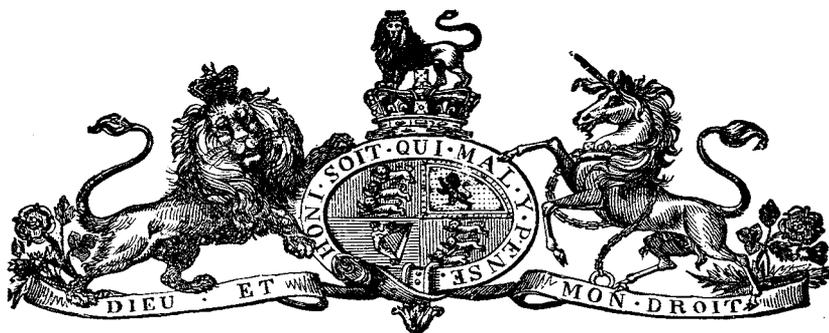


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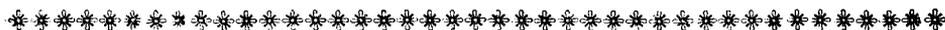
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ANNO QUINQUAGESIMO-SEXTO

VICTORIÆ REGINÆ,

No. 32.

Amended by 63 Vict. No. 36



AN ACT to make provision for the Main-tenance and Control of a Supply of Water to the *Macquarie* River. A.D. 1892.

[21 December, 1892.]

WHEREAS certain Landholders resident near the *Macquarie* River, in the vicinity of *Ross*, have constructed an Embankment and other Works at *Tooms' Lake* for the purpose of storing water to provide a continuous supply in the said River, and have also now for many years past maintained and repaired the same : PREAMBLE.

And whereas the said Embankment and Works are now in an efficient state of repair :

And whereas it is expedient that the said Embankment and Works should be placed under proper control, and that a Water Trust, to be called "*The Macquarie Water Trust*," should be created to take control of and provide means for maintaining the same, and that such Trust should have such rights, powers, and privileges as are hereinafter provided :

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 for all purposes be cited as "*The Macquarie Water Act, 1892.*" Short title.

2 In this Act, unless the context otherwise determines— Interpretation.
"District" means "*The Macquarie Water District*," as described and set forth in the Schedule hereto :

Macquarie Water.

A.D. 1892.

“Trustees” means the Trustees for the time being elected under this Act :

“Elector” extends to and includes every person, whether male or female, of the age of Twenty-one years whose name is on the Assessment Roll as the Owner or Occupier of any property within the District. Provided that no person being an Alien shall be an Elector unless he has received Letters of Denization or a Certificate of Naturalization :

“Assessment Roll” means any Assessment Roll in force for the time being in which any property situate within the District is comprised :

29 Vict. No. 8.

“The Rural Municipalities Acts” shall mean and include *The Rural Municipalities Act*, 1865, and every amendment thereof :

“Property” shall mean Lands and Buildings, or Land or Buildings :

“Rate” shall mean a Rate duly made under and for the purposes of this Act.

District defined.

3 So much of the Colony of *Tasmania* as is contained within the boundaries set forth in the Schedule hereto shall be a District, and shall be called “The *Macquarie Water District*,” save and except the Town of *Ross*, which, for the purposes of this Act, is excluded from the said Water District.

Land vested in Trustees.

4 All the area covered by *Tooms’ Lake* when the water of such Lake is Twelve feet Six inches in depth at the Sluice-gate, and all the land contained within a radius of One half-mile from the margin of the water of the said Lake when the said water is Twelve feet Six inches in depth at the Sluice-gate, and also all the lands comprised within the Crown reservation for irrigation purposes at the *Long Marsh*, in the Parishes of *Victor* and *Weitree*, shall be and are hereby vested in the Trustees in trust for the purposes of this Act, anything in any Act of Parliament of this Colony to the contrary notwithstanding.

Election of Trustees.

Governor to direct when first election of Trustees to be held.

5—(1.) Within Two months after the day on which this Act comes into operation, the Governor shall by Proclamation direct that, upon a date and at a time and place therein named, there shall be held within the said District an election for the purpose of electing from amongst the Electors Five persons to be the Trustees of the District for the purposes of this Act.

Election to be before person appointed.

