue a distress warrant against the goods and chattels of the promoters for any amount not exceeding the said charges and expenses and the cost of prosecuting such complaint to be paid to the person performing the said work as aforesaid.

Material of streets &c. broken to be replaced.

Barriers and lights to be kept up.

Nuisances.

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Price purity and
illuminating power
of the gas.

51. The price for the gas shall at no time exceed ten shillings per thousand cubic feet and the gas supplied shall be absolutely free from sulphuretted hydrogen and shall be of such minimum quality as to produce from an Argand burner having fifteen holes and a seven-inch chimney consuming five cubic feet of gas per hour a light equal in intensity to the light produced by fifteen sperm candles of six in the pound burning one hundred and twenty grains per hour.

Provision for testing.

52. The promoters shall within twelve months after receiving notice from the Borough Council put up at some testing place to be provided by the said Council within the Borough suitable apparatus for the purposes following—

(I) For testing the illuminating power of the gas supplied

(II) For testing the presence of sulphuretted hydrogen in the gas supplied

The said apparatus shall be in accordance with the Fourth Schedule hereto and shall at all times be kept and maintained in good repair and working order by the promoters.

Appointment of gas
examiner.

53. The Borough Council may from time to time appoint a competent and impartial person to be gas examiner to test the gas at the testing place who shall test the illuminating power and purity of the gas supplied on any or every day and the promoters may be represented at the testing if they shall think fit but shall not be entitled either by themselves or their representatives to interfere in the testing.

Gas examiner to
report &c.

54. The gas examiner shall on the day immediately following that on which the testing was made by him deliver to the Borough Council a report of such testing and shall deliver a copy thereof to the promoters and such report shall be receivable in evidence.

Gas examiner how
paid.

55. Any gas examiner appointed by the Borough Council shall be paid a salary not exceeding one hundred pounds per annum which shall be paid one moiety by the Council and the other moiety by the promoters.

Meters.

56. No meter shall be used for ascertaining the quantity of gas sold by the promoters unless the same shall have its measuring capacity at one revolution or complete action of the meter and also the quantity per hour it is intended to measure in cubic feet or multiples or decimal parts of a cubic foot denominated or marked on the outside thereof in legible letters or figures and shall have been tested and stamped as correct by the English Warden of Standards or other lawful authority.

Borough Council may
appoint inspector of
meters.

57. An inspector of meters may from time to time be appointed by the Borough Council and the said inspector shall at all times when authorized by the Council on the application and at the expense of any consumer of the gas supplied by the promoters be entitled to inspect and test the meters erected by the promoters in the premises of the person making such request after giving forty-eight hours notice of such intended inspection to the promoters and before such inspection the person requiring the same shall deposit in the hands of the inspector all money due or appearing to be due by such person to the promoters on account delivered and in case such deposit shall be in excess of the sum found to be due by the promoters such excess shall be returned to the consumer.

Regulation of meters.

58. No meter which shall have been fixed by the promoters for use before the expiration of one year of the time when this Act comes into operation shall be allowed to remain in use after expiration of five years from that time unless it shall have been tested and stamped as by this Act directed and no meter once tested and stamped under the provisions of this Act shall be allowed to remain in use for more than seven years from the time when it shall have been last so stamped unless and until it shall have been re-tested and re-stamped in manner aforesaid and whenever the promoters shall knowingly allow any meter to be used in contravention of this section they shall be liable to a penalty not exceeding forty shillings for every such offence.

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59. After the expiration of one year from the time when this Act comes into operation the legal standard or unit of measure for the sale of the said promoter's gas by meter shall be the cubic foot containing sixty-two and three hundred and twenty-one thousandths (63.321) pounds avoirdupois weight of distilled or rain water weighed in air at the temperature at sixty-two degrees Fahrenheit's thermometer the barometer being at thirty inches. Legal standard.

