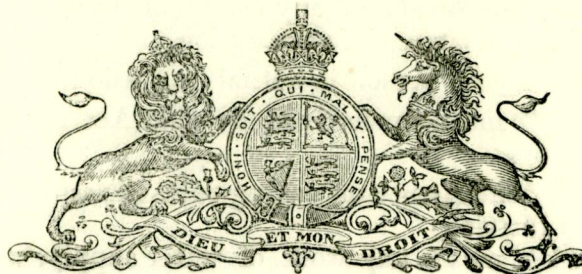


# New South Wales.



ANNO SECUNDO

## EDWARDI VII REGIS.

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### Act No. 93, 1902.

An Act to provide for the annual expenditure of £200,000 for a period of five years on works of water supply, water conservation, or irrigation and of drainage ; for the constitution of trusts to administer the same in certain cases ; and to authorise the raising of the said sums by loans.  
[Assented to, 5th December, 1902.]

**B**E it enacted by the King'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 :—

#### *Preliminary.*

1. This Act may be cited as the “ Water and Drainage Act, 1902.” Short title.

2. In this Act—

“ Board ” means Board consisting of the Under Secretary of the Public Works Department, Engineer-in-Chief for Railway Construction,

Interpretation.



*Water and Drainage.*

Construction, Government Architect, Commissioner for Roads and Principal Engineer for Roads and Bridges, Principal Engineer for Harbours and Rivers, the Principal Engineer for Water Supply and Sewerage, and such other officer of the Public Works Department as may be appointed by the Governor; and including where any work affects the Western Division, the Western Land Board, as constituted under the Western Lands Act of 1901.

“Minister” means Secretary for Public Works.

“Owner” means owner of any estate of freehold in land, and includes a mortgagee in possession.

“Occupier” means person in actual possession.

“Prescribed” means prescribed by this Act or the regulations or by-laws.

“Ratepayer” means person paying rates in respect of land within a trust district.

“State work” means any work of water supply, water conservation, or irrigation, or of drainage proclaimed as such by the Governor.

“The regulations” and “the by-laws” mean respectively the regulations and by-laws made under this Act.

“Trust” means trust constituted under this Act.

“Trustee” means member of a trust.

“Trust district” means area over which a trust has jurisdiction under this Act.

“Western Division” has the same meaning as in the Crown Lands Act of 1884.

“Works” includes any natural or artificial conduit, well, appliance, machinery, or structure pertaining to or used in connection with a trust.

*Loans for works.*

Power to raise  
£200,000 a year for  
five years for  
purposes of water  
supply.

3. (1) The Governor may raise in the year one thousand nine hundred and two, and in each of the next four succeeding years, by the issue of debentures or the issue of inscribed stock, secured upon the Consolidated Fund of this State, and bearing interest at a rate not exceeding four per centum per annum, a sum not exceeding two hundred thousand pounds, for the purpose of carrying out works of water supply, water conservation or irrigation, or of drainage.

Stock may be sold in  
London or Sydney.

(2) The loans so authorised may be negotiated wholly or in part in the form of debentures or inscribed stock in the State or in London at such times and for such amounts as may be directed by the Governor.

(3)



*Water and Drainage.*

(3) Any stock issued within the State under this Act shall be styled "New South Wales Funded Stock," and shall, if sold otherwise than by tender, be purchasable at the Treasury upon any lawful day.

Creation of stock.

(4) The provisions of the Funded Stock Act of 1892, relating to the method of inscription and transfer of stock, and the regulations under such Act, and the forms prescribed in the said regulations, are hereby declared to be applicable to, and shall be followed and used mutatis mutandis in connection with stock issued within the State under the provisions of this Act.

Application hereto of certain provisions of Funded Stock Act of 1892 to stock sold in the State.

(5) In respect of any stock issued in London under the provisions of this Act, the Governor may make regulations, not being inconsistent with the provisions of the Inscribed Stock Act of 1883, for carrying this Act into effect; and such regulations shall be published in the Gazette and laid before Parliament within fourteen days of the publication thereof, if Parliament be then sitting, and if Parliament be not sitting, then within fourteen days of the commencement of the next session thereof.