(2.) Every such Proclamation shall be published in Two consecutive numbers of the *Gazette*, and shall direct that the election to be held thereunder shall be held before such person as shall be appointed therein and thereby; and nominations of persons for election as Trustees shall be forwarded to and be received by such person Seven clear days before the day appointed for holding the election pursuant to such Proclamation, and such person shall thereupon provide and do all things necessary for holding such election pursuant to this Act.

Period within which election to be held.

(3.) The date fixed by such Proclamation for holding the election therein directed to be held shall not be less than Fifteen nor more than Thirty days after the date of the first publication of the Proclamation.

Expenses of first election.

(4.) All expenses of and incidental to the first election of Trustees shall be certified under the hand of the person before whom such first election was held, and shall be paid in the first instance out of the

Macquarie Water.

Consolidated Revenue Fund by Warrant under the hand of the Governor directed to the Treasurer, and shall be repaid by the Trustees to the Treasurer out of the moneys at the disposal of the Trustees within Six months after the election of such Trustees. A.D. 1892.

6—(1.) At the election held in pursuance of such Proclamation as aforesaid, the person therein appointed to hold such election shall preside as Returning Officer, and shall have a casting vote in addition to any vote or votes to which he may be entitled as an Elector; and such Returning Officer shall, within Three days after the close of the election, prepare, or cause to be prepared, and sign, and publish in the *Gazette* a notification in writing of the names and places of residence of every person elected as a Trustee; and shall also cause written notice of his election, and of the time and place of the first meeting of the Trustees, to be served personally upon every person so elected, or to be left at his usual place of abode, or transmitted to him by post. Returning Officer to publish and notify result of election.

(2.) Upon the publication of such notification in the *Gazette* the Trustees elected at such election shall enter upon office as the first Trustees of the District.

7 Subject to the provisions of this Act, the first and every election of Trustees shall be held in the same manner as elections of Councillors of Rural Municipalities are held under the Rural Municipalities Acts, and all vacancies amongst the Trustees shall be filled, and the retirement and biennial election of new Trustees shall take place, in the same manner as if they were Councillors of Rural Municipalities under the said Acts; and every Elector shall have a number of votes proportioned to the annual value as ascertained by the Assessment Roll according to the scale mentioned and set forth in "The Rural Voting Act, 1884;" and the word Elector as used in the said Act shall hereinafter include an Elector under this Act. Mode of election of Trustees.
48 Vict. No. 26.

8 In all matters not specially provided for by this Act, the provisions of the Rural Municipalities Acts, relating to— Portions of 29 Vict. No. 8 to be applicable.

Election of Councillors, and Rates,

shall, so far as the same may apply, be applicable to—

The Election of Trustees, and
The Rates made by the Trustees,

under and for the purposes of this Act, and shall be incorporated herewith.

Provided that, for the purposes of this Section, every power and duty vested in or imposed upon the "Warden" by the said Acts are hereby vested in and imposed upon the "Chairman" for the time being of the Trustees.

9 Subject to the provisions hereinafter contained, every Trustee shall hold office for a period of Four years, and the Trustees shall retire in rotation as hereinafter provided. Trustees to hold office for Four years.

10—(1.) On the Second Friday in *December* in the year 1894 Two Trustees shall retire from office; and on the Second Friday in *December* in the year 1896 Three Trustees shall retire from office; and on the Second Friday in *December* in every alternate year after the year Retirement of Trustees.

Macquarie Water.

A.D. 1892.

1896 every Trustee who was elected at the election held in the Fourth preceding year shall retire from office.

(2.) The persons elected as the first Trustees shall decide by lot among themselves which of them shall retire from office on the Second Friday in *December* in the years 1894 and 1896 respectively.

(3.) The retiring Trustees shall hold office until their successors are duly elected.

Qualification of Trustee.

11 No person shall be eligible to be elected as a Trustee unless he is an Elector within the District.

Elections may be held to fill up vacancies if Electors so desire.

12 Whenever a vacancy occurs in the office of Trustee, the Chairman shall forthwith give notice thereof in Two consecutive numbers of a newspaper published in *Hobart* or *Launceston*; and if before the expiration of a period of Fourteen days after the last publication of such notice as aforesaid a requisition in writing, signed by any number of Electors, not less than Seven, is presented to the Trustees requiring an election to be held to supply such vacancy, an election shall be held to supply the vacancy; and every such election shall be conducted in the same manner in every respect as an election of Trustees; and every Trustee appointed or elected to fill any such vacancy shall retain his office so long only as the vacating Trustee would have retained the same if no vacancy had occurred.

