

TASMANIA.

THE KERMANDIE WOOD-PULP AND
PAPER INDUSTRY ACT, 1933.

ANALYSIS.

PART I.—PRELIMINARY.

1. Short title.
2. Provisions of 17 Geo. V. No. 13 to cease.
3. Interpretation.
4. Effect of assignment by promoter.

PART II.—TIMBER RIGHTS.

5. Dedication as State forest.
6. Rights of promoter over concession area.
7. Promoter to furnish working plans.
8. Royalties to be paid by promoter.
9. Increase of royalty in certain cases.
10. Review of royalties.
11. Records to be kept and returns made by promoter.
12. Exemptions from Forestry Act, 1924.
13. No compensation to be payable in respect of damming of Huon River.
14. Supply by promoter of timber for apple cases.

PART III.—OTHER RIGHTS AND POWERS.

15. Water licences
16. Outflow.

17. Application of 20 Geo. V. No. 71.
18. Easements.
19. Tramways.
20. Carriage of timber and goods.
21. Wharves.
22. Foreshore reclamation and grant.
23. Income tax deduction.

PART IV.—SURRENDER OF RIGHTS.

24. Surrender of rights.
25. Power to resume certain lands.

PART V.—FORFEITURE OF RIGHTS.

26. Power to terminate Act.
27. Application for determination or curtailment of rights.
28. Application for curtailment of concession.

PART VI.—REGULATIONS.

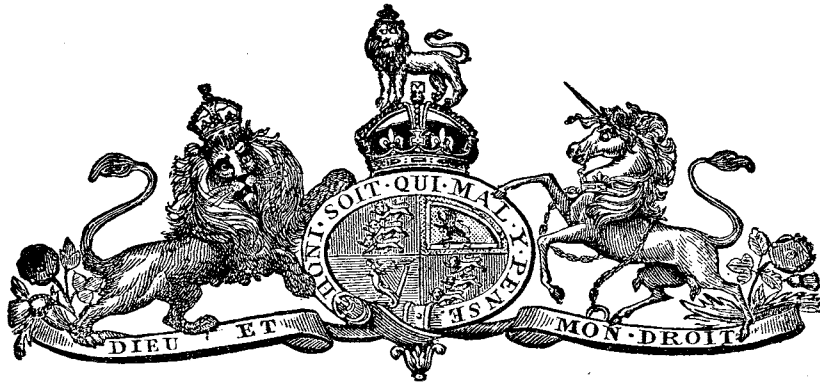
29. Regulations.

PART VII.—DURATION OF RIGHTS.

30. Period during which rights may be exercised.

1347

TASMANIA

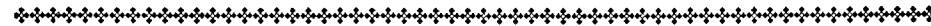


1933.

ANNO VICESIMO QUARTO

GEORGII V. REGIS.

No. 40.



AN ACT to encourage the Manufacture of Wood-pulp and Paper in Tasmania, and to authorise the Granting of certain Rights and Concessions to Tasmanian Paper Proprietary Limited and its Assigns in respect thereto, and for other purposes. [10 January, 1934.]

A.D.
1933.

WHEREAS, under and by virtue of the Kermandie Wood-pulp and Paper Industry Act, 1926, and subject to the conditions therein provided, certain rights, powers, and concessions were conferred upon *David Avery* and his assigns, which said rights, powers, and concessions were subsequently assigned and transferred and are now the property of Tasmanian Paper Proprietary Limited :

PREAMBLE.
17 Geo.V. No. 13.

And whereas the said Company expended considerable sums of money in investigating the practicability of manufacturing upon a commercial basis wood-pulp and paper from Tasmanian hardwoods, and, as a result of such investigations, successfully demonstrated that wood-pulp and paper could be so manufactured :

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

And whereas, through causes beyond its control, the said Company, having complied with Paragraphs I. and II. of Subsection (1) of Section Five of the said Act and expended in respect thereof a sum of about One hundred thousand Pounds, has been unable to have available the moneys prescribed by Paragraph III. of the same subsection in the manner and within the times mentioned therein :

And whereas circumstances have arisen which render it expedient to modify in certain respects the aforesaid conditions, rights, powers, and concessions, and it is further expedient, in order to effect such modification, that the provisions of the said Act should cease and that in lieu thereof a new Act be passed continuing the conditions, rights, powers, and concessions conferred by the said Act, but with the modifications hereinbefore referred to :

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PART I.

PRELIMINARY.

- Short title. **1** This Act may be cited as “The Kermandie Wood-pulp and Paper Industry Act, 1933.”
- Provisions of 17 Geo. V. No. 13 to cease. **2** From the date of coming into operation of this Act, the provisions of the Kermandie Wood-pulp and Paper Industry Act, 1926, shall be repealed.
- Interpretation. **3** In this Act, unless the contrary intention appears :—
- “Concession area” means all lands of the Crown situated within the area described in Schedule (1) with the exceptions therein mentioned :
 - “Conservator” means the Conservator of Forests :
 - “Cord” means the quantity of wood contained in a stack four feet wide, four feet high, and eight feet long :
 - “Forest products” means the products of growing or dead trees, shrubs, or other vegetable growth :
 - “Minister” means the Minister of the Crown for the time being administering the Forestry Act, 1920 :
 - “Private land” means any land alienated or contracted to be alienated from the Crown in fee simple, or held under any lease or any occupation, residence, or business licence granted or issued under the Crown Lands Act, 1911, or under any lease, licence, or other authority granted or issued under the Mining Act, 1929, or under any timber or forestry lease or permit granted by the Crown under any Act :
 - “Road” means any road, street, or high road, or any reservation therefor :
- 11 Geo.V. No. 60.
- 2 Geo. V. No. 64.
- 20 Geo.V. No. 71.

Kermandie Wood-pulp and Paper Industry.

“The industry” means the manufacture in this State of wood-pulp, paper-pulp, and paper, or any of them, and the investigations in connection with such manufacture and the supply and preparation of materials therefor, and the carrying on of processes and businesses incidental to such manufacture, and the carrying on in this State of any manufacture cognate or incidental or subsidiary to such manufacture, including the milling and marketing of timber : A.D. 1933.

