ANNO VICESIMO SEXTO & VICESIMO SEPTIMO

VICTORIÆ REGINÆ.

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Cap. clxxxi.

An Act for authorizing the *Madras* Irrigation and Canal Company to keep separate Accounts; and for other Purposes. [21st *July* 1863.]

WHEREAS the *Madras* Irrigation and Canal Company was incorporated by "The *Madras* Irrigation and Canal Act, 1858," for the Purposes and Objects therein mentioned: And whereas the Company have raised the Sum of One million Pounds Sterling in Fifty thousand Shares of Twenty Pounds each as a Part of or a First Issue on account of their Capital of Two million Pounds Sterling: And whereas in pursuance of the Powers contained in the recited Act an Agreement or Contract (set forth in the Schedule to this Act) has been entered into between the Secretary of State in Council and the Company for the Execution by the Company of certain Works for the Supply of Water for Irrigation and for Navigation and other Purposes, the Cost of which is estimated to exceed the said Sum so raised as aforesaid, and the Secretary of State in Council has agreed to pay Interest on the said Sum of One million Pounds so raised as aforesaid at the Rate of

21 & 22 Vict. c. viii.

Five Pounds *per Centum per Annum*, and the Company have agreed to raise such further Capital as may be required for the Execution of such Works without any Guarantee of Interest by the Secretary of State in Council: And whereas for the Purpose of better enabling the said Agreement to be carried into effect it is expedient that the Company should be empowered to raise Capital, and to keep the same distinct for separate Undertakings, and to keep separate Accounts thereof, and that the recited Act should in other respects be amended: And whereas the Object aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and of the Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Interpretation of Terms.

1. In this Act each of the following Expressions has, except where the Context or the Object of this Act requires another Meaning, the Meaning hereby attached thereto; (that is to say,) "*India*" has the Meaning attached to that Word by the Act for the better Government of *India*; the Expression "the Company" means "the *Madras* Irrigation and Canal Company;" the Expression "the Directors" means the Directors of the Company; the Words "Share" and "Shares" include Stock as well as Shares; the Words "Shareholder" and "Shareholders" include the Holder and Holders of Stock as well as the Holder and Holders of Shares; the Expression "the recited Act" means "The *Madras* Irrigation and Canal Act, 1858."

Extension of Purposes of Company.

2. The Purposes and Objects of the Company shall include, in addition to those mentioned in the recited Act, the following; (that is to say,) the rendering navigable and improving the Navigation of any Rivers and Waters, and the exercising and doing of all such or the like Powers, Matters, or Things upon, over, or in respect of such Rivers and Waters and the Waters thereof as are in the recited Act authorized or mentioned with regard to the Canals and Irrigation Works therein mentioned and the Waters thereof, the Construction, Maintenance, Working, and Management of Mills and other Buildings upon or contiguous to such Canals, Waters, Rivers, and Tramways as are mentioned in this or the recited Act, the letting or leasing the same or any of them, the planting, Cultivation, working up, and Sale of Timber and other Productions of the Soil contiguous as aforesaid, the acquiring and working of Mines of Coal, Iron, and other Minerals, and the Manufacture of the Produce thereof, the Erection and carrying on and working of Furnaces, Forges, Smelting Houses, Gasworks, and other Works for furthering the Objects of the Company, and the Sale and Disposal of the Produce thereof.

3. The

Benefit of Guarantee of Interest on 1,000,000*l.* to attach to existing Capital.

3. The Owners for the Time being of the said Capital or Sum of One million Pounds so raised as aforesaid, and now represented by Shares numbered One to Fifty thousand respectively, both inclusive, shall be entitled to the Benefit of the said Agreement for Payment or Guarantee of Interest by the Secretary of State in Council at the Rate of Five Pounds *per Centum per Annum* on the same Sum; and the Holders for the Time being of any further Capital or Sum to be raised by the Company shall not participate in the Benefits or Advantages to be derived from such Payment of Interest or Guarantee.

Company may raise Balance of their authorized Capital distinct from the Capital raised.

4. The Company may raise and issue the Balance of their Capital of Two million Pounds not yet raised and issued, and in the Manner provided in Section Fifteen of the said recited Act such further Capital as it may be necessary or expedient to raise, with a view to carry out the said recited Arrangement, and the same may be raised and issued at such Time or Times and upon such Terms as the Directors shall from Time to Time think fit (but not so as to authorize the Creation of Preference Shares); and the Shares to be created for raising such Capital or additional Capital shall be distinguished from the Shares issued before the passing of this Act in such Manner as the Directors shall think fit; and such Issue of Shares shall be kept distinct from the Shares already issued in so far as may be necessary to give full Effect to the Provisions herein contained, and otherwise as to any Difference in the Rights of the Holders of each Class of such Shares; and with such view as aforesaid it shall be competent to the Company to borrow Money to the Extent of One Third of the Capital for the Time being issued or raised, notwithstanding that the whole Sum of Two million Pounds in the said recited Act mentioned as the Capital of the Company may not have been subscribed for; and the Directors may from Time to Time determine the Amount of Money to be borrowed, and the Mode in which the same shall be raised: Provided that the Company shall not be at liberty in borrowing Money to make any Charge on the Irrigation which shall in any way affect the Payments set apart in the Twenty-third Section of the Agreement, for the Purpose of securing Payment of Five Pounds *per Centum* on the First Capital of One million Pounds in relief of the Covenant of the Secretary of State in Council in regard to Interest.

Capital may be raised and kept distinct for separate Undertakings.

5. If from Time to Time it shall be found desirable to raise any Capital for any Work or Works, Undertaking or Undertakings, of the Company, and to keep such Capital, and the Income to be derived from the Outlay thereof, separate and distinct from the other Capital or increased Capital and Income of the Company, it shall be lawful for the Directors from Time to Time in manner aforesaid to raise such Capital, and to apply the same separately or distinctly for such Work or Works or Undertaking or Undertakings, and so that the same shall not be commingled

mingled with or form Part of the other Capital or additional Capital of the Company, and so that the Person or Persons, Body or Bodies Politic or Corporate, subscribing to such distinct Work or Works or Undertaking or Undertakings respectively shall participate only in the Profits to be derived therefrom, and be responsible only in respect thereof, and so that the Shareholders in the other Capital or additional Capital of the Company respectively shall not participate in such Profits, or be in any way liable or responsible in respect of such distinct Work or Works or Undertaking or Undertakings respectively.

Shares in separate Capital to be designated by reference to Works.

6. In case of any Separation of Capital as last aforesaid, the Shares in the separate Capital respectively shall be called or described by reference to the particular Work or Works or Undertaking or Undertakings to which the same Capital may be respectively applicable, so as to distinguish the same from the other Portion or Portions of the Capital of the Company.

Separate Capital and Revenue Accounts to be kept.

7. The Company shall from Time to Time keep separate and distinct Accounts of their Receipts, Payments, Credits, and Liabilities with respect to every distinct Work or Works or Undertaking or Undertakings as aforesaid (if any), and such Accounts shall, both as to Capital and Revenue, in all respects be kept distinct, and the Directors, Auditors, and Secretary shall be remunerated and paid in respect of each separate and distinct Work or Works or Undertaking or Undertakings, and not generally: Provided nevertheless, that as to all Charges of a general Nature, or which may fairly or properly be attributed to the whole Works or Undertakings of the Company, and not to any One of those Works or Undertakings specifically, the same shall be apportioned and appropriated amongst the various Capital and Revenue Accounts of the Company in such Manner as the Directors of the Company may from Time to Time consider to be fair and proper.

Monies raised for particular Work to be applied for that only.