60. If any person shall forge or counterfeit or cause or procure to be forged or counterfeited or knowingly act or assist in the forging or counterfeiting any stamp which may hereafter be used for the stamping of any meter under this Parliament every person so offending shall for every such offence be liable to a penalty not exceeding fifty pounds nor less than ten pounds and if any person shall knowingly sell utter or dispose of let lend or expose for sale any meter with such forged stamp thereon every person so offending shall for every such offence be liable to a penalty not exceeding ten pounds nor less than forty shillings and all meters having forged or counterfeited stamps thereon shall be forfeited and destroyed. Forging stamps.

61. All gas supplied by the promoters shall except in case of accident be supplied at such pressure as to balance from midnight to sunset a column of water not less than six-tenths of an inch in height and to balance from sunset to midnight a column of water not less than one inch in height. Pressure of gas.

62. It shall be lawful for the promoters to cut off and take away the supply of gas from the building tenement or other place of every person or body making default in payment after giving twenty-four hours notice to the occupier and thenceforth to discontinue the supply of gas contracted for with the promoters by such person or body and to enter by themselves their agents or workmen into such building tenement or place between the hours of nine in the forenoon and four in the afternoon and remove and carry away any pipe burners lamp meter or other apparatus the property of the said promoters and the promoters shall have the like powers with regard to cutting off taking away and discontinuing the supply of gas in the case of the building tenement or place of any person who shall have been lawfully convicted as hereinbefore provided of any fraudulent injury to any meter or apparatus on such premises or fraudulent use of the gas of the promoters. And in case any person or body who shall contract with the promoters or agree to take or shall take or use the gas of the promoters in any building tenement or place or otherwise shall refuse or neglect to pay the sum or sums of money then due under his or their contract for the same to the promoters according to the terms and stipulations thereof it shall be lawful for the promoters without prejudice to any other remedy to make complaints of such refusal or neglect before any Justice of the Peace who may cause to be issued a summons to the party or parties so refusing or neglecting calling on him or them to show cause before the Court of Petty Sessions in the police district in which such building tenement or place is situated or such user took place why he or they refuses or refuse to pay such sum or sums and thereupon the said Court shall proceed to the adjudication of the said complaint and enforcement of the said demand and costs charges and expenses incurred in the prosecution thereof by distress and sale of the goods and chattels of the person or persons or body so refusing or neglecting to pay. Power to cut off gas of defaulter.

63. The secretary engineer or any other officer of the promoters may at all reasonable times enter any building tenement or place lighted with gas supplied by the promoters in order to inspect the pipes burners lamps meters or other apparatus of or connected with the works of the promoters to regulate the supply of gas or to ascertain the Remedy for recovery of rents of gas.
Right of officer to enter premises.

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the quantity of gas consumed or supplied and if any person shall hinder any such officer as aforesaid from so entering or making such inspection as aforesaid at any reasonable time such person shall for every such offence forfeit and pay to the promoters a sum of money not exceeding five pounds to be awarded and recovered by the promoters in like manner as the penalties aforesaid.

PART IV.

The acquisition and occupation by the promoters of lands for the purposes of water supply—ascertainment of compensation in respect thereof.

Lands required for water supply how acquired.

64. After the notification in the *Gazette* as hereinbefore provided of the approval by the Governor of a scheme for the supply of water to the said town or suburbs but not before the promoters shall be empowered to acquire or occupy lands for the purposes of such water supply in manner hereinafter provided and compensation for every such acquisition or occupation of lands shall be ascertained and carried out as hereinafter provided.

How and when lands can be taken.

65. It shall be lawful for the promoters by notification to be published in the *Gazette* and in one or more newspapers published or circulating in the said town and suburbs to declare that the land described in such notification is required for the purpose therein expressed.

Vesting &c. of lands.

66. Upon the publication of the notification in the *Gazette* declaring that the lands therein described are so required such lands shall upon compliance with the requirements and provisions hereinafter contained be vested in the promoters for the purposes of this Act for an estate of inheritance in fee-simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights-of-way or other easements whatsoever and to the intent that the legal estate therein together with all powers incident thereto or conferred by this Act shall subject to the provisions thereof be vested in the promoters.

