

Penalty for obstructing the Government Engineer.

39. Any person wilfully obstructing the Government Engineer, his agents or contractors or any person appointed to carry out any work under this Law, in the performance of their work under this Law shall be liable for each offence to a fine not exceeding one pound or to imprisonment for any term not exceeding ten days.

Money to be advanced from Agricultural Bank or other special fund.

40. For the construction, repair, improvement or maintenance of works connected with the water supply or drainage of lands under this Law, the High Commissioner may authorize moneys to be advanced from time to time from the funds of the Agricultural Bank or other special fund available for such purposes.

Disposal of fines.

41. All fines recovered under this Law shall be paid to the Commissioner of the District to be added by the Government to the capital of the Agricultural Bank.

Water held by title exempted from the provisions of the law.

42. The provisions of this Law shall not be applied to any water which is by registered title or *ab antiquo* possession the property of any person, corporation or village, without the consent of such person, corporation, or of the majority of the proprietors in such village.

Short title.

43. This Law may be cited as the Irrigation and Water Law, 1887.

## 15 OF 1897.

TO PROVIDE FOR THE CONSTRUCTION OF IRRIGATION WORKS, AND FOR OTHER PURPOSES RELATING THERETO.

WALTER J. SENDALL.]

[September 2, 1897.

### PART I.

#### *Preliminary.*

Definitions.

(1.A) In this Law, unless the context otherwise requires:—

“ Person ” includes any body of persons, corporate or unincorporate, and any ecclesiastical or pious foundation;

“ Land ” extends to and includes buildings, trees, and standing crops;

“ Persons interested ” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Law; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land.

*repealed by Law 26 of 1928*

## PART 2.

*Acquisition of Water.*

1. For the purpose of utilising in irrigation, water which has heretofore run to waste, the Government, after making such provision as is in this Law enacted for the supply of water to persons or lands possessing the right to take water from a river or watercourse, may store, divert, or otherwise deal with the water in such stream or watercourse as may appear most conducive to the object aforesaid.

Right of Government to store or divert water.

2. The Government may for the purpose aforesaid construct any reservoir, tank, dam, weir, sluice, aqueduct or other necessary work, and acquire, in accordance with this Law, any land that may be required for the construction and maintenance of the works.

Acquisition of land for construction of works.

3. The High Commissioner shall from time to time determine the works to be undertaken under the provisions of this Law, and the Legislative Council may, by resolution, recommend to the High Commissioner the undertaking of any irrigation works which may appear desirable.

High Commissioner to order execution of works.

4. Whenever it appears that any existing water rights will or may be injuriously affected by the carrying out of any works under this Law, the High Commissioner shall appoint three Commissioners, of whom one shall be nominated by the High Commissioner and two shall be selected by the High Commissioner from four persons chosen by resolution of the Legislative Council for that purpose, in order to ascertain and record the nature, extent and situation of the said rights in the manner hereinafter provided.

Commissioners to record water rights.

Provided that more than one body of Commissioners may be appointed in respect of the same irrigation works.

5. The Commissioners shall ascertain and record in a book :—

Registration of water channels.

- (1.) Every channel used at the date of the inquiry by any person in the exercise of a water right which, in the opinion of the Commissioners is liable to be so injuriously affected as aforesaid;
- (2.) The average area which, during the five years immediately preceding the date of the inquiry, has been lawfully watered by each channel, such average being computed on the basis of the three years in which the most extensive area has been watered;
- (3.) The average number of times such area has been watered in each year during the said period, and whether the waterings have been used for winter or summer cultivation;

- (4.) Every channel the use of which has been abandoned at the date of the inquiry, if it is proved :—
- (a.) That the channel has, at any time during the ten years immediately preceding the date of the inquiry, been used in the exercise of a water right;
  - (b.) That the abandonment thereof has been caused by the minority, mental or physical incapacity, absence from Cyprus or lack of means on the part of the person entitled to use it;
  - (c.) That the channel is liable to be affected by the proposed works;
- (5.) The average area of land lawfully watered by such channel, and whether the land has been watered for winter or summer cultivation;
- (6.) Every right to take water for the service of any mill or machine or for any like purpose, and the nature and extent of the right.

The Commissioners shall cause to be prepared and attached to the book, in this Law referred to as “the Register,” a plan showing the position and course of each channel and the situation and extent of the land watered by each channel as aforesaid.

Power to  
compel  
attendance  
of witnesses.

6. The Commissioners shall, at least one month before the holding of an inquiry, cause a notice to be published in every village likely to be affected by the inquiry, calling upon all interested persons to appear before the Commissioners with the evidence upon which they rely to support their claims; and, for the purposes of the above inquiry, the Commissioners may require by summons the attendance of any person whose presence or evidence they may consider necessary for the investigation or settlement of any question arising during the inquiry, and any person refusing to attend on such summons or to answer any questions material for the purpose of the inquiry, or to produce any document he may be required to produce, shall be liable to a fine not exceeding one pound.

