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House of Assembly,
8th February, 1934

The following Bills, having been introduced into the House of Assembly, are published in accordance with Standing Order No. 160.

DANL. H. VISSER,
Clerk of the House of Assembly.

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Volksraad,
8 Februarie 1934.

Die volgende Wetsontwerpe, ingedien in die Volksraad, word gepubliseer ingevolge Art. 160 van die Reglement van Orde.

DANL. H. VISSER,
Klerk van die Volksraad.

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BILL

To provide for the construction by the Government, in pursuance of a scheme of development, of certain irrigation works on the Vaal River; for the ratification of an agreement entered into between the Government and the Rand Water Board relating to the irrigation works referred to and to the works constructed by the said Board; for the acquisition of land and servitudes; and for other matters incidental to the said scheme.

(Introduced by the MINISTER OF LANDS.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Interpretation
of terms.

1. In this Act, unless the context indicates otherwise—
 - "acre foot" means the volume of water (43,560 cubic feet) which would cover a superficial area of one acre to a depth of one foot;
 - "Irrigation Act" means the Irrigation and Conservation of Waters Act, 1912 (Act No. 8 of 1912), as amended from time to time;
 - "the diversion weir" means the diversion weir referred to in paragraph 2 of the First Schedule to this Act;
 - "the limits of the works" means the upper dam and the whole of the channel of the Vaal River between the upper dam and the diversion weir;
 - "the Rand Water Board" means the Rand Water Board constituted under the provisions of the Rand Water Board Statutes 1903-1933; and
 - "the upper dam" means the upper storage dam referred to in paragraph 1 of the First Schedule to this Act, and includes the storage area above the wall of that dam;
 - "the works" means the irrigation works described in the First Schedule to this Act;
- any expression to which a meaning has been assigned in the Irrigation Act bears the same meaning.

Authority to
construct works
in Vaal River
and other
incidental works.

2. The Minister may, out of moneys specially appropriated by Parliament for the purpose, cause to be constructed under the control and supervision of the Director the works, and may cause them to be maintained and whenever necessary to be repaired, altered or extended.

Minister's
powers to store
and control
water.

3. Subject to the provisions of this Act, the Minister may, by means of the works, impound and store all the waters flowing in the Vaal River and its tributaries within the limits of the works, and may abstract, divert, distribute and control the said waters as he thinks fit.

Minister's powers
to dispose of
water.

4. Subject to the provisions of this Act, the Minister may use, or permit to be used, in such manner as appears to him to be equitable, the waters contained within the limits of the works, for primary, secondary, tertiary and any other purposes, upon any lands, whether riparian to the Vaal River or its tributaries or not, and whether within or without the catchment area of the Vaal River.

Minister to have
control of works
and area
comprised within
limits of works.

5. The control of the works and the whole of the area comprised within the limits of the works, and the power to regulate or prohibit use of or entry into the works and all areas submerged as a result of the construction of the works, shall be vested in the Minister, and, subject to the provisions of sub-sections (2) and (3) of section six and section eight, no water shall be abstracted from the works or from any such area except for primary use, or except under the authority of a permit issued under the provisions of section six:

Provided that—

- (a) the Minister may allow water to be released without permit from the diversion weir into the main canal referred to in paragraph 3 of the First Schedule to this Act, for distribution by the branch canals referred to in that paragraph; and
- (b) that the works constructed or to be constructed by the Rand Water Board in terms of the Rand Water

[A.B. 15—'34.]

WETSONTWERP

Om voorsiening te maak vir die aanleg deur die Regering, tot voortsetting van 'n uitbreidingskema, van sekere besproeiingswerke aan die Vaalrivier; vir die bevestiging van 'n coreenkoms aangegaan tussen die Regering en die Rand Waterraad met betrekking tot bedoelde besproeiingswerke en tot die werke deur genoemde Raad aangelê; vir die verkryging van grond en serwitute; en vir ander aangeleenthede in verband met bedoelde skema.

(Ingedien deur die MINISTER VAN LANDE.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. Tensy uit die samehang anders blyk, beteken in hierdie Woordomskrywing.
5 Wet—

- „akkervoet”, die volume water (43,560 kubieke voet) wat 'n oppervlakte van een akker tot 'n diepte van een voet sou dek;
- 10 „Besproeiingswet”, die „Besproeiings- en Waterbewarings Wet, 1912” (Wet No. 8 van 1912), soas van tyd tot tyd gewysig;
- „die uitkeerdam”, die uitkeerdam genoem in paragraaf 2 van die Eerste Bylae van hierdie Wet;
- 15 „die omvang van die werke”, die boonste dam en die hele bedding van die Vaalrivier tussen die boonste dam en die uitkeerdam;
- „die Rand Waterraad”, die Rand Waterraad ingestel kragtens die bepalings van die Rand Waterraad Statute, 1903-1933;
- 20 „die boonste dam”, die boonste bewaringsdam genoem in paragraaf 1 van die Eerste Bylae van hierdie Wet, en sluit in die bewaringsgebied bokant die wal van daardie dam;
- „die werke”, die besproeiingswerke beskrywe in die Eerste Bylae van hierdie Wet;
- 25 en het 'n uitdrukking waaraan in die Besproeiingswet 'n betekenis toegeskrywe is, in hierdie Wet dieselfde betekenis.

2. Die Minister kan, uit gelde spesiaal deur die Parlement daarvoor toegestaan, onder die beheer en toesig van die 30 direkteur, die werke laat aanlê, en hulle laat instandhou, en wanneer nodig, laat herstel, verander of uitbrei.

Magtiging tot aanleg van werke aan Vaalrivier en ander toebehorende werke.

3. Behoudens die bepalings van hierdie Wet, kan die Minister deur middel van die werke al die water wat binne die omvang van die werke in die Vaalrivier en in sy syrieviere vloei, opgaar 35 en bewaar, en kan hy daardie water uithaal, uitkeer, verdeel en kontroleer, soas hy wenslik ag.

Minister bevoeg om water te bewaar en te kontroleer.

4. Behoudens die bepalings van hierdie Wet, kan die Minister die water wat die omvang van die werke bevat, op so 'n wyse as wat hy billik ag, vir primêre, sekondêre, 40 tersiêre of enige ander doeleindes, op enige grond, of dit oewergrond aan die Vaalrivier of sy syrieviere is of nie, en of dit binne of buite die opvangterrein van die Vaalrivier is, gebruik of die gebruik daarvan toestaan.

Minister bevoeg om oor water te beskik.

5. Die beheer van die werke en die gehele gebied begrepe 45 binne die omvang van die werke, en die bevoegdheid om gebruik van of toegang tot die werke en alle gebiede wat deur die aanleg van die werke onder water gesit word te reël of te verbied, berus by die Minister, en, behoudens die bepalings van sub-artikels (2) en (3) van artikel ses en artikel ag, word 50 geen water uit die werke of uit so 'n gebied uitgehaal, behalwe vir primêre gebruik of uit kragte van 'n permit wat ingevolge artikel ses uitgereik is:

Minister het beheer oor werke en gebied begrepe binne omvang van werke.

Met dien verstande—

(a) dat die Minister kan toelaat dat water sonder permit 55 uitgelaat word uit die uitkeerdam in die hoofkanaal genoem in paragraaf 3 van die Eerste Bylae van hierdie Wet, om verdeel te word deur die sykanale genoem in daardie paragraaf; en

(b) dat die werke, wat deur die Rand Waterraad ingevolge 60 die „Rand Waterraad Verdere Waterverschaffings

[A.B. 15—'34.]

Board Supplementary Water Supply (Private) Act, 1914 (Act No. 18 of 1914), or in terms of any other law, shall, subject to the provisions of any such law, be under the control and management of the Rand Water Board.

5

Permits.

6. (1) Subject to the provisions of this Act, the Minister may issue a permit to any person authorizing the holder to abstract and use a defined quantity of the waters contained within the limits of the works, whenever it is available, for primary, secondary, tertiary or any other purposes, upon any land 10 whether riparian to the Vaal River or its tributaries or not, and whether within or without the catchment area of the Vaal River, upon such terms and conditions as the Minister may determine.

(2) Every owner of land riparian to the Vaal River or 15 its tributaries within the limits of the works, other than land riparian to the storage area of the works constructed by the Rand Water Board—

(a) shall, unless at the commencement of this Act he or his predecessor in title was lawfully abstracting 20 water from the area comprised within the limits of the works by means of irrigation works then in existence, be entitled on application to the issue to him of such a permit authorizing him to abstract from the said area, whenever the water is available 25 in lieu of his reasonable share of the normal flow, a quantity of water calculated at one-fifth of a cubic foot of water per second for every mile of river frontage of such riparian land owned by him;

(b) if at the commencement of this Act he or his pre- 30 decessor in title was lawfully abstracting water from the area comprised within the limits of the works by means of irrigation works then in existence, shall be entitled without permit to continue to abstract from the said area, whenever the water 35 is available, the amount of water such owner or his predecessor in title was so abstracting at the commencement of this Act; and if such amount was less than a quantity of water calculated at one-fifth 40 of a cubic foot of water per second for every mile of river frontage of such riparian land owned by him, he shall be entitled on application to the issue to him of such a permit authorizing him to abstract the difference whenever the water is available.

(3) Every owner of land riparian to the storage area of the 45 works constructed by the Rand Water Board shall be entitled on application to the issue to him of such a permit authorizing him to abstract whenever the water is available, such an amount of water as the extraordinary water court referred to in section *fourteen* of Act No. 18 of 1914 may determine on 50 application to such court:

Provided that every person who at the commencement of this Act is lawfully abstracting water from such storage area by means of irrigation works then in existence (and every successor in title of any such person) shall be entitled without 55 permit to continue to abstract from such storage area the amount of water such person is so abstracting at the commencement of this Act, whenever it is available.

(4) Any permit issued under this Act shall attach to the land or undertaking in respect of which it is issued and shall, while 60 it remains of force, be available to any successor in title of the person to whom it was issued.

(5) A permit issued under this Act shall not authorize the abstraction of any surplus water from those portions of the Vaal River and its tributaries which are situate within the 65 storage area of the works constructed by the Rand Water Board or above that area but below the upper dam, except at such times as sufficient surplus water is being released from the upper dam for the special purpose of supplying to the holder of such permit the quantity of water which he is entitled to 70 abstract under such permit.

(6) It shall not be competent for the Minister to issue permits for the abstraction of surplus water for other than secondary use from those portions of the Vaal River and its tributaries which are situate within the storage area of the works con- 75 structed by the Rand Water Board, unless the whole of the water to which the Rand Water Board is entitled in accordance with the provisions of section *eight* is being abstracted or is required for reserve or has been disposed of by it.

(Private) Wet, 1914" (Wet No. 18 van 1914), of ingevolge 'n ander wet, aangelê is, behoudens die bepalings van bedoelde wet, onder die beheer en bestuur van die Rand Waterraad is.

5 6. (1) Behoudens die bepalings van hierdie Wet, kan die Minister aan enigeen 'n permit uitreik, wat die besitter magtig om, onderworpe aan bepalings en voorwaardes deur die Minister vas te stel, 'n bepaalde hoeveelheid van die waters wat die omvang van die werke bevat, wanneer dit beskikbaar
10 is, te neem en vir primêre, sekondêre, tersiêre of enige andere doeleindes op enige grond, of dit oewergrond aan die Vaalrivier of sy syrieviere is of nie, en of dit binne of buite die opvangterrein van die Vaalrivier is, te gebruik.