Effect of publication upon Crown lands.

67. Where the land required is Crown land at the date of such publication or is vested in any corporation or person on behalf of Her Majesty or for public purposes by virtue of any statute or is within the limits with reference to centres of population prescribed by the Act next hereinafter cited the effect of such publication shall be to withdraw the said land (to the extent required) from any lease or license or promise thereof and to cancel to the like extent any dedication or reservation of the said land made under the authority of the "Crown Lands Alienation Act of 1861" or any Act or Act amending the same or to divest the estate of such corporation or person and to vest the said land to the extent aforesaid in the promoters for the purposes mentioned and for the estate limited in the last preceding section Provided however that nothing in this section contained shall have any effect or operation unless the approval of the Governor shall first have been obtained with respect to the land so required.

Compensation for private lands.

68. Where the land described in any such notification consists wholly or partly of land alienated by or not the property of the Crown or is not Crown land as defined by this Act the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained under the provisions hereinafter contained.

Conversion of estate of proprietor of resumed land into a claim.

69. The estate and interest of every person entitled to lands required under this Act or any portion thereof and whether to the legal or equitable estate therein shall upon due payment of the amount

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amount of compensation tendered by the promoters or assessed by the jury as hereinafter provided be deemed to have been as fully and effectually conveyed to the promoters as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall upon asserting his claim as hereinafter provided and making out his title in respect of any portion of the said resumed lands be entitled to compensation on account of such resumption in manner hereinafter provided.

70. Every person claiming compensation in respect of any land so required or in respect of any work or other matter done under the authority of this Act shall within ninety days from the publication of such notification or at any time afterwards within such extended time as a Judge of the Supreme Court shall upon the application and at the cost of the claimant appoint in that behalf serve a notice in writing upon the promoters which notice shall set forth the nature of the estate or interest of the claimant in such land together with an abstract of his title and if he claims in respect of damage the nature of the damage which he has sustained or will sustain by reason of the taking of his land or of such work or matter as aforesaid and such notice may be in the form of the Second Schedule hereto but with any modifications required by the nature of the claim.

Notice of claim for compensation.

71. Within sixty days after the receipt of every such notice of claim the promoters shall cause a valuation of the land or of the estate or interest of the claimant therein to be made in accordance with the provisions of this Act and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Fifth Schedule hereto.

Claim and report thereon.

72. If within ninety days after the service of notice of claim the claimant and the promoters shall not agree as to the amount of compensation the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against the promoters. And any such action may be tried before a Judge of the said Court or in any Circuit Court and a special jury of four persons. Provided always that upon proper application either of the promoters or of the claimant a special jury of twelve may be summoned for the trial of such action. Provided also that with the consent in writing of the promoters and the claimant any such action may be so tried at any time (to be mentioned in such consent) before the expiration of ninety days from service of the notice of claim for compensation but not within fourteen days from service of the notice of valuation on such claimant.

Compensation by action in Supreme Court.

73. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the promoters and notified to the claimant as aforesaid and if so to what sum. And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation the costs of the action shall be borne by the promoters but if the verdict shall be for a sum equal to or less than such valuation then the costs shall be borne by the claimant.

Issue in action of compensation verdict and costs.

74. All moneys payable under this Act by way of compensation to any claimant whether under the verdict of a jury or otherwise shall be paid together with costs (if any) and interest at the rate of six pounds per centum per annum reckoned from the date of the notification aforesaid within one month after the determination of such compensation to the person lawfully entitled thereto or to his agent duly authorized in that behalf in writing but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land. Provided that in the case of land under the surface taken

As to payment of compensation.

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taken for the purpose of constructing a subterranean tunnel for water supply or sewerage no compensation shall be allowed or awarded unless the surface of the overlying soil be disturbed or the support to such surface be destroyed or injuriously affected by the construction of such tunnel or unless any mines or underground workings in or adjacent to such land be thereby rendered unworkable or be so affected as aforesaid.