The Commissioners may, for the purposes of the inquiry, take evidence on oath or affirmation; and any person wilfully giving false evidence upon such oath or affirmation shall be liable to the same penalties as if he had given false evidence in a judicial proceeding.

Deposit of  
Register with  
Commissioner.

7. On the completion of the inquiry with reference to any irrigation work, the Commissioners, or, if they disagree, the majority of them, shall sign the Register and deposit one copy of it with the Commissioner of the District, and another copy with the Mukhtar of every village in which any water right is found to exist, and shall cause to be posted in every such village a notice stating that copies of

the Register have been so deposited, and that all persons objecting to the rights as therein recorded must carry in their objections within four months from the date of the notice.

8. The Registrar-General on behalf of the Government of Cyprus, or any persons whose rights are affected by the record in the Register contained, may at any time within four months from the date of the notice of the deposit of the Register with the Commissioner object to the Register in the manner hereinafter provided.

Power to  
object to  
Register.

Provided that, with the consent of any interested party, the Registrar-General may, in his discretion, amend the Register at any time.

9. Every such objection shall be brought by an action claiming the rectification of the Register, to be commenced in the District Court of the District in which the Register is deposited, by the person objecting to the Register as plaintiff against the Commissioners signing the Register as defendants, and the decision of every such Court on any such objection may be appealed from in the same manner and subject to the same restrictions as though it was a decision in an ordinary civil action, save that no such decision shall be rendered unappealable by reason of the value of the water right in respect of which it was given.

Hearing of  
objection.

10. At the expiration of four months from the deposit of the Register as aforesaid, the Register, except so far as it may have been thus objected to, and subject to the powers of rectification conferred upon the Registrar-General by section 8, shall be binding and conclusive on all persons, and shall, for the purposes of this Law, be deemed to be final and conclusive evidence of all matters therein recorded.

Register  
when  
binding.

11. The Government shall provide for the satisfaction of water rights with reference to any irrigation work under this Law, in one of the following methods, and shall notify, in the case of each irrigation work, the method to be adopted;

Alternative  
methods of  
satisfying  
water rights.

(a.) By providing that no water shall be diverted from any river or watercourse, or stored in any reservoir, or otherwise intercepted, until the water rights recorded in the Register have been satisfied for the time being;

(b.) By providing that the water rights recorded in the Register shall be satisfied to the extent of the water in the river or in any reservoir supplied therefrom, provision being made, as far as possible, not to intercept the carrying down of any sediment or silt which would ordinarily be carried down the river.

No person shall be entitled, in respect of any water right, to receive, except upon payment, any water in addition to the amount above mentioned.

Acquisition  
of water by  
Government.

12. Subject to the provisions of the last preceding section for the due supply of water to persons whose rights have been ascertained and registered in accordance with this Law, all water in any river or watercourse in respect of which any irrigation work has been undertaken, or in any tank, reservoir, or channel used in connection with such river or watercourse, shall, for the purposes of this Law, be deemed to be the absolute property of the Government of Cyprus; and the Government may sell or dispose of it as hereinafter provided for the purposes of irrigation so far as the same are practicable.

### PART 3.

#### *Acquisition of Land.*

Recommen-  
dation to  
acquire land  
or remove  
obstruction

13. The Director of Public Works or other officer by the High Commissioner entrusted with the supervision of any irrigation area shall have power to recommend that any land be acquired for the purpose of constructing thereon any reservoir, tank, dam, weir, sluice, aqueduct, or other work which may appear necessary or conducive to the collection, storage, or distribution of water; or he may recommend that any mill, dam, weir, or other like obstruction be removed or interfered with.

On any such recommendation the officer by whom it is made shall forward to the Commissioner of the District a copy of the recommendation together with a plan of the land to be acquired or of the mill, dam, weir, or other obstruction to be removed or interfered with.

Notice to  
persons  
interested.

14. The Commissioner of the District, before submitting the recommendation to the consideration of the High Commissioner, shall cause a notice to be served on the persons interested in the land it is proposed to acquire, or in the obstruction it is proposed to remove or interfere with, advising them of the proposed acquisition, removal, or interference and that they may examine the plan thereof and present any objections they may have to make thereto within six weeks from the service of the notice: at the expiration of the six weeks the Commissioner shall forward to the High Commissioner the recommendation and plans, together with the objections, if any.