8. All Monies raised for or in respect of any distinct Work or Works or Undertaking or Undertakings as aforesaid, whether by the Issue of Shares or borrowed on Loan, shall be applied solely in, for, or towards the Work or Works, Undertaking or Undertakings, in respect of which the same may be raised or borrowed, and the Bonds, Debentures, or Mortgages issued in respect of any such Monies shall give to the Obligees, Payees, or Mortgagees thereunder or thereof Claims only against the Assets of the Company in respect of that distinct Work or Works, Undertaking or Undertakings, and not further or otherwise.

For general Purposes the separate Capital to be

9. For all other Purposes than as aforesaid the Capital of the Company to be raised and kept separate and distinct as and for the Purposes aforesaid shall be treated and held to be One united Capital, and the Shareholders

holders of the Company generally shall together meet and vote in General Meeting, and the Directors, Auditors, and Secretary of the Company shall be elected and appointed as if there were but One united Capital and One Body of Shareholders all alike participating in the Profits of One Work or Undertaking: Provided nevertheless, that no Shareholder of the Company shall be entitled to vote, interfere, or take part in any Discussion relating to any Subject Matter especially, and only relating to One of the distinct Work or Works or Undertaking or Undertakings of the Company, other than the Shareholders in the Capital raised or subscribed for such Work or Works or Undertaking or Undertakings respectively, and the Decision of the Chairman of the Meeting as to the Right of a Shareholder to vote, interfere, or take part in such Discussion as aforesaid shall be final and conclusive. treated as One united Capital.

10. The Directors may from Time to Time invest any of the Monies or Funds of the Company not immediately required for the Purposes or Objects thereof, until the same shall be so required, at Interest on Securities of Real Property, or on Securities of or in the Purchase of Government Securities, or Securities of the Secretary of State in Council, or of the supreme or any of the local Governments of *India*, or of any Colonial or Foreign Government, or Bonds or Debentures of any Company incorporated by Charter or Special Act of Parliament. Powers to invest Capital until required.

11. The Directors may from Time to Time, if they shall so think fit, pay to the Shareholders or any Class or Classes of Shareholders respectively Interest on the Amount for the Time being paid up on their respective Shares, but not at a greater Rate than Five Pounds *per Centum per Annum*, until the Commencement or during the Progress of Works the Execution of which shall be proposed to be or be undertaken by the Company with he Capital of such Shareholders or Class or Classes of Shareholders respectively; and if to make such Payments it shall from Time to Time or at any Time be necessary to resort to such Capital, the Monies so paid out of such Capital shall be re-couped out of the Profits of the Undertakings of the Company applicable thereto, according to the Arrangement on which Capital shall have been raised respectively, or as the Company may from Time to Time determine. Interest on Capital during Progress of Works.

12. Any Shareholder may be a Proxy for more than Twenty Shareholders, and the Enactment to the contrary contained in the recited Act is hereby repealed. Repeal of Limit as to Number of Proxies.

13. The Company may from Time to Time increase or reduce the Number of Directors of the Company so that there shall not be more than Twenty-one or less than Five, not including in either Number any *ex-officio* Director appointed by the Secretary of State in Council. Limit of Number of Directors.

Expenses of Act.

14. The Costs and Charges of applying for and obtaining this Act, and incidental thereto, shall be paid by the Company.

Short Title.

15. In citing this Act for any Purpose it shall be sufficient to use the Expression "The *Madras* Irrigation and Canal (Accounts) Act, 1863."

SCHE-

SCHEDULE referred to in the foregoing Act.

THE MADRAS IRRIGATION AND CANAL COMPANY.—TOOMBUDDRA SCHEME.

CONTRACT.

THIS Indenture, made the Third Day of June One thousand eight hundred and sixty-three, between the Secretary of State in Council of the one Part, and the Madras Irrigation and Canal Company, incorporated by an Act of Parliament made and passed in the Twenty-first Year of the Reign of Her present Majesty, intituled "An Act for incorporating the Madras Irrigation "and Canal Company, and for other Purposes connected therewith," of the other Part: Whereas the said Madras Irrigation and Canal Company were incorporated by the said Act of Parliament for the Purposes therein and hereinafter mentioned, or such and so many only of the same as might be agreed upon by the Company and the East India Company; (that is to say,) the Construction, Improvement, Maintenance, and Management of Works for Irrigation of Land, combined wherever practicable with navigable Canals, and of navigable Canals and Tramways within the Presidency of Madras, and the Territories or Places known by the Name or Designations following; (that is to say,) Berar, Mysore, Nagpore, Orissa, and the South Mahratta Country in the East Indies, or any or either of them; the taking or levying of Tolls on such Irrigation Works and Canals or the Waters used in such Works, and on such Tramways; the Conveyance of Passengers, Animals, Vehicles, Merchandise, and all other Goods upon all or any of such Canals or Waters, or upon any Rivers or Canals in any way connected therewith, or upon such Tramways; the Hiring and Purchase of Steam and other Boats and Vessels and Engines and Carriages; the using and letting the same on Hire on such Canals and Waters and Rivers and Tramways; the Construction, Improvement, Maintenance, and Management of Works for the Supply of Water, and the Supply of Water to any Person or Persons for Mills, Manufactories, Irrigation, domestic or other Purposes within the said Presidency of Madras and the said Territories; the obtaining of all such Powers, the entering into all such Contracts, and the doing of all such Acts or Things as were or might be expedient for, or incidental, necessary, or conducive to, the Attainment and carrying out of such Objects, or any or either of them, either by the Company alone or jointly with any other Company, or in conjunction with the East India Company, or any other Body or Bodies Corporate, or any Person or Persons: Provided always, that no Tolls should be levied under the Provisions of that Act until the same should have been defined and sanctioned by the Authority of an Act of the Indian Legislature. And by the said Act the said Madras Irrigation and Canal Company were empowered from Time to Time to enter into and conclude with the East India Company on account of the Government of India, or with the Supreme or any Local Government of India, such Contracts, Agreements, and Arrangements as the respective Parties might think fit and agree upon for

Recitals.

1. Act incorporating the Company.

or

or connected with, or incident to, or respecting all or any or either of the Objects and Purposes aforesaid, including all or any of the Provisions therein particularly mentioned, and which Provisions extend to and include the Provisions herein-after contained: And whereas the Expression "the Company," wherever the same is herein-after used, is intended to mean "The Madras Irrigation and Canal Company:" And whereas by an Act of the 21st and 22nd Years of Her Majesty, Cap. 106, intituled, "An Act for the better "Government of India," (amended by an Act of the 22nd and 23rd Years of Her Majesty, Cap. 41,) it was amongst other things provided that all Acts and Provisions then in force under Charter or otherwise concerning India should, subject to the Provisions of that Act, continue in force, and be construed as referring to the Secretary of State in Council in the Place of the said East India Company: And whereas the Secretary of State in Council, with the Concurrence of a Majority of Votes at a Meeting of the Council of India in the Month of December 1858, entered into an Arrangement with the Company to co-operate with them in the Construction of the Works for Irrigation and Navigation in the Manner and upon the following Terms and Conditions; (that was to say,) that the Operations of the Company should in the first instance be confined to One Work or Project approved by the local Government, the estimated Cost whereof should be 1,000,000*l.* Sterling; that the Secretary of State for India in Council should guarantee a minimum Interest of 5*l.* per Cent. per Annum on the Capital of 1,000,000*l.* Sterling as it should be paid into the Indian Treasury, which Guarantee should be subject to Determination only in the Manner next herein-after described; that the Secretary of State for India in Council, or other the Government of India for the Time being, should, within Six Months next after the Expiration of any Twenty-five Years from the Commencement of the now reciting Arrangement, have the Option of purchasing the Works constructed at a Sum equal to an Average of the Market Price at which the Shares therein should have been selling in London during the Three preceding Years; that the various Works comprehended in the Project selected for the Commencement of Operations by the Company should be constructed conformably to Plans approved by the local Government, and should be kept in a State of Efficiency by the Company; that it should be left to the Government to decide in what Manner the Returns from the Works constructed should be levied, and the Government should have the Option of purchasing the Water supplied for Irrigation at a Price to be agreed on with the Company; that all surplus Returns from such Works, after Payment of all Expenses of Maintenance and Establishment, and of the guaranteed minimum Interest, should be divided equally between the Government and the Company; that all required Land should be provided by the Government; that the Secretary of State for India in Council should possess the same Power of Supervision and Control over the Proceedings, preliminary Expenses, and future Expenditure of the Company as he possessed over those of the Guaranteed Indian Railway Companies: And whereas, with a view to carry the said Arrangement into effect, the Company forthwith raised a First Capital of 1,000,000*l.*, and have already paid into the Bank of England, to the Account of the Secretary of State in Council, the Sum of 683,574*l.* Part of the same Sum of 1,000,000*l.*, as the Secretary of State in Council doth hereby admit and acknowledge. And whereas, also with a view to carry the said Arrangement into effect, the Government of Madras, under the Orders of the Secretary of State in Council, selected and recommended as the Work or Project to be constructed

