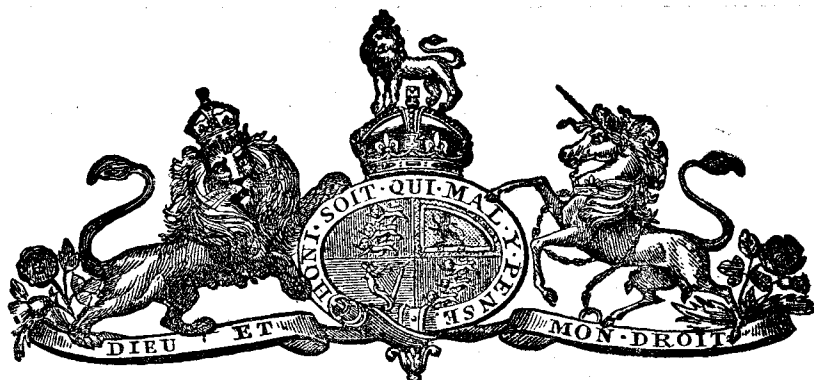


T A S M A N I A



1905.

ANNO QUINTO

EDWARDI VII. REGIS,

No. 16.



AN ACT to further amend "The *Hobart Water Act, 1893.*" A.D. 1905.
[26 October, 1905.] —

WHEREAS it is expedient to further amend "The *Hobart Water Act, 1893,*" in the manner hereinafter appearing: 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 for all purposes as "The *Hobart Water Act, 1905.*" Short title.

2 In the construction and for the purposes of this Act— Interpretation.
The expression "the said Act" shall mean "The *Hobart Water Act, 1893:*" 57 Vict. No. 25.

The expression "Judge" shall mean a Judge of the Supreme Court of *Tasmania* sitting in Chambers or in open Court:

The expression "the said river" shall mean the *North-West Bay River:*

The expression "the *Gazette*" shall mean the *Hobart Gazette:*

8d.]

Hobart Water.

A.D. 1905.
62 Vict. No. 12.

The expression "the Riparian Proprietors Act" shall mean an Act to secure the rights of the riparian proprietors upon the *North-West Bay River*.

Additional sources of supply of water.

3 The following rivers, streams, and waters shall, in addition to those mentioned in Section Seven of the said Act, constitute further sources of the supply of water for the purposes of the said Act :—

- i. The said river : Provided that the Corporation shall be entitled to take, divert, or impound One-half, and no more, of the waters naturally flowing down the main channel of the said river at the point of intake upon such main channel ; but the Corporation may take and divert from the said river, in addition to such One-half of the waters, a quantity of water equal to any quantity which it may divert into the said river from any other river or stream, and a further quantity equal to any quantity which it may conserve and afterwards discharge into the said river, subject to the condition that the Corporation shall not impound and divert at the same time a quantity in the whole greater than One-half of the water naturally flowing in the said river :
- ii. All streams and waters flowing into the said river between the *Plains Rivulet* and the said river (which said streams and waters are hereinafter referred to as "the tributaries thereof") :
- iii. All rivers, streams, and waters arising in or flowing through the area described in the Schedule (1.) of this Act.

Schedule (1.).

Provisions applicable to taking of waters of the said rivers, &c.

Compensation to be made.

All damage considered as if actually sustained.

4 The provisions of this Section shall apply to the taking, diverting, and impounding of the waters of the said river and the tributaries thereof, under the powers conferred upon the Corporation by this Act :—

- i. The Corporation shall make full compensation to all persons lawfully interested in the waters of the said river and the tributaries thereof for all damage or injury sustained, or which may be sustained, by them or any of them by reason of the taking, diverting, or impounding of any of the said waters under the powers aforesaid :
- ii. Every notice by this Section required to be given, every claim by this Section required to be made, and every amount of compensation required to be ascertained and paid shall be given, made, ascertained, and paid, as the case may be, as if the Corporation had then exercised all the powers conferred upon it by this Act with regard to such waters, and regard shall be had not only to the damage or injury then actually sustained, but to all prospective damage or injury which may be sustained when the Corporation has fully exercised all such powers as aforesaid :

Hobart Water.