15. If the High Commissioner approves the plan submitted and considers it expedient that the land in question shall be acquired or that the obstruction shall be removed or interfered with, he may, by notification published in the *Cyprus Gazette*, sanction the acquisition, removal, or interference; and thereupon the land shall be acquired or the obstruction shall be removed or interfered with, and compensation (which may include compensation for damage occasioned by determination of a lease), shall be awarded for the acquisition, removal, or interference as is hereinafter provided.

Sanction by High Commissioner.

16. When the High Commissioner has notified his sanction to the acquisition of any land, it shall thereupon vest absolutely in the Government free from all encumbrances; and the notification of the High Commissioner's sanction shall be sufficient authority to the proper Officer of Land Registry to amend the registration in accordance with the plan approved of by the High Commissioner.

Vesting of land in Government, and power of Director of Public Works to remove obstruction.

When the High Commissioner has notified his sanction to the removal or interference with any obstruction, the Director of Public Works or other Officer may forthwith proceed to remove or interfere with the obstruction in accordance with the plan approved of by the High Commissioner.

17. If, within one month from the date of the notification, the persons interested do not agree with the Commissioner as to the sum to be paid by way of compensation for the acquisition of the land or for the removal of or interference with the obstruction, the Commissioner shall apply to the District Court to refer the determination of the amount of compensation to arbitrators; and the Court shall thereupon order that a notice be sent to the persons interested, and shall fix a day for the appearance of the parties before the Court.

Reference to District Court.

18. On the day so fixed, if all the parties appear and each party names an arbitrator on his behalf, the Court shall appoint the arbitrators, and, in the event of the arbitrators failing to agree, the Court may appoint an umpire to decide between them.

Appointment of arbitrators and umpire.

If any party fails to appear or refuses to appoint an arbitrator the Court shall appoint an arbitrator on his behalf; and if the arbitrators fail to file their award within the time or extended time limited by the Court, the Court shall appoint a sole arbitrator.

On appointing any arbitrator or umpire, the Court may limit the time within which the award may be filed, and may extend it from time to time.

Fees to arbitrators or umpire.

19. The District Court may make any order it may think right as to the amount of fees and expenses to be paid to the arbitrators or umpire in connection with their award, and may direct by whom they are to be paid.

Publication of award.

20. When the award of the arbitrators or of the umpire has been filed, the Court shall, on the application of any party to the proceedings, fix a date for the parties to appear before the Court, and shall for this purpose cause a notice to be served on each party interested.

At the time so fixed the Court shall make known to the parties the award of the arbitrators or umpire, which shall for all purposes be final and conclusive, and shall order the Commissioner to pay the sum awarded to the persons interested in the land, mill, dam, weir, or other obstruction.

Provided that the Court shall order that the whole or any portion of the sum awarded, as hereinbefore mentioned, be paid to any mortgagee of the land, water, mill, or other obstruction in satisfaction in whole or in part of the sum secured by the mortgage, or to any lessee of the property as compensation in respect of the determination of his tenancy, or to any judgment creditor who has registered his judgment in the manner provided by law, in satisfaction in whole or in part of the sum due under his judgment.

Provided also, that if any person refuses to accept any sum ordered to be paid to him under the provisions of this section, or is absent from Cyprus, the Commissioner may pay the sum into Court.

Power of Government to sell, etc.

21. The Government may sell, lease, or exchange any land acquired under the provisions of this Law in excess of the extent actually required for the purpose for which it has been acquired.

Provided that the person from whom the land or any part of it has been acquired shall have the right of pre-emption at the price or proportionate price at which it was purchased from him by the Government.

#### PART 4.

##### *Boards of Irrigation.*

Appointment and constitution of Boards of Irrigation.

22. Boards of Irrigation shall be appointed which shall consist of the following members; that is to say:—

The High Commissioner and four persons nominated by him, and the Elected Members who represent the Electoral District in which

the lands to be benefited by the Irrigation Works are situate, or, where they are situate in more Electoral Districts than one, the Elected Members who represent the Electoral District in which the greater part of the lands are situate.

23. <sup>The</sup> ~~Any~~ Board of Irrigation may make regulations for the following purposes:—

Regulations  
by Board of  
Irrigation.