“The promoter” means Tasmanian Paper Proprietary Limited and its assigns :

“Timber” includes trees of any description, whether alive or dead, and whether standing or fallen :

“Working plan” means a detailed statement in writing, setting out in respect of a specified area, called the working plan area—

- i. The facts on which the proposals therein contained are based :
- ii. The intended operations to be carried out :
- iii. The manner in which the same are to be carried out :
- iv. The requirements to be observed in relation to all fellings and all operations for the regeneration, improvement, and protection of the forests : and
- v. The requirements for the proper record and control of the work—

in the working of that area during the period specified in such plan.

4 Upon any assignment by the promoter of its rights and concessions under this Act, the person in whom such rights and concessions shall be vested by virtue of such assignment shall be subject to all the obligations and conditions imposed upon the promoter by this Act, to the exclusion of the person making such assignment. Effect of assignment by promoter.

Kermandie Wood-pulp and Paper Industry.

A.D. 1938.

PART II.

TIMBER RIGHTS.

Dedication as
State forest.

11 Geo. V. No. 60.

5 All such portions of the concession area as are not already included in State forests are hereby dedicated as State forests within the meaning of the Forestry Act, 1920.

Rights of pro-
moter over con-
cession area.

11 Geo V. No. 60.

6—(1) Subject to the provisions of this Act and to the requirements of any working plan approved hereunder, the promoter shall have the full and exclusive right to cut and remove timber and forest products of any description, and for any purpose whatsoever, from the concession area and to dispose of such timber and forest products in such manner as the promoter shall think fit.

(2) In the exercise of its powers under this section, the promoter shall comply with the regulations in force under the Forestry Act, 1920, with regard to the lighting and extinguishing of fires and the use of steam locomotives and spark arrestors.

(3) The promoter may erect, construct, alter, remove, dismantle, and re-erect and operate any mills or plants on any portion or portions of the concession area for the dressing, treatment, or making marketable or useful any timber or forest products.

(4) The promoter may use, without payment of royalty therefor, any firewood required for use in haulers, skidders, or the like, on the concession area for the purposes of the industry.

Promoter to
furnish working
plans.

7—(1) All fellings and all operations for the regeneration, improvement, and protection of the forests on the concession area shall be carried out in accordance with the requirements of working plans approved by the Conservator.

(2) Such working plans shall be prepared by the promoter and submitted to the Conservator for approval not less than—

i. Three months in the case of working plans for the promoter's operations for the first five years after the commencement of this Act : and

ii. Six months in any other case—

before the operations therein specified respectively are proposed to be commenced.

(3) If the Conservator does not approve of any particular working plan submitted as aforesaid, he may give notice in writing to the promoter—

i. Specifying the modifications which he requires to be made in such plan : and

ii. Specifying the operations which the promoter shall, and may, respectively, carry out in the area to which such plan relates during—

(a) The first year of the period covered by such plan ; or

Kermandie Wood-pulp and Paper Industry.

- (b) Such longer or shorter period, specified in such notice, as the Conservator may think necessary for effecting such modifications as aforesaid in such plan—

A.D. 1933.

and the promoter shall carry out the requirements of such notice at his own cost.

(4) If the promoter fails to carry out the requirements of any approved working plan, the Conservator, with the approval of the Minister, may carry out and give effect to the same or any part thereof, as he may think fit, and may recover from the promoter the cost thereby incurred, together with Ten Pounds per centum of such cost.

(5) If the promoter is dissatisfied with the refusal of the Conservator to approve of any working plan, it may apply to a judge for a summons calling on the Conservator to show cause why such plan should not be approved, and on the hearing of such summons the judge may make such order as to the judge may seem just.

8—(1) The promoter shall pay to the Conservator royalty in respect of all timber and forest products cut on the concession area for any purpose whatsoever at the respective rates hereinafter provided. Royalties to be paid by promoter.

(2) Such royalty shall be calculated as follows—

- I. For all wood used for conversion into wood-pulp or paper— at the rate of Two Shillings per cord or the equivalent quantity of timber, but subject to increase as prescribed by Sections Nine and Ten :
- II. For all wood used or disposed of otherwise than for conversion into wood-pulp or paper—at the respective rates for the time being prescribed under the Forestry Act, 1920, applicable to the particular class of forest product—

11 Geo. V. No. 60.

but no royalty shall be payable under Paragraph i. upon any timber upon which royalty has been paid or is payable under Paragraph ii.

(3) Except as hereinbefore provided, no rental, fees, or other charges shall be payable by the promoter in respect of the concession area or of the timber or forest products obtained therefrom.

9—(1) Whenever the audited accounts of the promoter for any year show a net profit exceeding Ten Pounds per centum per annum upon all capital moneys expended by the promoter since the inception of the industry, including all losses, if any, incurred in operating the industry, the rate of royalty to be paid under Paragraph i. of Subsection (2) of Section Eight in respect of such year shall be increased by Twopence per cord for every One Pound or fraction of One Pound per centum by which such profit exceeds Ten Pounds per centum. Increase of royalty in certain cases.

(2) In computing the total amount of such expenditure as aforesaid, the promoter may include interest thereon at the rate of Eight Pounds per centum per annum, with half-yearly rests on the thirtieth

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

day of June and the thirty-first day of December in each year, from the respective dates upon which the expenditure thereof was incurred up to the beginning of the financial year of the promoter in which the net profits amounted to Ten Pounds per centum, and the promoter shall deduct from such total amount all net profits earned by it during such period, together with interest on such profits calculated at the rate and in the manner hereinbefore provided in respect of expenditure.

(3) In computing its net profits the promoter may include in its deductions from the gross revenue earned in the year for which such computation is made—

- i. Working expenses :
- ii. All moneys expended in repairs and maintenance :
- iii. Depreciation at the rate of Five Pounds per centum in respect of all works, buildings, machinery, plant, and other tangible assets constructed, erected, purchased, acquired, or created by the expenditure of capital moneys, but not including any freehold lands purchased or acquired by the promoter, or contracted to be so purchased or acquired ; such depreciation to be calculated each year on the value of all such works and other assets as reduced by all previous reductions :
- iv. All usual and proper administration and other outlays, charges, and expenses : and
- v. All moneys paid for Federal and State taxes and for municipal rates and charges.

(4) If any difference or dispute shall arise between the promoter and the Conservator with respect to any increase in the rate of royalty to be paid by the promoter in accordance with the provisions of this section, the same, at the request of either the promoter or the Conservator, shall be referred to arbitration in accordance with the provisions of the Arbitration Act, 1892.

56 Vict. No. 8.

Review of royalties.