Regulations to be made in respect of stock sold in London.

(6) All moneys borrowed under this Act shall be paid to the Treasurer, and shall be by him carried to and form part of the General Loan Account, and be appropriated and applied, as required, to the works and services hereinbefore specified, or to any other duly authorised Loan Services, in terms of the Audit Act, 1902.

Sums borrowed how to be accounted for and appropriated.

(7) Debentures or stock sold or issued under this Act are hereby declared to be for all purposes Government Securities; and all corporations and other persons whatsoever shall have power to invest in the purchase of such debentures and stock any property held by them, whether as trustees or otherwise, which they are not expressly forbidden to invest in Government stock or securities, without on that account being liable as for a breach of trust or incurring any liability whatsoever, provided that such investment is in other respects reasonable and proper.

Power to trustees and others to invest in debentures or stock.

*State works.*

4. The Minister may, subject to the provisions of the Public Works Act, 1900, carry out a "State work" under the said Act out of the funds raised under this Act, and may maintain and administer and, subject as aforesaid, extend the same as he thinks fit.

Construction of "State works."

*Works of water conservation costing five thousand pounds or less.*

5. Where the estimated cost does not exceed five thousand pounds the Minister may, out of the funds raised under this Act, carry out any works of water conservation that he deems desirable, and maintain and administer the same, and no charge shall be made for water supplied to travelling stock from such works when situated on

Works of water conservation costing £5,000 or less.

or



*Water and Drainage.*

or near to any public highway: Provided that the Minister shall before carrying out any such works, where the estimated cost exceeds five hundred pounds, refer the proposal to the Board and obtain their report thereon.

*Constitution of trusts.*

Constitution of trusts.

6. Where the estimated cost of any work of water conservation exceeds five thousand pounds, and in respect of any works of water supply, irrigation, or drainage, the Minister shall notify in the Gazette and in some newspaper circulating in the district affected by such works proposals for the construction of such works, and the constitution of a trust for maintaining, administering, and extending such works.

Contents of proposals.

7. Any such proposal shall contain—

- (a) a description of the purpose for which it is proposed to constitute the trust;
- (b) a plan and description of the works and of the land, whether covered with water or not, proposed to be taken or acquired for the purposes of such works and of their cost or estimated cost;
- (c) the rate of interest, which shall not exceed four per centum per annum, and shall be paid by the trust on the actual cost or on the estimated cost, plus ten per centum, whichever is the lesser sum;
- (d) the charges to be paid by the trust for water to be supplied by the Crown and the conditions of such supply;
- (e) the maximum rate which may be assessed by the trust;
- (f) a description of the trust district;
- (g) the number of trustees being either three or five;
- (h) the number of years within which the cost of the work shall be extinguished by a sinking fund.

Minister on petition by one third of occupiers and owners to refer proposal to Board for inquiry.

8. If, within eight weeks after such notification, a petition is presented to the Minister signed by at least one-third in number of the occupiers of Crown land, including homestead selectors, conditional lessees, and settlement lessees, and owners of other land within the proposed trust district, objecting to the proposal, he shall refer the proposal to the Board for inquiry and report.

For the purpose of any such inquiry such Board shall have the power to subpoena witnesses and take evidence on oath.

Witnesses expenses.

Every person who when required by the Board attends as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena on the trial of an action in the District Court, and, in case of dispute as to the amount to be allowed, the same shall be referred to the Registrar of the nearest District Court who, on request under the hand of the Chairman of the Board, shall ascertain and certify the proper amount of such expenses.



*Water and Drainage.*

9. (1) If within the said period no such petition is received, or if the Board reports in favour of the proposal, with or without modifications, the Governor may constitute the trust with such modifications of the proposal as the Board may recommend, or where no reference is made to the Board, with such modifications as the Minister may think fit.

If no petition or if Board reports in favour of proposal the Governor may constitute the trust.

(2) The constitution of the trust shall be notified by the Minister in the Gazette.

(3) Upon such notification the conditions of the proposal, with such modifications (if any) as aforesaid, shall be binding on the trust and on the Crown, and the Minister may, out of the funds raised under this Act, carry out the works described in the proposal.