2. Definition of Words "the Company."

3. Act for better Government of India, 21 & 22 Vict. c. 106.

4. Arrangement of December 1858 between the Secretary of State and the Company.

5. 1,000,000*l.* raised by Company as First Capital, of which 683,574*l.* has been already paid to Government.

6. Selection of Works to be executed by the Company.

structed by the Company, under the said Arrangement, a certain Work or Scheme of Works for providing Irrigation and Means of Water Transport to certain Districts of Southern India by means of the Waters of the Toombuddra, Kistnah, and Pennair Rivers, and their Tributaries and Effluents, which Work or Scheme of Works was described in a Memorandum dated the 18th Day of May 1858, drawn up by the Order of the said Government of Madras by their Commandant of Engineers, and has since been known between the Parties hereto as the "Toombuddra Project:" And whereas the Company, with the Sanction and Consent of the Secretary of State in Council, has entered upon the Surveys of Portions of the Works connected with the said Toombuddra Project, and the Preparation of Plans and detailed Estimates thereof, and with such Sanction and Consent have constructed certain Portions thereof, and commenced the Construction of certain other Portions thereof: And whereas the Secretary of State in Council some Time since appointed Sir James Cosmo Melville, K.C.B., to be the First ex-officio Director of the Company, and after his Death appointed William Thomas Thornton, Esquire, as such Director: And whereas the Company have, with such Consent and Approbation as aforesaid, expended various Sums of Money in or about the Purposes or Objects of the Company: And whereas it is estimated that the said Sum of 1,000,000*l.* will be insufficient to carry out, complete, and develope the said Toombuddra Project, and it has been agreed between the Secretary of State in Council and the Company that in order to meet the Deficiency the Company should, under and subject to the Terms and Conditions herein-after contained, be at liberty to raise (but without any Guarantee of Interest thereon being given by the Secretary of State in Council) whatever further Capital might be required for the Purposes and Objects of the Company: Now this Indenture witnesseth, that in further Effectuation of the herein-before mentioned Arrangement, and in consideration of the Premises, the Secretary of State in Council doth hereby (so far as the Covenants and Agreements herein-after contained are to be observed on the Part of the Secretary of State in Council) covenant with the said Madras Irrigation and Canal Company and their Successors, and the said Madras Irrigation and Canal Company do hereby for themselves and their Successors (so far as the Covenants and Agreements herein-after contained are to be observed and performed on their Part) covenant with the Secretary of State in Council, in manner following; (that is to say,)

7. That Surveys of Portions of such Work have been made by Company.

8. Appointment of ex-officio Director.

9. That Company have expended Part of First Capital.

10. First Capital of 1,000,000*l.* found to be insufficient for Works.

Testatum.

CLAUSES.

1. Balance of present Capital of One million to be paid to Government by Company.

1. That the Company shall pay into the Bank of England to the Account of the Secretary of State in Council the Sum of 316,426*l.* (making together with the said Sum of 683,574*l.* in like Manner paid by the Company as aforesaid the Sum of 1,000,000*l.*) by such Instalments and at such Times as the Secretary of State in Council may (subject to the Provisions of the Act of Parliament firstly herein-before recited) prescribe, and such Payments may be made in Sums of not less than 5,000*l.*: Provided nevertheless, that if the Company shall receive any Portion of their Capital already subscribed or hereafter to be subscribed in India, it shall be lawful for them to pay the Amounts so received in Sums of not less than Five thousand Rupees into the Government Treasury at Madras in or towards Satisfaction of the said Instalments; and the Acknowledgment of such respective Payments there shall, when produced to the Secretary of State in Council in London, be considered to be and be taken as equivalent to Payment into the Bank of England on the respective Days of Payment thereof in part Satisfaction of the said Sum of 316,426*l.* at the Government Rate of Exchange for the Time being.

2. Secretary of State to pay to Company Interest at 5 per Cent. on One million Pounds as raised and paid to Government.

2. That the Secretary of State in Council shall from Time to Time, and at all Times hereafter, unless in the event of and until the Cesser of this Contract in manner herein-after provided, pay out of the Revenues of India to the Company in London, half-yearly, on the 30th Day of June and the 31st Day of December in every Year, Interest at the Rate of 5*l.* per Cent. per Annum on the said Sum of 1,000,000*l.*, or on such Parts thereof as shall for the Time being have been paid into the Bank of England to the Account of the Secretary of State in Council or into the Government Treasury at Madras as aforesaid, such Interest upon any Part of the said Sum of 1,000,000*l.* being considered as running from the Day on which the same Part shall have been so paid as aforesaid.

3. The Company to have Liberty to raise further Capital, but without a Guarantee of Interest thereon.

3. That the Company shall be at liberty from Time to Time, as the Company may deem expedient, to raise any Amount of Capital, in addition to the said Capital of 1,000,000*l.*, which the Company may consider it necessary to raise to carry out or into effect all or any or either of the Purposes and Objects of the Company herein mentioned or referred to, but subject nevertheless to the Provisions contained in Clause No. 30 of these Presents: Provided nevertheless, that the Secretary of State in Council shall not be called upon to pay, or be held to be or be considered as in any Manner liable to guarantee, the Payment of Interest upon or in respect of any such additional Capital, but all such additional Capital, if raised, shall be raised by the Company without any such Payment or Guarantee by the Secretary of State in Council.

4. Monies required for Works until 1,000,000*l.* is expended may be drawn by the Company from Secretary of State or Government of Madras.

4. That when and as often as any Money shall be required by the Company for any Purposes sanctioned by the Secretary of State in Council, or for the Performance of Works sanctioned by the Secretary of State in Council, while the same shall be in course of Execution, the same may, to the Extent of the Amount so paid by the Company into the Bank of England, or into the Government Treasury at Madras as aforesaid, and not then drawn out, be drawn in such Sums as shall from Time to Time be necessary by the Company from the Secretary of State in Council or the Government at Madras, according to such Arrangement as shall be made from Time to Time with the Secretary of State in Council for that Purpose; but Ten Days previous Notice of every such Draft or proposed Draft shall be given to the Secretary of State in Council and the Government of Madras respectively; and all Sums of Money which shall be so drawn at Madras shall be set off, at the Government Rate of Exchange for the Time being, against the said Sum of 1,000,000*l.* Sterling, or so much thereof as shall have been so paid into the Bank of England or the Government Treasury at Madras as aforesaid; but the Company shall not in any Case be entitled to draw in London or Madras to an Extent greater than the Balance in their Favour for the Time being.

5. Surveys and Plans of Works to be made by Company and submitted to Government, and also Estimates of Works up to 1,000,000*l.* Government to return Plans approved as submitted, or with reasonable Alterations,&c.

