

Legislative Council.

47^o VICTORIÆ, 1884.

A BILL

To authorize the construction and maintenance of Dams for Pastoral Purposes.

[MR. BRODRIBB ;—6 *March*, 1884.]

WHEREAS it is expedient that provision should be made for the conservation of water by means of dams against seasons of drought in the pastoral districts of New South Wales and that due encouragement and protection should be afforded to such persons as may be willing from time to time to make such provision Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

- 10 1. Subject to the limitations and requirements in this Act contained it shall be lawful for any one or more proprietors or lessees from the Crown of lands situate in any pastoral district of the colony and having frontage either on one side or on both sides to any river creek or watercourse to construct and maintain a dam or dams across the
15 channel of such river creek or watercourse at any part or parts thereof abutted upon by any such lands as aforesaid for the purpose of collecting or storing water.

Preamble.
Power to construct and maintain dams.

Mode of construction.

2. Provided always and it is hereby required that every such dam shall be a substantially made overshot dam of such construction as to permit the passage of water over the central portion thereof and in accordance with the following requirements that is to say:—

- (I.) The dam shall extend across the channel of the river creek 5
or watercourse to a distance on either side of not more than
fifty feet and not less than twenty feet from the bank and
the centre of the dam shall be taken to be that portion
thereof which occupies the centre of the channel across
which it is constructed. 10
- (II.) The centre of the dam shall have an elevation of not more
than four feet above the natural bed of the stream at the
time and place of construction.
- (III.) Either extremity of the dam shall have an elevation of not
more than two feet above the natural level of the bank at 15
the place of construction.
- (IV.) The portions of the dam between the centre and the
extremity on either side shall have an elevation uniformly
graduated from the level of the centre to that of the
extremity so that the upper surface of the entire dam shall 20
be in the form of an inverted arch.
- (V.) An embankment of puddle clay or earth shall be constructed
upon that side of the dam against which the stream flows
sufficient to protect the same against the force of the current.
- (VI.) A planked paved or puddled apron or floor shall be con- 25
structed on the side of the dam opposite to that against which
the stream flows sufficient to protect the foundation of the
dam from being undermined by the fall of water over the
dam.

Power to complete
alter and maintain
dams already
commenced or
constructed.

3. It shall be lawful for any such person or persons as aforesaid 30
after permission in that behalf obtained from the Minister for Mines
as hereinafter provided to complete and maintain any dam commenced
before the passing of this Act and to maintain or if necessary alter
and thereafter maintain any dam already constructed either before or
after the passing of this Act across the channel of any such river 35
creek or watercourse provided that every such dam shall upon such
completion or alteration and during such maintenance be in accordance
with the requirements of this Act in respect of dams to be constructed
under the authority thereof.

Permission to be
obtained from
Minister for Mines.

4. Before proceeding to the construction completion or alteration 40
of any dam it shall in all cases be necessary for the person or per-
sons entitled under this Act to construct complete or alter the same to
make application in writing signed by the person or persons so applying
to the Minister for Mines for permission so to construct complete or alter
such dam and setting forth the exact site or proposed site thereof and 45
the Minister for Mines as soon as conveniently may be after the receipt
by him of such application shall cause such site or proposed site and
all lands likely to be substantially affected by the works proposed to
be inspected and reported upon by some competent officer or person
and on receiving the report of such officer or person thereupon and 50
after consideration thereof shall in his discretion either grant modify
or refuse such application or impose such special conditions as to the
mode and material of construction and the maintenance of such dam
in addition to the requirements and limitations in this Act contained as
may seem to him expedient. 55

Power to increase
temporarily the
elevation of dams.

5. When and so often as there is a continuous flow of water
along the entire length of the channel of any river creek or water-
course across which any dam exists under the authority of this Act it
shall be lawful for the person or persons entitled to the possession of
the

the lands having frontage to such river creek or watercourse at the site of such dam to increase by any convenient means the elevation of the central portion of such dam to any further height not exceeding two feet and to maintain the same at such height so long as such continuous flow as aforesaid is not thereby prevented and no longer.

6. No dam constructed completed altered maintained or temporarily increased in elevation under the authority of this Act shall thereby be made or allowed to remain of such elevation above the natural bed of any such river creek or watercourse as to force any considerable quantity of water over the banks or either bank thereof.

Water not to be forced over banks.