(2) Elke eienaar van grond, wat oewergrond aan die Vaalrivier
15 of sy syrieviere binne die omvang van die werke is, uitgesonderd grond wat oewergrond is aan die bewaringsgebied van die werke aangelê deur die Rand Waterraad—

(a) is, tensy hy of sy regsvoorganger ten tyde van die inwerkingtreding van hierdie Wet wettiglik deur
20 middel van alsdan bestaande besproeiingswerke water uit die gebied begrepe binne die omvang van die werke uitgehaal het, op aansoek geregtig op die uitreiking aan hom van so 'n permit, wat hom magtig om, in plaas van sy redelike aandeel in die normale stroming, 'n hoeveelheid water uit vermelde gebied
25 uit te haal, wanneer die water beskikbaar is, bereken op een-vyfde kubieke voet water per sekonde vir elke myl oewerlengte begrepe in sodanige oewergrond waarvan hy eienaar is;

(b) indien hy of sy regsvoorganger ten tyde van die inwerkingtreding van hierdie Wet wettiglik deur
30 middel van alsdan bestaande besproeiingswerke water uit die gebied begrepe binne die omvang van die werke uitgehaal het, kan sonder permit aanhou om uit vermelde gebied, wanneer die water beskikbaar
35 is, die hoeveelheid water uit te haal, wat bedoelde eienaar of sy regsvoorganger ten tyde van die inwerkingtreding van hierdie Wet uitgehaal het; en ingeval daardie hoeveelheid water minder was
40 dan 'n hoeveelheid water bereken op een-vyfde kubieke voet water per sekonde vir elke myl oewerlengte begrepe in sodanige oewergrond waarvan hy eienaar is, is hy op aansoek geregtig op die uitreiking
45 aan hom van so 'n permit, wat hom magtig om, wanneer die water beskikbaar is, die verskil uit te haal.

(3) Elke eienaar van grond, wat oewergrond is aan die bewaringsgebied van die werke deur die Rand Waterraad aangelê, is op aansoek geregtig op die uitreiking aan hom
50 van so 'n permit, wat hom magtig om, wanneer die water beskikbaar is, 'n hoeveelheid water uit te haal wat die buitengewone waterhof bedoel in artikel veertien van Wet No. 18 van 1914, na applikasie aan daardie hof, mag vasstel:

Met dien verstande dat iedereen, wat ten tyde van die
55 inwerkingtreding van hierdie Wet wettiglik deur middel van alsdan bestaande besproeiingswerke water uit bedoelde bewaringsgebied uithaal (en elke regsopvolger van so 'n persoon), sonder permit kan aanhou om uit bedoelde bewaringsgebied, wanneer die water beskikbaar is, die hoeveelheid water uit
60 te haal, wat hy aldus ten tyde van die inwerkingtreding van hierdie Wet uithaal.

(4) 'n Permit ingevolge hierdie Wet uitgereik is verbonde aan die grond of onderneming ten opsigte waarvan dit uitgereik is, en, solank dit van krag bly, is dit ter beskikking van 'n
65 regsopvolger van die persoon aan wie dit uitgereik was.

(5) Die uithaal van surplus water uit dele van die Vaalrivier en sy syrieviere, wat geleë is binne die bewaringsgebied van die werke aangelê deur die Rand Waterraad of bokant daardie gebied dog onderkant die boonste dam, word nie deur 'n
70 kragtens hierdie Wet uitgereikte permit veroorloof nie, behalwe terwyl genoeg surplus water uit die boonste dam uitgelaat word, spesiaal om aan die permithouer die hoeveelheid water te verskaf wat kragtens die permit hy geregtig is om uit te haal.

(6) Die Minister is nie bevoeg om permitte uit te reik nie
75 vir die uithaal van surplus water uit dele van die Vaalrivier en sy syrieviere, wat geleë is binne die bewaringsgebied van die werke aangelê deur die Rand Waterraad, behalwe vir sekondêre gebruik, tensy die hele hoeveelheid water, waarop die Rand Waterraad ingevolge die voorskrifte van artikel ag geregtig
80 is, uitgehaal word of as 'n reserwe vereis word of deur die Rand Waterraad afgestaan is.

(7) The powers conferred by any permit issued by the Minister under this section shall be exercised in such a manner that the physical and chemical condition of the water to which the Rand Water Board is entitled is not prejudicially affected.

Rates and charges.

7. The Minister may assess and recover rates on land 5 authorized (by permit or otherwise) to be irrigated with water abstracted or supplied from the works or from within the limits of the works, or he may assess and recover charges for water authorized (by permit or otherwise) to be abstracted 10 or supplied from the works or from within the limits of the works, or he may assess and recover both such rates and such charges :

Provided that no rate or charge shall be assessed or recovered in respect of water which any person is entitled to abstract in accordance with the provisions of sub-section (2) or (3) of 15 section six, or in respect of such additional quantity of water as the Minister may by permit authorize any such person to abstract for the irrigation of not more than one hundred morgen of land.

Rights of Rand Water Board to water.

8. In pursuance of the agreement entered into between the 20 Government of the Union and the Rand Water Board and set out in the Second Schedule to this Act, and in consideration of the payment by the Rand Water Board to the Government of the sum of two hundred and forty thousand pounds, the Rand Water Board shall, in addition to the quantity of 25 water it is empowered to abstract from the Vaal River under the provisions of Act No. 18 of 1914, be authorized and entitled, free of any rates or other charges—

(a) to abstract from the storage area of the works constructed by it and from the upper dam, and take, 30 convey, transmit and supply in a potable or non-potable condition, within the limits of supply as defined in the Rand Water Board Statutes 1903-1933, or as may be determined from time to time in accordance therewith, a quantity of water which, 35 calculated over a period of twelve calendar months, shall not exceed eighty thousand five hundred and seventy acre-feet (in this calculation no account shall be taken of water returned directly to the Vaal River); and 40

(b) to abstract from such storage area and such dam, and dispose of and deliver for use, or to allow to be so abstracted and used, in a potable or non-potable condition, beyond such limits of supply, any water which it is entitled to abstract under paragraph 45 (a), and which it does not require for supply within such limits: Provided that before the Rand Water Board disposes of, or allows to be abstracted and used, any water in pursuance of the powers conferred upon it by this paragraph, the terms and conditions 50 of such disposal or permission shall be first approved of by the Minister.

Ratification of agreement between Government and Rand Water Board.

9. The said agreement is hereby ratified and confirmed, and all powers and authorities necessary for giving effect to the terms thereof are hereby conferred upon the Minister 55 and the Rand Water Board.

Determination of normal flow at certain places.

10. (1) For the purposes of this Act, the normal flow of the Vaal River at the wall of the upper dam is fixed at two hundred and sixty cubic feet per second.

(2) Nothing in this Act contained shall affect the deter- 60 mination made by the extraordinary water court constituted in accordance with the provisions of section fourteen of Act No. 18 of 1914 of the normal flow of the Vaal River for the purposes of that Act, as set forth in the judgment delivered by that court on the nineteenth day of May, 1916. 65

Duty of Government to release water from its works.

11. (1) The Minister shall cause to be released from the upper dam the actual flow as determined in accordance with sub-section (2) of this section, whenever such actual flow does not exceed the normal flow as fixed by sub-section (1) of section 70

(2) For the purposes of this Act, the actual flow of the Vaal River at the wall of the upper dam shall be taken to be the amount of water which was actually flowing seven days previously in the Vaal River and the Wilge River where they enter the upper dam. 75

(3) Subject to the provisions of this Act and to the obligations imposed upon the Government of the Union by the said agreement, the Minister shall cause to be passed through

(7) Die bevoegdhele verleen deur 'n permit, wat kragtens hierdie artikel deur die Minister uitgereik is, word op so 'n wyse uitgeoefen dat die fisiese en chemiese toestand van die water waarop die Rand Waterraad geregtig is, nie op 'n 5 nadelige wyse beïnvloed word nie.

7. Die Minister kan belastings vasstel en invorder op grond, 10 die besproeiing waarvan met water, wat uit die werke of uit die omvang van die werke uitgehaal of verskaf is, deur permit of andersins veroorloof is, of hy kan fooie vasstel en invorder ten opsigte van water, die uithaal of verskaffing 15 waarvan uit die werke of uit die omvang van die werke deur permit of andersins veroorloof is, of hy kan beide sodanige belastings en sodanige fooie vasstel en invorder:

Met dien verstande dat geen belasting of fooi vasgestel 15 of ingevorder word nie ten opsigte van water, wat enigeen ingevolge die bepalings van sub-artikel (2) of (3) van artikel ses geregtig is om uit te haal, of ten opsigte van 'n ekstra hoeveelheid water wat die Minister deur permit so 'n persoon mag magtig om uit te haal vir besproeiing van hoogstens 20 honderd morg grond.

8. Ter uitvoering van die ooreenkoms aangegaan tussen 25 die Unie-Regering en die Rand Waterraad, 'n vertaling waarvan opgeneem is in die Tweede Bylae tot hierdie Wet, en met die oog op die betaling deur die Rand Waterraad aan die Regering van die bedrag van tweehonderd-en-veertigduisend pond, word die Rand Waterraad gemagtig en is hy geregtig om, behalwe die hoeveelheid water wat hy ingevolge die bepalings van Wet No. 18 van 1914 uit die Vaalrivier kan uithaal, en sonder betaling van belastings of ander vorderings—

30 (a) uit die bewaringsgebied van die werke deur hom aangelê en uit die boonste dam 'n hoeveelheid water wat, bereken oor 'n tydperk van twaalf kalendermaande, tagtigduisend vyfhonderd-en-sewentig akker-voet nie te bowe gaan nie (by hierdie berekening 35 word water, wat direk in die Vaalrivier teruggestort word, nie in aanmerking geneem nie), uit te haal en binne die verskaffingsterrein, soas omskrywe in die Rand Waterraad Statute, 1903-1933, of soas dié van tyd tot tyd daarvolgens vasgestel mag wees, 40 in 'n drinkbare of ondrinkbare toestand te neem, lei, voer en verskaf; en

(b) uit bedoelde bewaringsgebied en bedoelde dam water 45 wat hy kragtens paragraaf (a) geregtig is uit te haal, en wat hy nie nodig het nie vir verskaffing binne bedoelde verskaffingsterrein, uit te haal en buite bedoelde verskaffingsterrein in 'n drinkbare of ondrinkbare toestand af te staan en vir gebruik te lewer, of toe te laat dat dit aldus uitgehaal en gebruik word: Met dien verstande dat voor die Rand 50 Waterraad, by uitoefening van die magte deur hierdie paragraaf aan hom verleen, water afstaan of toelaat dat water uitgehaal en gebruik word, die terme en voorwaardes waaronder dit afgestaan word, of waaronder toegelaat word dat dit uitgehaal en gebruik word, eers deur die Minister goedgekeur moet word. 55

9. Die vermelde ooreenkoms word hiermee bekragtig en bevestig, en alle bevoegdhele en gesag wat vereis mag wees om die ooreenkoms uit te voer word hiermee aan die Minister en aan die Rand Waterraad verleen.

60 10. (1) Vir toepassing van hierdie Wet, word die normale stroming van die Vaalrivier by die wal van die boonste dam vasgestel op tweehonderd-en-sestig kubieke voet per sekonde.

(2) Die bepalings van hierdie Wet maak geen inbreuk nie op die vasstelling gedaan deur die buitengewone waterhof 65 ingestel ingevolge artikel veertien van Wet No. 18 van 1914, van die normale stroming van die Vaalrivier vir toepassing van daardie Wet, soas uiteengesit in die uitspraak deur daardie hof gegee op die neëntiende dag van Mei 1916.

70 11. (1) Die Minister moet die werklike stroming, soas ingevolge sub-artikel (2) van hierdie artikel vasgestel, uit die boonste dam uitlaat, wanneer bedoelde werklike stroming nie die normale stroming, soas deur sub-artikel (1) van artikel tien bepaal, te bowe gaan nie.

(2) Vir toepassing van hierdie Wet, word die werklike stroming 75 van die Vaalrivier by die wal van die boonste dam geag te wees die hoeveelheid water wat sewe dae van tevore in die Vaalrivier en die Wilgerivier, waar hulle in die boonste dam inloop, werklik gevloei het.

(3) Behoudens die bepalings van hierdie Wet, en die ver- 80 pligtings deur die vermelde ooreenkoms aan die Unie-Regering opgelê, moet die Minister deur die uitkeerdam soveel water

Belastings en fooie.

Rand Waterraad geregtig op water.