5. That the Company shall from Time to Time, with all convenient Speed, cause to be made the necessary Surveys, and to be prepared in Detail the necessary Plans and Estimates, of such of the Works comprehended in the Toombuddra Project as the Company shall deem it expedient to execute, and of such further Works as may be required or necessary, having, however, due Regard to the Storage of Water sufficient in Quantity to maintain a continuous Supply thereof to the Works proposed to be executed throughout the Year, if practicable; and the Company shall submit all such Plans, and also the Estimates as to the Works to be executed with the said Sum of 1,000,000*l.*, and either together or in Portions, to the Secretary of State in Council for Approval, and such Plans and Estimates shall be returned to the Company by the

the Secretary of State in Council with all Despatch, either approved as submitted as aforesaid, or with such reasonable Alterations, Omissions, or Additions therein, therefrom, or thereto, with reference to the Works therein described, as may be considered necessary or desirable by the Secretary of State in Council: Provided always, that in the Preparation of the said Plans as aforesaid, and in the Execution of the Works as herein-after mentioned, due Regard shall be had, so far as may be conveniently practicable, to the Preservation of the existing Rights of Irrigation on the Toombuddra River, or any other Channels through which the Supply of Water may be derived, and the existing Interests in Nellore, and the Non-interference with the prospective Irrigation from the Channels in connexion with the Nellore Anicut already constructed by the Government of Madras; and that in the event of its being found not to be conveniently practicable to preserve all or any of such Rights or Interests, or in the event of any such Rights or Interests being interfered with by the Execution or User of the Works, then the Government of Madras shall proceed to ascertain the Extent of the Rights and Interests of any Cultivators or others who may allege Injuries, and shall make such Arrangements as shall be just and proper for the summary and final Adjudication of Claims for Compensation to be paid by the Company to the Parties injured.

6. Plans may be subsequently varied by mutual Consent if desirable.

6. That in case, after any Plans or Estimates shall have been approved or settled, any Variation therefrom, Omission therein, or Addition thereto shall at any Time and from Time to Time be thought desirable, either by the Secretary of State in Council or the Company, then such Variation, Omission, or Addition shall be made therefrom, therein, or thereto as may be mutually agreed upon between the Secretary of State in Council and the Company: Provided always, that if any Alteration of Plan or Estimate shall be made as aforesaid as to the Works to be executed with the said Sum of 1,000,000*l.*, after any of the said Works shall have been commenced in accordance with a previously approved Plan or Estimate, the Expense in anywise incident to such Alteration shall be considered as having been properly incurred by the Company.

7. Land required for Works to be provided by the Secretary of State in Council free of Charge, &c.

7. That the Secretary of State in Council shall as speedily as may be after the Approval or Settlement of the Plan or Plans for the Works to be executed by the Company, or of any Portion or Portions thereof, and from Time to Time as may be necessary, provide to the Company free of Charge the Land which the Secretary of State in Council shall deem requisite for the same, or for the Portion or Portions thereof the Plans whereof shall have been approved or settled, and for the due Execution and Construction of the same, and also Land for such Buildings, Offices, Warehouses, and other Conveniences for the same, as shall be mutually agreed upon between the Secretary of State in Council and the Company as necessary or expedient for the said Works, including Land for the Banks of the Canals, to whatever Breadth it may be found necessary to make such Banks for keeping the said Works under Engineering Watch and Control, or shall be required for the Maintenance of a proper Supply of Water to Canals, or to render the same efficient in every respect, or for Works designed to regulate Rivers and their Inundations, and shall give to the Company Possession thereof; but all Land of which Possession shall be so given to the Company, and which shall not be permanently required for the Purposes of the Company, shall as may be conveniently practicable be restored and delivered up by the Company to the Government of Madras for the Use of Her Majesty, Her Heirs and Successors, for the Purposes of the Government of India: Provided always, that if the Company shall desire to have, possess, and occupy, either

permanently or temporarily, for Purposes connected with the Works or Objects aforesaid, further Land in addition to that agreed to be provided as aforesaid, and the Secretary of State in Council or the Government of Madras shall be willing to provide such further Land, then such further Land shall be so provided to the Company by the Secretary of State in Council, and the Company shall pay to the Secretary of State in Council or the Government of Madras the Value of such Portions thereof as shall be required for permanent Occupation by them, which Value shall be estimated as at the Time when Possession shall be taken by the Company, and irrespective of any Increase which may have arisen therein by any Benefit or prospective Benefit derived or to be derived by the Works or Operations of the Company; and with reference to such Portions of such further Land of which Possession shall have been given to the Company, and which shall not be permanently required for the Purposes of the Company, the Company shall during the temporary Occupation thereof pay such yearly Rent as the Secretary of State in Council or the Government of Madras shall fix, and shall as soon as practicable restore and deliver up the same to the Secretary of State in Council for the Use of Her Majesty, Her Heirs and Successors, for the Purposes of the Government of India; and the Company shall pay to the Secretary of State in Council or the Government of Madras the Amount of Deterioration caused in the Value of such Land by their Occupation and Use thereof, such Value being estimated in the same Manner as is herein provided with respect to the Value of the Land to be permanently held and paid for by the Company.

8. Title to Land to be secured to Company, but not to be shown by Secretary of State; Possession also to be secured to Company.

8. That the Secretary of State in Council shall and will secure to the Company a Right and Title to the Land which shall have been provided under the Provisions herein-before contained, or of so much thereof as shall be permanently required for the said Works and Buildings and Conveniences thereto belonging, subject always to the Power herein-after reserved to the Secretary of State in Council of purchasing the same; and the Secretary of State in Council shall guarantee to the Company the Right to and Possession of such Land as against any Claimant, but shall not be called upon to show any Title thereto.

9. Works to be executed by Company in accordance with Plans as approved.

9. That the Company shall, on receiving Possession of the said Land, or any Part thereof, forthwith, and with all convenient Speed, and subject to the Supervision and Control herein-after prescribed, execute and construct the Works mentioned or shown in or upon the said Plans so approved or settled as aforesaid and in accordance therewith, or as near thereto as Circumstances will permit; and in case during the Progress of the Works according to the said Plans so approved or settled any Variations from, Omissions in, or Additions thereto shall be mutually agreed upon between the Secretary of State in Council and the Company, the Company shall forthwith and with all convenient Speed proceed in the Execution and Construction of the Works in accordance with the Plans as so varied, altered, or added to.

10. Company to construct such Conveniences, &c. for Irrigation as Secretary of State may require.

10. That the Company shall also, in addition to the said Works, execute and construct all such Buildings, Offices, Warehouses, fixed Machinery, and other Advantages and Conveniences as the Secretary of State in Council shall deem expedient and require to render and maintain the Works effective for the Purposes of Irrigation, and to protect the same from Injury or Destruction by Inundation, Tempests, or other Causes whatsoever.

11. Upon Direction of State, Works

11. That when and so soon as all or any Portion or Portions of the said Works shall be completed to such an Extent as in the Opinion of the Secretary of

of State in Council shall be sufficient for the Purpose, the Company shall open and employ the same for the Supply of Water for the Irrigation of Land and the general Supply of Water, due Regard, however, being had to existing Rights and Interests and Non-interference with prospective Irrigation, as mentioned in Clause No. 5 of these Presents, and also (if the Company shall from Time to Time think fit) for the Purposes of Navigation or navigating the same, as herein-after mentioned, according to the Character and Purpose of the said Works, or the different Portions thereof respectively: Provided nevertheless, that notwithstanding anything in these Presents contained, the Company shall not so use the said Works or deal with the Supply of Water for the Purposes of Navigation as to interfere with the due Supply of Water to the Channels constructed for the Purposes of Irrigation, the true Intent and Meaning of these Presents and of the Parties thereto being that no Water shall be retained by the Company in their main irrigating and navigable Canal which being required for Irrigation shall, from the Works which shall have been constructed as aforesaid by the Company, be capable of being so applied, and it being provided that such Measures shall be adopted for securing this Object as may from Time to Time be deemed necessary by the Government of Madras.

to be opened for Irrigation, and (if Company shall so elect) also for Navigation.