7. No two dams shall be constructed or maintained under the authority of this Act across the same river creek or watercourse at a distance from each other of less than four miles in a straight line except with the consent in writing of all proprietors or lessees from the Crown of lands abutting upon such river creek or watercourse and likely to be substantially affected by the construction or maintenance of such dams.

Minimum distance between dams on same stream.

8. It shall be lawful for the person or persons by this Act authorised to construct complete alter or maintain any dam after permission in that behalf obtained from the Minister for Mines as hereinbefore provided to give notice in writing to any proprietor or lessee from the Crown of lands having frontage on one or both sides to the river creek or watercourse across which it is proposed to construct complete alter or repair any such dam and whose said lands are likely to be substantially benefited thereby setting forth his or their intention to proceed with such work and requiring such proprietor or lessee to contribute towards defraying the cost thereof such amount as shall be proportional to the length of frontage of his said lands measured along the channel of such river creek or watercourse and in case any such proprietor or lessee shall refuse or neglect for the space of three months after the completion of such work to contribute as aforesaid then and in every such case it shall be lawful for the person or persons authorised as aforesaid who shall have completed such work to recover from such proprietor or lessee in respect of the costs and expenses thereby incurred a sum proportional to the length of frontage of his lands measured as aforesaid as for money laid out and expended for the benefit of such proprietor or lessee. Provided that where any lands shall have frontage at any place to one side only of any such river creek or watercourse two miles of such frontage shall only be reckoned as one and a similar reckoning shall be made as to all other distances.

Persons benefited required to contribute towards expense.

9. In all cases where the lands having frontage to any river creek or watercourse at the site or proposed site of any dam shall be in the occupation of different persons it shall be lawful for any person or persons by this Act authorised to construct complete alter or maintain such dam to enter by himself or themselves and his or their servants or agents upon any such lands and occupy the same so far as shall be necessary for any of the purposes aforesaid.

Power to enter lands for construction &c. of dams.

10. Every dam constructed completed altered or maintained under the authority of this Act shall in respect of all Crown Lands substantially benefited thereby be deemed to be an improvement within the meaning of all Acts now in force or hereafter to be passed for regulating the occupation of Crown Lands except in so far as such construction may or might be repugnant to any provision in any such Act contained.

Dams to be deemed an improvement within meaning of Crown Lands Occupation Acts.

11. The care and conservance of every dam constructed completed altered or maintained over any river creek or watercourse under the authority of this Act shall be vested in the person or persons for the time being entitled to the possession of the lands abutting upon such

Who is to have care and conservance of dams.

such river creek or watercourse at the site of such dam and such person or persons shall be entitled to maintain an action in respect of any injury or damage done to the same.

Indemnity against actions.

12. In any action suit or other proceeding instituted by any person in respect of any alleged damage directly or indirectly sustained through the construction completion alteration repair or maintenance of any dam or dams under the authority of this Act it shall be a good and sufficient plea to allege that such dam or dams was or were constructed completed altered repaired or maintained pursuant to the provisions of this Act. 5 10

Penalty for wrongful construction &c. of dams.

13. Any person or persons who shall after the passing of this Act without lawful cause or excuse construct complete alter or maintain any dam across any river creek or watercourse so as to have the effect of forcing any considerable quantity of the water of the same over the bank or banks thereof shall be guilty of a misdemeanour and shall be liable to forfeit to Her Majesty any sum not exceeding *five hundred* pounds. 15

Penalty for injuring dam or polluting water.

14. All persons wilfully and without lawful authority breaking down defacing cutting or injuring any dam or part of a dam constructed completed altered or maintained or in process of construction completion or alteration under the authority of this Act or wilfully polluting the water therein or thereby accumulated shall be guilty of a misdemeanour and shall be liable to forfeit to Her Majesty any sum not exceeding *five hundred* pounds. 20

Not to extend to navigable rivers.

15. Nothing in this Act contained shall be held to authorise the construction completion or maintenance of any dam across any navigable river creek or watercourse or any navigable portion of any river creek or watercourse. 25

No claims against the Government given by this Act.

16. Nothing in this Act contained shall be construed to give any claim against the Government of New South Wales in respect of any costs charges or expenses in any way incurred by any person or persons for the construction completion alteration repair or maintenance of any dam in pursuance of the provisions of this Act. 30

Short title.

17. This Act may be cited as the "Pastoral Dams Act of 1884."

Legislative Council.

47^o VICTORIÆ, 1884.

A BILL

To authorize the construction and maintenance of Dams for
Pastoral Purposes.