Upon notification of the trust, the Minister may carry out any works described in the proposal.

*Works under other Acts.*

10. The Minister may, out of the funds raised under this Act, carry out any work which he is authorised to carry out under the Public Watering Places Act, 1900, or the Artesian Wells Act, 1897.

Works under Public Watering Places Act and Artesian Wells Act.

*Completion of certain works already commenced.*

11. (1) The Minister may, out of the said funds, complete any works of water supply, water conservation or irrigation, or of drainage under construction at the commencement of this Act.

Works of water supply, &c., already commenced may be completed.

(2) The Minister may notify proposals for the completion of any such work and for the constitution of a trust in respect thereof, and may notify proposals for the constitution of a trust in respect of any such work constructed and under his immediate control at the commencement of this Act, and in any such case the provisions of sections seven, eight, and nine shall be applicable mutatis mutandis.

Trusts may be constituted in respect of such works and of any already constructed.

*Construction of works.*

12. Every work, other than a State work, which the Minister is authorised by this Act to carry out shall be carried out under the Public Works Act, 1900, and all the powers and provisions of the said Act relating to authorised works shall be applicable to such work, and for all purposes of the said Act such work shall be deemed to be an "authorised work," and the Minister shall be deemed a "Constructing Authority" within the meaning of the said Act:

Works to be carried out under Public Works Act, 1900, and to be "authorised works" and Minister a "Constructing Authority" within that Act.

Provided that no such work which interferes with any rights under any license granted by the Crown under the Water Rights Act, 1902, or any other Act, shall be carried out until and unless the Minister has given to the holder of such license the following notice of his intention to carry out such work, that is to say—

- (a) where the unexpired term of the license does not exceed five years, six months' notice;
- (b)



*Water and Drainage.*

- (b) where the unexpired term of the license exceeds five years, twelve months' notice.

*Transfer to trust.*

On notification of completion, trust to take over management.

13. The completion of any works in respect of which a trust is constituted under this Act, and the cost of the same shall be notified in the Gazette, and thereupon the trust shall take over the same, and the administration and management thereof upon the terms and conditions prescribed, and shall exercise all the powers contained in this Act except such as are conferred solely upon the Minister, and the interest and charges payable by the trust shall commence to run.

*Alteration of boundaries of trust districts.*

Minister on petition by two-thirds of occupiers or owners to refer proposed alteration to Board.

14. If two-thirds in number of the occupiers of Crown lands including homestead selectors, conditional lessees, and settlement lessees and owners of other lands within any area sign and forward to the Minister a petition that such area be included in a trust district, the Minister shall refer the proposed alteration to the Board, who, after giving the trust an opportunity of expressing their opinion, shall report to the Minister whether in the opinion of the Board the petition ought to be refused or granted with or without modifications, whereupon the Minister may by notification in the Gazette alter the boundaries of such district accordingly, or may refuse the petition.

*Appointment and election of trustees.*

In certain cases Minister to appoint trustees, in other to direct their election.

15. (1) After the constitution of the trust, but before the completion of the works (if any) proposed to be constructed, the Minister shall, by notice in the Gazette, appoint trustees and direct the first election of trustees in pursuance of this Act.

(2) Where the trust district consists wholly of land acquired under the Closer Settlement Act, 1901, or any Act amending the same, or unoccupied Crown lands, all the trustees shall be appointed by the Minister, and shall, subject to the provisions of this Act, hold office until half the land in the district is occupied by persons who are liable to pay rates to the trust.

Thereafter, and in other cases where the number of the trustees is three, one shall be appointed by the Minister and two shall be elected, but where the number of the trustees is five, two shall be appointed by the Minister and the rest shall be elected:

Provided that where the trust district is in the western division, the Western Lands Board shall be sole trustees in lieu of the trustee or trustees hereinbefore mentioned.

Trustees to be elected for three years.

16. Elected trustees shall be elected for three years and shall hold office until their successors are elected.



*Water and Drainage.*

17. For the purpose of the first election of trustees the Minister shall prepare a roll of voters, placing on the roll the names of the persons who in his opinion will be liable to pay rates to the trust, and the persons whose names are on such roll and no others shall be qualified to vote at the first election. Method of first election of trustees.