Where claim may be prosecuted in District Court.

75. A District Court shall notwithstanding anything contained in the "District Courts Act of 1858" have jurisdiction to try any such action of compensation at the District Court holden at Penrith in any case where the whole amount of the claim in respect to such land served in pursuance of the seventy-sixth section of this Act does not exceed two hundred pounds or if exceeding that amount in any case where the promoters and the claimant by a memorandum signed by the promoters and such claimant or by the respective attorneys of the promoters and the claimant agree thereto. For the purposes of this section the provisions of the said District Courts Act and of any Act amending the same together with all rules made or to be made thereunder shall be deemed to apply to all proceedings taken in the said District Court hereunder.

Compensation how to be estimated.

76. In estimating or assessing the compensation to be paid under this Act regard shall be had by the valuers and by the jury (on any issue) not only to the value of the land taken by the promoters but also to the damage (if any) to be sustained by the claimant by reason of the severing of the lands taken from other lands or other injuries suffered by him by reason of the exercise of the powers expressed or incorporated in this Act and they shall assess the same according to what they shall find to have been the value of such lands estate or interest at the time of the resumption thereof or the extent of the damage or injury sustained.

General power of entry.

77. Subject to the provisions of this Act it shall be lawful for the promoters and for any officer there duly authorized in that behalf and for all persons employed in the carrying out of any authorized works and for any person authorized by the promoters to enter upon the lands of any person whomsoever which the promoters may require to purchase or take and to take possession and appropriate the same for the purposes of this Act or of the execution of any such authorized works.

Power to purchase lands by agreement.

78. Notwithstanding anything hereinbefore contained it shall be lawful for the promoters if they think fit to agree with the owners of any lands the acquisition of which is authorized by this Act and with all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase for a consideration in money of any such lands or such parts thereof as shall be thought proper and of all estates and interests in such lands of what kind soever.

Parties under disability enabled to sell and convey and exercise other powers.

79. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any estate or interest therein to sell and convey or release the same to the promoters and to enter into all necessary agreements for that purpose and particularly it shall be lawful for all or any of the following parties so seized possessed or entitled as aforesaid so to sell convey or release that is to say all corporations tenants in tail or for life married women seized in their own right or entitled to dower guardians committees of lunatics and idiots trustees or feoffees in trust for charitable or other purposes executors and administrators and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower or to any lease for life or for lives and years or for years or any less interest and the power so to sell and convey or release

as

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as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessces for life or for lives and years or for years or for any less interest not only on behalf of themselves and their respective heirs executors administrators and successors but also for and on behalf of every person entitled in reversion remainder or expectancy after them or in defeasance of the estates of such parties and as to such married women whether they be of full age or not as if they were sole and of full age and as to such guardians on behalf of their wards and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively and that to the same extent as such wives wards lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability and as to such trustees executors or administrators on behalf of their *cestui que* trusts whether infants issue unborn lunatics *feme covert* or other persons and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability and the power hereinafter given to release lands from any rent-charge or incumbrance and to agree for the apportionment of any such rent-charge or incumbrance shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters.

80. The several sections of the Government Railways Act twenty-second Victoria number nineteen hereinafter specified together with the respective powers authorities duties liabilities obligations and other the provisions therein contained are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein. And that wheresoever in any section so incorporated the word "Commissioner" occurs there shall for the purposes of this Act be substituted in lieu of such word the expression "the promoters" And whenever the word "Railway" or words implying works connected with a railway occur there shall be substituted such words respectively as denote the nature of the work undertaking or purpose in respect of which the land in question has been appropriated or resumed. The following are the sections so declared to be incorporated with this Act—

Incorporation of provisions of Government Railways Act.

