

WESTERN AUSTRALIA.



ANNO QUINTO

EDWARDI SEPTIMI REGIS,

V.

No. 5 of 1905.

AN ACT to confirm an Agreement between the Metropolitan Water Works Board and the Proprietors of the Mount Lawley Estate and to amend the Water Works Act, 1889, and the Metropolitan Water Works Act, 1896, and for other purposes.

[Assented to 23rd December, 1905.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Metropolitan Water Works Amendment Act, 1905*, and shall be read as one with the Water Works Act, 1889, the Metropolitan Water Works Act, 1896, and the Acts amending the same. Short title.

2. Notwithstanding anything contained in the Water Works Act, 1889, or the Metropolitan Water Works Act, 1896, or in any Act amending the same, the Board and the Minister shall be deemed Power to enter into and carry out Agreement mentioned in the Schedule.

to have had as on the date thereof full power and authority to enter into the Agreement set forth in the Schedule hereto, and to carry into effect the provisions thereof; and the said Agreement is hereby declared to be in all respects valid and lawful for all purposes whatsoever and to be binding upon the parties thereto.

Power to enter into agreements for re-ticulation of estates.

3. The Board or the Minister may from time to time enter into such agreement as it or he may deem expedient with the owner of any land for the extension of the Metropolitan Water Works to or through such land, at the expense of the owner thereof, upon such terms as to the repayment of the whole or any portion of the cost of such extension as the Board or Minister may think fit:

Provided that no such agreement shall confer or be deemed to confer on the owner of any such land any charge upon or any right, title, or property in any such extended works, which shall be and remain the absolute property of the Board or Minister, notwithstanding anything contained in any such agreement.

Amendment of 53 Vict., No. 13, s. 14.

4. Section fourteen of the Water Works Act, 1889, is hereby amended by adding, after subsection nine thereof, the following subsections:—

(10.) For regulating the rent to be paid by consumers for meters supplied by the Board;

(11.) For fixing a scale of charges in lieu of meters for water supplied for other than domestic purposes, or for domestic and other purposes combined.

Amendment of 63 Vict., No. 34, s. 4 (3).

5. Subsection three of section four of the Metropolitan Water Works Act, 1899, is hereby repealed, and the following is inserted in lieu thereof:—

(3.) Commits or permits any breach or neglect or the continuance of any breach or neglect of any of the provisions of the Water Works Act, 1889, the Metropolitan Water Works Act, 1896, or any Act or Acts amending the same, or of any of the provisions of the by-laws made under either of such Acts or under any Act amending the same.

Amendment of 63 Vict., No. 34, s. 7.

6. Section seven of the Metropolitan Water Works Act, 1899, is hereby amended by adding a subsection as follows:—

(3.) The Board may make and levy a minimum rate to be prescribed by its by-laws upon any land the annual rate of which would not exceed one pound.

Interpretation.

7. The term Minister in this Act shall mean the Minister for Works for the time being authorised and appointed to exercise the functions of the Board under the provisions of the Metropolitan Water Works Amendment Act, 1904.

SCHEDULE.

THIS INDENTURE made the sixteenth day of June, one thousand nine hundred and five, between PATRICK JOSEPH LYNCH, of Perth, Minister for Works (hereinafter called "the Minister," which expression shall be deemed to include the Minister, his successors and assigns) of the one part, and SAMUEL WILLIAM COPLEY, of St. George's Terrace, Perth, Financier, and JOHN ROBINSON, of Albany, Merchant (hereinafter called "the proprietors," which expression shall be deemed to include the proprietors, their executors, administrators, and assigns), of the other part; WHEREAS the sum of one thousand and seventy one pounds two shillings and sixpence has been advanced by the proprietors of the Metropolitan Water Works Board (hereinafter called the Board) upon the terms of an agreement contained in the following letters, viz.:—three letters written by the Secretary of the Board to Messieurs Haynes, Robinson, and Cox, of St. George's Terrace, Perth, solicitors, and dated respectively the twenty-seventh day of May, the second day of October, and the fifteenth day of October, one thousand nine hundred and one; and a letter written by Messieurs Haynes, Robinson, and Cox, to the Secretary of the Board, dated the fifth day of April, one thousand nine hundred and two: AND WHEREAS by an Order in Council, dated the ninth day of November, one thousand nine hundred and four, made in pursuance of the Metropolitan Water Works Amendment Act, 1904, His Excellency the Governor, by and with the advice of the Executive Council, did authorise and appoint the Minister for Works to exercise the functions of the Board from the date of the publication of the said Order in Council in the *Government Gazette* until the thirtieth day of June, one thousand nine hundred and five, if the said Order in Council should so long continue in force: AND WHEREAS the said Order in Council was published in the *Government Gazette* on the eleventh day of November, one thousand nine hundred and four: AND WHEREAS differences have arisen between the parties hereto as to their respective rights under the said agreement: AND WHEREAS it has been agreed between the parties hereto that such differences shall be settled by the execution of these presents: NOW THIS INDENTURE WITNESSETH as follows:—

1. The Minister shall pay the proprietors the sum of five hundred pounds on the execution of these presents.

2. The Minister shall, before the thirty-first day of December, one thousand nine hundred and seven, expend the sum of eight hundred and thirty-two pounds in constructing three-inch water mains along the metalled roads running through the property of the proprietors, known as the Mount Lawley Estate. The said mains shall, so far as practicable and subject to the cost of construction not exceeding the said sum of eight hundred and thirty-two pounds, be constructed along such metalled roads as the proprietors may from time to time request in writing before the thirtieth day of June, one thousand nine hundred and seven.

3. The proprietors shall pay the Minister interest at the rate of ten pounds per centum per annum on the actual cost of constructing the said mains. Such interest shall be paid on the first days of January, April, July, and October in each year: PROVIDED that the proprietors shall be entitled to be credited as against the said interest with all income (not exceeding the said interest) which may be due to and collected by the Minister as a direct consequence of the construction of the said mains.

4. Notwithstanding anything contained in Clause 2 hereof, the Minister intends to construct the said mains as speedily as possible out of his first available moneys. It is understood that this Clause (No. 4) is not intended to impose any legal liability upon the Minister, or confer any legal right upon the proprietors, but is intended only as a record of the Minister's intentions, and as creating a moral obligation upon him and his successors and assigns.

5. The rights and liabilities of the parties hereto and of the board under the agreement contained in the said recited letters and in connection with the said sum of one thousand and seventy-one pounds two shillings and sixpence, shall be deemed to be extinguished as from the date of these presents.

6. The words “construct” and “construction” in these presents shall be deemed to include the carrying out of all operations of and incidental to the construction and placing in position of the said water main, including the purchase and importation of material, and all other acts or things which may be deemed by the Minister to be reasonably necessary to be done in connection with the construction and placing in position of the said mains.

IN WITNESS whereof the said parties hereto have hereunto set their respective hands and seals the day and year first before written.

Signed, sealed, and delivered by the said Patrick Joseph Lynch, in the presence of J. V. HAWTIN, Secretary Metropolitan Waterworks Board.	}	P. J. LYNCH. [L.S.] [Seal of Metropolitan Waterworks Board.]
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Signed, sealed, and delivered by the said Samuel William Copley, in the presence of R. T. ROBINSON, Solicitor, Perth.	}	S. W. COPLEY. [L.S.]
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Signed, sealed, and delivered by the said John Robinson, in the presence of S. J. HAYNES, Solicitor, Albany.	}	J. ROBINSON. [L.S.]
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