18. For the purpose of any subsequent election of trustees, a roll of voters containing the names of the persons who are liable to pay rates to the trust shall be prepared by the trustees, and revised in the prescribed manner by the police magistrate having jurisdiction in the district, before whom any person aggrieved by the omission or addition of the name of any person may appear and be heard, and the persons whose names are on such roll and no others shall be entitled to vote at any such election. Subsequent election of trustees.

19. Persons on the roll shall be entitled to vote in the manner following, that is to say :— Cumulative voting.

- (a) In the case of a trust placed in charge of drainage work or irrigation works, the occupier of an area of land not exceeding fifty acres shall be entitled to one vote; of an area exceeding fifty acres but not exceeding three hundred acres, to two votes; and of an area exceeding three hundred acres, to three votes.
- (b) In the case of a trust in charge of water supplies for domestic and stock purposes, the occupier of an area of land not exceeding two thousand acres shall have one vote; the occupier of more than two thousand acres but not more than ten thousand acres, two votes; and the occupier of more than ten thousand acres, three votes.

20. Any person entitled to vote at the election of trustees may be elected as trustee. But no person who has been convicted of any criminal offence shall be capable of being appointed or elected or to act as a trustee, and where a trustee becomes incapable as aforesaid, his office shall become vacant. Qualification of persons entitled to be elected as trustees.

21. In the first election of trustees the Minister shall appoint a returning officer, and may for any succeeding election appoint a returning officer, or delegate this power to the trustees. Minister to appoint returning officer for first election, but for any succeeding election may delegate this power to trustees.

The Minister shall appoint the date of any election and the polling places, and shall notify the same in the Gazette and a local newspaper.

22. The mode of election of trustees shall be as prescribed by the regulations. Mode of election to be as prescribed.

23. Any vacancy caused by the death, resignation, or incapacity of a trustee shall be filled by appointment or election, as the case may be. Vacancy how filled.

*Powers*



*Water and Drainage.**Powers and duties of trustees.*

Duties of trustees.

**24.** The trustees shall be charged with the duty of maintaining and administering the works of water supply, water conservation, irrigation, and drainage mentioned in the notification constituting the trust or thereafter constructed within the trust district.

Powers and duties of trustees.

**25.** Trustees shall have the following duties and powers:—

- (a) They shall maintain in a state of efficiency the works under their charge.
- (b) They shall fix and levy rates to provide for the maintenance and management of such works and for interest, charges, and sinking fund.
- (c) They shall keep proper accounts of all moneys received and paid.
- (d) They shall pay to the Treasury at such times as may be fixed by the Minister the interest and charges payable by them and make due provision for a sinking fund, and all sums received on account of any such sinking fund shall be carried by the Colonial Treasurer to a special account to be entitled "The Water and Drainage Loan Redemption Fund," and all other sums to the Consolidated Revenue Fund.
- (e) They may appoint, with the sanction of the Minister, such officers or servants as may be required.

Power of trustees or their officers to enter and inspect.

**26.** In the exercise and discharge of their powers and duties, the trustees by themselves or their officers may enter any land within the trust district and make any inspection or survey they may deem necessary, and effect repairs or alterations to any works, but in so doing shall avoid as far as practicable causing any loss, injury, or damage. They shall not be responsible for any loss, injury, or damage caused by them, unless claim in writing be made within three months thereafter.

Trustees may fix and levy rates.

**27.** (1) For the purpose of providing money for exercising their powers and performing their duties under this Act the trustees may fix and levy rates upon the whole of the lands within the trust district as follows:—

- (a) In connection with the supply of water for stock purposes, a rate per acre of the land benefited by the works shall be fixed and the rate may vary in proportion to the benefit received as aforesaid. When water is supplied down a natural channel, a rate per mile of the lands benefited as aforesaid, measured according to the frontage to the channel, may be fixed, and the rate may vary in proportion to the benefit received.
- (b) In connection with the supply of water for domestic purposes, a rate for each separate tenement in the trust district shall be fixed, and the rate may vary in proportion to the benefit received.