10—(1) At any time or times after the expiration of twenty years after the commencement of this Act, the rate of royalty prescribed by Paragraph i. of Subsection (2) of Section Eight may be reviewed at the instance of the Conservator or the promoter.

56 Vict. No. 8.

(2) If the Minister and the promoter fail to agree as to the rate of royalty to be paid by the promoter, the matter shall be determined by arbitration in accordance with the provisions of the Arbitration Act, 1892.

(3) In the determination of such matter the arbitrator shall take into consideration—

- i. The fact that the royalty prescribed as aforesaid was fixed at a concessional rate with a view to assisting the promoter in the establishment of the industry :
- ii. Any circumstances which may call for an increase or reduction, as the case may be, in the royalty to be paid : and

Kermandie Wood-pulp and Paper Industry.

III. Such other relevant matters as either of the parties to the reference may bring before him — A.D. 1933.

and after determining what rate is reasonable in the circumstances, shall give credit to the promoter for one-half the amount expended by the promoter during the five years immediately preceding the reference for the purposes of forest regeneration and tending of new crop on the concession area, on the basis that the said one-half of such amount shall be divided by the total number of cords of wood (excluding sawn timber) cut by the promoter during the said five years, and the result shall represent the amount per cord for which credit is to be so given.

(4) Where a rate of royalty has been determined as provided by this section, whether by agreement or arbitration, such rate shall continue in force for not less than five years from the date of such determination, unless the Minister and the promoter expressly agree to the contrary.

11—(1) Books, maps, and plans recording the operations of the promoter in connection with the industry shall be kept by the promoter, and shall be available for inspection at all reasonable times by the Conservator, or any officer of the Forestry Department appointed by him for that purpose, and shall show in respect of each year particulars of—

Records to be kept and returns made by promoter.

- i. The operations in the forest, including fellings, silvicultural operations, fire protection, and other works required by the relevant working plan :
- ii. The quantity of wood and other forest products taken from the concession area and used in the manufacture of wood-pulp or paper :
- iii. The quantity of timber taken from the concession area and used for other milling purposes :
- iv. The quantity of timber taken from the concession area and sold in the log :
- v. The quantity of paper produced :
- vi. The quantity of wood-pulp produced and sold as such :
- vii. The quantity of timber obtained from sources other than the concession area for conversion into wood-pulp or paper :
- viii. The respective amounts expended on fire protection and forest regeneration and improvement :
- ix. Such other particulars of a similar nature as may be prescribed.

(2) The promoter shall also furnish the Conservator with returns in respect of all or any of the matters or things mentioned or referred to in Subsection (1) of this section, in such form and at such times as shall be prescribed.

(3) If the promoter shall contravene any of the provisions of this section, it shall be liable to a penalty of One hundred Pounds.

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

Exemptions from
Forestry Act,
1924.15 Geo. V. No.
62.

12 The Minister may exempt any timber cut under this Act from the provisions of the Forestry Act, 1924, upon being satisfied that the bark of such timber is required for any operations of the promoter, and may similarly exempt any timber cut under this Act, the bark of which shall be destroyed during such operations; but, subject to any such exemptions as aforesaid, the provisions of the lastmentioned Act shall apply to all timber cut under this Act.

No compensation
to be payable in
respect of dam-
ming of Huon
River.

13 Nothing in this Act shall entitle the promoter to any compensation in respect of any deprivation or diminution of its rights under this Act, or any loss of or injury to the property of the promoter occurring by reason or in consequence of any works which may be executed, or any operations which may be carried out at any time after the passing of this Act, by the Crown or the Hydro-Electric Commission in connection with the damming of the Huon River or any of its tributaries or of any other stream for the purposes of the State hydro-electric works.

Supply by pro-
moter of timber
for apple cases.

14—(1) At any time after the expiration of five years from the commencement of this Act, and thereafter so long as this Act shall continue in force, the promoter shall supply, from timber growing in or upon the concession area, such a quantity of timber suitable for the making of apple cases as will meet the reasonable requirements of the fruitgrowers in the Municipalities of Huon, Esperance, Port Cygnet, and Kingborough.

(2) The supply of timber as aforesaid shall be subject in all respects to the terms and conditions, payments, and restrictions mentioned and specified in Schedule (2).

(3) An agreement dated the eleventh day of May, one thousand nine hundred and twenty-nine, and made between the Minister and the promoter for the supply and delivery by the promoter of timber for apple cases shall cease and be determined on the coming into operation of this Act.

(4) Except as provided by Subsection (5) hereof, the provisions of Subsection (1) of this section and of Schedule (2) shall not operate or take effect nor shall the promoter be bound thereby unless and until the lands described in Schedule (5) are included in the concession area.

(5) If the Governor is satisfied, upon the recommendation of the Conservator, and upon such enquiry as the Governor may think sufficient, that the requirements of the fruitgrowers (as defined in Schedule (2)) cannot be met without the supply of case material from the concession area, the Governor, by proclamation, may declare that the provisions of Subsection (1) hereof and of Schedule (2) shall operate and take effect upon and from a date to be specified in such proclamation, such date not being earlier than as provided by Subsection (1) hereof, although the lands described in Schedule (5) are not included in the concession area.

Kermandie Wood-pulp and Paper Industry.

(6) If, at any time after the provisions of Subsection (1) hereof have come into operation, the Governor is satisfied, after such enquiry as he thinks sufficient, that the promoter has taken, and is taking in good faith, all reasonable steps for the development and utilisation of the concession area for the purposes of this Act, and that the promoter in good faith requires, or in the immediate future is likely to require, the whole of the available timber from the concession area for the purposes of the industry, the Governor, by proclamation, may declare that the said provisions shall cease to have effect as from a date specified in such proclamation, and thereupon the promoter shall cease to be bound thereby.

A.D. 1933.

PART III.

OTHER RIGHTS AND POWERS.

15—(1) The Minister for Mines, with the consent of the Hydro-Electric Commission, may grant to the promoter, under and subject to the provisions of the Mining Act, 1929, and subject to such restrictions, limitations, and conditions as such Minister shall determine, such water licences and dam sites as the promoter may require for the purposes of the industry.

Water licences.

20 Geo. V. No. 71.

(2) No such water licence shall be granted in respect of any river or stream other than the Huon or Kermandie Rivers, or the tributaries of such rivers, or some stream approved by the Minister for Mines.