- iii. All persons lawfully interested as aforesaid shall (except in the cases where their claims for compensation have been previously mutually agreed upon) prefer their claims for compensation for all such damage or injury, actual or prospective as aforesaid, by notice in writing addressed to the Council and served upon the Town Clerk : A.D. 1905.
Notice of claim to be given.
- iv. Every such notice shall specify the place of abode of the claimant, the particular act or authorised act which occasions or may occasion the damage or injury, actual or prospective, for which compensation is claimed, the nature and amount of such damage or injury, and the nature of the title or interest of such claimant in or to the water or land in respect of which the claim is preferred : What notice to specify.
- v. Every such notice shall be served as aforesaid within Three months after the passing of this Act, and no compensation in respect of any such damage or injury as aforesaid which may then, or may at any time thereafter, be sustained, or in respect of any such damage or injury as aforesaid for which compensation is not then claimed, shall be payable to any person who fails to serve such notice within such Three months: Notice to be given within Three months.
- vi. The amount to be paid by the Corporation to each of such persons by way of compensation shall be such sum as may be mutually agreed upon, or, failing agreement, the amount shall be ascertained in the manner hereinafter provided : How compensation to be ascertained.
- vii. No compensation shall be payable to any person or persons lawfully interested in the waters of the said river and the tributaries thereof until the total amount of the compensation to be paid to all such persons for all damage or injury sustained, or which may be sustained by them as aforesaid, shall be ascertained by mutual agreement or in the manner hereinafter provided : No compensation payable until total amount ascertained.
- viii. If the total amount of the compensation to be paid to all persons lawfully interested in the said waters for all damage or injury as aforesaid shall, when ascertained, appear to the Council to be excessive, and if the Council shall deem it inexpedient to pay the amount of compensation so ascertained, it shall be lawful for the Council, in its discretion, upon giving notice in the *Gazette* of its intention so to do, to discontinue the taking, diverting, and impounding of such waters and the exercise of the powers conferred upon the Corporation by this Act with regard to such waters, and thereupon and so long as such taking, diverting, and impounding, or such exercise of the said powers be discontinued, no compensation shall be payable by the Corporation to such persons or any of them, whether such compensation has been ascertained by mutual agreement or otherwise ; but the Corporation shall pay all Council may discontinue exercise of its powers.

Hobart Water.

A.D. 1905.

the costs incurred, up to the date when such notice is given, by any person in connection with the ascertaining the amount of compensation by a Judge in the manner hereinafter provided, and in the event of any dispute or difference in reference to the amount of such costs the same may be taxed by the Taxing Officer of the Supreme Court as between solicitor and client :

Council may proceed.

ix. If, when the total amount of such compensation has been ascertained as aforesaid, the Council shall determine to continue such taking, diverting, and impounding as aforesaid, and to exercise the powers conferred upon the Corporation by this Act with regard to such waters, the Council shall, as soon as practicable, give notice in the *Gazette* of such determination, and thereupon the Riparian Proprietors Act shall be repealed, and all amounts of compensation, whether ascertained by mutual agreement or in manner hereinafter provided, shall forthwith be paid by the Council to the persons legally entitled to the same:

Powers conferred by 3 Ed. VII. No. 33 continued.

x. All the powers and authorities vested in the Corporation by Section Three of "The *Hobart Water Act, 1903*," are hereby continued from the Thirtieth day of *September*, One thousand nine hundred and five, to the date when either the notice hereinbefore provided to be given under Sub-section viii. of this Section or the notice hereinbefore provided to be given under Sub-section ix. of this Section shall appear in the *Gazette*: Provided that One of such notices shall be given within Twelve months after the passing of this Act. Upon either of such notices appearing in the *Hobart Gazette* all such powers and authorities shall cease and be determined, save and except that the provisions of Section Two of the lastmentioned Act are hereby continued.

Council to give public notice.

5 The Council shall cause public notice to be given of the provisions of the last preceding Section to be published Once in the *Gazette* within Three weeks after the passing of this Act, and Once a week for Three consecutive weeks in One or more daily newspapers published in *Hobart*, the first of such notices to be published within Three weeks after the passing of this Act.

How compensation to be ascertained.

6—(1.) If the Corporation and any person claiming compensation for any damage or injury, actual or prospective, sustained or to be sustained in consequence of the exercise as to the said river or any tributaries thereof of any of the powers conferred upon the Corporation by this Act do not agree as to the amount of compensation to be paid by the Corporation the amount of such compensation shall be ascertained by a Judge in the manner hereinafter provided.