(c)



*Water and Drainage.*

- (c) In the case of drainage, a rate per acre of the land benefited by the works shall be fixed ; and this rate may vary according to the distance of the land from drains and in proportion to the benefit received as aforesaid.
- (d) In the case of irrigation, a rate per acre on the whole of the irrigable land within the trust district shall be levied, whereupon the ratepayer shall be entitled to a proportion of the water to be fixed by the trustees either by measure or according to the area irrigated, or which in the opinion of the trustees should be irrigated.
- (e) In all cases, not otherwise in this section provided for, a rate per acre of the land benefited directly or indirectly by the works. This rate shall be fixed yearly, and shall as far as practicable be in proportion to the benefit received as aforesaid.
- (f) In the case of a supply for more than one purpose, separate rates may be fixed calculated on the basis set out for each such purpose.

(2) All such rates shall be payable by the occupiers of the lands.

(3) Any occupier aggrieved by the amount at which he is rated may appeal therefrom to the police magistrate having jurisdiction in the district, who shall hear and determine the matter, and may confirm or vary such amount.

28. The trustees shall have power to sell water by measure to any ratepayer in addition to the quantity to which he is entitled by payment of rates. Trustees may sell additional water to ratepayers.

*Powers of Minister where trust constituted.*

29. If the trustees by request in writing desire the Minister to improve or extend any works under their charge or increase the quantity of water supplied, the Minister may prepare an estimate of the cost of the proposed work and the interest thereon payable by the trust and a statement of the additional charge to be paid by the trust in respect of the increase of the quantity of water supplied. Such estimate and statement shall be supplied to the trustees. The Minister, on request by trustees to improve or extend any works under their charge, may prepare an estimate of the cost of the proposed work, and upon the receipt of an intimation from the trustees that such estimate has been approved by a special general meeting of voters, may proceed with the construction of proposed works.

Upon the receipt from the trustees of an intimation that the estimate and statement have been approved by a special general meeting of the voters in the trust, of which not less than fourteen days' notice shall be given in the prescribed manner, the Minister may proceed with the construction of the proposed work or may increase the quantity of water supplied.

On the completion of the work or upon the increase of the quantity of water a notification shall be sent to the trustees, and shall be published



*Water and Drainage.*

published in the Gazette, directing that, with the Governor's approval, the interest on the cost of such work and the charges for the increase of water supplied shall be paid by the trust.

Such interest and charges shall commence to run from the date of such notification, and such interest shall be calculated on a sum not exceeding the estimated cost plus ten per centum.

Power of Minister to enter and inspect.

**30.** (1) The Minister, by himself or his officers, may at any time enter any part of a trust district and make an inspection or survey of the works in charge of the trust, and may inspect the records and accounts of the trustees.

Minister may cause repairs to be made at cost of the trust.

If upon such inspection the Minister is of opinion that any of such works are not kept in repair and efficient working order he may cause such repairs, as he may think necessary, to be made at the cost of the trust, and for the purpose of effecting such repairs he shall have the powers of the trustees.

Governor may dissolve trust, or appoint a manager.

(2) In the event of any delay in the election of trustees, or in the event of any default by trustees in the discharge of their duties under this Act or the regulations, the Minister may assume all or any of the powers by this Act conferred on trustees, and the Governor may, if in his opinion sufficient cause exists, dissolve a trust, remove from office trustees, and appoint and direct the election of other trustees, or appoint a manager of the affairs of a trust.

*General and supplemental.*

Trustees to submit to Minister an audited statement of the account of the trust.

**31.** The trustees shall submit to the Minister once every year, and at such other times as the Minister may direct, an audited statement of the accounts of the trust. The Minister may, if in his opinion such audited statement is defective or unsatisfactory, appoint an auditor to prepare a proper statement of accounts, at the cost of the trust.

Power of Minister or trustees to construct conduit.

**32.** (1) The Minister or trustees for the purposes of this Act may construct and maintain and repair any conduit through any land, street, or road.