(As amended and agreed to in Select Committee.)

WHEREAS it is expedient that provision should be made for the Preamble.
conservation of water by means of dams against seasons of
drought in the pastoral districts of New South Wales and that due
encouragement and protection should be afforded to such persons as
5 may be willing from time to time to make such provision Be it there-
fore enacted by the Queen's Most Excellent Majesty by and with the
advice and consent of the Legislative Council and Legislative Assembly
of New South Wales in Parliament assembled and by the authority of
the same as follows:—

10 1. Subject to the limitations and requirements in this Act con- Power to construct
and maintain dams.
tained it shall be lawful for any one or more proprietors or lessees from
the Crown of lands situate in any pastoral district of the colony and
having frontage either on one side or on both sides to any river creek
or watercourse to construct and maintain a dam or dams or to complete
15 and maintain any dam or dams commenced before the passing of this
Act or to maintain or alter and thereafter maintain any dam or dams
already constructed either before or after the passing of this Act

c 60—

across

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

across the channel of such river creek or watercourse at any part or parts thereof abutted upon by any such lands as aforesaid for the purpose of collecting or storing water.

Mode of construction.

2. Provided always and it is hereby required that every such dam shall be a substantially made overshot dam of such construction as to permit the passage of water over the central portion thereof and in accordance with the following requirements that is to say:—

(I.) The dam shall extend across the channel of the river creek or watercourse to a distance on either side of not more than fifty feet and not less than twenty feet from the bank and the centre of the dam shall be taken to be that portion thereof which occupies the centre of the channel across which it is constructed. 10

(II.) The centre of the dam shall have an elevation of not more than four feet above the natural bed of the stream at the time and place of construction. 15

(III.) Either extremity of the dam shall have an elevation of not more than two feet above the natural level of the bank at the place of construction.

(IV.) The portions of the dam between the centre and the extremity on either side shall have an elevation uniformly graduated from the level of the centre to that of the extremity so that the upper surface of the entire dam shall be in the form of an inverted arch. 20

(V.) An embankment of puddle clay or earth shall be constructed upon that side of the dam against which the stream flows sufficient to protect the same against the force of the current. 25

(VI.) A plank paved or puddled apron or floor shall be constructed on the side of the dam opposite to that against which the stream flows sufficient to protect the foundation of the dam from being undermined by the fall of water over the dam. 30

Limitation of construction of dam.

2. No dam constructed under the authority of this Act shall conserve more water than is required to fill the perimeter of the reservoir formed by such dam and no dam shall be constructed unless and until there shall be formed in connection therewith a by-wash whereby all surplus water from such reservoir may be returned to the watercourse excepting in periods of excessive rainfall or flood and no dam shall be constructed whereby the use of any public crossing-place over any water-course shall be impeded. 35 40

Power to complete alter and maintain dams already commenced or constructed.

3. It shall be lawful for any such person or persons as aforesaid after permission in that behalf obtained from the Minister for Mines as hereinafter provided to complete and maintain any dam commenced before the passing of this Act and to maintain or if necessary alter and thereafter maintain any dam already constructed either before or after the passing of this Act across the channel of any such river creek or watercourse provided that every such dam shall upon such completion or alteration and during such maintenance be in accordance with the requirements of this Act in respect of dams to be constructed under the authority thereof. 45 50

Permission to be obtained from Minister for Mines.

4. Before proceeding to the construction completion or alteration of any dam it shall in all cases be necessary for the person or persons entitled under this Act to construct complete or alter the same to make application in writing signed by the person or persons so applying to the Minister for Mines for permission so to construct complete or alter such dam and setting forth the exact site or proposed site thereof and the Minister for Mines as soon as conveniently may be after the receipt by him of such application shall cause such site or proposed site and all lands likely to be substantially affected by the works proposed to be 55

be inspected and reported upon by some competent officer or person and on receiving the report of such officer or person thereupon and after consideration thereof shall in his discretion either grant modify or refuse such application or impose such special conditions as to the mode and material of construction and the maintenance of such dam in addition to the requirements and limitations in this Act contained as may seem to him expedient.

5. When and so often as there is a continuous flow of water along the entire length of the channel of any river creek or watercourse across which any dam exists under the authority of this Act it shall be lawful for the person or persons entitled to the possession of the lands having frontage to such river creek or watercourse at the site of such dam to increase by any convenient means the elevation of the central portion of such dam to any further height not exceeding two feet and to maintain the same at such height so long as such continuous flow as aforesaid is not thereby prevented and no longer.