Hobart Water.

(2.) The Judge may, upon the *ex parte* application of the Corporation, appoint a day, time, and place upon which he will hear and determine all questions in dispute between the Corporation and such claimant, and ascertain the amount of compensation (if any) to which the claimant is entitled.

A.D. 1905.

(3.) The Corporation shall give not less than Fourteen days' notice by letter addressed to the claimant of the day, time, and place, appointed by the Judge as aforesaid.

(4.) The proceedings shall thereafter be the same as if both parties had concurred in the appointment of the Judge as single arbitrator under *The Lands Clauses Act*, and the Judge shall have all powers conferred upon an arbitrator by the lastmentioned Act, and for such purposes all the clauses of the lastmentioned Act shall be incorporated with this Act so far as the same may be necessary or applicable.

21 Vict. No. 11.

(5.) The Judge shall also have power to determine the application of the compensation money payable, summon and examine witnesses, adjourn the hearing from time to time and place to place, give directions, and make and enforce any order (including any order as to the payment of costs) in the same manner as a Judge's order may be enforced.

7 Whenever compensation is directed to be made by the Corporation to any person for any damage sustained or to be sustained by reason of the exercise as to the said river, or any tributary thereof, of the powers vested in the Corporation by the said Act or by this Act (other than compensation for land compulsorily acquired by the Corporation), the amount of such compensation shall be determined or ascertained as if the damage had been done at the date of the passing of this Act, and as if the land injuriously affected had remained in the same condition and of the same value as at the passing of this Act, and no compensation shall be given for any damage done to any rights which shall arise or accrue to any person after the passing of this Act.

Damages to be ascertained as at date of passing of Act.

8 The Corporation, after the commencement of this Act, shall not supply water drawn from the *Hobart Rivulet* to any person for human consumption.

Hobart Rivulet not to be used for human consumption.

9—(1.) The title of the Corporation to and its rights over the land described in Schedule (3.) hereto, or any part thereof, are hereby transferred to and vested in His Majesty, his heirs and successors.

Lands to be vested in the Corporation, and control of same.

(2.) The land described in Schedule (1.) and in Schedule (2.) of this Act is hereby vested in the Corporation for the purposes of the water-supply of the City of *Hobart* and its suburbs.

(3.) The Corporation may construct and maintain such waterworks upon the said land described in Schedules (1.) and (2.), or any part thereof, as the Council may think proper, and may fence off or adopt such other means for securing the purity of the water flowing through the said land as the Council may deem expedient.

(4.) Any person, not being an officer of the Corporation, who shall enter upon the said land, described in Schedules (1.) and (2.), without

Hobart Water.

A.D. 1905. — the consent in writing of the Municipal Council or of the Director of Waterworks for the time being, shall incur a penalty not exceeding Five Pounds.

Charge for water supplied to the Government.

10 The Corporation may supply water for domestic or other purposes to any buildings or premises the property of or occupied by or on behalf of His Majesty, and used for a public purpose, within the limits of the said Act, by measure, and shall be entitled to receive the sum of One Shilling for each One thousand gallons for all water so supplied up to Ten million gallons per annum, and the sum of Nine Pence for each One thousand gallons for all water so supplied over Ten million gallons.

Water Reserve.

11 No part of the land reserved as a Water Reserve by the Proclamation of His Excellency the Governor, dated the Thirteenth day of *December*, One thousand nine hundred and one, shall be alienated without the consent of Parliament.

Acts to be read together.

12 This Act and the said Act, and every Act amending the said Act, shall, save as altered or amended by this Act, be read and construed together as one and the same Act; and the said Act, and every Act amending the same and this Act may be referred to and may be cited for all purposes as "The *Hobart Water Acts*, 1893 to 1905."

SCHEDULE.

(1.)

DESCRIPTION OF LAND FOR A FURTHER SOURCE OF SUPPLY IN CONNECTION WITH THE WATER SUPPLY FOR THE CITY OF HOBART.