Trustee absent from Three consecutive Meetings to vacate office.

13 If any Trustee is absent from Three consecutive Meetings of the Trustees after having had notice of the intention to hold such Meetings, and without leave of absence granted to him by the Trustees, he shall cease to be a Trustee, unless his absence was caused by sickness, and the Trustees shall declare his place to be vacant, and the same shall become vacant accordingly.

Provides for death, &c. of Trustees during period of office.

14 If at any time during the period for which he was elected any Trustee dies, departs from *Tasmania* and remains absent therefrom for the space of Three months, or resigns, or refuses, or from any cause whatsoever becomes incapable or unfit to act as a Trustee, or if his office is declared vacant, it shall be lawful for the surviving or continuing Trustees, and they are hereby required, in the absence of any such petition as is hereinbefore mentioned praying that an election may be held to fill the vacancy created by any of the causes aforesaid, to appoint some fit and proper person being an Elector to act as a Trustee in conjunction with such surviving or continuing Trustees in the place and stead of such first-mentioned Trustee for the remainder of the period for which he was elected.

Quorum.

15 All acts and proceedings relating to this Act which are directed to be had or done by the Trustees, and all the powers and authorities vested in them generally, shall and may be had, done, and exercised by the major part of the Trustees present at any Meeting of the Trustees, the whole number present not being less than Three; and any Three Trustees shall form a quorum.

Election of Chairman of Trustees.

16—(1.) The Trustees shall, at their first Meeting held after the first Election of Trustees, and at their first Meeting held after each biennial election of Trustees, by the majority of votes of the Trustees present elect one of their body to be Chairman for the ensuing two

Macquarie Water.

years ; and if at any such Meeting there is an equality of votes in the election of Chairman, it shall be decided by lot which of the Trustees having an equal number of votes shall be the Chairman ; and such Chairman shall preside at all Meetings of the Trustees at which he is present ; and if at any such Meeting the Chairman is not present, one of the Trustees present shall be elected Chairman of such Meeting by the majority of votes of the Trustees present thereat.

A.D. 1892.

(2.) In case the Chairman shall die, or by writing under his hand delivered to the Trustees at any Meeting of the Trustees, or to the Secretary of the Trustees, resign his office, or cease to be a Member, the Trustees present at the Meeting next after the occurrence of such vacancy shall choose one of their body to be Chairman, and the Chairman so chosen shall continue in office until the next biennial election of Trustees.

How vacancy in office of Chairman filled.

17 All the Trustees present at any Meeting of the Trustees shall vote, save where it is herein otherwise provided, and the questions there considered shall be decided by open voting and by the majority present ; and if there is an equal division of votes upon any question, it shall be considered lost.

Equal division of votes.

18 All orders and proceedings of the Trustees, together with the names of the Trustees present at every Meeting, shall be entered in a Book to be kept by the Trustees for that purpose, and be signed by the Chairman of the Meetings at which such orders or proceedings are, from time to time, confirmed ; and such orders and proceedings so entered and signed by the Chairman of such Meetings shall be deemed to be original orders and proceedings.

Orders and proceedings of Trustees to be recorded.

Rate.

19 For the purpose of raising the necessary moneys 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, as ascertained by the Assessment Roll, of all properties within the District : Provided, that such Rate shall not in any one year exceed Threepence in the Pound upon the annual value of the said properties.

Trustees may make and levy a Rate.

20 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 all properties within the District as shown by the Assessment Roll relating to such properties ; 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 Rate, notice of same to be given.

21 The provisions of " An Act to facilitate the Collection and Recovery of Rates," and every Amendment thereof, shall be applicable to the collection and recovery of Rates under this Act.

Application of 22 Vict. No. 27.

Macquarie Water.

A.D. 1892.

*Special Rate.*Power to levy
Special Rate.

22 The Trustees may from time to time make and levy a Special Rate in order to defray any works which should at any time be required or be necessary to repair, add to, or enlarge the Embankment in order to maintain or increase the storage capacity of *Tooms' Lake*, and such Special Rate shall be in addition to the Rate hereinbefore mentioned, but such Special Rate shall not in any one year exceed the sum of One Shilling in the Pound, as ascertained by the Assessment Roll, of all properties within the District, or be levied more than Two years in succession :

Provided, that before it shall be lawful for the Trustees to levy such Special Rate they shall first obtain the consent of the Governor in Council, and shall likewise give notice by advertisement twice in the *Gazette* and also twice in a newspaper published in *Hobart* or *Launceston* of their intention to apply for permission to levy such Special Rate.