Bekrragtiging van ooreenkoms tussen Regering en Rand Waterraad.

Vasstelling van normale stroming op sekere plekke.

Verpligting van Regering om water uit sy werke uit te laat.

the diversion weir so much water as is necessary to supply to the Kimberley Municipality as the successor to the rights conferred upon the Kimberley Waterworks Company, Limited, by the Ordinance No. 12 of 1880 (Griqualand West) and Act No. 5 of 1906 (Cape of Good Hope) and to the owners of land 5 riparian to the Vaal River below the diversion weir down to the junction of the said river with the Orange River the quantity of water which the said Municipality and the said owners are entitled to abstract from the Vaal River and which is required by the said Municipality and the said owners, and 10 in addition, he shall, if requested by the Kimberley Municipality to do so, cause to be passed down the Vaal River at the diversion weir a continuous flow of one thousand cubic feet per second for a period of twenty-four hours once in every period of three months commencing on the first day of January, 15 the first day of April, the first day of July or the first day of October in every year: Provided that if the water so passed through is not sufficient to maintain the water at not less than one foot below the crest level of the weir referred to in section one of Act No. 5 of 1906 (Cape of Good Hope), the Minister 20 shall, subject to the provisions of this Act and to the obligations imposed upon the Government by the said agreement, cause to be passed down from the diversion weir sufficient water to maintain the water at the said level: Provided further that whenever there is not sufficient water available for the 25 purposes of this sub-section, no water shall be diverted from the diversion weir into the main canal as described in the First Schedule to this Act.

Powers and duties of Rand Water Board as to storage of water in and release of water from its works.

12. (1) The Rand Water Board may impound and store all or any of the water in excess of the normal flow as set forth 30 in the judgment of the extraordinary water court referred to in sub-section (2) of section *ten* or in excess of the actual flow as determined under sub-section (2) of this section, whichever is the less at the time: Provided that in accordance with the said agreement it allows such amounts of water to pass 35 down as may be determined by the Director.

(2) For the purposes of this section, the actual flow of the Vaal River at any given time shall be taken to be the actual flow of the said river at the wall of the upper dam at that time as determined under sub-section (2) of section *eleven*, 40 less five cubic feet per second, and less the amount of normal flow lawfully being abstracted from the Vaal River at that given time above the storage area of the works constructed by the Rand Water Board under Act No. 18 of 1914 but below the upper dam, plus the actual flow at that given time of the 45 Zuikerboschrand River, the Klip River (Transvaal), the Rietspruit and the Taaiboschspruit, where these streams enter the said storage area.

Acquisition of land or servitudes by consent.

13. (1) If land, or a servitude over land is, in the opinion of the Governor-General, required in connection with the 50 works or in connection with any settlement which is supplied or which the Minister proposes should be supplied with water from the works, the Governor-General may enter into an agreement with the owner of that land for the acquisition of that land or that servitude. 55

(2) Whenever the Governor-General has by agreement acquired any such servitude, the Minister may cause the agreement to be produced to the court established under section *sixteen*, and thereupon such court may make the agreement an order of court, notwithstanding the fact that the parties 60 thereto have not appeared before it; and registration of the servitude so acquired shall be effected in accordance with the regulations made under the Irrigation Act or under this Act.

Acquisition of land without owner's consent.

14. (1) The Governor-General may take or use any land, 65 which in his opinion is required in connection with the works or in connection with any settlement which is supplied or which the Minister proposes should be supplied with water from the works, subject to the payment of compensation, the amount of which shall be determined in case of difference by the 70 court established under section *sixteen*.

(2) Such compensation shall—

(a) in the case of the acquisition of land, not exceed the fair market value (as nearly as can be ascertained) of the land, increased by the addition of a sum in 75 respect of actual inconvenience or loss likely to be caused by the expropriation, not exceeding twenty per cent. of such value; and

- laat deurvloei as wat nodig mag wees om aan die Kimberley Munisipaliteit, as opvolger van die Kimberley Waterworks Company, Limited, wat betref die regte verleen deur Ordonnansie No. 12 van 1880 (Grikwaland-Wes) en Wet No. 5 van 1906 (Kaap die Goeie Hoop), en die eienare van grond, wat oewergrond is van die Vaalrivier onderkant die uitkeerdam tot aan die samevloeiing van die Vaalrivier en die Oranjerivier, die hoeveelheid water te verskaf wat vermelde Munisipaliteit en vermelde eienare wat regtens uit die Vaalrivier kan uithaal en wat vermelde Munisipaliteit en vermelde eienare nodig het, en moet die Minister buitendien, indien hy daartoe deur die Kimberley Munisipaliteit versoek word, eenkeer in elke tydvak van drie maande wat op die eerste dag van Julie of die eerste dag van Oktober in elke jaar begin, 'n stroom water, wat gedurende vier-en-twintig uur met 'n stroming van minstens duisend kubieke voet per sekonde onafgebroke loop, by die uitkeerdam in die Vaalrivier laat afvloei: Met dien verstande dat as die water wat aldus deurgelaat is nie genoeg is nie om die water te hou op 'n hoogte van nie laer dan een voet onderkant die kruin van die dam bedoel in artikel een van Wet No. 5 van 1906 (Kaap die Goeie Hoop), die Minister genoeg water uit die uitkeerdam moet laat afvloei om die water op bedoelde hoogte te hou: Met dien verstande voorts, dat wanneer daar nie genoeg water beskikbaar is om aan die vereistes van hierdie artikel te voldoen nie, geen water uit die uitkeerdam in die hoofkanaal genoem in paragraaf 3 van die Eerste Bylae van hierdie Wet uitgekeer word nie.

12. (1) Die Rand Waterraad kan al die water (of 'n deel daarvan) meer as die normale stroming, soas uiteengesit in die uitspraak van die buitengewone waterhof bedoel in sub-artikel (2) van artikel tien, of meer as die werklike stroming, soas ingevolge sub-artikel (2) van hierdie artikel vasgestel, watter ook al op die oomblik die kleinste mag wees, opgaar en bewaar, mits hy in ooreenstemming met vermelde ooreenkoms die hoeveelheid water wat deur die Direkteur vasgestel word laat afvloei.

Bevoegdhede en verpligtings van Rand Waterraad wat betref bewaring van water in- en uitlaat van water uit sy werke.

- (2) Vir toepassing van hierdie artikel, word die werklike stroming van die Vaalrivier op 'n bepaalde tyd geag te wees die werklike stroming van genoemde rivier op daardie tyd by die wal van die boonste dam, soas ingevolge sub-artikel (2) van artikel elf vasgestel, min vyf kubieke voet per sekonde, en min soveel van die normale stroming as wat op daardie bepaalde tyd bokant die bewaringsgebied van die werke deur die Rand Waterraad ingevolge Wet No. 18 van 1914 aangelê maar onderkant die boonste dam wettiglik uit die Vaalrivier uitgehaal word, plus die werklike stroming op daardie bepaalde tyd van die Zuikerboschrandrivier, die Kliprivier (Transvaal), die Rietspruit en die Taaiboschspruit, op die plekke waar vermelde strome in bedoelde bewaringsgebied inloop.

13. (1) As grond, of 'n serwituut op grond, volgens mening van die Goewerneur-generaal, vereis word in verband met die werke of in verband met 'n nedersetting wat met water uit die werke voorsien word, of wat die Minister voornemens is om te laat voorsien met water uit die werke, kan die Goewerneur-generaal 'n ooreenkoms tot verkryging van daardie grond of daardie serwituut met die eienaar van daardie grond aangaan.

Verkryging van grond of serwituute by wyse van ooreenkoms.

- (2) Wanneer die Goewerneur-generaal by wyse van ooreenkoms so 'n serwituut verkry het, kan die Minister die ooreenkoms aan die hof ingestel kragtens artikel sestiën doen oorlê, en daarop kan bedoelde hof die ooreenkoms tot 'n bevel van die hof verhef, al het die kontraktante nie voor die hof verskyn nie; en registrasie van die aldus verkreë serwituut geskied in ooreenstemming met die regulasies kragtens die Besproeiingswet of kragtens hierdie Wet uitgevaardig.

14. (1) Die Goewerneur-generaal kan grond neem of gebruik, wat, volgens sy mening, vereis word in verband met die werke of in verband met 'n nedersetting wat met water uit die werke voorsien word, of wat die Minister voornemens is om te laat voorsien met water uit die werke, mits skadevergoeding daarvoor betaal word, die bedrag waarvan, by gebreke van minnelike skikking, deur die hof ingestel kragtens artikel sestiën vasgestel word.

Verkryging van grond sonder toestemming van eienaar.

- (2) Sodanige vergoeding—

- (a) mag, in 'n geval van verkryging van grond, nie meer wees nie as die redelike markwaarde (by benadering geskat) van die grond, vermeerder deur byvoeging van 'n bedrag, van hoogstens twintig persent van bedoelde waarde, weens werklike ongerief of verlies

- (b) in the case of the use of land, be based upon the fair market value of the land used (as nearly as can be ascertained), increased by the addition of a sum in respect of actual inconvenience or loss that may be suffered by such use, not exceeding twenty per cent. of such value ;

and in estimating such fair market value the court shall not take into account any enhancement in the value of land which may be caused by the construction, maintenance, repair, alteration or extension of the works.

(3) Save as in this section provided, the provisions of Chapter VII of the Irrigation Act relating to the acquisition of servitudes shall *mutatis mutandis*, and so far as practicable, be applied to the acquisition of land or the use of land under this section.

Acquisition of servitudes without owner's consent.

15. (1) The Governor-General shall be entitled as of right to acquire any servitude referred to in Chapter VII of the Irrigation Act or any other servitude, which in his opinion is required in connection with the works or in connection with any settlement which is supplied or which the Minister proposes should be supplied with water from the works.

(2) Save as in this section provided, the provisions of Chapter VII of the Irrigation Act relating to the acquisition of servitudes shall be applied to the acquisition of servitudes under this section.

(3) The Minister shall be entitled, immediately after the notice referred to in sub-section (1) of section *one hundred and nine* of the Irrigation Act has been served to exercise the servitude.

(4) The application for the settlement of any matter in dispute in connection with the acquisition of any servitude under this section shall be made to and disposed of by the court established under section *sixteen*.

(5) Compensation for inconvenience or loss in respect of the watering of stock likely to be caused by the acquisition of any servitude under this section shall not be awarded at a greater rate than twenty pounds per mile of river frontage affected.

Establishment of court for settlement of disputes.

16. (1) The Governor-General shall establish a court for the settlement of all matters in dispute which by sections *fourteen* and *fifteen* are required to be settled by such court, and for the making of orders in terms of sub-section (2) of section *thirteen*.

(2) Such court shall be constituted in the same manner as is prescribed by section *thirty* of the Irrigation Act for the constitution of an extraordinary water court established in terms of that section.

(3) Such court shall in respect of any matter dealt with by it in accordance with sub-section (1), have all the jurisdiction, powers and authorities assigned by the Irrigation Act to water courts, and the provisions of that Act relating to water courts shall, *mutatis mutandis*, apply to such court.

Regulations.

17. The Governor-General may make regulations as to all or any of the following matters, namely :—

- (a) the method of notifying to owners of land the situation and extent of any such land as is found to be irrigable from the works or from the area comprised within the limits of the works ;
- (b) the manner of regulating the flow of water into, the distribution of water from, and the use of water in or from, any part of the works or of the area comprised within the limits of the works ;
- (c) the method of assessing and recovering rates on land irrigated with water from the works or from the area comprised within the limits of the works, and of assessing and recovering charges for water abstracted or supplied from the works or from such area ;
- (d) the issue of permits under section *six* and the recording and registration thereof ; and
- (e) the method of registering servitudes.

Offences and penalties.