(3) The promoter shall have the right, subject as aforesaid, to divert into the Kermandie River water from the Esperance River at any point on that river over one thousand feet above sea level.

(4) For the purposes of this section and of the application thereto of the provisions of the Mining Act, 1929, the carrying on of the industry on the concession area by the promoter shall be of the same effect as if the promoter were the holder of a lease granted under such Act of the lands in the concession area in respect whereof the water licences are sought.

16—(1) The Commissioner of Crown Lands, upon the application of the promoter, may cause to be issued to it under and subject to the provisions of the Crown Lands Act, 1911, as herein modified, a lease or leases of a strip or strips of land, of such width in each case as the said Commissioner shall determine, upon and across the foreshore adjacent to or in the vicinity of any land whereon the industry is being carried on.

Outflow.

2 Geo. V. No. 64.

(2) Every such lease shall be renewed on the application of the promoter so long as it carries on the industry.

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

(3) The promoter may construct outflow drains, tunnels, or pipe-lines from the lastmentioned land into the sea, or into the tidal waters of any of the rivers, streams, or tributaries aforesaid upon, over, or under—

- i. The lands comprised in any such lease as aforesaid :
- ii. Any land belonging to the Crown :
- iii. Any private land : and
- iv. Any road, tramway, or railway.

(4) Before proceeding with any such construction, the promoter shall submit to the said Commissioner plans and specifications of the proposed work, and shall obtain his approval thereto.

(5) Every such work shall be completed within twelve months after such approval has been obtained, or within such further time as the said Commissioner may allow.

(6) The outlet of every such drain, tunnel, or pipe-line shall be below low-water mark, and the promoter shall discharge all effluent or waste water through the same into the sea or into the tidal waters of Huon River or Hospital Bay at a point to be approved by the said Commissioner

Application of
20 Geo. V. No.
71.

17 Part VI. and Sections Seventy-three, Seventy-four, and Seventy-six of the Mining Act, 1929, shall apply to the exercise by the promoter of the powers conferred upon it by Section Sixteen in respect of private lands, in the same manner as if the promoter were engaged in mining operations and as if the powers exercisable by it under the lastmentioned section were exercisable by the promoter under Part VI. of that Act.

Easements.

18—(1) The Minister for Mines may grant to the promoter, under and subject to the provisions of the Mining Act, 1929, and subject to such restrictions, limitations, and conditions as such Minister shall determine, such easement licences of any nature specified in Part VI. of that Act (other than an easement licence for a tramway) as the promoter may require for the purposes of the industry.

(2) For the purposes of this section, Part VI. and Section Seventy-six of the said Act shall apply to and in respect of the promoter and the concession area, and any other lands used or occupied by the promoter in connection with the industry, in the same manner and to the same extent as if such lands were occupied by the promoter under a lease granted under such Act.

Tramways.

19—(1) It shall be lawful for the promoter, with the consent of the Minister and upon such terms and conditions as the Minister deems fit, to make, use, construct, repair, improve, and maintain such lines of tramway to or through the concession area and along such route or routes as the promoter may deem necessary from time to time for the purpose of working the concession area and carrying on the industry, and to take and use so much of the lands of the Crown and private

Kermandie Wood-pulp and Paper Industry.

lands, and of the roads and reserves, both public and private, through or along which such tramway shall pass, as may be required for the construction, maintenance, and working thereof. A.D. 1933.

(2) Any tramway constructed within the County of Kent before the commencement of this Act, and purchased or taken over by the promoter before or after such commencement, shall be deemed to have been constructed under the authority of this Act.

(3) The promoter shall, whenever required by the Minister so to do and within three months after being so required, deposit with the Minister copies of the survey plans showing the route of any tramway constructed by the promoter under the authority of this section.

(4) The promoter shall be at liberty to use steam, electricity, or other motive power for the traction of carriages or vehicles over the said tramways or any of them or for working any mill or machinery upon the concession area or worked in connection therewith.

(5) The parts and sections of the Railway Clauses Consolidation Act, 1901, referred to in Schedule (3) with the modifications therein mentioned, are incorporated with this section, and, for the purpose of such incorporation, this section shall be deemed to be the special Act. 1 Ed. VII. No. 14.

(6) No royalty shall be payable by the promoter on or in respect of any timber or forest products used by it in the construction or maintenance of any such lines of tramway.

20—(1) The promoter at all reasonable times shall make any line of railway or tramway constructed by the promoter on the said lands and for the time being in use by the promoter available for the carriage and transport of timber and other goods. Carriage of timber and goods.

(2) It shall be lawful for the promoter to levy, collect, and take, in respect of any such carriage or transport, such tolls, rates, and charges as may be chargeable in respect thereof as hereinafter provided.

(3) The promoter may prepare rules setting forth scales of such tolls, rates, and charges, and also the terms and conditions upon and subject to which it is prepared to accept goods for transport on any such railway or tramway.

(4) All such rules shall be submitted to the Commissioner for Railways, and, if and when approved by him, may be published by the promoter, and shall be binding upon all the parties concerned.

(5) If the Commissioner for Railways withholds his approval of any such rules, the matter in dispute shall be referred to arbitration in accordance with the provisions of the Arbitration Act, 1892.

(6) In the determination of any such dispute in respect of any toll, rate, or charge to be made by the promoter, the arbitrator may take into account:—

1. The expenses and outgoings of, and incidental to, the transport, handling, and carriage of such timber and forest products, goods, chattels, and other things :

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

- ii. Interest on and depreciation of the permanent-way and rolling-stock and all overhead expense and management charges properly applicable to such carriage and transport—

and may allow to the promoter a profit not exceeding Seven Pounds per centum after making allowance for such matters as aforesaid.

(7) No alteration shall be made in any such tolls, rates, or charges within twelve months after the same are first published, except with the consent of the Commissioner for Railways.

(8) The provisions of Subsection (1) of this section shall not take effect until the expiration of one month after the Minister has given to the promoter notice, in writing, requiring the promoter to give effect to the requirements thereof.

(9) The promoter shall not be compelled to make provision for the transport of goods in any such manner, or at any such times, as would occasion material interference with the normal operations of the promoter.

Wharves.

21—(1) The promoter shall be at liberty to construct, maintain, operate and use wharves or jetties in or on the foreshore of the areas described in Schedules (1) and (4).