Power to increase temporarily the elevation of dams.

6. No dam constructed completed altered maintained or temporarily increased in elevation under the authority of this Act shall thereby be made or allowed to remain of such elevation above the natural bed of any such river creek or watercourse as to force any considerable quantity of water over the banks or either bank thereof.

Water not to be forced over banks.

7. No two dams shall be constructed or maintained under the authority of this Act across the same river creek or watercourse at a distance from each other of less than four miles in a straight line except with the consent in writing of all proprietors or lessees from the Crown of lands abutting upon such river creek or watercourse and likely to be substantially affected by the construction or maintenance of such dams.

Minimum distance between dams on same stream.

8. It shall be lawful for the person or persons by this Act authorised to construct complete alter or maintain in any dam after permission in that behalf obtained from the Minister for Mines as hereinbefore provided to give notice in writing to any proprietor or lessee from the Crown of lands having frontage on one or both sides to the river creek or watercourse across which it is proposed to construct complete alter or repair any such dam and whose said lands are likely to be substantially benefited thereby setting forth his or their intention to proceed with such work and requiring such proprietor or lessee to contribute towards defraying the cost thereof of such amount as shall be proportional to the length of frontage of his said lands measured along the channel of such river creek or watercourse and in case any such proprietor or lessee shall refuse or neglect for the space of three months after the completion of such work to contribute as aforesaid then and in every such case it shall be lawful for the person or persons authorised as aforesaid who shall have completed such work to recover from such proprietor or lessee in respect of the costs and expenses thereby incurred a sum proportional to the length of frontage of his lands measured as aforesaid as for money laid out and expended for the benefit of such proprietor or lessee. Provided that where any lands shall have frontage at any place to one side only of any such river creek or watercourse two miles of such frontage shall only be reckoned as one and a similar reckoning shall be made as to all other distances.

Persons benefited required to contribute towards expense.

3. 9. In all cases where the lands having frontage to any river creek or watercourse at the site or proposed site of any dam shall be in the occupation of different persons it shall be lawful for any person or persons by this Act authorised to construct complete alter or maintain such dam to enter by himself or themselves and his or their servants or agents upon any such lands and occupy the same so far as shall be necessary for any of the purposes aforesaid.

Power to enter lands for construction &c. of dams.

Dams to be deemed an improvement within meaning of Crown Lands Alienation or Occupation Acts.

4. 10. Every dam constructed completed altered or maintained under the authority of this Act shall in respect of all Crown Lands substantially benefited thereby be deemed to be an improvement within the meaning of all Acts now in force or hereafter to be passed for regulating the alienation or occupation of Crown Lands except in so far as such construction may or might be repugnant to any provision in any such Act contained. 5

Who is to have care and conservance of dams.

5. 11. The care and conservance of every dam constructed completed altered or maintained over any river creek or watercourse under the authority of this Act shall be vested in the person or persons for the time being entitled to the possession of the lands abutting upon such river creek or watercourse at the site of such dam and any one of such person or persons shall be entitled to maintain an action in respect of any injury or damage done to the same. 10

Indemnity against actions.

12. In any action suit or other proceeding instituted by any person in respect of any alleged damage directly or indirectly sustained through the construction completion alteration repair or maintenance of any dam or dams under the authority of this Act it shall be a good and sufficient plea to allege that such dam or dams was or were constructed completed altered repaired or maintained pursuant to the provisions of this Act. 15 20

Penalty for wrongful construction &c. of dams.

6. 13. Any person or persons who shall after the passing of this Act without lawful cause or excuse construct complete alter or maintain any dam across any river creek or watercourse so as to have the effect of forcing any considerable quantity of the water of the same over the bank or banks thereof in contravention of the provisions of this Act shall be guilty of a misdemeanour and shall be liable to forfeit to Her Majesty any sum not exceeding five hundred pounds. 25

Penalty for injuring dam or polluting water.

7. 14. All persons wilfully and without lawful authority breaking down defacing cutting or injuring any dam or part of a dam constructed completed altered or maintained or in process of construction completion or alteration under the authority of this Act or wilfully polluting the water therein or thereby accumulated shall be guilty of a misdemeanour and shall be liable to forfeit to Her Majesty any sum not exceeding five hundred pounds. 30

Not to extend to navigable rivers.

8. 15. Nothing in this Act contained shall be held to authorise the construction completion or maintenance of any dam across any navigable river creek or watercourse or any navigable portion of any river creek or watercourse.