18. Any person who without right or lawful authority (the proof whereof shall lie upon him)—

- (a) damages, alters, enlarges or obstructs the works or any part thereof or damages or removes anything used in connection therewith ; or

5 wat die onteining vermoedelik sal veroorsaak; en
 (b) moet, in 'n geval van gebruik van grond, gegrond wees
 op die redelike markwaarde (by benadering geskat)
 van die grond wat gebruik word, vermeerder deur
 byvoeging van 'n bedrag, van hoogstens twintig
 persent van bedoelde waarde, weens werklike ongerief
 of verlies wat die gebruik vermoedelik sal veroorsaak;
 en by berekening van bedoelde redelike markwaarde moet
 die hof 'n verhoging in die waarde van die grond wat veroorsaak
 10 mog wees deur die aanleg, instandhouding, herstelling,
 verandering of uitbreiding van die werke, nie in aanmerking
 neem nie.

(3) Behoudens die bepalinge van hierdie artikel, word die
 bepalinge van Hoofstuk VII van die Besproeiingswet met
 15 betrekking tot die verkryging van servitute, *mutatis mutandis*,
 en sover doenlik, toegepas op die verkryging van grond of die
 gebruik van grond kragtens hierdie artikel.

15 15. (1) Die Goewerneur-generaal kan regtens aanspraak
 maak op die verkryging van een of ander van die servitute
 bedoel in Hoofstuk VII van die Besproeiingswet of van enige
 ander servituut, wat, volgens sy mening, vereis word in
 verband met die werke of in verband met 'n nedersetting
 wat met water uit die werke voorsien word, of wat die Minister
 voornemens is om te laat voorsien met water uit die werke.

Verkryging van
 servitute sonder
 toestemming
 van eienaar.

25 (2) Behoudens die bepalinge van hierdie artikel, word die
 bepalinge van Hoofstuk VII van die Besproeiingswet met
 betrekking tot die verkryging van servitute toegepas op die
 verkryging van servitute kragtens hierdie artikel.

(3) Die Minister is geregtig om, onmiddellik na die in artikel
 30 honderd-en-nege van die Besproeiingswet bedoelde kennis-
 gewing gedien is, die servituut uit te oefen.

(4) Elke applikasie vir die beslissing van 'n geskilpunt
 met betrekking tot die verkryging kragtens hierdie artikel
 van 'n servituut, word gedoen aan en word afgehandel deur
 35 die hof ingestel kragtens artikel *sestien*.

(5) Skadevergoeding weens ongerief of verlies ten aansien
 van die suip van vee, wat die verkryging van 'n servituut
 kragtens hierdie artikel vermoedelik sal veroorsaak, word
 nie op 'n hoër skaal toegeken nie as twintig pond vir elke myl
 40 betrokke oewerlengte.

16. (1) Die Goewerneur-generaal moet 'n hof instel om alle
 geskilpunte te beslis wat volgens artikels *veertien* en *vyftien*
 deur 'n sodanige hof beslis moet word, en om bevele ooreen-
 komstig sub-artikel (2) van artikel *dertien* uit te vaardig.

Instelling van
 hof om
 geskilpunte te
 beslis.

45 (2) Bedoelde hof word saamgestel volgens voorskrifte van
 artikel *dertig* van die Besproeiingswet betreffende die same-
 stelling van 'n buitengewone waterhof ingestel kragtens daardie
 artikel.

(3) Ten opsigte van elke saak wat ingevolge sub-artikel
 50 (1) deur bedoelde hof behandel word, het bedoelde hof al die
 regsmag, bevoegdhede en magte wat deur die Besproeiingswet
 aan waterhowe verleen word, en is die bepalinge van daardie
 Wet met betrekking tot waterhowe *mutatis mutandis* op
 bedoelde hof van toepassing.

55 17. Die Goewerneur-generaal kan regulasies uitvaardig
 omtrent al die volgende aangeleenthede of een of meer daarvan,
 naamlik:

Regulasies.

(a) die wyse waarop aan eienare van grond kennis gegee
 moet word van die ligging en grootte van soveel van
 60 daardie grond as wat besproeibaar bevind word uit
 die werke of uit die gebied begrepe binne die omvang
 van die werke;

(b) die reëlingswyse van die waterstroom wat in enige
 deel van die werke of van die gebied begrepe binne
 65 die omvang van die werke inloop, die verdeling van
 water daaruit, en die gebruik van water daarin of
 daaruit;

(c) die metode van vasstelling en invordering van
 belastinge op grond, wat met water uit die werke
 70 of uit die gebied begrepe binne die omvang van die
 werke besproei word, en van vasstelling en invordering
 van fooie ten opsigte van water, wat uit die werke
 of uit bedoelde gebied uitgehaal of verskaf is;

(d) die uitreiking kragtens artikel *ses* van permitte en
 75 die aantekening en registrasie daarvan; en

(e) die wyse waarop servitute geregistreer word.

18. Enigeen wat sonder reg of wettige opdrag (waarvan
 hy die bewys moet lewer)—

Misdrywe en
 strawwe.

80 (a) die werke of enige deel daarvan beskadig, verander,
 vergroot of belemmer of iets, wat in verband daarmee
 gebruik word, beskadig of verwyder; of

- (b) interferes with or alters the flow of water in the works, or within the limits of the works, or interferes with the lawful distribution of such water, or uses such water in a manner not authorized by or under this Act; or 5
 - (c) damages, defaces or removes any level or mark fixed on or in connection with the works; or
 - (d) fails to take proper precautions for preventing waste of water supplied to him or abstracted by him from the works or from the area comprised within the limits of the works; or 10
 - (e) obstructs or interferes with any person acting in the exercise of any power or the performance of any duty conferred or imposed on such person under this Act or the regulations made thereunder; or 15
 - (f) contravenes or fails to comply with any regulation made under this Act,
- shall be guilty of an offence and liable—
- (i) in the case of a first conviction, to a fine not exceeding ten pounds, or, in default of payment, to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment; 20
 - (ii) in the case of a second or subsequent conviction, to a fine not exceeding twenty pounds, or, in default of payment, to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment. 25

Short title.

19. This Act shall be known as the Vaal River Development Scheme Act, 1934.

First Schedule.

DESCRIPTION OF THE WORKS THE CONSTRUCTION OF WHICH IS AUTHORIZED UNDER THIS ACT.

The works to be constructed under this Act comprise the following:—

1. An upper storage dam on the Vaal River, situated approximately fourteen miles below the confluence of the Vaal and Wilge Rivers. The wall of this dam will be constructed of concrete and the dam will be provided with a spillway channel on the north bank of the river. The wall of the dam will be situated on or near the farms Witpoort on the south bank, and Vaal-bank on the north bank of the Vaal River. The dam will have an initial impounding capacity of approximately 700,000 acre-feet, and will, when full, submerge an area of land approximately 50 square miles in extent.

2. A diversion weir on the Vaal River situated approximately three miles above the railway bridge at Warrenton. The weir will be situated on or near the farms Schoolplaats on the south bank, and H.20 on the north bank of the Vaal River. The weir will have a height of about 30 feet. It will serve to control and divert water into the canals described below.

3. A main canal, with branch canals, will convey water diverted by the weir described in paragraph 2 to such land as is to be irrigated.

4. Weirs and diversion canals at suitable places in or near the Vaal River for the purpose of generating power.

5. All other appurtenances necessary for the proper development of the scheme, for the control and disposal of surface drainage, for the measurement and control of water released from the works or from any portion thereof, and generally for carrying out the scheme.

Second Schedule.

DEED OF AGREEMENT.

Deed of agreement made between the Honourable Deneys Reitz in his capacity as the Minister of Lands of the Union of South Africa and as such representing the Government of the Union in its Department of Lands (hereinafter referred to as "the Government") of the one part, and the Rand Water Board (hereinafter referred to as "the Board") constituted and incorporated in accordance with the provisions of the Rand Water Board Statutes 1903 to 1933 (hereinafter referred to as "the Statutes") herein represented by Sidney Allelyne van Lingen, the Chairman of the Board, he being duly authorized thereto by virtue of a Resolution passed at a Meeting of the Board held at Johannesburg on the 13th day of January, 1934, of the other part.

1. In the interpretation of this Agreement, unless contrary to the context, any word or expression to which a meaning has been assigned in the Irrigation and Conservation of Waters Act, 1912, has the same meaning and the following words and expressions have the following meanings respectively:—

"Board's storage area" means the area in which the Board is empowered to impound and store water in accordance with the provisions of Act No. 18 of 1914;

"Board's Barrage" means the barrage constructed by the Board in accordance with the provisions of Act No. 18 of 1914;

"Government Dam" means the dam to be constructed by the Government on the Vaal River;

"Twelve monthly period" means a period of twelve months beginning on the 1st April in any year and terminating on the 31st March in the following year.

2. Unless prevented by circumstances beyond its control, the Government undertakes before releasing any surplus water from its dam for any other purpose:—

(a) To maintain the water level in the Board's storage area at not less than R.L. 4,664.08 or 24 feet above the sills of the gates of the Board's barrage;

- (b) op die stroming van die water in die werke of binne die omvang van die werke inbreuk maak of dit verander, of op die wettige verdeling van daardie water inbreuk maak, of daardie water gebruik op 'n wyse wat nie deur of ingevolge hierdie Wet veroorloof word nie; of
- 5 (c) 'n peil of merk, wat aan die werke of in verband daarmee aangebring is, beskadig, uitwis of versit; of
- 10 (d) versuim om behoorlike maatreëls te neem tot voorkoming van verspilling van water wat aan hom uit die werke of uit die gebied begrepe binne die omvang van die werke gelewer word, of deur hom daaruit uitgehaal word; of
- 15 (e) iemand by die uitoefening van 'n bevoegdheid of by die nakoming van 'n verpligting, wat kragtens hierdie Wet of die regulasies uit kragte daarvan uitgevaardig hom verleen of opgelê is, belemmer of hinder; of
- (f) 'n regulasie kragtens hierdie Wet uitgevaardig oortree of veronagsaam,
- 20 is aan 'n misdryf skuldig en strafbaar—
- (i) by 'n eerste veroordeling met 'n boete van nie meer as tien pond of, by wanbetaling, met gevangenisstraf van hoogstens drie maande, of met beide daardie boete en daardie gevangenisstraf;
- 25 (ii) by 'n tweede of volgende veroordeling, met 'n boete van nie meer as twintig pond of, by wanbetaling, met gevangenisstraf van hoogstens ses maande, of met beide daardie boete en daardie gevangenisstraf.
19. Hierdie Wet heet die Vaalrivier Uitbreidingskema Wet, Kort titel.
- 30 1934.

Eerste Bylae.

BESKRYWING VAN DIE WERKE WAARVAN DIE AANLÊ DEUR HIERDIE WET GEMAGTIG WORD.

Die werke wat ingevolge hierdie Wet aangelê moet word bestaan uit die volgende:—

1. 'n Boonste bewaringsdam aan die Vaalrivier, geleë ongeveer veertien myl onderkant die samevloeiing van die Vaal- en Wilgeriviere. Die wal van hierdie dam sal van beton gebou word, en die dam sal voorsien wees van 'n uitloopvoer aan die noordoewer van die rivier. Die damwal sal geleë wees op of naby die plase Witpoort aan die suidoewer, en Vaalbank aan die noordoewer van die Vaalrivier. Die dam sal 'n aanvangsinhoudsvermoë hê van naasteby 700,000 akkervoet, en wanneer hy vol is sal hy ongeveer 50 vierkantmyl onder water sit.
2. 'n Uitkeerdam aan die Vaalrivier, geleë ongeveer drie myl bokant die spoorwegbrug te Warrenton. Die wal van die uitkeerdam sal geleë wees op of naby die plase Schoolplaats aan die suidoewer, en H.20 aan die noordoewer van die Vaalrivier. Die wal van die uitkeerdam sal ongeveer 30 voet hoog wees. Hy sal dien om water te kontroleer en uit te keer in die hieronder beskrewe kanale.
3. 'n Hoofkanaal, met sykanale, sal die water, wat deur die in paragraaf 2 beskrewe dam uitgekeer word, voer na grond wat besproei moet word.
4. Uitkeerdamme en afvoerkanale op geskikte plekke aan of naby die Vaalrivier vir kragontwikkelingsdoeleindes.
5. Alle ander nodige toebehorens vir die behoorlike ontwikkeling van die skema, vir die beheer en reëling van grondafwatering, vir die meet en kontrolering van water wat uit die werke of uit 'n deel daarvan uitgelaat word, en in die algemeen vir uitvoering van die skema.