Commencing at ten chains below the intake on the North-West Bay River, constructed under 64 Victoria, Number 64, 1900; thence in a straight line south forty-two degrees west for a distance of about twenty-eight chains to the top of the "Thumbs"; thence in a straight line north forty-two degrees west for a distance of about sixty-eight chains to the top of Mount Montagu; thence in a straight line north-westerly to the north-eastern corner of Lot ninety acres—Charles Oates; thence along the northern boundary of that lot to its north-western corner; thence in a straight line south-westerly to the north-eastern corner of Lot ninety-six acres two roods—Charles Oates, senior; thence along the northern and western boundaries of this lot and Lot fifty four acres—Charles Oates—Lot , unoccupied, Lot forty-nine acres three roods nine perches—Charles Oates, junior; thence from the south-west corner of the lastmentioned land by a straight line south-westerly to the north-east corner of Lot forty-nine acres twenty perches, unoccupied; thence along the eastern and southern boundaries of this land and Lot forty-nine acres two roods twenty-seven perches, unoccupied; thence in a south-westerly direction by a straight line to the north-west corner of Lot forty-nine acres three roods twenty-three perches—W. Oates; thence along the western boundary of the said land to the northern boundary of Lot 2823, one hundred and ninety-eight acres—W. T. Short; thence along the northern boundary of the said land to its north-western corner; thence in a westerly direction by a straight line to the north-east corner of Lot fifty acres one rood seven perches, unoccupied; thence along the northern boundary of the said land to its north-west corner; thence in a north-westerly direction by a straight

Hobart Water.

line to the south-east corner of Lot forty-five acres three roods thirty-eight perches—Henry Harris; thence along the eastern and southern boundaries of this land, and the eastern boundary of Lot forty-nine acres two roods twenty-three perches—Elizabeth Harris; thence along the southern, eastern, and northern boundaries of Lot twenty-four acres one rood nine perches—John Harris; thence westerly by a straight line to the north-eastern corner of Lot forty-seven acres one rood six perches—Eliza Harris's; thence in a northerly direction by a straight line to the south-eastern corner of Lot fifty acres—William Albury, jun.; thence along the eastern boundary of the said land to its north-eastern corner; thence northerly in a straight line for a distance of about two hundred and forty chains to meet the prolongation of the southern boundary line of Lot 6051, fifty acres, unoccupied; thence easterly in a straight line along the said prolongation and the said southern boundary to the south-eastern corner of that land; thence along the eastern boundary to its north-eastern corner; thence in an easterly direction by a straight line to the south-west corner of Lot 5672, forty-nine acres, unoccupied; thence along the southern boundary to the south-eastern corner of the said land; thence in an easterly direction by a straight line for a distance of about five hundred and twenty chains to the New Town Creek, where it intercepts the north-western boundary of Lot two thousand six hundred and sixty acres—Joseph Allport and Thomas Young; thence along the north-western, western, and southern boundaries of the said Lot to the intersection of the North-West Bay River; thence in a south-westerly and south-easterly direction along the eastern bank North West Bay River and including the bed and waters of the said river to the intake, the point of commencement.

A.D. 1905.

(2.)

DESCRIPTION OF AREA TO BE RESERVED IN CONNECTION WITH THE WATER-SUPPLY OF THE CITY OF HOBART, BEING PORTION OF 3750 ACRES RESERVED BY THE GOVERNOR IN COUNCIL ON THE 25TH SEPTEMBER, 1871.

Commencing at the north-west angle of Lot 488, two hundred and fifty acres, purchased by Alfred Hall; thence along the western boundary of the said lot to the north-east corner of twenty-three acres one rood twenty perches, purchased by S. Kearney; thence westerly along the northern boundary of the said land, purchased by S. Kearney, to the north-west corner thereof; thence southerly along the western boundaries of lands purchased respectively by S. Kearney, R. Willicombe, E. W. Williams, and S. Fairs, to the north-east corner of fifteen acres, purchased by W. C. Piquenit; thence north-westerly along the northern boundary of the said fifteen acres to the north-western corner thereof; thence southerly along the western boundary of the said fifteen acres, and also forty acres, purchased by W. C. Piquenit, to the south-west corner of the said forty acres; thence south-easterly along the southern boundary of the said forty acres to its intersection with the western boundary of land purchased by John Watchorn, eighteen acres; thence southerly along the western boundaries of land aforesaid, purchased by John Watchorn, and land purchased by William Walker, fourteen acres, to the north-eastern corner of Lot 3876, fifty acres, purchased by J. Laughton; thence westerly along the northern boundary of the said Lot 3876 to the north-west corner thereof; thence southerly along the western boundary of the said Lot 3876 to the south-west corner thereof; thence easterly along the southern boundary of the said Lot 3876 to the north-west corner of forty acres purchased by E. Campbell; thence southerly and south-westerly along the western and north-western boundaries of the said forty acres to its intersection with the north-eastern boundary of Lot 4070, eighty acres, purchased by Richard Millhouse; thence north-westerly along the north-eastern boundary of the said Lot 4070 to the north-west corner thereof; thence south-westerly along the north-western boundary of the said Lot 4070 to the north-east corner of Lot 836, one hundred acres, purchased by William Cheverton; thence north-westerly along the north-eastern boundary of the said Lot 836 to the north corner thereof and its intersection with the south-eastern boundary of