- (I) As to the deposit of compensation money in certain cases with the Master in Equity and the application and investment thereof. As to payment of such money in certain cases to trustees or to the parties themselves and the exoneration of the promoters in respect thereof after payment. Sections forty-seven to fifty-two both inclusive.
- (II) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to make out a satisfactory title and as to presumption of ownership. Sections fifty-three to fifty-six both inclusive.
- (III) As to the procedure by the promoters in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the promoters from entering upon or taking possession of the same. Section sixty-one.
- (IV) As to the purchase or redemption of the interests of mortgagees and the deposit of principal and interest due on mortgagees with the Master in Equity the procedure to be observed when the mortgaged lands are of less value than the mortgage debt and were part only of lands in mortgage are taken. Sections sixty-five to seventy both inclusive.

(v)

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- (v) As to the release of lands from rent-charges and other incumbrances and procedure thereon Sections seventy-one to seventy-four both inclusive.
- (vi) As to the apportionment of rent where lands taken are under lease and as to compensation to tenants Sections seventy-five to seventy-eight both inclusive.
- (vii) As to the entry upon or temporary occupation of lands the crossing of roads and other highways the making of bridges and other works of accommodation and the provisions consequent thereon Section ten and sections eighty-four to ninety-seven both inclusive Provided that compensation shall in all respects be ascertained in accordance with this Act.

Power to take temporary possession of land.

81. It shall be lawful for the promoters and all persons by them authorized to enter upon any lands not being a garden orchard or plantation attached or belonging to a house nor a park planted walk avenue or ground ornamentally planted and not being nearer to the mansion-house of the owner of any such lands than one hundred yards therefrom and to occupy the said lands so long as may be necessary for the construction or repair of any works authorized by this Act of the accommodation works connected therewith hereinafter mentioned and to use the same for any of the following purposes that is to say—

For the purpose of taking earth or soil by side cuttings therefrom

For the purpose of depositing soil thereon

For the purpose of obtaining materials therefrom for the construction or repair of the waterworks or such accommodation works as aforesaid or

For the purpose of forming roads thereon to or from or by the side of the said works

And in exercise of such powers it shall be lawful for the promoters and all other persons employed therein to deposit and also to manufacture and work upon such lands materials of every kind used in constructing the said works and also to take from any such lands any timber and also to dig and take from or out thereof any clay stone gravel sand or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid and for the purposes aforesaid to erect thereon workshops sheds and other buildings of a temporary nature Provided always that nothing in this Act contained shall exempt the promoters from an action for nuisance or other injury (if any) done in the exercise of the powers hereby conferred to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid Provided also that no stone or slate quarry brick-field or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the promoters either wholly or in part for any of the purposes lastly hereinbefore mentioned.

Promoters to separate the lands before using them.

82. If any such lands shall be used for any of the purposes aforesaid the promoters shall if required so to do by the owner or occupier thereof separate the same by a sufficient fence from the lands adjoining thereto with such gates as may be necessary for the convenient occupation of such lands and in case of any difference between the owners or occupiers of such lands and the promoters as to the necessity for such fences and gates then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid

Compensation to be made for temporary occupation.

83. In any of the cases aforesaid where the promoters shall take temporary possession of lands by virtue of the powers herein granted it shall be incumbent on them within one month after their entry upon such lands upon being required to do so to pay to the occupier of the said lands the value of any crop or dressing that may be

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be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the promoters so taking possession of his lands.

84. If in the exercise of the powers hereby granted it be found necessary to cross cut through raise sink or use any part of any road whether carriage-road horse-road or tram-road or railway either public or private so as to render it impassable for or dangerous or more than usually inconvenient to passengers or carriages or to the persons entitled to the use thereof the promoters shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be.

Before roads interfered with others to be substituted.

85. If the road so interfered with can be restored compatibly with the due completion of any works authorized under this Act the same shall be restored to as good a condition as it was in at the time when the same was first interfered with by the promoters or as near thereto as may be and if such road cannot be so restored the promoters shall cause the new or substituted road or some other sufficient substituted road to be put into a permanently substantial condition equally convenient as the former road or as near thereto as circumstances will allow and the former road shall be restored or the substituted road put into such condition as aforesaid as the case may be with all reasonable expedition.