12. That when and so soon as any of the said Works, or any Portion or Portions thereof, shall be from Time to Time completed and ready to be opened, the Company shall and will provide proper and sufficient Machinery and Conveniences for enabling the said Works to be effectually used for the Supply of Water for the Irrigation of Land and the general Supply of Water, and also (if the Company shall think fit) for the Purposes of Navigation, according to the Character and Purposes of different Portions of such Works respectively, and shall and will manage and conduct and render available the same to carry such Purposes or Objects respectively into execution or operation.

12. Company to provide Machinery, &c. to render Works effective for Irrigation.

13. The Price to be paid by the Secretary of State in Council to the Company for the Water supplied from the Company's Works for the Irrigation of Land as aforesaid shall be determined by the Government of Madras and the Company, if a mutual Agreement can be come to between them, but if not then the same shall be determined by Four Arbitrators, Two of whom shall be nominated by the Government of Madras, and both or either of whom may be Officers of the Government, and the other Two shall be appointed by the Company; the Arbitrators shall, before they enter on the Matter referred to them, nominate by Writing under their Hands an Umpire, and shall, if such Umpire shall die, refuse, or neglect to act, appoint another Umpire, and so on until One shall act; the Decisions of the Arbitrators or Umpire shall be final, and the Provisions herein-after contained in the 34th, 35th, 36th, 37th, 38th, 39th, and 40th Paragraphs of this Agreement shall be applicable to such Arbitration: Provided always, that the Price to be so fixed as aforesaid shall be so fixed as to represent, as nearly as Circumstances will then permit, and as can then be ascertained, a fair Charge for the Water which will be supplied for Irrigation to the Parties taking or availing themselves of it, and such Price shall be the Price to be paid by the Cultivators to the Government.

13. The Prices for Water Rates to be fixed by mutual Consent or by Arbitration.

14. The Company shall be empowered to reduce the Price of the Water for Irrigation fixed as aforesaid from Time to Time as to them shall seem fit, and the Government shall, on receiving due Notice of the Desire of the Company to make any such Reduction, thereupon and to the same Extent reduce the Price

14. The Company may reduce Price of Water.

to be paid by the Cultivators for such Water, but it shall not be competent for the Company thereafter to raise the Price again otherwise than as herein-after agreed.

15. The Price of Water may be altered by mutual Consent, or by either Party after Demand on the other, but so only as to represent a fair Charge for same.

15. Provided always, that the Price of the Water for Irrigation may, with the Consent of the Government of Madras and of the Company, be fixed or revised at any Time, either with or without the Intervention of Arbitrators, as shall in each Case be agreed; and if at any Time a Demand for a Revision of the Price of Water for Irrigation be made by one of the Parties to this Agreement on the other, and the other shall not consent thereto, then it shall be lawful for the Party making such Demand, after Six Months Notice given in Writing, to proceed to revise the Price of such Water; provided that in every Case such Revision of Price shall be made in all respects in the same Manner and upon the same Principle as to Representation of fair Charge as is herein agreed for the First Settlement of the said Price.

16. The Secretary of State may exercise such Supervision over Company as may be necessary for controlling Expenditure of the 1,000,000*l.* but not otherwise.

16. That for the Purpose of enabling the Secretary of State in Council to have and exercise such Supervision and Control as will enable him to ascertain and secure that the Expenditure of the said Sum of 1,000,000*l.* in and about the said Works, and in the general Management of the Company's Affairs, is being or has been properly made, but not further or otherwise, the Company, and their Officers, Servants, and Agents, as also their Accounts and Affairs, shall in all things be subject to the Superintendence and Control of the Secretary of State in Council as well in England as elsewhere; and for such Purpose, but not further or otherwise, it shall be lawful (subject to the Provisions herein contained) for the Secretary of State in Council from Time to Time to give to the Company, their Officers, Servants, and Agents, all such Orders and Directions as the Secretary of State in Council shall from Time to Time think fit with reference to the Works to be executed with the said Sum of 1,000,000*l.*, and with reference to the Manner and Times of executing the same, and with reference to any Contracts, Orders, and Directions to be entered into, made, or given with regard thereto, and otherwise with reference to the same; and all such Contracts, Orders, and Directions given for such Purposes shall be executed and followed by the Company to the Satisfaction of the Secretary of State in Council; and such Costs and Expenses of the same as shall have been allowed and sanctioned by the Secretary of State in Council as proper to be included in the Capital Account shall be paid out of the Monies which are to be paid into the Bank of England or the Government Treasury at Madras as aforesaid; and for better enabling the Secretary of State in Council to exercise the Control and Direction intended to be hereby secured, the Company shall record and keep in proper Books for that Purpose full and particular Accounts of all their Transactions and Proceedings, including full and true Minutes of all their Meetings, Meetings of Directors, Communications with India, and Correspondence, so as at all Times to exhibit thereby fully and truly the State of their Affairs and Proceedings; and the Secretary of State in Council, and any Person or Persons appointed by him in that Behalf, shall at all reasonable Times have for such Purpose as aforesaid full Access to all the Books, Accounts, Papers, and Documents of the Company (except Communications between the Company and their legal Advisers), and Power to make Copies of or Extracts from the same so far as such Books, Accounts, Papers, and Documents relate to the Works to be executed with the said Sum of 1,000,000*l.*, or otherwise in connexion with the Expenditure of such Sum.

17. Secretary of State may appoint an ex-

17. That for the Purposes in the last preceding Clause mentioned it shall be lawful for the Secretary of State in Council from Time to Time to continue the

the present ex-officio Director of the Company, and to appoint any One Person, not being a Shareholder of the Company, to be his Successor in Office when he shall cease to hold such Office, and the ex-officio Director for the Time being shall for the Purpose last aforesaid rank as and be One of the Board of Directors of the Company, and be entitled in all things for such Purpose to act as such, and to exercise at his Discretion a Right of Veto in all Proceedings at Boards of the said Directors (except Proceedings for the Purpose of communicating with the legal Advisers of the Company), and shall not be removable except by Order of the Secretary of State in Council, but such ex-officio Director shall not be entitled to any Salary from the Company: Provided always, that nothing herein-before contained shall authorize the Secretary of State in Council to appoint any Officer or Servant of the Company, but only such ex-officio Director as aforesaid.

officio Director for same Purposes.

The Secretary of State not to appoint Company's Servants, &c.

18. That all the Expenses of the Company proposed to be paid out of the Monies to be paid into the Bank of England or the Government Treasury at Madras as aforesaid shall from Time to Time be stated and submitted to the Secretary of State in Council for his Sanction and Approval, and as between the Company and the Secretary of State in Council shall be allowed so far only as the same shall from Time to Time have been sanctioned and approved in Writing by the Secretary of State in Council: Provided always, that the last-mentioned Stipulation shall not interfere with any subsidiary Agreement or Agreements, if any, as may from Time to Time be made between the Company and the Secretary of State in Council for the Execution or Performance of any Portion or Portions of the said Works at any Sum or Sums of Money to be specified in such subsidiary Agreement or Agreements, in which Case the Expenses in respect of the same respectively shall be allowed and taken at the Sum or Sums which shall be so agreed upon.

18. The Expenditure of the 1,000,000*l.* in respect of which the Guarantee of Interest is applicable to be subject to Approval of Secretary of State.