Tweede Bylae.

AKTE VAN OOREENKOMS.

Aangegaan tussen die Edellagbare Deneys Reitz in sy hoedanigheid as Minister van Lande vir die Unie van Suid-Afrika, en as sulks die Regering van die Unie in sy Departement van Lande verteenwoordigende (hierin later „die Regering” genoem) ter ene syde, en die „Rand Water Board” (hierin later „die Raad” genoem) ingestel en ingelyf luidens die bepalings van die Rand Waterraad Statute, 1903-1933 (hierin later „die Statute” genoem), hierin verteenwoordig deur Sydney Allelyne van Lingen, Voorsitter van die Raad, hy daartoe gemagtig synde kragtens 'n besluit op 'n vergadering van die Raad te Johannesburg op die 13de dag van Januarie 1934 aangeneem, ter andere syde.

(1) By die interpretasie van hierdie ooreenkoms, tensy in stryd met die samehang, sal enige woord of uitdrukking waaraan 'n betekenis toegeken word in die Besproeiings- en Waterbewaringswet, 1912, dieselfde betekenis behou, en die volgende woorde en uitdrukkings het onderskeidelik die volgende betekenisse—

„Raad se versamelterrein” beteken die terrein waarin die Raad gemagtig is om water op te gaan en te versamel luidens die bepalings van Wet No. 18 van 1914;

„Raad se barrage” beteken die barrage deur die Raad luidens die bepalings van Wet No. 18 van 1914 opgerig;

„Regeringsdam” beteken die dam deur die Regering in die Vaalrivier opgerig te word;

„Twaalfmaandelikse tydperk” beteken 'n tydperk van twaalf maande wat op 1 April in enige jaar begin, en op 31 Maart in die volgende jaar eindig.

(2) Regering deur omstandighede buite sy beheer verhinder, onderneem die Regering, voordat enige surplus water vir enige ander doel uitgelaat word—

- (a) om die waterhoogte in die Raad se versamelterrein op nie minder dan R.L.4,664.08 of 24 voet bo die hekkebank van die Raad se barrage te behou;

- (b) To impound and store in the Government dam exclusively for the Board during each twelve monthly period a quantity of water calculated in acre-feet in accordance with the following formula (hereinafter referred to as "the said formula"):

$$Q = \frac{1,600 (D - 10) (12 - M)}{12}$$

Where—

- "Q" represents the quantity of water in acre-feet;
 "M" represents the number of months and/or any fraction of a month elapsed as from the commencement of the twelve monthly period;
 "D" represents in million gallons per day the capacity of the Board's plant and pipelines to abstract water from the Vaal River together with such water as is required by persons whom the Board has authorized to take water from the Board's storage area and of which the Board has advised the Director in accordance with the provisions of Clause 3 hereof: Provided that in no circumstances shall the quantity of water represented by "D" exceed seventy (70) million gallons per day.

3. For the purpose of determining the quantity of water which the Government shall impound and store for the Board at the commencement of the next twelve monthly period the Board shall, on or before the 1st September preceding such twelve monthly period, advise the Director in writing of the number of million gallons per day which is to be substituted for "D" in the said formula, and shall, at the same time, give the Director such information as may be necessary to enable him to examine and check its correctness.

4. In order to ensure as far as possible that the quantity of water represented by "Q" on the 1st April in each and every year shall be in the Government dam on that date the Government agrees that in addition to the quantity of water calculated in terms of Clause 2 hereof, it shall as and from the 1st October in each and every year impound and store for the Board fifty per cent. (50%) of the surplus water entering the Government dam until the quantity of water represented by "Q" as at the 1st April following is stored and impounded on behalf of the Board, and shall continue to impound and store surplus water in order to maintain such quantity until the 1st April on which date in any case all the water held in the Government dam up to the quantity of water represented by "Q" as above shall be stored in the said dam exclusively for the Board.

5. The Board shall at all times have the right:—

- (a) To use any water released by the Government from the Government dam for the purpose of developing such power as it may be entitled to develop and to construct, either in the bed of the Vaal River or in the neighbourhood thereof, such works as may be necessary for this purpose;
 (b) To transmit any power which it may so develop to any of its Pumping Stations or other works.

6. The Government shall not be in any way liable to the Board for damages or otherwise should the water so released at any time be insufficient to enable the Board to develop power as hereinbefore provided, or be released in a manner which would prevent the Board developing such power, but it shall in so far as is convenient and subject to its own requirements, discharge the water from its dam through the plant to be erected by the Board.

7. The Government agrees that in designing its dam it will consult with the Board in order that in so far as is convenient and subject to the requirements of the Government such provisions may be made as the Board requires to enable it to develop power. Any cost incurred by the Government at the request of and in agreement with the Board in making such special provisions, shall be borne by the Board.

8. The Board agrees to allow water released from the Government dam to pass through the Board's barrage in such manner and at such times as the Director may determine: Provided that the Board shall not be obliged to pass any water, other than the actual normal flow, through the Board's barrage as long as the level of the water impounded by such barrage has sunk to the level mentioned in Clause 2 (a) hereof.

9. The cost of installing and maintaining any telephone lines and equipment which may be found necessary in connection with the regulation of the passing of water from the Government dam through the Board's barrage, shall be borne by the Government.

10. The Board shall have the right of entry at all reasonable times to the Government works and offices for the purpose of inspecting the level of the water in such works and records kept by the Government, in order to satisfy itself that the water which the Government agrees to impound and store for it has actually been so impounded and stored.

11. The Government agrees to proceed with the erection of the Government works as soon as is practicable and unless prevented by circumstances beyond its control to continue the construction of such works in such manner as to enable a quantity of water equal to ninety-six thousand (96,000) acre-feet being stored in such works by June, 1938.

12. The Board shall pay the sum of two hundred and forty thousand pounds (£240,000) to the Government as and when the construction of the Government dam is completed and such payment shall be made either in one sum or in annual payments calculated on such basis as regards interest on and payment of the principal amount as may be agreed upon between the Minister and the Board.

13. This agreement is subject to ratification by Parliament.

IN WITNESS WHEREOF this Agreement has been signed by the parties hereto at Cape Town on this the 30th day of January, 1934, in the presence of the undersigned witnesses.

As Witnesses:

1. ALFRED D. LEWIS.
 2. J. H. STEVENSON,

D. REITZ.

S. A. VAN LINGEN,

- (b) om uitsluitlik vir die Raad in die Regeringsdam gedurende elke twaalfmaandelikse tydperk 'n hoeveelheid water op te gaar en te bewaar in akkervoete gereken luidens die volgende formulier (hierin later „die gemelde formulier” genoem),

$$Q = \frac{1,600 (D-10) (12-M)}{12}$$

Waar:—

„Q” die hoeveelheid water in akkervoete voorstel.

„M” die aantal maande en/of gedeelte van 'n maand verstreke sedert die begin van die twaalfmaandelikse tydperk voorstel.

„D” die kapasiteit in miljoen gellings per dag voorstel, van die Raad se toestel en pyplyne om water uit die Vaalrivier te haal, tesame met sodanige water wat benodig word deur persone deur die Raad gemagtig om water uit die Raad se versamelterrein te neem, en waarvan die Raad die Direkteur luidens artikel (3) hiervan in kennis gestel het: Met dien verstande dat onder geen omstandighede die water deur „D” voorgestel 70 miljoen gellings per dag sal te bo gaan nie.

(3) Ten einde die hoeveelheid water vas te stel wat die Regering by die begin van die volgende twaalfmaandelikse tydperk vir die Raad moet opgaar en bewaar, sal die Raad, voor of op die 1ste September sodanige twaalfmaandelikse tydperk voorafgaande, die Direkteur skriftelik in kennis stel van die aantal miljoen gellings per dag wat „D” in genoemde formulier sal vervang, en sal terselfdertyd die Direkteur sulke inligtings verskaf as nodig mag wees om die juistheid daarvan te ondersoek en vas te stel.

(4) Ten einde sover moontlik te verseker dat die hoeveelheid water deur „Q” voorgestel, op 1 April in elk en ieder jaar in die Regeringsdam op daardie datum sal wees, kom die Regering ooreen dat behalwe die hoeveelheid water luidens klousule (2) hiervan gereken, hy vanaf 1 Oktober in elk en ieder jaar vyftig persent (50%) van die surplus water wat in die Regeringsdam loop vir die Raad sal opgaar en bewaar totdat die hoeveelheid water wat deur „Q” op die volgende 1ste April voorgestel sal wees, ten bate van die Raad opgegaar en bewaar is, en sal voortgaan om surplus water op te gaar en te bewaar sodat sodanige hoeveelheid behou word tot op 1 April, wanneer al die water in die Regeringsdam versamel tot op die hoeveelheid deur „Q” voorgestel soos voormeld, in elk geval uitsluitlik vir die Raad bewaar sal word.

(5) Die Raad sal te eniger tyd die reg hê:

(a) Om enige water deur die Regering uit die Regeringsdam uitgelaat te gebruik vir die ontwikkeling van sodanige krag soos hy geregtig is om te ontwikkel, en om sodanige werke op te rig, of in die bed van die Vaalrivier of in die nabyheid daarvan, soos vir hierdie doel nodig mag wees.

(b) Om enige krag wat hy so mag ontwikkel aan enige van sy pompstasies of ander werke oor te dra.

(6) Die Regering sal geensins aan die Raad aanspraaklik wees vir skadevergoeding of andersins nie indien die water so uitgelaat te eniger tyd onvoldoende is om die Raad in staat te stel om krag te ontwikkel soos hierbo omskryf, of indien dit op so 'n manier uitgelaat word dat die Raad verhinder is om sodanige krag te ontwikkel, maar hy sal, in sover dit gerieflik mag wees, en onderworpe aan sy eie vereistes, die water van sy dam uitlaat deur die toestel deur die Raad opgerig te word.

(7) Die Regering kom ooreen dat by die planberaming van sy dam hy die Raad sal raadpleeg, ten einde, insover dit gerieflik mag wees, en onderworpe aan die vereistes van die Regering, sodanige voorsiening te maak soos die Raad nodig het om hom in staat te stel om krag te ontwikkel. Enige koste deur die Regering gemaak op versoek van en in ooreenkoms met die Raad in verband met die daargestelling van sodanige spesiale voorsienings sal gedra word deur die Raad.

(8) Die Raad kom ooreen om water van die Regeringsdam uitgelaat toe te laat om deur die Raad se barrage te loop op sodanige wyse en op sodanige tye soos die Direkteur mag voorstel: Met dien verstande dat die Raad nie verplig sal wees nie om enige water, behalwe die normaal stroom, deur die Raad se barrage te laat loop terwyl die hoogte van die water deur sodanige barrage opgegaar gesak het tot die hoogte in klousule 2 (a) hiervan vermeld.

(9) Die koste van die oprigting en onderhoud van enige telefoonlyne en uitrusting wat nodig gevind word in verband met die reëling van die loop van water van die Regeringsdam deur die Raad se barrage, sal deur die Regering gedra word.

(10) Die Raad sal te alle redelike tyd die reg van ingang hê tot die Regering se werke en kantore, ten einde die hoogte van die water in sodanige werke vas te stel en registers deur die Regering gehou na te sien, om sigself te oortuig dat die water wat die Regering onderneem om op te gaar en te bewaar werklik so opgegaar en bewaar is.

(11) Die Regering kom ooreen om met die oprigting van die Regeringswerke so spoedig doenlik aan te gaan, en tensy deur omstandighede buite sy beheer verhinder, om die oprigting van sodanige werke voort te sit op so 'n manier dat 'n hoeveelheid water gelykstaande aan ses-en-neentig duisend akkervoet in sodanige werke versamel word voor Junie 1938.