Period for restoration of roads interfered with.

86. If the conduit or any sewerage works shall cross any highway other than a public carriage-way on the level the promoters shall make and at all times maintain convenient ascents and descents and other convenient approaches with hand-rails or other fences and shall if such highway be a bridle-way erect and at all times maintain good and sufficient gates and if the same shall be a footway good and sufficient gates or stiles on each side of each conduit or works where the highway shall communicate therewith.

Promoters to make sufficient approaches and fences to bridle-ways and foot-ways crossing on the line.

87. The promoters shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining any works authorized under this Act that is to say—

Works for benefit of owners.

Such and so many convenient gates bridges arches culverts and passages over under or by the side of or leading to or from such works as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made and such works shall be made forthwith after the part of the conduit passing over such lands shall have been laid out or formed or during the formation thereof.

Gates bridges &c.

Also sufficient posts rail hedges ditches mounds or other fences for separating the land taken for the use of such works from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from straying thereout by reason thereof together with all necessary gates made to open towards such adjoining lands and not towards the said works and all necessary stiles and such posts rails and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be

Fences &c.

Also all necessary arches tunnels culverts drains or other passages either over or under or by the sides of such works and of such dimensions as will be sufficient at all times to convey the water from the lands lying near or affected thereby

Drains.

Provided always that the promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the

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the using of any works for water supply nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation.

Differences as to accommodation works to be settled by Governor.

88. If any difference arise respecting the kind or number of any such accommodation works or the dimensions or sufficiency thereof respecting the maintaining thereof the same shall be determined by the Governor who shall also appoint the time within which such works shall be commenced and executed.

Power to owners of lands to make additional accommodation works.

89. If any of the owners or occupiers of lands affected by such conduit shall consider the accommodation works made by the Council or directed by the Governor to be made by the promoters insufficient for the commodious use of their respective lands it shall be lawful for any such owner or occupier at any time at his own expense to make such further works for that purpose as he shall think necessary and as shall be agreed to by the promoters.

Such works to be constructed under the superintendence of the promoters' engineer.

90. If the promoters so desire all such last-mentioned accommodation works shall be constructed under the superintendence of the promoters' engineer and according to plans and specifications to be submitted to and approved by the promoters. But the promoters shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the promoters or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the promoters.

Penalty on persons omitting to fasten gates.

91. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriages cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding ten pounds.

PART V.

Miscellaneous Provisions—Legal Procedure.

Moiety of penalties to be paid to informers—Distress not unlawful for want of form.

92. One half of any penalty recovered under this Act shall be paid to the informer and where any distress is made for any sum of money to be levied under this Act the distress itself shall not be unlawful nor the persons making the same be deemed trespassers on account of any defect or want of form in the information summons conviction warrant of distress or other proceedings relating thereto nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

Penalty for default not otherwise provided for.

93. If it shall be proved to the satisfaction of any two Justices of the Peace in Petty Sessions assembled that the promoters or any of their officers have been guilty of any default under this Act not otherwise provided for they shall be liable for each and every such default to a penalty not exceeding five pounds to be recovered in a summary way.

Method of proceeding before Justices in question of damages &c.

94. Where by this Act any question of compensation expenses charges or damages or other matter is required to be referred to the determination of any one or more Justices it shall be lawful for any Justice upon the application of either party to summon the other party to appear before one Justice or before two Justices as the case may require at a time and place to be named in such summons and upon the

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the appearance of such parties or in the absence of any of them upon proof of due service of the summons it shall be lawful for such one Justice or such two Justices as the case may be to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses on oath and the cost of every such inquiry shall be in the discretion of such Justices and they shall determine the amount thereof.

95. Every penalty forfeiture charge or sum of money imposed by or made payable under this Act the recovery of which is not otherwise provided for may be recovered by summary proceedings before two Justices under the provisions of the Act or Acts in force for the time being regulating summary proceedings before Justices And where any such penalty charge or sum be not paid either immediately after conviction or adjudication or within the time appointed thereby the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels in the manner provided by the said Acts.