*Powers of Trustees.*Powers of
Trustees.

23 The Trustees shall, for the purposes of this Act, have and exercise the power and authority to repair, maintain, alter, reconstruct, and enlarge the said Embankment and all necessary works in connection therewith.

Trustees may
agree with any
person to supply
water.

24 The Trustees may from time to time enter into such agreement or agreements as they may think fit with any person or body of persons or Company whereby such person or body of persons or Company shall agree to provide for the supply of water from the said river to any person or persons within the District, and the Trustees may make such conditions and stipulations in any such agreement as they deem advisable.

Power to make
By-laws.

25 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 *Tooms' Lake*, the *Long Marsh*, the *Macquarie River* or the waters thereof or any waters flowing into the said river :

To regulate the use of the waters of the said Lake, Marsh, or River for irrigation or other purposes, and to make fair and reasonable charges for the use of the said waters :

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, and no such By-law shall be of any force or effect until it has been published in the *Gazette* and certified by the Attorney 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; and no such By-law shall be published in the *Gazette* until such Certificate has been obtained.

By-laws may be
enforced by
penalty.

Any By-law made under this Act may impose a penalty not exceeding Ten Pounds for any breach thereof, and may also impose different penalties in case of successive breaches. But no such penalty shall exceed Twenty-five Pounds.

And any such By-law may provide that in addition to any such

Macquarie Water.

penalty any expense incurred by the Board in consequence of any breach of such By-law shall be paid by the person committing such breach. A.D. 1892.

26 The Trustees shall, from time to time, appoint a Secretary, Treasurer, and Collector of Rates, who may be one or more of the Trustees, and may, from 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: **Power to appoint Officers.**

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 the Rural Municipalities Acts relating to *Officers and their Accountability* shall be applicable to such Secretary, Treasurer, Collector, and other Officers, and shall be incorporated with this Act.

27 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 elector 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. **Trustees to keep accounts of receipts and disbursements.**

28 All moneys received by the Treasurer of the Trustees shall be paid by him monthly into some one of the public banks of this Colony to the account of the Trustees of the *Macquarie Water District*; and no part of such moneys shall be drawn out of such bank except by cheque signed by the Treasurer and countersigned by the Chairman and one of the Trustees. **Moneys received to be paid into bank.**

29 The Trustees shall, before the end of the month of *January* in each year, cause the accounts of the Trustees up to and including the last day of *December* 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. **Statements of accounts to be annually prepared.**

The provisions contained in "The Audit Act, 1888," shall extend and apply to the statement and account hereinbefore mentioned. **52 Vict. No. 43.**

30 The statement and account mentioned in the last preceding Section shall be published in the *Gazette* by the Auditor-General as soon as may be after such statement and account have been audited. **Publication of accounts.**

Macquarie Water.

A.D. 1892.
Appropriation.

31 All moneys whatsoever levied, received, or recovered under the authority of this Act shall be at the sole and absolute disposal of the Trustees, to be by them applied in such manner as they see fit in carrying out and effectuating the objects or the preparation and passing of this Act, and to no other purpose.

Trustees may
sue and be sued.

32 The Trustees shall 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, shall be taken or adopted by or against them by the name of "The Trustees of the *Macquarie Water District*" without otherwise naming such Trustees, and serving of any legal process on the Chairman or Secretary shall be deemed and taken as good service on the said Trustees.

The property in all land vested in the said Trustees, and in all moneys at their disposal for the purposes of this Act, and all materials, tools, implements, and things furnished and provided by the Trustees for the purposes of this Act, shall be vested in the Trustees; and in any proceeding, civil or criminal, relating to any such land, money, or property so vested in the said Trustees for the purposes of this Act, it shall be sufficient to describe such property or money as the property or money of "The Trustees of the *Macquarie Water District*."

Offences.

Offences.

33 Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Fifty Pounds:—

1. Wilfully destroying or injuring any embankment, sluice-gate, or work made or constructed, or which may hereafter be made or constructed under the provisions of this Act:
2. Wilfully destroying or injuring any weir now constructed or which may hereafter be constructed with the consent of the Trustees across the River *Macquarie*:
3. Raising or lowering or in any way interfering with the Sluice-gate at *Tooms' Lake*, without the authority of the Trustees.