(12) Die Raad sal aan die Regering die bedrag van tweehonderd en veertig duisend pond (£240,000) betaal sodra die oprigting van die Regeringsdam voltooi is, en sodanige betaling sal geskied of in een som of in jaarlikse paaiemente bereken op sodanige basis wat rente op en betaling van die hoofsom betref, soos tussen die Minister en die Raad ooreengekom mag word.

(13) Hierdie ooreenkoms is onderhewig aan bekragtiging deur die Parlement.

AS BEWYS WAARVAN hierdie ooreenkoms deur die partye daartoe te Kaapstad onderteken is, op hede die 30ste dag van Januarie 1934, in die teenwoordigheid van die ondergetekende getuies.

Getuies:

D. REITZ.

1. ALFRED D. LEWIS.

S. A. VAN LINGEN.

2. J. H. STEVENSON.

BILL

To provide for the protection of trust moneys.

(Introduced by J. S. MARWICK, Esq., M.P.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate, and the House of Assembly of the Union of South Africa, as follows :—

Definitions.

1. In this Act—

“ Court ” means the provincial division of the Supreme Court of South Africa having jurisdiction or any judge thereof and whenever a matter in relation to which this expression is used is within the jurisdiction of a local division of the Supreme Court, the expression “ court ” includes that local division or any judge thereof.

“ Master ” means the Master of the Supreme Court of South Africa within whose jurisdiction the settlor was domiciled at the time of his death, if the written instrument creating the trust operates by way of testamentary disposition or within whose jurisdiction the settlor was domiciled at the time of the execution of the written instrument, if such instrument operates *inter vivos*.

“ Trustee ” means a person appointed by written instrument operating either *inter vivos* or by way of testamentary disposition whereby moneys are settled upon him to be administered by him for the benefit, whether in whole or in part, of a person other than himself, the settlor, the settlor's spouse, descendants or creditors.

Trust deeds to be lodged with Master.

2. Every trustee appointed by written instrument operating *inter vivos* shall lodge such instrument with the Master or a copy thereof certified as correct by a person approved of by the Master or by a notary and shall from time to time lodge with the Master any written variations of such instrument or a copy thereof likewise certified.

Security.

3. (1) Every trustee appointed by an instrument executed after the commencement of this Act shall, before he enters upon the administration of any settled moneys and thereafter as the Master may require, find security to the satisfaction of the Master for the due and faithful administration of such moneys unless the instrument of settlement directs the Master to dispense with such security or the court otherwise directs.

(2) The Master shall allow the reasonable costs of finding security to be charged out of the settled moneys or the income accruing on such moneys.

(3) The security shall be for such an amount as in the circumstances of each particular case appears to the Master reasonable.

(4) If any default is made in the faithful administration of the settled moneys, the Master may proceed to enforce the security or recover from the person in default or from his sureties the actual loss incurred.

(5) A certificate under the hand of the Master shall be *prima facie* evidence of any such loss.

Powers of the Master.

4. (1) Every trustee shall, whenever he is required so to do by the Master, frame and lodge with the Master an account showing up to such date as may be specified by the Master the administration and distribution of the settled moneys or the income derived therefrom.

(2) The remedies available in terms of section one hundred of Act No. 24 of 1913 against an executor who fails to lodge his administration account shall *mutatis mutandis* be available against a trustee.

(3) The Master may at any time require a trustee to deliver to him any books or documents relating to the settled moneys and to answer any enquiry made by him in relation to such moneys and the Master may also, if he thinks fit, apply to the court to examine the trustee on oath. The court may in any such application make any order which it deems fit and may, in particular, order that an independent investigation be made of the administration of the settled moneys by some fit and proper person appointed by the court.

[A.B. 19—'34.]

WETSONTWERP

Tot beskerming van trustgelde.

(Ingedien deur die WELED. HEER J. S. MARWICK, L. V.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. In hierdie Wet beteken—
 - 5 „Hof”, die regsbevoegde provinsiale afdeling van die Hooggeregshof van Suid-Afrika of ’n regter daarvan en wanneer ’n saak met betrekking waartoe hierdie uitdrukking gebruik word binne die regsgebied van ’n plaaslike afdeling van die Hooggeregshof is, omvat die uitdrukking „hof” daardie plaaslike afdeling of ’n regter daarvan.
 - 10 „Meester”, die Meester van die Hooggeregshof van Suid-Afrika binne wie se regsgebied die oormaker gedomisileer was ten tyde van sy dood, indien die skriftelike dokument wat die trust skep by wyse van testamentêre beskikking geld, of binne wie se regsgebied die oormaker gedomisileer was ten tyde van die opstelling en ondertekening van die skriftelike dokument, indien sodanige dokument *inter vivos* geld.
 - 15 „Trustee”, ’n persoon aangestel deur ’n skriftelike dokument, geldende hetsy *inter vivos* of by wyse van testamentêre beskikking, waarby gelde aan hom oorgemaak word om deur hom beheer te word, hetsy geheel of gedeeltelik, ten voordele van ’n persoon, nie synde hyself, die oormaker, die oormaker se eggenoot, afstammelinge of krediteure.
 - 20 2. Elke trustee aangestel deur ’n skriftelike dokument *inter vivos* geldende, dien daardie dokument of ’n kopie daarvan vir korrek gesertifiseer deur ’n persoon goedgekeur deur die Meester of deur ’n notaris, by die Meester in en dien van tyd tot tyd enige skriftelike veranderings van so ’n dokument of ’n kopie daarvan, eweso gesertifiseer, by die Meester in.
 - 25 3. (1) Elke trustee aangestel deur ’n dokument opgestel en onderteken na die inwerkingtreding van hierdie Wet, stel, voordat hy die beheer van enige oorgemaakte gelde aanvaar en daarna soos die Meester mag verlang, sekerheid ten genoeë van die Meester vir die behoorlike en getroue beheer van daardie gelde, tensy die dokument van oormaking die Meester gelas om van sodanige sekerheid af te sien, of die hof anders gelas.
 - 30 (2) Die Meester laat toe dat die redelike koste aan die sekerheidstelling verbonde ten laste kom van die oorgemaakte gelde of van die inkomste uit sulke gelde verkry.
 - 35 (3) Die sekerheid is vir sodanige bedrag as die Meester volgens die omstandighede van elke besondere geval redelik oordeel.
 - 40 (4) Indien enige versuim begaan word by die getroue beheer van die oorgemaakte gelde, kan die Meester oorgaan tot opvordering van die sekerheidstelling of die werklik gelede verlies op die persoon wat die versuim begaan het of op sy borge verhaal.
 - 45 (5) ’n Sertifikaat onder die hand van die Meester is *prima facie* bewys van enige sodanige verlies.
 - 50 4. (1) Elke trustee moet, wanneer die Meester dit van hom verlang, ’n rekening opmaak en by die Meester indien tot op sodanige datum as die Meester kan voorskryf, die beheer en verdeling van die oorgemaakte gelde of die inkomste daaruit verkry aantonende.
 - 55 (2) Die regsmiddels beskikbaar ingevolge artikel honderd van Wet No. 24 van 1913 teen ’n eksekuteur wat in gebreke bly om sy administrasie-rekening in te dien is *mutatis mutandis* beskikbaar teen ’n trustee.
 - 60 (3) Die Meester kan te eniger tyd ’n trustee gelas om aan hom enige boeke of dokumente betreffende die oorgemaakte gelde in te lewer en enige vraag deur hom in verband met sodanige gelde gedoen te beantwoord en die Meester kan ook as hy dit nodig oordeel by die hof aansoek doen om die trustee onder ede te ondervra. Die hof kan op enige sodanige aansoek enige bevel gee wat hy dienstig ag en kan besonderlik beveel dat ’n onafhanklike ondersoek na die beheer van die oorgemaakte gelde deur ’n geskikte en bevoegde persoon benoem deur die hof ingestel word.
 - 65 [A.B. 19—’34.]

Woordomskrifwings.

Trust-aktes by Meester ingedien te word.

Sekerheid.

Bevoegdhede van die Meester.

- Records to be kept. 5. Save with the written consent of the Master a trustee shall not destroy any documents whatsoever relating to the settled moneys or the administration or distribution thereof.
- Offences. 6. Any trustee who fails to comply with or contravenes any provision of this Act shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds. 5
- Removal of trustee. 7. If a trustee is convicted of any offence under this Act or if the court is of opinion that he has failed to administer the settled moneys diligently or honestly the court may remove him from his office and appoint some other fit and proper person 10 as trustee, subject to such other person finding security in terms of section *three*.
- Short title. 8. This Act may be cited as the Trust Moneys Protection Act 1934.

BILL

To amend the Diamond Export Duty Act, 1917.

(Introduced by the MINISTER OF FINANCE.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 6 of Act No. 27 of 1917, as amended by section 3 of Act No. 34 of 1919.

1. Section *six* of the Diamond Export Duty Act, 1917 (Act No. 27 of 1917), as amended, is hereby amended by the substitution for the words "either at Johannesburg or" of the word "at". 5

Short title and commencement.

2. This Act shall be known as the Diamond Export Duty (Amendment) Act, 1934, and shall come into operation on a date to be fixed by the Governor-General by Proclamation 10 in the *Gazette*.

5. Behalwe met die skriftelike toestemming van die Meester mag 'n trustee geen dokumente hoegenaamd in verband met oorgemaakte gelde of die beheer of verdeling daarvan vernietig nie. Stukke bewaar te word.
- 5 6. 'n Trustee wat enige bepaling van hierdie Wet nie nakom Misdrywe. nie of oortree is skuldig aan 'n misdryf en by veroordeling strafbaar met 'n boete van hoogstens honderd pond.
7. Wanneer 'n trustee veroordeel word weens enige misdryf Ontsetting van trustee. krattens hierdie Wet of wanneer die hof van oordeel is dat hy die oorgemaakte gelde nie naarstiglik of eerlik beheer het nie kan die hof hom uit sy amp ontset en 'n ander geskikte en bevoegde persoon as trustee aanstel, mits sodanige ander persoon sekerheid stel ooreenkomstig artikel drie.
8. Hierdie Wet heet die Trustgelde Beskermings Wet, 1934. Kort titel.

WETSONTWERP

Tot wysiging van die „Diamant Uitvoerbelasting Wet, 1917.”

(Ingedien deur die MINISTER VAN FINANSIES.)

DIT WORD BEPAAL deur sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. Artikel ses van die „Diamant Uitvoerbelasting Wet, 1917 (Wet No. 27 van 1917), soas gewysig, word hiermee gewysig deur die woorde „hetzij te Johannesburg of” te skrap. Wysiging van artikel 6 van Wet No. 27 van 1917, soas gewysig deur artikel 3 van Wet No. 34 van 1919.

2. Hierdie Wet heet die Diamant-uitvoerbelasting Wysigingswet, 1934, en tree in werking op 'n dag deur die Goewerneur-generaal by Proklamasie in die *Staatskoerant* vas te stel. Kort titel en inwerkingtreding.

BILL

To declare the Governor-General to be the owner of the sea-shore and to be entitled to exercise control over the sea-shore and of the sea and the bed of the sea within the three miles limit; and to provide for the grant of rights in respect of the sea-shore and of the bed of the sea within the three miles limit; for the alienation of portions of the sea-shore and for matters incidental thereto.

(Introduced by the MINISTER OF LANDS.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Interpretation.

1. In this Act, unless inconsistent with the context—
 - "sea-shore" means the land situated between low-water mark and high-water mark; 5
 - "high-water mark" means the highest line reached by the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods; 10
 - "low-water mark" means the lowest line to which the sea recedes during periods of ordinary spring tides; 10
 - "three miles limit" means the distance of three nautical miles out to sea from low-water mark;
 - "Minister" means the Minister of Lands or any other Minister of State acting in his stead, save that in relation to the seashore or the sea or the bed of the sea within the three miles limit falling within the limits of any port or harbour within the jurisdiction of the Railways and Harbours Administration of the Union under any law relating to ports and harbours, "Minister" means the Minister of Railways and Harbours or any other Minister of State acting in his stead; and 15
 - "local authority" means any municipal, borough or town or village council, town board, local board, village management board, divisional council, local administration and health board or health committee constituted in accordance with any law. 20 25

Governor-General is owner of sea-shore.