Any ratepayer of a trust may, with the approval of the trustees, for the purpose of draining his land, cut and make, and maintain and repair drains through any adjacent or neighbouring land:

(2) Provided that the trustees or ratepayer shall make full compensation for any damage occasioned by cutting and making such drains; and such compensation, estimated at one-fifth part above the value of the property affected, shall be assessed by the Board, and when so assessed shall be recoverable in any Court of competent jurisdiction.

Penalties.

**33.** Any person who—  
(a) obstructs the trustees or their officers or servants acting under this Act or the regulations or by-laws; or

(b)



*Water and Drainage.*

- (b) interferes with works in charge of the trustees ; or
  - (c) destroys, injures, or obliterates any mark or level fixed by the trustees or their officers ; or
  - (d) uses water from the works of the trust otherwise than in the manner and at the times prescribed ; or
  - (e) obstructs the flow of or pollutes any water under the control of a trust ; or
  - (f) commits any breach of the provisions of this Act,
- shall be liable to a penalty not exceeding twenty pounds, and in the case of a continuing offence to a penalty not exceeding five pounds per day whilst the offence continues, and shall also be liable to be sued by the trustees or by any person for compensation on account of loss or damage caused by his offence.

**34.** The Governor may make regulations for carrying out the provisions of this Act, and in particular for— Governor may make regulations.

- the election of trustees and the making and revision of the rolls of voters, and the mode of voting ;
- the election by the trustees of a chairman ;
- the intervals within which meetings of trustees must be held ;
- the procedure at such meetings ;
- the appointment, payment, and dismissal of officers and servants ;
- the fixing and notifying of rates ;
- the hearing of appeals ;
- the collection and recovery of rates and charging the same on lands in respect of which they are payable ;
- the keeping of the accounts of trustees ;
- regulating the payment to the Crown of interest and charges by the trust ;
- regulating the proceedings of the Board ;
- regulating special meetings of voters of a trust in pursuance of this Act ;
- imposing any penalty not exceeding twenty pounds for any breach of the regulations.

Such regulations shall be published in the Gazette.

**35.** (1) The trustees may, subject to the approval of the Governor, make by-laws— Trustees may make by-laws.

- prescribing the duties of their officers and servants ;
- for regulating the supply of water from and the use of the works of the trust ;
- prescribing the duties of persons as to the maintenance, clearing, cleansing, and repair of the works of the trust ;
- imposing any penalty not exceeding ten pounds for any breach of the by-laws.

(2) Such by-laws shall have effect when approved by the Governor and published in the Gazette.

All



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*Water and Drainage.*

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All such regulations and by-laws shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

How rates are to be recoverable.

36. All rates and all charges imposed by or under this Act or the regulations or by-laws may be recovered in any Court of competent jurisdiction.

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By Authority : WILLIAM APPLEGATE GULLICK, Government Printer, Sydney, 1902.

[9d.]

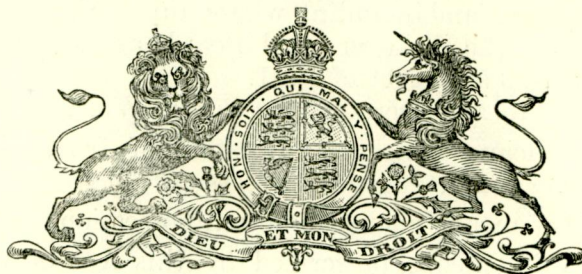


*I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Assembly Chamber,  
Sydney, 26 November, 1902. }*

*F. W. WEBB,  
Clerk of the Legislative Assembly.*

## New South Wales.



ANNO SECUNDO

## EDWARDI VII REGIS.

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### Act No. 93, 1902.

An Act to provide for the annual expenditure of £200,000 for a period of five years on works of water supply, water conservation, or irrigation and of drainage ; for the constitution of trusts to administer the same in certain cases ; and to authorise the raising of the said sums by loans.  
[Assented to, 5th December, 1902.]