No claims against the Government given by this Act.

16. Nothing in this Act contained shall be construed to give any claim against the Government of New South Wales in respect of any costs charges or expenses in any way incurred by any person or persons for the construction completion alteration repair or maintenance of any dam in pursuance of the provisions of this Act.

Short title.

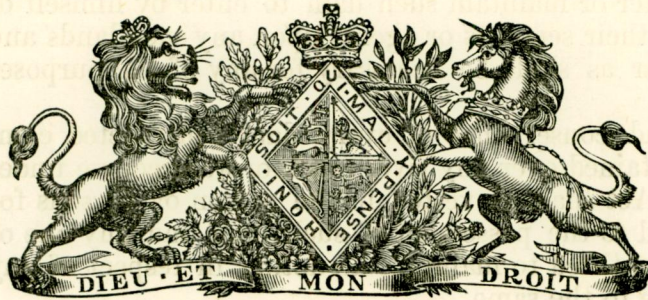
9. 17. This Act may be cited as the "Pastoral Dams Act of 1884."

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 9th October, 1884. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ.

No. .

An Act to authorize the construction and maintenance of Dams
for Pastoral Purposes.

WHEREAS it is expedient that provision should be made for the Preamble.
conservation of water by means of dams against seasons of
drought in the pastoral districts of New South Wales and that due
encouragement and protection should be afforded to such persons as
5 may be willing from time to time to make such provision Be it there-
fore enacted by the Queen's Most Excellent Majesty by and with the
advice and consent of the Legislative Council and Legislative Assembly
of New South Wales in Parliament assembled and by the authority of
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- 10 1. Subject to the limitations and requirements in this Act con- Power to construct
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the Crown of lands situate in any pastoral district of the colony and
having frontage either on one side or on both sides to any river creek
or watercourse to construct and maintain a dam or dams or to complete
15 and maintain any dam or dams commenced before the passing of this
Act or to maintain or alter and thereafter maintain any dam or dams
already constructed either before or after the passing of this Act across
the channel of such river creek or watercourse at any part or parts
thereof abutted upon by any such lands as aforesaid for the purpose
20 of collecting or storing water.

Pastoral Dams.

2. No dam constructed under the authority of this Act shall conserve more water than is required to fill the reservoir formed by such dam and no dam shall be constructed unless and until there shall be formed in connection therewith a by-wash whereby all surplus
5 water from such reservoir may be returned to the watercourse excepting in periods of excessive rainfall or flood and no dam shall be constructed whereby the use of any public crossing-place over any water-course shall be impeded. Provided that any intended overshot
10 dam may be constructed without such by-wash where a sufficient waterway is allowed over such dam.

Limitation of construction of dam.

3. In all cases where the lands having frontage to any river creek or watercourse at the site or proposed site of any dam shall be in the occupation of different persons it shall be lawful for any person to construct complete alter or maintain such dam to enter by himself or
15 themselves and his or their servants or agents upon any such lands and occupy the same so far as shall be necessary for any of the purposes aforesaid.

Power to enter lands for construction &c. of dams.

4. The care and conservance of every dam constructed completed altered or maintained over any river creek or watercourse under
20 the authority of this Act shall be vested in the person or persons for the time being entitled to the possession of such dam and any one of such persons shall be entitled to maintain an action in respect of any injury or damage done to the same.

Who is to have care and conservance of dams.

5. Any person or persons who shall after the passing of this
25 Act without lawful cause or excuse construct complete alter or maintain any dam across any river creek or watercourse in contravention of the provisions of this Act shall be guilty of a misdemeanour and shall be liable to forfeit to Her Majesty any sum not exceeding five hundred pounds.

Penalty for wrongful construction &c. of dams.

30 6. All persons wilfully and without lawful authority breaking down defacing cutting or injuring any dam or part of a dam constructed completed altered or maintained or in process of construction completion or alteration under the authority of this Act or wilfully
polluting the water therein or thereby accumulated shall be guilty of
35 a misdemeanour and shall be liable to forfeit to Her Majesty any sum not exceeding five hundred pounds.

Penalty for injuring dam or polluting water.

7. Nothing in this Act contained shall be held to authorise
40 the construction completion or maintenance of any dam across any navigable river creek or watercourse or any navigable portion of any river creek or watercourse.

Not to extend to navigable rivers.

8. This Act may be cited as the "Pastoral Dams Act of 1884." Short title.