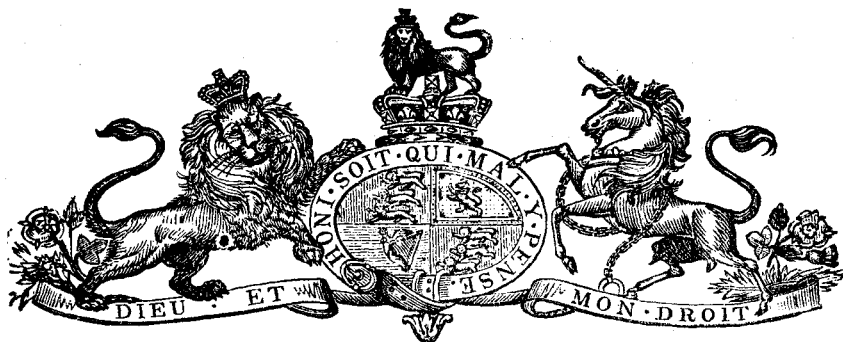


T A S M A N I A .

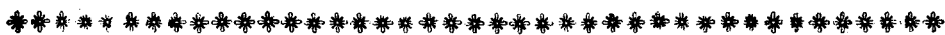


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ANNO SEXAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 62.



AN ACT to make better provision for securing a sufficient flow of good Water in the River *Clyde* for the use of the Inhabitants of the Towns of *Bothwell* and *Hamilton*, and for other purposes. [29 October, 1898.]

A.D. 1898.

WHEREAS it is expedient to make better provision for securing a sufficient flow of good Water in the River *Clyde* for all purposes :

PREAMBLE.

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 :—

1 This Act may be cited as “The *Clyde* Water Act, 1898.”

Short title.

Repeal.

2 “The River *Clyde* Act” is hereby repealed, except as to acts already done ; and all dams and works constructed under the said Act shall be deemed to have been constructed by the Trustees under this Act, and all property vested in Trustees under the said Act shall be deemed to be vested in the Trustees under this Act.

Repeal of 33 Vict. No. 34. Saving as to acts, &c. done.

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Trustees.

How Trustees appointed and elected.

3 For the purpose of carrying out the provisions of this Act, there shall be Eight Trustees appointed and elected as hereinafter provided; that is to say—

- I. Four ordinary Trustees appointed by this Act, and their successors to be elected as hereinafter provided;
- II. The Warden for the time being of the Rural Municipality of *Bothwell* and one of the Councillors of such Municipality;
- III. The Warden for the time being of the Rural Municipality of *Hamilton* and one of the Councillors of such Municipality.

The Trustees so appointed and elected shall for all purposes be called “the Trustees of the River *Clyde*,” and shall have and exercise all the powers conferred by this Act.

Appointment and retirement of Trustees.

4 The following Four persons shall be the first “ordinary Trustees of the River *Clyde*,” that is to say,—

Edward Nicholas,
Alexander Arthur Reid,
James Tolland,
John Madden.

The ordinary Trustees shall, subject to the provisions of this Act, hold office for a period of Three years.

In the month of *April* in the year One thousand nine hundred and one, and in every succeeding year, Two of the ordinary Trustees shall retire from office, and the ordinary Trustees appointed by this Act shall determine by lot amongst themselves which of them shall retire in the year One thousand nine hundred and one, and in the Two succeeding years, and thereafter the Two Trustees being longest in office shall retire.

Every Trustee going out of office shall if qualified be eligible for re-election.

In case any of the ordinary Trustees die, resign, or cease to reside within Ten miles of any part of the banks of the River *Clyde*, then the place of such Trustee shall be deemed to be vacant, and in every such case a new Trustee shall be elected to supply such vacancy; and such new Trustee shall hold office for so long only as the vacating Member would have held the same if no vacancy had occurred.

New Trustee to be elected at a meeting of Ratepayers.

5 Every ordinary Trustee shall be elected by the persons liable to be rated under the provisions of this Act; and upon any vacancy occurring amongst the said Trustees, the Chairman or Acting Chairman of Trustees shall forthwith fix a time and place for holding a meeting of such persons for the purpose of electing a new Trustee, and shall give notice of the time and place for holding such meeting in the *Gazette* and in a newspaper published in *Hobart* Fourteen days before such meeting.

Election how conducted.