Hobart Water.

A.D. 1905.

Lot 862, one hundred acres, purchased by Henry Nicholls; thence north-easterly along the south-eastern boundary of the said Lot 862 to the eastern corner thereof; thence in a north-westerly direction along the north-eastern boundary of the said Lot 862 to the northern corner thereof; thence in a south-westerly direction along the north-western boundary of the said Lot 862, and also along the north-western boundary of an allotment of fifty acres, purchased by F. Hensley, to the intersection of the last-mentioned boundary with the North-West Bay River; thence along the North-West Bay River in a north-westerly, westerly, north-westerly, and north-easterly direction to its intersection with the southern boundary of two thousand six hundred and sixty acres granted to Joseph Allport and Thomas Young; thence north-easterly along the southern boundary of the said two thousand six hundred and sixty acres for its whole remaining distance to the south-east angle of the said two thousand six hundred and sixty acres; thence north-easterly for a distance of thirty chains along the south-eastern boundary of the said two thousand six hundred and sixty acres; thence by a straight line in a south-easterly direction to the "Rocking Stone;" thence by a straight line in a south-easterly direction to the southern side of the Shelter Shed at the "Springs;" thence by a straight line in a south-easterly direction to a point intersecting the prolongation of the western boundary of Lot 488, two hundred and fifty acres, purchased by Alfred Hall, such point on the prolongation being ten chains from the north-west corner of the said lot; thence by a straight line in a southerly direction along this prolongation to the north-west corner of the said lot, being the point of commencement.

(3.)

DESCRIPTION OF LAND KNOWN AS THE EASTERN FACE OF MOUNT WELLINGTON TO BE RESERVED AS A NATIONAL PARK, AND BEING PORTION OF 3750 ACRES ORIGINALLY RESERVED IN CONNECTION WITH THE WATER-SUPPLY OF THE CITY OF HOBART, BY THE GOVERNOR IN COUNCIL ON THE 25TH SEPTEMBER, 1871.

Commencing at the north-west angle of Lot 488, two hundred and fifty acres, purchased by Alfred Hall; thence along the northern boundary of the said lot to its intersection with the Huon Road; thence in a north-easterly direction along the Huon Road to the intersection of the western boundary of forty-seven acres three roods ten perches, purchased by E. J. Baynton; thence in a northerly direction along the western boundary of the said land to its intersection with the Sandy Bay Rivulet; thence in a north-westerly direction along the Sandy Bay Rivulet to the south-west corner of two thousand acres granted to Peter Degraives; thence in a north-westerly direction along the south-western boundary of the said two thousand acres to its intersection with the boundary of two thousand six hundred and sixty acres, granted to Joseph Allport and Thomas Young; thence in a south-westerly direction along the said boundary of the said two thousand six hundred and sixty acres to the angle formed by the two boundary lines adjacent to the Mount Wellington Trigonometrical Station; thence in a south-westerly direction along the south-eastern boundary of the said two thousand six hundred and sixty acres for a distance of twenty-seven chains; thence by a straight line in a south-easterly direction to the "Rocking Stone;" thence by a straight line in a south-easterly direction to the southern side of the Shelter Shed at the "Springs;" thence by a straight line in a south-easterly direction to a point intersecting the prolongation of the western boundary of Lot 488, two hundred and fifty acres, purchased by Alfred Hall, such point on the prolongation being ten chains from the north-west corner of the said lot; thence by a straight line in a southerly direction along this prolongation to the north-west corner of the said lot, being the point of commencement.