(2) Before any wharf or jetty referred to in Subsection (1) of this section shall be commenced, proper plans and specifications thereof shall be submitted to the Marine Board of Hobart, and the site and mode of construction of such wharf or jetty shall be approved by the Minister for Lands and Works on the recommendation of the said Board.

Foreshore
reclamation
and grant.

22—(1) Until the rights and concessions of the promoter under this Act have been determined under the provisions of this Act, or until this Act shall have sooner ceased to have effect, the promoter shall have the exclusive right to the occupation and use of the lands described in Schedule (4).

(2) It shall be lawful for the promoter to enclose with piles, fill up, and reclaim the area of land secondly described in Schedule (4).

(3) When and so soon as the said area of land has been so reclaimed to the satisfaction of the Minister for Lands and Works, the Governor is hereby authorised, in the name and on behalf of His Majesty the King, to convey and alienate the lands firstly and secondly described in Schedule (4) to the promoter in fee simple.

Income tax
deduction.
1 Geo. V. No. 47.

23—(1) In the calculation of the income of the promoter for the purpose of the Land and Income Taxation Act, 1910, or any other Act for the time being in force imposing a tax upon incomes, the promoter shall be allowed a deduction in respect of so much of its gross income as is set aside or paid as or to a fund to provide benefits, pensions, or retiring allowances for the employees of the promoter.

(2) Such deduction as aforesaid shall not be allowed unless the Commissioner of Taxes is satisfied that the fund has been established or the payment made in such a manner that the rights of the employees to receive benefits, pensions, or retiring allowances have been fully secured.

Kermandie Wood-pulp and Paper Industry.

PART IV.

A.D. 1933.

SURRENDER OF RIGHTS.

24 The promoter may at any time, by deed poll, surrender to the Crown all its rights under this Act in respect of any portion or portions, to be particularly described in such deed poll, of the concession area, and upon such surrender such portion or portions shall be freed from all rights conferred upon the promoter by this Act in respect thereof.

Surrender of rights.

25—(1) The Minister may, at any time after the first day of January, one thousand nine hundred and fifty-four, give to the promoter six months' notice in writing that it shall surrender its rights under this Act in respect of the catchment areas of the Kermandie River and its tributaries, or in respect of any portion or portions of such catchment areas to be particularly described in such notice, and, upon the expiration of six months from the date of such notice, the area or areas described therein shall be surrendered by the promoter to the Crown unless a judge makes an order as hereinafter provided.

Power to resume certain lands.

(2) At any time before the expiration of six months from the date of such notice, the promoter may apply to a judge by summons for an order that the area or areas described in such summons shall continue to form part of the concession area.

(3) If, upon the hearing of any such summons, the promoter satisfies the judge that it would be in the interests of the State as well as of the industry that the catchment areas aforesaid, or the portion or portions thereof described in the notice and summons, should continue to form part of the concession area, then the judge shall declare that the whole or any portion of the lands so described shall remain portion of the concession area, and thereupon such lands shall continue to form portion of the concession area.

(4) If the judge, after hearing all the evidence which may be tendered to him on behalf of the Minister and of the promoter respectively, shall consider it expedient that the whole or any portion or portions of the said catchment areas should cease to form part of the concession area, then he shall make an order that the promoter shall, within a time to be specified in the order, surrender by deed poll to the Crown the whole or such portion of the said lands as may be described in the order.

(5) If the judge shall order that the whole or any portion of the said catchment areas shall be surrendered to His Majesty by the promoter, then he shall determine to what extent the obligation imposed upon the promoter by Section Fourteen and Schedule (2) in regard to the supply and delivery of timber for apple cases shall be reduced in consequence of such surrender.

(6) Any tramways or roads constructed by the promoter within the lands to be surrendered other than the promoter's tramway from Kermandie to Hopkins Saddle shall cease to be the property of the promoter and shall become vested in the Crown: Provided that the

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.
—

promoter shall have such rights of passage and haulage over and along any such tramway as may be necessary for the purposes of the industry, upon such terms and conditions as may be agreed upon between the promoter and the Minister, or as may be determined, in the case of difference, by arbitration in the manner provided by Subsection (8) hereof.

(7) Upon any order being made as provided in this section, the Minister shall pay to the promoter—

- i. The costs that have been incurred by the promoter in reafforesting the lands to be surrendered, with interest at the rate of Seven Pounds per centum per annum from the date when the Company incurred the expenditure to the date of the surrender :
- ii. The reasonable value of any tramway or road, and of provisions for fire protection, constructed or installed by the promoter on lands which shall become vested in the Crown under Subsection (4) hereof.

(8) If any difference or dispute shall arise between the promoter and the Minister as to the amounts payable under the last preceding subsection, such difference or dispute shall be determined by some person representing the Minister and a representative of the promoter, and, in the event of their disagreement, the question shall be referred to an umpire, whose decision shall be final. Such reference shall be under and in accordance with the Arbitration Act, 1892.

56 Vict. No. 8.

(9) Upon any such surrender being made as hereinbefore provided, the promoter shall have the right, during the period of twelve months after the date of the surrender, to remove all timber and forest products cut by it prior to such date.

(10) After the date of the surrender the Minister and his assigns shall have running rights over any other tramways the property of the promoter for the carriage of timber cut within the surrendered lands. Any difference or dispute arising in regard to such running rights shall be determined by some person to be nominated by the Commissioner for Railways, whose decision shall be final.

(11) Subject to the foregoing provisions, the lands surrendered in manner aforesaid shall, upon such surrender, be freed from all rights conferred upon the promoter in respect thereof by this Act.

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

PART V.

FORFEITURE OF RIGHTS.

26—(1) If the promoter, whenever required so to do, at any time after the expiration of the appropriate period prescribed in that behalf by this subsection, fails to satisfy the Governor— Power to terminate Act.

- i. That there has been expended, within two years after the commencement of this Act, at some place or places in the County of Kent, not less than Ten thousand Pounds in further investigating the most advantageous method of manufacturing wood-pulp, printings, and newsprint, or any or either of them, from timber or forest products obtained wholly or in part from the concession area : and
- ii. That, within five years after the commencement of this Act, the promoter has completed the installation within the County of Kent of plant for the manufacture of at least ten thousand tons of wood-pulp annually—
- iii. That, within three years after the installation of the plant mentioned in Paragraph ii. hereof, the promoter has commenced to utilise, and at all times thereafter has continued to utilise, such plant in good faith and to the fullest practicable extent for the production of wood-pulp—

the Governor may, by proclamation, declare that the rights and concessions conferred upon the promoter under this Act shall be determined, and thereupon the provisions of this Act shall cease to have effect, but without prejudice to the enforcement against the promoter of any liability incurred by it under this Act previously to such cesser.