*See Law  
30 of 1926  
sec. 3.*

- (1.) As to the manner in which, and the times at which, water sold or leased by the Government or delivered from the Government works shall be distributed among the purchasers or lessees, or among the persons entitled thereto;
- (2.) For the appointment and payment of officials necessary to the carrying out of the provisions of this Law;
- (3.) For recording in the Register any transfers of registered water rights which may take place;
- (4.) For regulating from time to time the seasons at which the perennial water in any river or watercourse affected by any Irrigation Work shall be allowed to flow down so as to satisfy the needs of the registered possessors of rights;
- (5.) For fixing the price (which may take the form of a fixed sum per donum of land irrigated, or a fixed quantity of produce per donum of land irrigated, or a fixed proportion per donum of the crop grown on irrigated land), to be taken in respect of the sale or disposal of water by the Government, and for appointing the times when payment shall be made to the Government; and in fixing the said prices regard shall be had to the following matters:—
  - (a.) Interest on capital expended;
  - (b.) Adequate provision for a sinking fund;
  - (c.) Cost of maintenance and administration;
  - (d.) Insurance; and
  - (e.) Charge in lieu of increased Verghi Kimat;
- (6.) For fixing rates (which, if the Board shall so order, may be commuted for a single payment), to be levied on lands drained by the operation of works constructed under the provisions of this Law, and proportional to the benefit received;
- (7.) For fixing rates to be levied on lands, proportional to the benefit accruing to the lands, in respect of the benefit arising from the construction and maintenance in proper order of subsidiary works of irrigation.

Report of  
Com-  
missioners.

24. On the completion of any work or portion of a work constructed under the provisions of this Law, the Commissioners appointed under section 4 shall from time to time, as occasion may require, draw up a report or reports specifying:—

- (1.) The lands benefited by way of drainage and the extent to which they are benefited;
- (2.) The lands which ought to pay a maintenance rate, and the subsidiary works in each case in respect of which they ought to pay, and the probable liability on account thereof;
- (3.) The lands capable of being irrigated by the principal works, and the names of the proprietors or possessors thereof.

Revision of  
rates and  
charges.

25. All rates or charges leviable under this Law may from time to time be revised or amended by the Board of Irrigation.

Priority of  
rates and  
charges.

26. All rates or charges leviable under this Law shall subject to any prior charge secured by the Seed Corn Loans Law, 1898, be a first charge on the crops of the lands irrigated or drained; and the provisions of the last-named Law shall, so far as they can be made applicable, apply to the recovery and payment of all rates or charges leviable under this Law.

## PART 5.

### *Miscellaneous.*

Recovery of  
rates and  
charges.

27. The rates and charges leviable under this Law and payable in money and not in kind, may be levied and recovered in the same manner as any amount in respect of tithes, taxes or excise duty under the provisions of the Tithe and Tax Collection Law, 1882, or any other Law re-enacting or amending it; and the certificate of the Commissioner of the District that any rate or charge as aforesaid is due and unpaid shall be sufficient authority for the issue of a warrant by the Mejlis Idaré of the District within which the rate or charge has become payable, as if it were a certificate issued as provided by section 1 of the Tithe and Tax Collection Law, 1882.

Wilful injury  
to Irrigation  
Works.

28. Any person who wilfully damages or destroys any bank, channel or other work connected with the irrigation of land, or who wilfully interferes with the flowing or distribution of water connected with irrigation, shall be liable to imprisonment for a period not exceeding twelve months or to a fine not exceeding twenty pounds, or to both such penalties.

29. Any person who by any negligent act or omission of duty damages or destroys any bank, channel or other work connected with the irrigation of land or causes an interference with the flowing or distribution of water connected with irrigation shall be liable to a fine not exceeding five pounds.

Negligence causing damage to Irrigation Works.

30. Any person who refuses or neglects to obey any regulation made under Part IV. of this Law, shall be liable to a fine not exceeding two pounds.

Disobedience to Irrigation Regulation.

31. Any person who removes, damages or destroys any boundary or mark of delimitation of any land set apart or delimited under any Law relating to irrigation shall be liable to imprisonment for a period not exceeding one month or to a fine not exceeding five pounds or to both such penalties.

Removing or damaging boundary mark, etc.

32.—(1.) Whenever any Irrigation Work or any property in the vicinity of any Irrigation Work is threatened by any sudden danger, the officer in charge of the work may summon the able-bodied inhabitants of any village or place within six miles of the work to assist in any work which may be undertaken in order to avert the danger.

Power to requisition labour in cases of emergency.

(2.) Such summons may be given by causing the bell of the village church to be rung, or by means of a public crier, or by any other means sufficient to give notice to the able-bodied inhabitants that their assistance is required for the purposes of this Law.

(3.) The labour of all persons so employed shall be paid for at the market rate current in the District where it is supplied.

(4.) Any able-bodied inhabitant who when so summoned to render assistance fails to do so without reasonable cause or excuse, proof whereof shall lie upon him, shall be liable to a fine not exceeding ten shillings.

(5.) "Able-bodied Inhabitant" in this Law means and includes every male between the ages of eighteen and sixty residing within the limits of the village who is not disabled by any mental or bodily infirmity from manual labour, other than ministers of religion of all denominations, Presidents of Municipal Councils, Mukhtars, schoolmasters and persons permanently employed in the public service of the Island.

"Able-bodied Inhabitant."

33. This Law may be cited as the Irrigation Law, 1897.

Short title.