6 Every such election of an ordinary Trustee shall be conducted in the same manner, as nearly as may be, as elections of Road Trustees are directed to be conducted under “The Roads Act, 1884.”

Municipal Council of

7—(1.) The Municipal Council of the Rural Municipality of *Bothwell* shall, in each year, elect one of its Members to be a Trustee

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of the River *Clyde* for the ensuing year, who shall hold office until his successor is elected. A.D. 1898.

(2.) The Municipal Council of the Rural Municipality of *Hamilton* shall, in each year, elect one of its Members to be a Trustee of the River *Clyde* for the ensuing year, who shall hold office until his successor is elected. *Bothwell and Hamilton to each elect a Trustee.*

(3.) If any Trustee elected by either of such Municipal Councils ceases, by effluxion of time or otherwise, to be a Member of the Municipal Council that elected him, he shall also cease to be a Trustee of the River *Clyde*, and such Municipal Council shall elect one of its Members to be a Trustee in his place; and the Member so elected shall be a Trustee for the unexpired portion of the time during which the person in whose place he has been elected would have been a Trustee.

8 The Trustees shall hold such Meetings as may be necessary for the transaction of business, and for properly executing its powers and duties under this Act. Meetings of Board.

The Trustees shall from time to time make regulations with respect to the summoning, notice, place, management, and adjournment of their Meetings, and generally with respect to the transaction and management of their business. Regulations.

No business shall be transacted at such Meetings unless at least Five Trustees are present. Quorum.

The Trustees shall annually elect one of their Members to be Chairman of the Trustees for the ensuing year, who shall hold office until his successor is elected, and if the Chairman is absent from any Meeting at the time appointed for holding it, the Trustees present shall appoint one of their number to act as Chairman thereat. Chairman.

The names of the Trustees present shall be recorded, and so shall the names of those voting on each question when a division is called for, in manner to show whether each vote given was for or against the question. Names to be recorded.

Every question at a Meeting shall be decided by a majority of the votes of the Trustees present and voting on the question; and in case of an equal division of votes the Chairman shall have a second or casting vote. Voting.

The first Meeting of the Trustees shall be held at such place and time as the person who was the last Chairman of the *Clyde Water Trust* under the Act hereby repealed shall by written notice to every Trustee appoint. First meeting.

Powers of Trustees.

9 The Trustees shall, for the purposes of this Act, have and exercise the following powers and authorities:— Powers of Trustees.

- i. To repair, alter, reconstruct, or remove the said dams and works:
- ii. To construct, repair, alter, and remove such dams, sluices, embankments, or other works on the River *Clyde* or on the River *Interlachen* (which connects Lake *Crescent* with Lake *Sorell*), or on the banks of the said Lakes, as the Trustees deem necessary;
- iii. To construct, repair, alter, and remove such channels, sluices, and other works as may be required to convey water

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directly from Lake *Sorell* to the River *Clyde*, as the Trustees deem necessary :

- iv. To construct, repair, alter, and remove such Waterworks as the Trustees may from time to time deem necessary for supplying the inhabitants of *Bothwell* and *Hamilton* with water for domestic and other purposes :
- v. To enter, or cause their servants or workmen to enter, upon any land on either side of the River *Clyde* or the River *Interlachen* or of Lake *Sorell* or Lake *Crescent* for the purpose of constructing, repairing, altering, or removing any dam, channel, sluice, embankment, or other work by this Act authorised to be constructed, repaired, altered, or removed :
- vi. To remove soil, and to place stone, bricks, wood, or other materials in, upon, or beneath any land within One hundred feet of any dam, channel, sluice, embankment, or other work constructed, or at any time about to be constructed, under the provisions of this Act :
- vii. To fix the Rates to be paid for the use of the waters of the River *Clyde* and of Lakes *Sorell* and *Crescent* for irrigation, motive power, domestic use, and other purposes, and the conditions of such use :
- viii. To recover damages and penalties :
- ix. To enter into any necessary contracts :

Provided, that the owner of any land shall be entitled to compensation from the Trustees for all loss or injury he may sustain by reason of the construction of any dam, channel, sluice, embankment, or work, and also for any other injury he may sustain by reason of the exercise by the Trustees of any of the powers vested in them by virtue of this Act; and such compensation shall be ascertained and determined in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

Power to make
By-laws.