(2) The Governor, upon being satisfied that any such expenditure as is mentioned in Paragraph i., or any such work as is mentioned in Paragraph ii., of Subsection (1) hereof has been delayed through any cause beyond the promoter's control, may extend the time within which the said sum shall be expended, or the said work completed, as aforesaid for a further period of twelve months beyond the periods of two and five years respectively prescribed for the same.

(3) At any time after the expiration of two years after the commencement of this Act and before the expiration of five years after that date, the Governor may call on the promoter to satisfy him that it has made or is making substantial progress in or towards the carrying out of the requirements of Paragraph ii. of Subsection (1) of this section and, if the promoter fails so to satisfy the Governor, the Attorney-General may apply to a judge for a summons calling upon the promoter on a day to be mentioned therein to show cause why the rights and concessions granted to it under this Act should not be determined. Upon the hearing of any such summons the judge may order and declare that the rights and concessions granted to the promoter under this Act shall cease and determine as from the date of such order, and thereupon the same shall be determined accordingly.

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

Application for
determination or
curtailment of
rights.

27—(1) If, at any time after the expiration of twenty years from the commencement of this Act, the promoter fails to satisfy the Governor, when required to do so, that it has, within the period of three years immediately preceding such requirement, manufactured in this State, from timber obtained from the concession area, an average of not less than ten thousand tons per annum of wood-pulp or paper, the Attorney-General may apply to a judge for a summons calling on the promoter to show cause why the rights and concessions granted to it under this Act should not be determined or curtailed.

(2) Upon the hearing of such summons the judge may order and declare that the rights and concessions granted to the promoter under this Act shall cease and determine as from the date of such order, and thereupon the same shall be determined accordingly.

(3) If, upon the hearing of such summons, the promoter fails to satisfy the judge—

- i. That the failure to produce the prescribed minimum average quantity of wood-pulp or paper has been due to causes over which it had no control: and
- ii. That it has produced, from timber obtained from the said lands, wood-pulp or paper in such quantities as in the opinion of the judge entitle it to retain some part of the rights and concessions granted under this Act—

the judge may order and declare that the rights and concessions granted to the promoter under this Act shall cease to have effect in relation to the concession area, or such portion of the concession area as may be specified in such order, and thereupon such area or such portion or portions thereof shall cease to be subject to the provisions of this Act and all rights of the promoter in relation thereto shall cease.

(4) Evidence in support of, or in opposition to, the application to show cause may be given by affidavit, or, if the judge so directs, may be given orally, or partly by affidavit and partly orally, and in all other respects the procedure on and in connection with such application shall be such as the judge shall direct.

(5) The judge shall make such order as to the costs of the proceedings as he shall think fit.

Application for
curtailment of
concession.

28—(1) At any time after the expiration of—

- i. Twenty years from the commencement of this Act: and
- ii. If any order has been previously made under this section, of ten years after the last order so made—

the Governor may call upon the promoter to satisfy him that it has erected, installed, and equipped plant within the State, capable of utilising the estimated annual accessible yield of timber of the whole concession area, and, if the promoter fails to satisfy the Governor that he has erected, installed, and equipped sufficient and suitable plant for that purpose, the Attorney-General may apply to a judge for a summons calling upon the promoter to show cause why the concession should not be curtailed.

Kermandie Wood-pulp and Paper Industry.

(2) Upon the hearing of any such summons, the promoter may A.D. 1933.
show—

- i. That the non-compliance with any requirements of this Act has been due to causes over which it has not any control:
- ii. That it intends in good faith, within a reasonable time, to increase its plant and equipment in such manner, and to such extent, that it will require the timber from the whole of the concession area, and has reasonable prospects of giving full effect to such intention.

(3) Upon the hearing of any such summons, the judge may order and declare that the rights and concessions granted to the promoter under this Act shall cease, from the date of such order, to have effect in respect of such portion or portions of the concession area as may be specified in such order.

(4) Any such order as aforesaid may reserve to the promoter any tramways belonging to it upon any portion of the concession area specified as aforesaid which, in the opinion of the judge, are required by the promoter for the working of any lands remaining in the concession area and may direct that the promoter shall have the right to run such tramways over such specified portion as aforesaid.

(5) Subject to Subsection (4) of this section, the provisions of Subsections (7) and (8) of Section Twenty-five shall apply in respect of any such order as if the same were an order made under that section and as if the reference therein to Subsection (4) thereof were a reference to Subsection (3) of this section.

(6) The portion or portions of the concession area to be specified in any order made under Subsection (3) of this section shall be such as may be shown not to be reasonably necessary to enable the promoter to keep its plant and equipment supplied to their full capacity, and the judge shall take into consideration the amount of timber required by the promoter for the operations then being carried on by it in connection with the industry.

(7) Evidence in support of, or in opposition to, the application to show cause may be given by affidavit or, if the judge so directs, may be given orally, or partly by affidavit and partly orally, and in all other respects the procedure on and in connection with such application shall be such as the judge shall direct.

(8) The judge shall make such order as to the costs of the proceedings as he shall think fit.

PART VI.

REGULATIONS.

29 The Governor may make regulations prescribing all matters Regulations.
which, by this Act, are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

PART VII.

DURATION OF RIGHTS.

Period during
which rights may
be exercised.

30—(1) Subject to the provisions of this section, this Act shall expire at the expiration of fifty years from the commencement thereof, and thereupon the rights and concessions hereby granted to the promoter shall cease to have effect.

(2) At any time, not more than five years nor less than twelve months prior to the expiration of the said period of fifty years, the promoter may apply to a judge for an order declaring that the operation of this Act shall be extended and remain in operation for a further period of fifty years.

(3) Such application shall be made by summons calling upon the Minister to show cause why such extension should not be granted.

(4) If, upon the hearing of such summons, the promoter shall satisfy the judge that it is willing and able to continue the industry on a scale which, in the opinion of the judge, is sufficient to justify the extension for which it applies, and that it intends in good faith so to do, and that it is in the interests of the State that such extension should be granted, the judge may order and declare that the operation of this Act shall not expire until the expiration of a further period of fifty years from the commencement of this Act, and the same shall continue in operation accordingly, subject nevertheless to the provisions of Part IV.