2. (1) Subject to the provisions of this Act, the Governor-General shall be the owner of the sea-shore, except of such portions thereof as are by any law declared to belong to any person, or are included in the pieces of land described in the Schedule to this Act. 30

(2) The sea-shore of which the Governor-General is declared by this section to be the owner shall not be capable of being alienated or let except as provided by this Act or by any other law and shall not be capable of being acquired by prescription. 35

Governor-General exercises control over sea-shore and sea and bed of sea within the three miles limit. Letting of sea-shore for short periods.

3. Subject to the provisions of this Act, the Governor-General shall be entitled to exercise full control over the sea-shore of which he is declared by section *two* to be the owner and of the sea and the bed of the sea within the three miles limit. 40

4. (1) The Minister may let for periods not exceeding one year, and subject to such conditions as he may deem expedient, any portion of the sea-shore of which the Governor-General is declared by section *two* to be the owner for any of the following purposes:— 45

- (a) The erection of bathing boxes or tents;
- (b) the erection of beach shelters;
- (c) the erection of tea-rooms and refreshment places; 50
- (d) the training of horses, the holding of races (including motor car and motor cycle races) and the provision of places for recreation, amusement or display;
- (e) the construction of temporary jetties and landing-stages; 55
- (f) the erection of temporary fish-curing sheds or any other temporary structures required in connection with the fishing industry;
- (g) the erection of any other temporary structures.

[A.B. 21—'34.]

WETSONTWERP

Om te verklaar dat die Goewerneur-generaal die eienaar is van die strand en geregtig is om beheer uit te oefen oor die strand en oor die see en die seebedding binne die driemyl-strook; en om voorsiening te maak vir die toekenning van regte ten opsigte van die strand en van die seebedding binne die driemyl-strook, vir die vervreemding van gedeeltes van die strand en vir daarmee in verbandstaande sake.

(Ingedien deur die MINISTER VAN LANDE.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. Tensy uit die samehang anders blyk, beteken in hierdie Woordoms kry-
5 Wet— wing.
„strand”, die land geleë tussen laagwaterpeil en hoog-
waterpeil;
„hoogwaterpeil”, die hoogste lyn bereik deur die see
gedurende gewone stormweer in die stormagtigste
10 tyd van die jaar, ’n buitengewone of abnormale
vloed uitgeslote;
„laagwaterpeil”, die laagste lyn waarop die see sak
gedurende periodes van gewone springgetye;
„driemyl-strook”, die afstand van drie seemyle seewaarts
15 vanaf laagwaterpeil;
„Minister”, die Minister van Lande of ’n ander Staats-
minister wat namens hom optree, behalwe dat, in
verband met die strand of die see of die seebedding
binne die driemyl-strook wat volgens enige wet op
20 hawens binne die grense van enige hawe binne die
gebied van die Spoorweë en Hawens-Administrasie
van die Unie val, „Minister” die Minister van
Spoorweë en Hawens beteken of ’n ander Staats-
minister wat namens hom optree; en
25 „plaaslike bestuur”, enige stadsraad, dorpsraad, plaaslike
raad, dorpsbestuursraad, afdelingsraad, plaaslike be-
stuurs- en gesondheidsraad of gesondheidskomitee,
wat volgens enige wet ingestel is.
2. (1) Behoudens die bepalings van hierdie Wet, is die Goewerneur-
30 Goewerneur-generaal die eienaar van die strand, behalwe
van daardie gedeeltes daarvan wat deur enige ander wet
verklaar word aan enige persoon te behoort, of wat begrepe
is in die stukke grond wat in die Bylae tot hierdie Wet beskrywe
word.
35 (2) Die strand waarvan die Goewerneur-generaal deur hierdie
artikel verklaar word die eienaar te wees kan nie vervreem
of verhuur word nie, behalwe soas deur hierdie Wet of deur
enige ander wet bepaal word, en kan nie deur verjaring verwerf
word nie.
- 40 3. Behoudens die bepalings van hierdie Wet, is die Goewer- Goewerneur-
neur-generaal geregtig om volle beheer uit te oefen oor die
strand, waarvan hy deur artikel twee verklaar word die eienaar
te wees, en oor die see en die seebedding binne die driemyl-
strook.
- 45 4. (1) Die Minister kan vir tydperke van nie meer as een Verhuring van die
jaar nie, en op voorwaardes wat hy raadsaam ag, enige gedeelte
van die strand waarvan die Goewerneur-generaal deur artikel
twee verklaar word die eienaar te wees, vir een of ander van die
volgende doeleindes verhuur:
50 (a) die oprigting van baaihokkies of die opslaan van tente;
(b) die oprigting van strandhutte;
(c) die oprigting van koffie- of verversingskamers;
(d) die leer van perde, die hou van reises (motorkar-
reises en fietsreises inbegrepe) en die maak van
55 voorsiening vir plekke vir ontspanning, vermaaklik-
hede en vertonings;
(e) die aanleg van tydelike seehoofde en aanlegsteiers;
(f) die oprigting van tydelike afdakke vir die droogmaak
van vis, of van enige ander tydelike bouwerke vir
60 gebruik in verband met die vissery;
(g) die oprigting van enige ander tydelike bouwerke.
[A.B. 21—’34.]

(2) The Minister may permit, on such conditions as he may deem expedient, the removal of sand, shingle, rock, stone, shells or seaweed from the sea-shore of which the Governor-General is by section *two* declared to be the owner.

(3) The Minister may, if thereto authorized by resolution of both Houses of Parliament, by notice in the *Gazette* delegate to any local authority, subject to such conditions as may be set forth in such resolution, in respect of any portion of the sea-shore situate within or adjoining the area of jurisdiction of such local authority, any of the powers vested in him by this section, and by like notice withdraw any delegation so made.

Disposal, under authority of Parliament, of rights over sea-shore and bed of the sea within the three miles limit.

5. The Governor-General may, if authorized thereto by resolution of both Houses of Parliament, and on such conditions as may be set forth in such resolution—

(a) let any portion of the sea-shore of which he is by section *two* declared to be the owner for any of the following purposes :—

- (i) the construction or improvement of permanent wharves, piers, jetties and landing stages ;
- (ii) the construction of breakwaters, sea walls, promenades, embankments, esplanades, buildings or other structures ;
- (iii) the construction of bathing pools and enclosures ;
- (iv) the erection of whaling stations or fish-canning or other factories ;
- (v) the legalisation of any encroachment ;
- (vi) the carrying out of any work of public utility ;
- (vii) the laying of drainage or sewerage systems ;
- (viii) the laying of water pipes or cables ;
- (ix) the erection of boathouses ;
- (x) any of the purposes mentioned in section *four* ;

(b) transfer by deed of grant to any local authority any portion of the sea-shore of which he is by section *two* declared to be the owner for any of the purposes described in sub-paragraphs (i), (ii) and (iii) of paragraph (a) ;

(c) permit the construction or laying on the bed of the sea within the three miles limit of—

- (i) cables, wharves, piers, breakwaters, sea walls, embankments, jetties, landing-stages or other structures ;
- (ii) drainpipes or sewers, or
- (iii) any work of public utility ;

(d) permit the removal for industrial purposes of shells from the bed of the sea within the three miles limit ;

(e) reclaim land from the sea or permit the reclamation of land from the sea, and alienate or let any land so reclaimed.

Use by Government of sea-shore and bed of the sea within the three miles limit.

6. The Governor-General may authorize the use of the sea-shore of which he is by section *two* declared to be the owner or the bed of the sea within the three miles limit for the purpose of any Government undertaking or work.

Exercise of powers for purposes of public health.

7. (1) Notwithstanding anything contained in the Public Health Act, 1919 (Act No. 36 of 1919), the Governor-General may by proclamation in the *Gazette* declare that any local authority, as defined in the aforesaid Act, may exercise, in respect of the sea-shore situate within its area of jurisdiction or adjoining such area, any of the powers which are conferred by or under that Act on a local authority.

(2) The power conferred by section *five* of the Public Health Act, 1919, Amendment Act, 1927 (Act No. 36 of 1927) on the Minister of Public Health or the Administrator of a Province or a magistrate or a local authority, as defined in the Public Health Act, 1919 (Act No. 36 of 1919), as amended by the said Act, to delegate to certain persons or to a local authority a function or duty vested in or devolving upon him or it under the said Acts, may be exercised as regards any function or duty which may vest in or devolve upon him or it under the said Acts as regards any portion of the sea-shore or the sea or the bed of the sea within the three miles limit.

Application of mining laws.

8. For the purposes of any law which is or at any time has been in force in the Union relating to the exploitation of metals, minerals, coal or oil, the sea-shore of which the Governor-General is by section *two* declared to be the owner and the bed of the sea within the three miles limit shall be deemed to be Crown land ; and, in the application of any such law, this section shall be deemed to have been in operation as from the commencement of such law.

(2) Die Minister kan, op voorwaardes wat hy raadsaam ag, toelaat dat sand, klippies, rots, klip, skulpe of seegras van die strand, waarvan die Goewerneur-generaal deur artikel twee verklaar word die eienaar te wees, verwyder word.

5 (3) Indien daartoe gemagtig deur besluit van beide Huise van die Parlement, kan die Minister, deur kennisgewing in die *Staatskoerant*, op voorwaardes wat in daardie besluit uiteengesit word, magte wat aan die Minister deur hierdie artikel toevertrou is oordra aan 'n plaaslike bestuur, ten
10 opsigte van 'n gedeelte van die strand wat binne die regsgebied van daardie plaaslike bestuur geleë is of daaraan grens, en kan hy 'n aldus gedane oordrag deur 'n soortgelyke kennisgewing intrek.

5. Indien daartoe gemagtig deur besluit van beide Huise van die Parlement, kan die Goewerneur-generaal op voorwaardes wat in daardie besluit uiteengesit word—

Toekenning met magtiging van die Parlement van regte op die strand en die seebedding binne die driemylstrook.

(a) enige gedeelte van die strand, waarvan hy deur artikel twee verklaar word die eienaar te wees, vir een of ander van die volgende doeleindes verhuur:

- 20 (i) die aanleg of verbetering van permanente kaaie, piere, seehoofde en aanlegsteiers;
- (ii) die bou van breekwaters, seemure, promenades, walle, esplanades, geboue of ander bouwerke;
- 25 (iii) die maak van swemdamme en die afkamp van swemplekke;
- (iv) die oprigting van fabriek vir die bewerking van walvisse, die inlê van vis, of ander bedrywig-hede;
- (v) om reeds gedane oorskrydings te wettig;
- 30 (vi) die uitvoer van enige werk van algemene belang;
- (vii) die instelling van spoelkanaal- en rioolstelsels;
- (viii) die lê van waterbuise of kables;
- (ix) die oprigting van skuithuise;
- 35 (x) een of ander van die in artikel vier genoemde doeleindes;

(b) aan 'n plaaslike bestuur enige gedeelte van die strand, waarvan hy deur artikel twee verklaar word die eienaar te wees, by grondbrief transporteer vir enige van die in sub-paragraaf (i), (ii) en (iii) van paragraaf (a) genoemde doeleindes;

(c) toelaat dat—

- (i) kables, kaaie, piere, breekwaters, seemure, walle, seehoofde, aanlegsteiers, of ander bouwerke;
- (ii) dreineerpype of riole, of
- 45 (iii) enige werk van algemene belang op die seebedding binne die driemylstrook gebou of gelê word;

(d) toelaat dat skulpe van die seebedding binne die driemylstrook vir nywerheids-doeleindes verwyder word;

50 (e) land drooglê of die drooglegging van land toelaat, en die aldus drooggelegde grond vervreem of verhuur.