10 It shall be lawful for the Trustees from time to time to make By-laws, and by any subsequent By-law to vary or rescind such By-laws, for any of the following purposes :—

To prevent the fouling or obstruction of the Rivers *Clyde* and *Interlachen*, and any channels or sluices made by the Trustees, or the Waters of the said Rivers, or channels or sluices, or of Lake *Sorell* or Lake *Crescent* :

To regulate the use of the Waters of the River *Clyde* and of Lakes *Sorell* and *Crescent* for irrigation or other purposes :

To fix penalties for any breach of any By-law :

Not to be repug-
nant to Law.

To be certified by
Attorney or
Solicitor-General.

No By-law to be made by the Trustees shall be repugnant to this Act, or to the general spirit and intendment of the Laws in force in this Colony, nor shall be of any force or effect until it has been certified by the Attorney-General or Solicitor-General not to be repugnant to this Act, or to the general spirit and intendment of the Laws in force in this Colony.

Every By-law made by the Trustees under this Act shall be published in the *Hobart Gazette* and laid before both Houses of Parliament within Fourteen days after the publication thereof if then sitting, and if not sitting then within Fourteen days after the next meeting of Parliament.

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11 Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Fifty Pounds, in addition to the cost of repairing and making good any damage done by any of the acts mentioned :—

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Offences.

- I. Wilfully destroying or injuring any dam, sluice-gate, channel, or embankment or work constructed under the said recited Act, or which may hereafter be constructed under the provisions of this Act :
- II. Making any sluice or cutting, or doing any work or act whereby the Trustees may be prevented from exercising or interfered with in the exercise of the powers and rights conferred upon them by this Act :
- III. Doing any act or constructing any work which by this Act the Trustees are empowered to do or construct, or which will, without the consent in writing of the Trustees, abstract Water from Rivers *Clyde* or *Interlachen* or Lakes *Sorell* and *Crescent* for any other purpose than for domestic use or for stock within the area liable to be rated under this Act.

Rate.

12 For the purpose of raising the necessary funds for carrying out the several objects of this Act, it shall be lawful for the Trustees from time to time to make and levy a Rate upon the annual value of all properties (not situate in the Towns of *Bothwell* and *Hamilton*) fronting on the River *Clyde* which have been rated under the repealed Act, and upon the annual value of all properties situate in the Towns of *Bothwell* and *Hamilton* as ascertained by the Assessment Rolls in force for the Rural Municipalities of *Bothwell* and *Hamilton* relating to such properties: Provided that such Rate shall not in any one year exceed Three Pence in the Pound upon the annual value of the properties fronting on the River *Clyde*, and Sixpence in the Pound upon the annual value of all properties situate in the said Towns.

Rate may be
levied.

13 Upon the making of any such Rate, a notice signed by not less than Three Trustees, specifying the amount in the Pound of the Rate, the period for which the same is made, and at what times the same is payable, shall be published in the *Gazette*; and upon any such notice being so published the Rate therein mentioned shall be payable and paid at the times specified in such notice by the persons liable to pay the same, according to the annual value of the property as shown by the Assessment Roll; and it shall not be necessary in any such notice to set forth the names of the persons liable to the payment of the Rate, or the sums which, according to such Rate, such persons are liable to pay, or any other particulars than are hereinbefore in that behalf mentioned.

Upon making a
Rate, notice of
same to be given.

All the provisions of Part III. of "The Roads Act, 1884," relating to *Road Rates*, except Sections Fifty-six and Fifty-seven, shall be incorporated herewith, and shall apply to every Rate made and levied under the provisions of this Act.

14 The Trustees shall, from time to time, appoint a Treasurer and a Collector of Rates, either of whom may be a Trustee, and may, from

Power to appoint
Officers.

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time to time, appoint and employ such Surveyors and other Officers as the Trustees think necessary and proper ; and, from time to time, may remove any of such Officers, and appoint others in the room of such as are so removed, or as may die, resign, or discontinue their offices; and may, out of the moneys at the disposal of the Trustees under this Act, pay such salaries and allowances to the said Officers respectively as the Trustees think reasonable: Provided, that nothing herein contained shall prevent the same person from being appointed to hold more than one of such offices at the same time if the Trustees so think fit ; and all the provisions of Part III. of "The Roads Act, 1884," relating to *Officers and their Accountability* shall be applicable to such Treasurer, Collector, and other officers, and shall be incorporated with this Act.

Trustees to keep accounts of receipts and disbursements.