Penalties &c. to be summarily recovered before two Justices.

96. If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices with respect to any penalty or forfeiture under the provisions of this Act such party may appeal to the General or Quarter Sessions holden at Penrith or Parramatta but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication nor unless ten days notice in writing of such appeal stating the nature and grounds thereof be given to the party against whom the appeal shall be brought nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice conditioned duly to prosecute such appeal and to abide the order of the Court thereon At the General or Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way or they may if they think fit adjourn it to the following Sessions and upon the hearing of such appeal the Court may if they think fit mitigate any penalty or forfeiture or they may confirm or quash the adjudication and order any money paid by the appellant or levied by distress upon his goods to be returned to him and also may order such further satisfaction to be made to the party injured as they may judge reasonable and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

Parties allowed to appeal to Quarter Sessions on giving security.

Court to make such order as they think reasonable.

97. If through any act neglect or default on account whereof any person shall have incurred any penalty imposed by this Act any damage to any conduit main pipe sewer or other property of the promoters used in connection therewith shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty and the amount of such damages shall in case of dispute be determined by the Justices by whom the party incurring such penalty shall have been convicted and on non-payment of such damages on demand the same shall be levied by distress and such Justices or one of them shall issue their warrant accordingly.

Damage to be made good in addition to penalty.

98. It shall be lawful for any officer or servant of the promoter and all persons called by him to his assistance to seize and detain any person who shall have committed any offence against the provisions of this Act and whose name and residence shall be unknown to such officer or servant and convey him with all convenient dispatch before some Justice without any warrant or other authority than this Act and such Justice shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender.

Transient offenders.

99. Any notice required by this Act or any by-law or regulation made thereunder to be served on or given to any owner or occupier of any building land or premises or on or to any person may be

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be in writing or partly in writing and partly printed or may be wholly printed And it shall be sufficient for all purposes of this Act unless the said Act in any case prescribes a different course to be pursued if any such notice is sent by post to the owner by registered letter addressed to his last-known place of abode or of business or is served on the owner or occupier of such building land or premises or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier or if there be no occupier if such notice be posted on some conspicuous part of such building or land And any notice required to be served or given in respect of any public street road or lane may be served on or sent by post as aforesaid to the Council Clerk of the borough or municipal district wherein such street road or lane or the portion thereof affected by the notice is situated.

Indictment for nuisances.

100. In the event of the wrongful exercise of any powers given by this Act nothing in this Act contained shall be construed to prevent any person from indicting or otherwise proceeding either civilly or criminally against the promoters for nuisance or otherwise in respect of the works or means used or employed by the promoters in the exercise of the privileges hereby conferred on the promoters or to prevent the promoters or any person recovering any sum of money or otherwise proceeding in any Court of competent jurisdiction but the promoters or any person to whom any penalty or sum of money may by the provisions of this Act be awarded may elect either to proceed in manner in this Act provided or to proceed for and recover damages or otherwise in any Court of competent jurisdiction.

Council may purchase works of promoters.

101. Whenever the Council of the said municipality shall have determined to establish a system of water supply under the "Country Towns Water and Sewerage Act of 1880" or to construct gas-works under the "Municipality Gas Act of 1884" such Council shall have power to purchase any existing works owned by the promoters at a price to be fixed by arbitrators mutually appointed such price to be ascertained by them by reference to the average dividends or profits for the then last three years or if the works have not been in existence three years then at a price not exceeding ten per centum advance on the cost of such works to the owners thereof for the time being.

Limitation of time for erection of works.

102. The promoters shall not be entitled to any of the rights and privileges conferred upon them by this Act unless they shall have completed the projected works within the period of three years from the date of the passing of this Act.

Promoters may be brought under general Act.