19. That it shall be lawful for the Secretary of State in Council or the Government of Madras, at any Time and at all Times during the Construction of the said Works, by an Agent or Agents duly authorized, to inspect the same for the Purpose of ascertaining that such Construction is being carried on fairly and substantially in accordance with such original or settled Plans as aforesaid; and in case, upon such Inspection being had, it shall appear to the Secretary of State in Council or the Government of Madras that any Part or Parts of such Works have in any material Respect been or are then being constructed substantially contrary to such Plans, and the Secretary of State in Council shall give Notice thereof to the Company, and require the Company to alter such Part or Parts of the said Works so as to make the same accord with such original or altered Plans as aforesaid, or also to repair any Damage caused by the Departure from such last-mentioned Plans, the Company shall at their own Expense forthwith comply with such Notice or Requirement to the Satisfaction of the Secretary of State in Council.

19. Secretary of State to be at liberty to inspect Works during Construction.

20. That a Capital Account shall be kept by the Company, to be called "the Irrigation Capital Account of the Madras Irrigation and Canal Company," to which Account shall be carried from Time to Time, by way of Credit, all Monies raised and to be raised for the Purposes of being applied to or expended in the Establishment of the Company and the Construction of the said Works, and the Buildings, Machinery, and Conveniences thereto belonging or necessary for the same, and to which Account shall be carried from Time to Time, by way of Debit, all Monies from Time to Time expended in or about all or any of such Purposes as last aforesaid, and in and about any Additions, Alterations,

20. "Irrigation Capital Account" to be opened and kept by Company.

Alterations, or Improvements made to, of, or in the said Works, or the Buildings, Works, Machinery, and Conveniences thereto belonging, which shall properly be chargeable to Capital Account, and in and about satisfying and discharging any Claims for Compensation, or any Liability (if any) which shall be incurred to third Persons for consequential Damages caused by any Works executed by the Company the Cost of which is properly chargeable to Capital Account, and that such Account shall be made up half-yearly on the Thirtieth Day of June and the Thirty-first Day of December in each Year, or on such other half-yearly Days in the Year as the Secretary of State in Council shall appoint; and as often as any Variation shall occur in such Account a Copy of the Account, or a Statement showing the Variations therein, shall be from Time to Time furnished to the Secretary of State in Council.

21. The Company to keep Works in repair, and in default Secretary of State to repair and retain the Costs.

21. That the Company shall at all Times keep the said Works, or such Portion or Portions thereof respectively as shall be completed, and the Buildings, Machinery, and Conveniences thereto belonging, in a State of good Repair and in good working Condition, and shall keep the same fully provided with Machinery and Conveniences, and (so long as the Company shall carry on Navigation, if the Company shall think fit to carry on the same) with Boats and other Vessels adequate to the Service thereof for the Purposes of Navigation, and that if Default shall be made by the Company in the Performance of their Covenant in this Clause contained as to keeping such Portion or Portions of the said Works which shall have been completed and opened in Repair and Condition for the Space of Six Calendar Months next after Notice in Writing in that Behalf shall have been given by the Secretary of State in Council to the Company at Madras, it shall be lawful for the Secretary of State in Council or the Government of Madras, by an Agent or Agents duly authorized, to enter on the said Works, and to do and execute all such Works as may be required for putting the said Works into good Repair and good working Condition, and the Expenses of the same shall be charged against the Company by setting off the Amount of such Expenses against any Monies then payable or which shall thereafter become payable by the Secretary of State in Council under or by virtue of these Presents, and if such Expenses shall not be satisfied by such Set-off and Retainer as aforesaid, then the Difference shall be forthwith paid by the Company to the Secretary of State in Council.

22. The Company to keep "Irrigation Revenue Account."

22. That the Company shall, in proper Forms and under proper Heads or Divisions, keep an Account to be called "the Irrigation Revenue Account of the Madras Irrigation and Canal Company," to which Account shall be carried, by way of Credit, all Receipts from or on account of the said Works for Water supplied for Irrigation, including any Sums payable to the Company by the Government of Madras for such Water, and to which Account shall be carried, by way of Debit, all Payments made in respect of the Management of the Company and its Affairs generally, and specially in, about, and relating to the Supply of Water for Irrigation, and the Collection of the Monies payable for such Supply, and for the Repairs and Maintenance of the said Works, and for Repairs, Restoration, and Maintenance of the necessary Machinery and Conveniences for the Purposes of Irrigation, other than such Payments as may properly belong or be attributable to Capital Account, and less such Proportion or Per-centage (if any) of such Payments to be charged to the "Tolls Revenue Account" as mentioned or provided for in Clause 28 of these Presents; and such Revenue Account shall from Time to Time be made up half-yearly to the 30th Day of June and the 31st Day of December in each Year, or to such other half-yearly Days

Days in the Year as the Secretary of State in Council shall appoint, and a Copy of every Account subsequent to that of which a Copy shall have been rendered shall be regularly transmitted by the Company to the Secretary of State in Council.

23. That when and so soon as the Company shall begin to work or use the said Works, or any Portion or Portions thereof, for the Purpose of the Supply of Water for Irrigation, thenceforth the net Receipts from the said Works, or any Portion or Portions thereof, in respect of Water supplied for Irrigation, from the Commencement of such Supply up to the first of the aforesaid half-yearly Days, and during each succeeding Half Year, as shall from Time to Time appear by the said "Irrigation Revenue Account of the Madras Irrigation and Canal Company," after debiting such Account with such Payments as mentioned in Clause 22 of these Presents, and after deducting such Sum (if any) as may by Arrangement between the Secretary of State in Council and the Company be from Time to Time appropriated and set apart as a Reserve Fund for repairing, restoring, and making good any Deterioration of the said Works, Machinery, and Premises, and for the current Expenses of working and using the said Works, (such Reserve Fund, or any Part thereof, to be invested and accumulated or otherwise dealt with until required for Application in any Manner the Company and the Secretary of State in Council may agree upon,) be applied half-yearly; firstly, in discharging the Interest which shall be payable by the Secretary of State in Council, under the Covenant herein contained, in respect of the Half Year, and so as to exonerate the Secretary of State in Council and the Revenues of India, so far as the same net Receipts will extend, from the Payment of such Interest, the Money to be so applied to be reckoned at the Government Rate of Exchange for the Time being; secondly, in Payment of Interest at the Rate of 5*l.* per Cent. per Annum upon the whole Capital of the Company for the Time being appearing by the "Irrigation Capital Account of the Madras Irrigation and Canal Company" to have been raised for the Purposes mentioned in Clause No. 20 of these Presents, after deducting the said Sum of 1,000,000*l.* on which Interest is payable by the Secretary of State in Council; thirdly, in or towards the Repayment of such Sums of Money as shall at any previous Time or Times have been paid by the Secretary of State in Council to the Company by way of Interest as aforesaid under the Covenant herein contained, and which shall not then have been repaid, the Money to be so applied to be reckoned at the said Rate of Exchange; and, fourthly, in or towards Payment of further Interest at the Rate of 7*l.* per Cent. per Annum upon the whole Capital of the Company for the Time being appearing as last aforesaid (but without deducting the said Sum of 1,000,000*l.*); and the Residue (if any) of such net Receipts shall be applied as follows; (that is to say,) the Secretary of State in Council shall be entitled to One Moiety thereof for the Use of Her Majesty, Her Heirs and Successors, for the Service of the Government of India, and the Company shall be entitled to the other Moiety for their own Use and Benefit.

23. The net Profits from Irrigation to be applied, 1st, in discharge of guaranteed Interest upon 1,000,000*l.*; 2nd, in paying 5 per cent. on Capital beyond such 1,000,000*l.*; 3rd, in Repayment of Interest previously advanced by Secretary of State; 4th, in paying 7 per Cent. raised on all Capital; 5th, Surplus to be divided equally between Government and Company.

24. That at any Time within Six Calendar Months after the Expiration of 25 Years commencing from the Day of the Date of these Presents, or at any Time within Six Calendar Months after the Expiration of 25 Years commencing from the Day of the Expiration of the First 25 Years, or at any Time within Six Calendar Months after the Expiration of any subsequent Interval of 25 Years, it shall be lawful for the Secretary of State in Council to give Notice to the Company in London and at Madras of his Intention to purchase, on behalf of Her Majesty, Her Heirs and Successors, for the Purposes of the Government of India, all the Works which shall have been constructed by the Company

24. Secretary of State to have Power to purchase the Works at the Expiration of every 25 Years at the average Market Price of the Shares during Three preceding Years.