Penalty for constructing any weir, &c. across *Macquarie River*.

34 Every person who shall after the passing of this Act, without the consent in writing of the Trustees, construct any weir, dam, or ford in or across the River *Macquarie*, or otherwise obstruct the said river, shall incur a penalty for every such offence not exceeding Fifty Pounds, and shall incur a further penalty of Two Pounds for each day during which such offence is continued after the expiration of Twenty-four hours from the time when notice of such offence has been served on such person by the Trustees.

Offences to be dealt with summarily.
19 Vict. No. 8.
19 Vict. No. 10.

35 All offences against this Act, or any By-law, 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 or any By-law may appeal against the conviction in the mode prescribed by *The Appeals Regulation Act*.

Appropriation of penalties.

36 All penalties received by virtue of this Act shall be paid to the Treasurer of the Trustees, and shall form part of the moneys at the disposal of the Trustees for the purposes of this Act.

Macquarie Water.

37 No action shall lie against any person for anything done in pursuance of this Act unless notice in writing of such action, and of the cause thereof, is given to the defendant One month at least before the commencement of the action, and such action is commenced within Three months after the cause of action has accrued; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence; and no plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the defendant, or if the plaintiff becomes nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any defendant has by Law in other cases; and though a verdict is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the case is tried certifies his approbation of the action, and the verdict obtained thereupon.

A.D. 1892.

Persons acting
under Act entitled
to notice of action,
&c.

60 r 36

SCHEDULE.

Commencing at the east angle of 1220 acres granted to C. B. Viveash on Macquarie River, and bounded by the south-east and south-west boundaries of that grant, by part of the south-east boundary of a grant to Claudius Thomson, by the north-east and north-west boundaries of land originally located to W. Blakely, by the north-west and south-west boundaries of 2900 acres granted to C. B. Viveash to the east angle of 2000 acres located to Bassett Dickson, by part of the south-east boundary of that location, by the north-east boundaries of Lot 136, by part of the north-west, by the north-east, and south-east boundaries of 640 acres located to J. H. Butcher, by the north-east, north-west, and south-east boundaries of land granted to George Carr Clark, by the west, south, and south-west boundaries of land granted to Thomas Parramore, by the south-west and south boundaries of land granted to John Roberts, thence by a continued easterly line along the north boundary of 100 acres located to W. Milne to Blackman's River, by that river north-easterly to the north angle of 3150 acres granted to Robert Pitcairn and Thomas Brown, by the north-east, south-east, and east boundaries of that grant, by the north and north-east boundaries of a grant to Robert Davidson, by the north-east and east boundaries of Lot 106 purchased by Robert Davidson, by the south and west boundaries of a grant to John Cassidy to Kitty's Rivulet, by that rivulet to the south-west angle of a location to William Bunster, by the south boundary of that location, by the south boundary of Lot 3743 purchased by S. Page, by the north and east boundaries of Lot 116 purchased by William Burbury, by the south-west and south-east boundaries of land purchased by Edward Dowling, by part of the south-west and by the north-west boundary of Lot 123, by the north-west and part of the north-east boundary of Lot 163, by the south and east boundaries of Lot 455, by a continued northerly line along the eastern boundaries of Lots 374 and 373 to the south-west angle of Lot 439, by the south and east boundaries of that lot, by a continued northerly line to the north-east angle of Lot 430, by the north boundary of that lot to the south-east angle of Lot 360, by the east and north boundaries of that lot to the north branch of the Macquarie River, thence by a south-westerly line to the boundary of the Parish of Victor at the north angle of Lot 253, thence by that boundary to the north angle of Lot 279, by part of the north-west boundary of that lot, by the south-west boundary of Lot 168, by the south-west and part of the north-west boundary of Lot 176, by the south-west boundaries of Lots 3612 and 3613 purchased by Thomas Parramore to the boundary of the Parish of Kiuntah, by that boundary and by the boundary of the Parish of Ross to the north-east angle of 2510 acres granted to J. W. Gleadow and James Robertson, by the north and west boundaries of that grant, by part of the north-west boundary of 3968 acres granted to J. W. Gleadow and James Robertson to the Main Road to Launceston, by the eastern side of that road to the north boundary of 1333 acres granted to John Leake, by that boundary westerly to Macquarie River aforesaid, and thence by that river north-westerly to the point of commencement.

WILLIAM THOMAS STRUTT,
GOVERNMENT PRINTER, TASMANIA.