6. Die Goewerneur-generaal kan die gebruik veroorloof van die strand, waarvan hy deur artikel twee verklaar word die eienaar te wees, of van die seebedding binne die driemylstrook in verband met enige Regeringsonderneming of -werk.

Gebruik deur Regering van die strand of die seebedding binne die driemylstrook.

7. (1) Ondanks enige andersluidende bepaling van die „Volksgezondheidswet, 1919” (Wet No. 36 van 1919), kan die Goewerneur-generaal by proklamasie in die *Staatskoerant* verklaar dat 'n „plaatselike autoriteit”, soas in daardie wet omskryf, enige van die magte wat deur of kragtens daardie wet aan 'n „plaatselike autoriteit” verleen word, kan uitoefen in verband met die strand wat binne sy regsgebied geleë is of daaraan grens.

Uitoefening van magte vir volksge-zondheidsdoel-eindes.

(2) Die mag wat deur artikel vyf van die Volksge-zondheidswet, 1919, Wysigingswet, 1927 (Wet No. 36 van 1927), aan die Minister van Volksge-zondheid, die Administrateur van 'n provinsie, 'n magistraat of 'n plaaslike outoriteit verleen word, om 'n werksaamheid of plig wat kragtens die genoemde wette aan hom opgedra is of op hom rus aan sekere persone of aan 'n plaaslike outoriteit oor te dra, kan uitgeoefen word ten opsigte van enige werksaamheid of plig wat kragtens die genoemde wette aan hom opgedra is of op hom rus ten opsigte van 'n gedeelte van die strand of die see of die seebedding binne die driemylstrook.

75 8. By toepassing van enige wet op die ontginning van metale, minerale, steenkool of olie wat in die Unie van krag is of te eniger tyd van krag was, word die strand, waarvan die Goewerneur-generaal deur artikel twee verklaar word die eienaar te wees, en die seebedding binne die driemylstrook Kroongrond geag te wees; en by toepassing van so 'n wet, word hierdie artikel geag vanaf die inwerkingtreding van bedoelde wet van krag te gewees het.

Toepassing van mynwette.

Regulations.

9. (1) The Governor-General may make regulations, not inconsistent with this Act—

- (a) concerning the use of the sea-shore ;
- (b) concerning bathing in the sea ;
- (c) concerning the removal from the sea-shore or the bed 5
of the sea within the three mile limits of sand, shingle,
rock, stone, shells or seaweed ;
- (d) for the prevention or the regulation of the depositing
or the discharging upon the sea-shore or in the sea
within the three miles limit of offal, rubbish or any- 10
thing liable to be a nuisance or danger to health ; and
- (e) concerning the control, generally, of the sea-shore
and of the sea and the bed of the sea within the three
miles limit ;
- (f) prescribing fees for the doing of any act upon or in or 15
in relation to the sea-shore or the bed of the sea or
the sea within the three miles limit.

(2) Any regulation may provide a penalty, not exceeding a
fine of twenty-five pounds, for any contravention thereof or
failure to comply therewith. 20

(3) Any regulation may be expressed to apply to the whole
or to any defined portion of the sea-shore (whether it has been
alienated or not) or the bed of the sea or the sea within the
three miles limit ; and whenever any regulation applies to any
portion of the sea-shore situate within or adjoining the area 25
of any local authority, or to any portion of the bed of the sea
or the sea within the three miles limit adjoining such portion
of the sea-shore, the Governor-General may by that regulation
(or by any other regulation made under this section) confer
powers and impose duties in relation to the administration of 30
such regulation upon such local authority or upon any of its
officers.

(4) Any regulation may provide that all fees or fines recovered
thereunder or under any other regulations made under this
section, in respect of acts done upon or in relation to any 35
portion of the sea-shore situate within or adjoining the area of
any local authority, or upon or in or in relation to any portion
of the bed of the sea or the sea within the three miles limit
adjoining such portion of the sea-shore, shall accrue to that
local authority. 40

(5) No regulation shall take effect unless it has been approved
by resolution of both Houses of Parliament.

Validation of
previous grants.

10. The pieces of land described in the Schedule to this Act
shall, in so far as they include portions of the sea-shore, be
deemed to have been lawfully granted. 45

Savings.

11. Nothing contained in this Act shall affect—

- (a) any rights of the Admiralty under any agreement
entered into in terms of section six of the Defence
Endowment Property and Account Act, 1922 (Act
No. 33 of 1922) ; 50
- (b) any rights or powers conferred upon the Railways and
Harbours Administration of the Union by or under
any law relating to ports and harbours in respect of
any portion of the sea-shore or the sea or the bed of
the sea within the three miles limit, and in the event 55
of any conflict between the provisions of this Act and
any such law, the rights and powers of the said
Administration shall be determined by the provisions
of such law, and not by the provisions of this Act ; or
- (c) any rights of any member of the public to use the sea- 60
shore or the sea or the bed of the sea within the three
miles limit, except in so far as such rights are incon-
sistent with the rights conferred by any title validated
by this Act, or by any title, lease, permit, authority,
delegation or regulation lawfully issued, entered into, 65
granted or made by virtue of this Act or by virtue
of any such title, lease, permit, authority, delegation
or regulation.

Short title.

12. This Act shall be known as the Sea-shore Act, 1934.

9. (1) Die Goewerneur-generaal kan regulasies uitvaardig, Regulasies.
wat nie met hierdie Wet strydig is nie—

- (a) betreffende die gebruik van die strand ;
- (b) betreffende baai in die see ;
- 5 (c) betreffende die verwydering van die strand of van die seebedding binne die driemyl-strook van sand, klippies, rots, klip, skulpe of seegras ;
- (d) om die aflaai of die afvoer van afval, vullis of enigiets wat hinderlik of gevaarlik vir die gesondheid kan
- 10 wees op die strand of in die see binne die driemyl-strook te verhoed of te reël ; en
- (e) betreffende beheer, in die algemeen, oor die strand en oor die see en die seebedding binne die driemyl-strook ;
- 15 (f) om fooie voor te skrywe vir die verrigting van handelings op of in of met betrekking tot die strand of die seebedding of die see binne die driemyl-strook.

(2) 'n Regulasie kan 'n straf van hoogstens 'n boete van vyf-en-twintig pond voorskrywe vir enige oortreding daarvan
20 of versuim om daaraan te voldoen.

(3) 'n Regulasie kan uitdruklik toepaslik verklaar word op die hele strand of op 'n bepaalde gedeelte daarvan (hetsy dit vervreemd is al dan nie) of op die hele seebedding of see binne die driemyl-strook of op 'n bepaalde gedeelte daarvan ;
25 en wanneer 'n regulasie van toepassing is op 'n gedeelte van die strand wat binne die regsgebied van 'n plaaslike bestuur geleë is of daaraan grens, of op 'n gedeelte van die seebedding of see binne die driemyl-strook wat aan so 'n gedeelte van die strand grens, kan die Goewerneur-generaal deur daardie
30 regulasie (of deur 'n ander uit kragte van hierdie artikel uitgevaardigde regulasie) aan daardie plaaslike bestuur of aan een of ander van sy amptenare magte verleen en pligte opleë met betrekking tot die uitvoering van daardie regulasie.

(4) 'n Regulasie kan bepaal dat alle fooie of geldboetes,
35 wat, kragtens daardie regulasie of ander uit kragte van hierdie artikel uitgevaardigde regulasies, ten opsigte van handelings verrig op of met betrekking tot 'n gedeelte van die strand wat binne die regsgebied van 'n plaaslike bestuur geleë is of daaraan grens, of op of in of met betrekking tot 'n gedeelte
40 van die seebedding of see binne die driemyl-strook wat aan so 'n gedeelte van die strand grens, ingevorder word, daardie plaaslike bestuur toekom.

(5) 'n Regulasie is van geen krag nie, tensy dit deur besluit van beide Huisse van die Parlement goedgekeur is.

45 10. Die stukke grond wat in die Bylae tot hierdie Wet beskrywe word, word, vir sover gedeeltes van die strand daarin begrepe is, geag wettiglik toegeken te geword het. Wettiging van reeds gedane toekennings.

11. (1) Die bepalings van hierdie Wet doen geen inbreuk
nie— Voorbehoudsbepalings.

- 50 (a) op enige regte van die Admiraliteit voortspruitende uit 'n ooreenkoms wat kragtens artikel ses van die „Verdediging Begiftigings Eigendom en Rekening Wet, 1922” (Wet No. 33 van 1922), aangegaan is ;
- 55 (b) op enige regte of magte aan die Spoorweë en Hawens-Administrasie van die Unie verleen deur of kragtens enige wet op hawens, ten opsigte van 'n gedeelte van die strand of van die see of seebedding binne die driemyl-strook, en ingeval daar enige verskil bestaan tussen die bepalings van hierdie Wet en enige sodanige wet, word die regte en magte van die vermelde Administrasie deur die bepalings van laasgenoemde wet vasgestel, en nie deur die bepalings van hierdie Wet nie ; of
- 60 (c) op regte van enigeen uit die publiek om gebruik te maak van die strand of die see of die seebedding binne die driemyl-strook, behalwe insoverre sulke regte onbestaanbaar is met regte verleen deur 'n titel, huurkontrak, permit, volmag, delegasie of regulasie wettiglik uitgereik, aangegaan, toegeken of uitgevaardig kragtens hierdie Wet of uit kragte van so 'n titel, huurkontrak, permit, volmag, delegasie of regulasie.
- 70

12. Hierdie Wet heet die Strandwet, 1934.

Kort titel.

Schedule.

Instrument of grant.	Date.	Description of land.	Approximate Area.	Grantee.
Grant No. 23 (Cape Freehold Grants, Vol. 19).	September 17, 1888.	Piece of land situate at Three Anchor Bay.	3 morgen 243 square roods.	Secretary of State for War.
Grant No. 26 (Cape Freehold Grants, Vol. 28).	April 22, 1915.	Pieces of land situate at Camps Bay named Camps Bay Foreshore South and Camps Bay Foreshore North.	52 morgen 180 square roods.	The Council of the City of Cape Town.
Grant No. 9 (Cape Freehold Grants, Vol. 30).	September 8, 1919.	Piece of land situate at Sea Point, named Lot Low Water No. 1.	21 morgen 300 square roods.	The Council of the City of Cape Town.
Grant No. 16 (Cape Freehold Grants, Vol. 30).	February 10, 1920.	Piece of land situate at Sea Point named Lot Low Water No. 2.	6 morgen.	The Council of the City of Cape Town.
Grant No. 146 of 1931.	July 10, 1931.	Piece of land situate at Simons-town, named Section Admiralty House East.	4 morgen 78 square roods.	The Commissioners of the Admiralty.

Bylae.

Akte van Toekenning.	Datum.	Beskrywing van grond.	Grootte naastenby.	Persoon aan wie grond toegeken is.
Grondbrief No. 23 (Kaapse Eiendoms-toekennings, Deel 19).	17 September 1888.	Stuk grond by Drieankerbaai.	3 morg 243 vierkant roedes.	Minister van Oorlog.
Grondbrief No. 26 (Kaapse Eiendoms-toekennings, Deel 28).	22 April 1915.	Stukke grond by Kampsbaai, genaamd „Camps Bay Fore-shore South” en „Camps Bay Fore-shore North”.	52 morg 180 vierkant roedes.	Die Stadsraad van Kaapstad.
Grondbrief No. 9 (Kaapse Eiendoms-toekennings, Deel 30).	8 September 1919.	Stuk grond by Seepunt, genaamd Perseel „Low Water No. 1”.	21 morg 300 vierkant roedes.	Die Stadsraad van Kaapstad.
Grondbrief No. 16 (Kaapse Eiendoms-toekennings, Deel 30).	10 Februarie 1920.	Stuk grond by Seepunt, genaamd Perseel „Low Water No. 2”.	6 morg.	Die Stadsraad van Kaapstad.
Grondbrief No. 146 van 1931.	10 Julie 1931.	Stuk grond by Simonstad, genaamd „Section Admiralty House East”.	4 morg 78 vierkant roedes.	Die Kommissaris van die Admiraaliteit.