Company for the Purposes of Irrigation, with the Approval of the Secretary of State in Council, together with the Buildings, Plant, Machinery, Works, and Conveniences belonging to the same, but subject to such Debts and Liabilities (if any) as may have been incurred to Her Majesty, or to the Secretary of State in Council, or to any Person or Persons, on account of Works approved by the Secretary of State in Council under this Contract, and to Interest on such of the said Debts as carry Interest from the Day on which Possession shall be taken of the said Works, but not from any earlier Time, and thereupon at the half-yearly Day next but one following such Notice the Land to be provided as aforesaid, and the said Works, and all Buildings, Plant, Works, fixed Machinery, and Conveniences whatsoever connected therewith, shall revert to or become the Property of Her Majesty, Her Heirs and Successors, for the Purposes of the Government of India, and shall be conveyed to the Secretary of State in Council accordingly; and in case any Lands in Great Britain shall then be held by the Company exclusively for the Purposes of their Works aforesaid and under this Agreement, the same shall be sold, and the clear Monies to be produced by such Sale shall be paid into the Bank of England to the Account of the Secretary of State in Council, and the Company shall at the same Time deliver to the Secretary of State in Council, or an Agent or Agents duly authorized on behalf of Her Majesty for the Purposes of such Government, the Machinery and Conveniences belonging to the said Works, and all Plans, Surveys, Sections, Books, Printings, Writings, Drawings, and Documents relating thereto, and the Secretary of State in Council shall be bound to pay in London, out of the Revenues of India, on the said half-yearly Day, for the Purchase of all the said Works and Premises a Sum equal to the Amount of the Value of all the then Shares in or Capital Stock of the Company appearing by the aforesaid Account to be kept, and called "the Irrigation Capital Account of the Madras Irrigation and Canal Company," to have been raised for the Purposes mentioned in Clause No. 20 of these Presents, such Value to be calculated according to the Average of the mean Market Value in London of such Shares or Stock during the Three Years immediately preceding the Expiration of the said Period of 25 Years, and shall also be bound to indemnify the Company against all such Debts or Liabilities (if any) as they may have incurred to or on account of Works approved by the Secretary of State in Council under this Agreement, and as shall be then subsisting, and thereupon the Covenant herein-before contained for Payment of Interest shall absolutely cease and determine, and thereupon the Company shall pay over or allow to the Secretary of State in Council the Portion or Portions of such Capital which shall have been raised for the Purposes last aforesaid, and which shall then not have been expended by the Company.

25. The Purchase Money to be paid by Secretary of State may be commuted to an Annuity for 25 or 50 Years.

25. That in case, under the Provisions of these Presents, the Secretary of State in Council shall become liable to pay for the Purchase of the said Works and Premises, it shall be lawful for the Secretary of State in Council, instead of paying a gross Sum of Money in respect of the Premises, to declare by Notice to the said Company in London (provided such Notice shall be given before the Expiration of Three Calendar Months after the Notice of Election to purchase under the Clause last herein-before contained) his Option to pay an Annuity, to be reckoned from the Time when the gross Amount would be payable, and to continue for the Term of 25 Years or 50 Years, and in such Case such Annuity shall be payable in London on such Two half-yearly Days in the Year as shall be selected by the Secretary of State in Council in that Behalf, with

with a fractional Part for any broken Part of a Half Year, the Rate of Interest which shall be used in calculating such Annuity being determined by the average Rate of Interest during the preceding Three Years received in London upon the average mean marketable Value of public Obligations of the Secretary of State in Council, and which shall, if necessary, be ascertained and settled by reference to the Governor or Deputy Governor of the Bank of England for the Time being: Provided always, that the aforesaid Option shall not apply to the undrawn Portion (if any there be) of the Monies to be paid into the Bank of England or to the Government Treasury in Madras as aforesaid, but such Portion shall be repaid to the said Company, with Interest thereon at the Rate of 5 per Cent. from the last half-yearly Day on which Interest was paid.

26. The Company to have Liberty to navigate Canals wholly or partially.

26. That when the said Works, or any Portion or Portions thereof applicable for the Purpose of Navigation, shall be completed so as to be available for such Purpose, it shall be lawful for the Company, if they shall think fit, but not otherwise, to commence to navigate and to navigate the same or any Part or Parts thereof, and the Company shall and will in such Case (so far only as their Boat or Vessel Accommodation and Traffic Arrangements will allow, but not further or otherwise, and particularly so that the Company be not thereby obliged to provide further Accommodation, or to navigate their Boats or Vessels at Times or in a Manner prejudicial to their Traffic,) convey on the said Works, or the Portion or Portions for the Time being navigated as aforesaid, the Government Mails and Post Bags, and the Guards and other Servants of the Post Office in charge thereof, free of Charge, and (when they are on Duty) all Officers and Persons in the Administration of the Post Office also free of Charge, and will also convey on the said Works, or the Portion or Portions so for the Time being navigated as aforesaid, when they are on Duty, the Troops in Her Majesty's Service, both Horse and Foot, and all other Persons to whom the Provisions of the Mutiny Acts and Regulations for the Time being in force for Her Majesty's European Forces and Indian Military Forces respectively shall be applicable, and all Artisans on the Business of the Government, at such Fares as shall from Time to Time be agreed upon between the Government of Madras and the Company, Military Officers, and other Persons of similar Station in Life, being allowed Accommodation of the First Class; and will also convey on the said Works, or the Portion or Portions so for the Time being navigated as aforesaid, all general Stores belonging to the Government, and all Guns, Ammunition, Horses, and other Animals used for Military Purposes, and all Military Stores, Carriages, Waggons, Camp Equipage and Equipments whatsoever, at such Fares and Rates as shall from Time to Time be agreed upon between the Government of Madras and the Company, the several Privileges of Conveyance and Carriage of Troops and Military Stores hereby stipulated for being at all Times to be enjoyed and used in preference to and in priority over the public Enjoyment and Use of the said Works.

27. Company not to charge higher Tolls than those fixed by the Indian Legislature.

27. That the Company shall be authorized and empowered to charge such Rates for the Supply of Water generally, except the Supply for the Purposes of Irrigation which is in these Presents otherwise provided for, and (if the Company shall think fit to open the same for Navigation) such Tolls for Navigation, and (if the Company shall think fit to navigate the same) such Fares or Rates for the Conveyance of Passengers, Animals, and Goods, as shall not exceed the Rates, Tolls, or Fares which shall be defined and sanctioned by an Act of the Indian Legislature, and shall not in any Case charge any higher Tolls, Fares, or Rates whatsoever.