(5) All costs of and incidental to any such application and order shall be borne by the promoter.

SCHEDULE (1).

Section 3.

PART I.—THE CONCESSION AREA.

All Crown lands included in—

- (a) The respective catchment areas of the Arve, Picton, Weld, and Anne Rivers and their respective tributaries:
 - (b) The catchment areas of the Huon River and its tributaries between the Arve and Anne Rivers:
 - (c) The catchment areas of the Kermandie River on the right bank of that river and of its tributaries on that bank—
- excepting thereout all lands described or referred to in Part II. of this schedule.

PART II.

All lands which at the commencement of this Act are—

- (a) Held under contract of sale from the Crown; or
- (b) Held or occupied under any lease or licence for mining purposes, or under any miner's right, consolidated miner's right, or prospector's licence issued under the Mining Act, 1929; or

Kermantie Wood-pulp and Paper Industry.

- (c) Held or occupied under any forestry or timber lease, licence, or permit from the Crown, or under any grazing or pastoral lease issued or granted under the Crown Lands Act, 1911; or
- (d) Reserved for any of the public purposes specified in Section 11 of the Crown Lands Act, 1911—

A.D. 1933.

and all the lands described in Schedule (5) shall be excepted from the concession area. Provided, however, that the lands described in Schedule (5) shall be excluded from the provisions of the Forestry Act, 1920, and be kept available for inclusion in the concession area after three years from the commencement of this Act, should Parliament so provide.

Provided that all lands referred to and included in this Part shall, upon the determination of the lease, licence, or permit in respect thereof, be excluded from the exceptions mentioned in this Part and become subject to the general provisions of this Act respecting the concession area.

Provided also that the Minister may, on the recommendation of the Conservator, in any case in which the Minister shall deem it expedient so to do, in order to allow the holder of any such forestry or timber lease or permit to complete the cutting of timber on the land in respect of which such lease or permit is held, extend the terms for the determination of such lease or permit in respect of the whole or portion of such land for such period as the Minister shall deem necessary for the purpose aforesaid.

SCHEDULE (2).

Section 14.

- (1) In this schedule—

“Fruitgrower” means the owner or occupier of any orchard in the Municipalities of Huon, Esperance, Port Cygnet, or Kingborough, and includes any company, association, organisation, or society engaged within any of the said municipalities in the business of growing, storing, packing, shipping, or processing apples:

“Standard apple case” means a case of a size and having the measurements prescribed by the First Schedule to the Fruit Cases Act, 1909 (9 Ed. VII. No. 63), or by any statutory amendment or modification of such schedule for the time being in force:

“Year” means the twelve calendar months commencing on the 1st day of July in any one calendar year and extending to the 30th day of June in the next following calendar year:

“Fruitgrowers’ representative” means some person appointed by the Minister to represent the fruitgrowers as hereinafter provided in this schedule.

(2) The promoter shall, from time to time, supply and deliver to fruitgrowers timber suitable for the making of standard apple cases upon requisition made in manner and upon the terms and conditions hereinafter set forth.

(3) Such timber shall be supplied and delivered in the form of case material ready to be made up into standard apple cases suitable for the export of apples from Tasmania.

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

(4) Every fruitgrower desiring to be supplied by the promoter with case material shall make a requisition for the same. Every such requisition—

- (a) Shall be prepared by the fruitgrower and the fruitgrowers' representative;
- (b) Shall state the date on which the fruitgrower desires that the case material shall be supplied;
- (c) Shall state the quantity of case material required;
- (d) Shall be in writing and in duplicate and signed by the fruitgrower and the fruitgrowers' representative;
- (e) Shall be lodged with the promoter not later than the 1st day of December in each year in the manner hereinafter provided.

(5) If any fruitgrower desires that case material shall be delivered to him on separate dates in any year, a separate requisition shall be made for the quantity desired on each date.

(6) The requisition shall forthwith, after the preparation thereof, be lodged by the fruitgrowers' representative with the promoter for its approval. If it is approved by the promoter, both copies shall be signed or stamped on behalf of the promoter, and one copy shall be returned to the fruitgrowers' representative for delivery to the fruitgrower. Such last mentioned copy shall be handed to the promoter when delivery of the case material is taken and shall then be retained by the promoter.

(7) No such requisition shall be refused by the promoter unless—

- (a) It is not in accordance with the conditions herein set forth;
or
- (b) It is not practicable for the promoter to fulfil the requisition on the desired date, having regard to the number of requisitions previously approved by the promoter for delivery on that date.

(8) If for any reason the requisition is not approved by the promoter, it shall be returned to the fruitgrowers' representative.

(9) The approval of the promoter to a requisition as aforesaid shall constitute a contract under which the promoter shall be bound to supply and deliver, and the fruitgrower shall be bound to take delivery of and pay for, the case material in accordance with the requisition as approved by the promoter and upon the terms and conditions herein contained.

(10) Such case material shall be supplied and delivered by the promoter and taken by the fruitgrower at such place on the waterfront at Kermandie in Tasmania as the promoter may determine, or at such other place or places as may be mutually agreed upon between the promoter and the fruitgrowers' representative, as set forth in the requisition as approved by the promoter in accordance with Clause (6) hereof.

(11) The promoter shall not be required to supply and deliver a greater quantity of case material than is contracted for, nor shall it be required in any one year to supply and deliver a greater quantity of case material than will be sufficient adequately to meet the reasonable requirements of the fruitgrowers in the Municipalities of Huon, Esperance, Port Cygnet, and Kingborough who shall requisition for case material for delivery in that year.

(12) The promoter shall be paid by the fruitgrower for all case material contracted for at a price per case based upon the cost thereof to the promoter, plus Seven Pounds per centum of such cost.

Kermandie Wood-pulp and Paper Industry.

(13) The cost to the promoter shall include the costs incurred in the harvesting, milling, delivery, and, if required seasoning of such case material and such matters as are usually and properly included when arriving at the cost of such material, including repairs, maintenance, overhead expenses, depreciation of plant, and the like, so far as the same, or a fair proportion thereof, relate to the production of case material for the purposes of this schedule. A.D. 1933.