103. Nothing contained in this Act shall prevent the said promoters being brought under the provisions of any general Act which may be passed by the Parliament of New South Wales applying equally to Companies engaged in the manufacture of gas in the said Colony with reference to the manufacture and sale of gas nor entitle the said promoters to compensation from the public revenue by reason of the provisions of such general Act for the purpose aforesaid being made applicable to and binding upon the said promoters.

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SCHEDULES.

FIRST SCHEDULE.

Borough of Penrith.

Notice to lay Service Pipes.

NOTICE to the owners of tenements and premises in _____ street and the private streets lanes courts and alleys opening thereunto.

THE main pipe in the said street having been laid down the owners of all tenements and premises situated as above are hereby required on or before the _____ day of _____ next to cause a proper pipe and stop-cocks to be laid so as to supply water from the main pipe to such tenements and premises.

A.B.

Inspector (Surveyor *or* other Officer) for the promoters.

SECOND SCHEDULE.

Notice of Claim and Abstract.

To the promoters of the Penrith Water and Gasworks _____ Council of _____

IN pursuance of the "Penrith Water and Gas Supply Act of 1886" I (*or* we) hereby give you notice that I (*or* we) claim compensation in land hereunder described which has been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract.

Abstract.

Names and descriptions of parties claiming and nature of their interests whether tenants for life in tail or otherwise.	Situation and description of property.	Quit rents payable if leasehold name of landlord term of lease and rent reserved.	Names of occupiers distinguishing whether tenants-at-will or under lease rent reserved terms &c.	Particulars of claim specifying separately the amount claimed for value of property and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents and place or places where the same may be inspected and name of claimant's solicitor or agent.

(Signature)
(Address)
(Date)

THIRD SCHEDULE.

Notice of Valuation.

To A.B. claimant in respect of the land hereunder described resumed under the "Penrith Water and Gas Supply Act of 1886."

TAKE notice that the land hereunder described being that in respect of the resumption whereof under the authority of the aforesaid Act your claim or compensation has been lodged has been valued at the sum of £ _____

A.B.
Promoters &c.

Description of land in respect of which claim has been made.

ALL that piece or parcel of land &c. &c. &c.

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FOURTH SCHEDULE.

PART I.

1. *Regulations in respect of testing apparatus.*

(a) The apparatus for testing the illuminating power of the gas shall consist of the most improved form of photometer known together with the proper meter minute clock governor pressure-gauge and balance. The burner to be used for testing the gas shall be an Argand burner having fifteen holes and a seven-inch chimney. The candle used for testing the gas shall be sperm candles of six to the pound and two candles shall be used together.

2. *The apparatus.*

(b) For testing the presence in the gas of sulphuretted hydrogen. A glass vessel containing a strip of bibulous paper moistened with a solution of acetate of lead containing sixty grains of crystallized acetate of lead dissolved in one fluid ounce of water.

PART II.

1. *Rule as to mode of testing gas.*

(a) Mode of testing for illuminating power. The gas in the photometer is to be lighted at least fifteen minutes before the testings begin and it is to be kept continually burning from the beginning to the end of the tests.

Each testing shall include ten observations of the photometer made at intervals of a minute.

The consumption of gas is to be carefully adjusted to five cubic feet per hour.

The candles are to be lighted at least ten minutes before beginning each testing so as to arrive at the normal rate of burning which is shown when the wick is slightly bent and the tip glowing. The standard rate of consumption for the candles shall be one hundred and twenty grains each per hour. Before and after making each set of ten observations of the photometer the gas examiner shall weigh the candles and if combustion shall have been more or less per candle than one hundred and twenty grains per hour he shall make and record the calculations requisite to neutralize the effects of this difference. The average of each set of ten observations is to be taken as representing the illuminating power of that testing.

2. *Mode of testing.*

(b) For sulphuretted hydrogen. The gas shall be passed through the glass vessel containing the strip of bibulous paper moistened with the solution of acetate of lead for a period of three minutes or such longer period as may be prescribed and if any discolouration of the test paper is found to have taken place this is held to be conclusive as to the presence of sulphuretted hydrogen in the gas.