28. That

28. If Company open Canals for public Navigation, "Tolls Revenue Account" to be kept.

28. That if, under the Provisions of Clause XI. of these Presents, the Company shall elect to open the said Works for the Purposes of Navigation, the Company shall in that Case, during such Time or Times as the said Works shall be so open, in addition to the Accounts herein-before agreed to be kept, keep in proper Form, and under proper Heads or Divisions, an Account to be called "the Tolls Revenue Account of the Madras Irrigation and Canal Company," to which Account shall be carried, by way of Credit, all Receipts from or on account of all Tolls received by them for and in respect of such Navigation, and to which Account shall be carried, by way of Debit, all Payments made in respect of such Tolls and the Collection thereof, and also such Proportion or Percentage of the actual Expenditure incurred by the Company in the Repair and Maintenance of all Works which shall or may be necessary and used for the Purposes of Navigation as may be fixed immediately after the Execution of these Presents, by mutual Agreement between the Chief Engineer of the Company and the Consulting Engineer of the Government of Madras, as fair and proper, such Proportion being open to Revision and Re-settlement at the End of every Five Years by mutual Agreement between the same Parties, or, in Cases of Difference, by Arbitration as herein-after provided; and such Revenue Account shall be made up half-yearly, and a Copy thereof, whenever there shall arise a Deficiency of the Nature next herein-after referred to, shall be transmitted to the Secretary of State in Council in like Manner as mentioned in Clause 22 of these Presents with reference to the Account therein mentioned; and if in any Half Year the net Receipts in respect of Water supplied for Irrigation, as mentioned in Clause 24 of these Presents, shall be insufficient to discharge the Interest payable by the Secretary of State in Council under the Covenants herein-before contained in respect of such Half Year, then the Surplus or Balance of Receipts appearing upon the said "Tolls Revenue Account" for that Half Year shall be applied so far as it will extend towards the Discharge of such Interest, and subject to such last-mentioned Application the said Surplus or Balance of Receipts shall belong to the Company solely.

29. The Company to be at liberty to grow Timber, build Mills, Warehouses, &c.

29. That the Company, by themselves or their Agent or Agents, shall be at liberty to plant, grow, and cultivate Timber and other Products of the Soil, also to erect Mills and Factories, and to work the same by Water, either by themselves or their Tenants, upon the Banks of the Canals intended to be constructed by them, but not so as to interfere with or prejudice in any way the Supply of Water for Irrigation as aforesaid.

30. Separate Capital to be raised for all Purposes other than for Works of Irrigation, and separate Revenue Accounts to be kept, the Profits upon which Capital to belong to Company.

30. That all Capital which shall be raised by the Company for any Purpose other than the Purposes mentioned in Clause No. 20 of these Presents shall be raised and kept separate and distinct from the Capital raised and to be raised for the Purposes mentioned in the said Clause No. 20, and a separate Account relating thereto shall be from Time to Time kept by the Company; also that all Revenue or Income to be derived by the Company, and all Payments, Charges, and Expenses to be made, borne, or incurred by the Company otherwise than is respectively mentioned in Clauses No. 22 and 28 of these Presents, shall be kept separate and distinct from the Receipts and Payments mentioned in such last-mentioned Clause, and shall be received, made, borne, and sustained respectively by the Company, and a separate Account relating thereto shall be from Time to Time kept by the Company; and all Profits which shall be derived from or in respect of the Outlay of any of the Capital of the Company other than the Capital raised and to be raised for the Purposes mentioned in Clause No. 20 of these Presents shall belong solely to the Company.

31. That

31. That any Notice, Direction, Approval, or Sanction to be given or signified for any of the Purposes of these Presents shall be sufficient and binding if signed by the Secretary of State for India or either of the Under Secretaries of State for India, or by the Secretary of the Government of Madras, or by any other Officer or Servant duly authorized to act on behalf of the Secretary of State in Council or Government of Madras in respect of the Matters to which the same shall relate.

31. Interpretation of "Sanction of Secretary of State in Council."

32. That the Company shall at all Times hereafter during the Continuance of this Contract keep at Madras, or at such other Place as shall be agreed upon between the Secretary of State in Council and the Company, an authorized Agent or authorized Agents, with whom the Secretary of State in Council and the Government of Madras may communicate on Affairs concerning the said Works, and all Drafts drawn by the said Agent or Agents, and all Receipts of and Acts done by such Agent or Agents, on behalf of the Company, or concerning the said Works and Stock, shall be binding on the Company; and every Notice to be given to the Company shall be sufficiently given if left in Writing at the Residence of, or personally served on, such Agent or Agents.

32. Company to have Office and Agent at Madras.

33. That the Secretary of State in Council shall co-operate with the Company in obtaining any necessary Act or Acts of Parliament, or the Indian Legislature, to enable the carrying into effect all or any of the Purposes or Objects aforesaid.

33. Secretary of State to assist in obtaining all necessary Acts in India.

34. In case any Dispute or Difference of Opinion shall arise or happen between the Secretary of State in Council and the Company in the carrying out of these Presents, such Dispute or Difference shall be settled by Arbitration, and unless both Parties shall concur in the Appointment of a single Arbitrator, each Party on the Request of the other Party shall by Writing under their Hand nominate and appoint an Arbitrator, to whom the Matter in difference or dispute may be referred, and after any such Appointment shall have been made neither Party shall have Power to revoke the same without the Consent of the other; and if for the Space of Three Calendar Months after Request in Writing shall have been served by the one Party on the other Party to appoint an Arbitrator such last-mentioned Party fail to appoint such Arbitrator, then upon such Failure the Party making the Request and having appointed an Arbitrator may appoint such Arbitrator to act on behalf of both Parties, and such Arbitrator may proceed to hear and determine the Matters which shall be in difference or dispute, and in such Case the Award or Arbitration of such single Arbitrator shall be final.

34 to 40. Arbitration Clauses.

35. If, before the Matters so referred shall be determined, any Arbitrator appointed by either Party shall die, or become incapable or refuse or for Seven Days neglect to act as Arbitrator, the Party by whom such Arbitrator was appointed may nominate and appoint in Writing some other Person to act in his Place; and if such Party for Three Calendar Months after Notice in Writing from the other Party for that Purpose fail to do so, the remaining or other Arbitrator may proceed ex parte, and every Arbitrator so to be substituted as aforesaid shall have the same Powers and Authorities as were vested in the former Arbitrator at the Time of such Death, Refusal, or Disability as aforesaid.

Vacancy of Arbitrator to be supplied.

36. When more than One Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the Matters referred to them, nominate and appoint by Writing under their Hands an Umpire to decide on such Matters on which they shall differ; and if such Umpire shall die, or refuse or for Seven Days

Appointment of Umpire.

Days neglect to act, they shall forthwith after such Death, Default, Refusal, or Neglect appoint another Umpire in his Place, and the Decision of every such Umpire on the Matters so referred to him shall be final.

Chief Justice empowered to appoint an Umpire in the Neglect of the Arbitrators.

37. If in either of the Cases aforesaid the said Arbitrators shall refuse, or shall for Seven Days after Request of either Party to such Arbitration neglect, to appoint an Umpire, it shall be lawful for the Board of Trade if the Arbitration be in England, or for the Chief Justice of Her Majesty's High Court in Madras if the Arbitration be in India, on the Application of either Party to such Arbitration, to appoint an Umpire, and the Decision of such Umpire on the Matters on which the Arbitrators shall differ shall be final.

Power of Arbitrators to call for Books, &c.

38. The said Arbitrators or their Umpire may call for the Production of any Documents in the Possession or Power of either Party which they or he may think necessary for determining the Question in difference or dispute.

Costs to be in the Discretion of the Arbitrators.

39. The Costs of and attending every such Arbitration shall be in the Discretion of the Arbitrators or their Umpire, as the Case may be.

Submission to Arbitration to be made Rule of Court.

40. The Submission to any such Arbitration may be made a Rule of any of the Superior Courts of England or India, on the Application of either of the Parties.

In witness whereof Sir Proby Thomas Cautley and Sir Henry Conyngham Montgomery, Baronet, being Two Members of the Council of India, have hereunto set their Hands and Seals, and the said Madras Irrigation and Canal Company have caused their Common Seal to be affixed, the Day and Year first above written.

Signed, sealed, and delivered by the above-named Sir Proby Thomas Cautley and Sir Henry Conyngham Montgomery, being Two Members of the Council of India, in the Presence of

FRED. CHAS. DANVERS,
India Office.

PROBY T. CAUTLEY. L.S.

H. C. MONTGOMERY. L.S.

The Common Seal of the Madras Irrigation and Canal Company affixed in the Presence of

L.S.

JOHN WESTWOOD, Secretary.
JOHN MACKRELL, Solicitor, 34, Cannon Street West, London.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1863.