(14) The Minister shall, from time to time, appoint some person to be the fruitgrowers' representative, with power to suspend or remove such person and appoint another in his place, and shall fix the remuneration to be paid to him, either as a weekly, monthly, or yearly salary, as the Minister and the promoter decide. The amount of such remuneration shall be paid by the promoter to the Minister as and when the same shall be required, and so long as the promoter shall continue to supply case material under the terms of this schedule. The amount of such remuneration shall be part of the delivery costs referred to in Clause (13) hereof.

(15) Upon the date named in each contract for the supply and delivery of case material, the fruitgrower shall pay to the promoter the price payable for such case material, and the promoter shall not be required to deliver any case material until payment for the same is made.

(16) For the first year the price of case material shall be as agreed upon between the fruitgrowers' representative and the promoter, having regard to the provisions therefor herein contained. Thereafter the price shall be based upon the cost of the previous year's operations, plus Seven Pounds per centum, and as agreed between the fruitgrowers' representative and the promoter. All pertinent books, papers, and other documents of the promoter shall, for this purpose be made available by the promoter to the fruitgrowers' representative. The price for each year shall be declared by the promoter before the 31st day of July in such year.

(17) If the fruitgrowers' representative and the promoter fail to agree as to the price for any financial year as aforesaid, the matter shall be determined as provided by Clause (21) hereof, and the arbitrators or their umpire may fix the price for such year at such amount as they or he may determine.

(18) Should the promoter be prevented from supplying and delivering any case material contracted for, or should any fruitgrower be prevented from taking delivery of such timber by reason of any act of God, riot, strike, lockout, or other similar cause beyond the control of the promoter or the fruitgrower, as the case may be, the time for delivery shall be extended until the operation of the cause preventing delivery has ceased.

(19)—

- i. If the promoter shall give to the Minister three months' written notice that it is unable for any reason to supply and deliver case material: or
- ii. If the fruitgrowers' representative shall give written notice to the Minister of failure or neglect on the part of the promoter to supply and deliver case material according to the terms of this schedule—

then the Minister may authorise the Conservator, in writing as hereinafter provided, to grant any persons permits to obtain case material from any portions of the concession area specified in such authority.

Kermandie Wood-pulp and Paper Industry.

A.D. 1933.

(20) If the authority mentioned in Clause (19) hereof shall be given by the Minister to the Conservator—

- (a) The Conservator may issue exclusive forest permits under the Forestry Act, 1920, and shall specify and describe the area in respect of which it is granted and the conditions upon, and subject to which, the holder thereof may take timber for case material from such area;
- (b) It shall be an express condition of such entry that such cutting and removal does not interrupt or interfere with the operations of the industry;
- (c) The powers reserved to the Minister under the preceding clause shall relieve the promoter from its obligation to supply and deliver case material and from any liability or claim on account of the non-supply or non-delivery of case material;
- (d) The promoter may, from time to time, notify the Minister of its willingness to resume the supply of case material, and thereupon the Minister may direct that no further exclusive forest permits shall be issued under the authority conferred by Clause (19) hereof, and that no extension shall be granted on the expiry of any current permits already issued under that division, and the promoter, upon receipt of a notice, in writing, from the Minister that such direction has been given shall resume the supplying of case material under the provisions of this schedule;
- (e) No exclusive forest permit issued under the authority of Clause (19) hereof shall be for a period exceeding three years;
- (f) No royalty shall be payable by the promoter in respect of any timber cut under the authority of this division.

(21) If any dispute or difference shall arise between any fruit-grower and the promoter as to any matter arising out of or in relation to the provisions of this schedule, the matter shall be referred to the fruitgrowers' representative and a representative of the promoter, and their decision shall be final. In the event of their being unable to agree, or in the event of any disagreement between the fruit-growers' representative and the promoter or its representative, on any of the matters herein contained, the dispute shall be referred to the arbitration of a sole arbitrator, to be appointed in the manner provided by the Arbitration Act, 1892.

SCHEDULE (3).

Section 19.

RAILWAY CLAUSES CONSOLIDATION ACT, 1901.
INCORPORATED SECTIONS.

Section 3.—But "road" shall also include any esplanade or Crown reservation along the banks of any river, lake, or lagoon, or along the sea-shore.

Part I.—Sections 9 to 18, inclusive, Sections 20 to 22, inclusive, and Section 25.

Part II.

Part III.—Sections 36 and 43.

Part IV.

Part VI.

Part XII.—Section 92 to 96, inclusive, and Section 100.

*Kermandie Wood-pulp and Paper Industry.***SCHEDULE (4).**

A.D. 1933.

Section 21.

DESCRIPTION OF FORESHORE AND RECLAMATION SITE.

(1) The area forming the Crown reservations along the foreshore at the mouth of the Kermandie River and lying between low-water mark and the three pieces of land now owned and occupied by the promoter, namely 21a. 3r. 10p. (Vol. 346, Fol. 96), 29a. 2r. 3p. (Regd. No. 18/329), and 2a. 1r. 36 4/10p. (Vol. 346, Fol. 51), and extending from and including the jetty site near the eastern end of the said pieces of land to and including the railway bridge over the Kermandie River, near the western end of the said pieces of land, which said area of land is delineated in a plan signed by the President of the Legislative Council and the Speaker of the House of Assembly and deposited with the Minister of Lands and Works on the 22nd day of September, 1926, and is in the said plan surrounded by red boundary lines, excepting thereout a strip of land, fifty feet wide and distant approximately five chains north of the aforesaid railway bridge, upon which said strip of land a road has been constructed across the said Crown reservation.

(2) The area adjacent to portion of the abovementioned Crown reservation, and situate at or near the head of Hospital Bay, as such area is delineated in the plan above referred to, and therein surrounded by green boundary lines.

SCHEDULE (5).**4000 ACRES.**

Bounded on the north by 160 chains easterly along Crown land commencing at a point on the Arve River distant 20 chains westerly from the south-west angle of 5000 acres formerly leased to R. A. Robertson (No. 199/T) on the east by 250 chains southerly along Crown land on the south by 162 chains westerly also along Crown land to the Arve River aforesaid and thence by that river to the point of commencement.

3100 ACRES.

Bounded on the north by 118 chains westerly along 5000 acres formerly leased to R. A. Robertson (No. 99/T) commencing at the Kermandie River on the east by 96 chains 21 links northerly along Crown land again on the north by 125 chains westerly also along Crown land on the west by 183 chains 80 links southerly also along Crown land on the south by 213 chains 54 links easterly also along Crown land to the Kermandie River aforesaid and thence by that river to the point of commencement.