15 The Trustees shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid under the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any Trustee or ratepayer or any holder of any Debenture issued by the Trustees or any mortgagee or transferee or other creditor of the Trustees, without fee or reward ; and the persons aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same ; and any person having the custody of the said books who does not, on the reasonable demand of any person as aforesaid, permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall, for every such offence, incur a penalty not exceeding Five Pounds.

Moneys received to be paid into bank.

16 All moneys received by the Treasurer of the Trustees shall be paid by him forthwith into some one of the public banks of this Colony to the account of the Trustees ; and no part of such moneys shall be drawn out of such bank except by cheque signed by the Treasurer and countersigned by one other of the Trustees.

Statement and account to be annually prepared.

17 The Trustees shall, before the end of the second week in the month of *March* in each year, cause the accounts of the Trustees up to and including the last day of *February* next preceding to be balanced, and also cause a full and true statement and account to be drawn out of the amount of all rates made and levied, and of all moneys received and expended during the preceding year, and also of all debts then owing by and to the Trustees, and such statement and account shall be signed by the Chairman and not less than Two Trustees.

Audit of accounts. 52 Vict. No. 43.

18 The accounts of the Trustees shall be subject and liable to all the provisions of "The Audit Act, 1888," in the same manner as the accounts of Trustees of Road Districts are now subject and liable ; and the statement and account hereinbefore mentioned shall be forwarded to the Auditor-General during the month of *March* in every year ; and the statement and accounts mentioned in the last preceding Section of all moneys received and expended shall be published in the *Gazette* by the Auditor-General as soon as may be after the same have been audited.

Appropriation.

19 All moneys whatsoever levied, received, or recovered under the authority of this Act shall be at the sole and absolute disposal of the

Clyde Water.

Trustees, to be by them applied in such manner as they see fit in carrying out and effectuating the purposes of this Act, and to no other purpose. A.D. 1898.

20 It shall be lawful for the Governor in Council, from time to time, to grant to the Trustees as a loan or loans for carrying out the objects of this Act, any sum or sums of money not exceeding in the whole Two thousand Pounds, under and subject to the provisions of "The Local Public Works Loans Act, 1890." Governor in Council may grant loan.

54 Vict. No. 30.

21 The power to borrow money hereinbefore conferred upon the Trustees shall be exercised in accordance with and subject to the provisions of "The Local Bodies Loans Act," and whenever in that Act the terms "Local Bodies," or "Municipal Council," or "Municipality" are used, the same shall, for the purposes of this Act, be deemed to mean the Trustees of the River *Clyde*; and the terms "Warden" and "Council Clerk" shall, for the purposes of this Act, respectively be deemed to mean the Chairman of the Trustees and the Secretary to the said Trustees: Provided, that Sections Five, Seven, Eight, Nine, and Twenty-eight of "The Local Bodies Loans Act" shall not apply to this Act. Powers of 45 Vict. No. 16 to be exercised by Trustees.

22 The Trustees may sue and be sued, and all proceedings before any Court, or a Judge of any Court, and all proceedings taken or adopted in pursuance of the provisions of this Act, may be taken or adopted by or against them by the name of the Trustees of the *River Clyde*, without otherwise naming such Trustees, and service of any legal process on the Chairman or Secretary shall be deemed and taken as good service on the said Trustees. Trustees may sue and be sued.

23 The property in all land vested in, taken, or purchased by the Trustees, and in all moneys at their disposal for the purposes of this Act, and in all Waterworks, with the several appliances and appurtenances thereto belonging, and the materials of which the same consist, and all materials, tools, implements, and things furnished and provided by the Trustees for the purposes of this Act, shall, for the purposes of this Act, be vested in the Trustees, who shall be a Corporation by the name of "the *Clyde Water Trust*," with power to hold land and have a common seal; and in any proceedings, civil or criminal, relating to such land, waterworks, money, or property so vested in the Trustees for the purposes of this Act, it shall be sufficient to describe such property, waterworks, or money as "the property, waterworks, or money of the Trustees of the *River Clyde*." Property may be laid in the Trustees.

24 All offences against this Act, not otherwise provided for, shall be heard and determined in a summary way by any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person convicted of any offence against this Act may appeal against the conviction in the mode prescribed by *The Appeals Regulation Act*. Offences to be dealt with summarily. 19 Vict. No. 8.

19 Vict. No. 10.