**B**E it enacted by the King'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 :—

#### *Preliminary.*

1. This Act may be cited as the “ Water and Drainage Short title.  
Act, 1902.”

2. In this Act—

“ Board ” means Board consisting of the Under Secretary of the  
Public Works Department, Engineer-in-Chief for Railway  
Construction,

*Interpretation.*

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*J. H. CANN,  
Chairman of Committees of the Legislative Assembly.*



*Water and Drainage.*

Construction, Government Architect, Commissioner for Roads and Principal Engineer for Roads and Bridges, Principal Engineer for Harbours and Rivers, the Principal Engineer for Water Supply and Sewerage, and such other officer of the Public Works Department as may be appointed by the Governor; and including where any work affects the Western Division, the Western Land Board, as constituted under the Western Lands Act of 1901.

“Minister” means Secretary for Public Works.

“Owner” means owner of any estate of freehold in land, and includes a mortgagee in possession.

“Occupier” means person in actual possession.

“Prescribed” means prescribed by this Act or the regulations or by-laws.

“Ratepayer” means person paying rates in respect of land within a trust district.

“State work” means any work of water supply, water conservation, or irrigation, or of drainage proclaimed as such by the Governor.

“The regulations” and “the by-laws” mean respectively the regulations and by-laws made under this Act.

“Trust” means trust constituted under this Act.

“Trustee” means member of a trust.

“Trust district” means area over which a trust has jurisdiction under this Act.

“Western Division” has the same meaning as in the Crown Lands Act of 1884.

“Works” includes any natural or artificial conduit, well, appliance, machinery, or structure pertaining to or used in connection with a trust.

*Loans for works.*

Power to raise  
£200,000 a year for  
five years for  
purposes of water  
supply.

3. (1) The Governor may raise in the year one thousand nine hundred and two, and in each of the next four succeeding years, by the issue of debentures or the issue of inscribed stock, secured upon the Consolidated Fund of this State, and bearing interest at a rate not exceeding four per centum per annum, a sum not exceeding two hundred thousand pounds, for the purpose of carrying out works of water supply, water conservation or irrigation, or of drainage.

Stock may be sold in  
London or Sydney.

(2) The loans so authorised may be negotiated wholly or in part in the form of debentures or inscribed stock in the State or in London at such times and for such amounts as may be directed by the Governor.

(3)



*Water and Drainage.*

(3) Any stock issued within the State under this Act shall be styled "New South Wales Funded Stock," and shall, if sold otherwise than by tender, be purchasable at the Treasury upon any lawful day.

Creation of stock.

(4) The provisions of the Funded Stock Act of 1892, relating to the method of inscription and transfer of stock, and the regulations under such Act, and the forms prescribed in the said regulations, are hereby declared to be applicable to, and shall be followed and used mutatis mutandis in connection with stock issued within the State under the provisions of this Act.

Application hereto of certain provisions of Funded Stock Act of 1892 to stock sold in the State.

(5) In respect of any stock issued in London under the provisions of this Act, the Governor may make regulations, not being inconsistent with the provisions of the Inscribed Stock Act of 1883, for carrying this Act into effect; and such regulations shall be published in the Gazette and laid before Parliament within fourteen days of the publication thereof, if Parliament be then sitting, and if Parliament be not sitting, then within fourteen days of the commencement of the next session thereof.

Regulations to be made in respect of stock sold in London.

(6) All moneys borrowed under this Act shall be paid to the Treasurer, and shall be by him carried to and form part of the General Loan Account, and be appropriated and applied, as required, to the works and services hereinbefore specified, or to any other duly authorised Loan Services, in terms of the Audit Act, 1902.

Sums borrowed how to be accounted for and appropriated.

(7) Debentures or stock sold or issued under this Act are hereby declared to be for all purposes Government Securities; and all corporations and other persons whatsoever shall have power to invest in the purchase of such debentures and stock any property held by them, whether as trustees or otherwise, which they are not expressly forbidden to invest in Government stock or securities, without on that account being liable as for a breach of trust or incurring any liability whatsoever, provided that such investment is in other respects reasonable and proper.

Power to trustees and others to invest in debentures or stock.

*State works.*

4. The Minister may, subject to the provisions of the Public Works Act, 1900, carry out a "State work" under the said Act out of the funds raised under this Act, and may maintain and administer and, subject as aforesaid, extend the same as he thinks fit.

Construction of "State works."

*Works of water conservation costing five thousand pounds or less.*

5. Where the estimated cost does not exceed five thousand pounds the Minister may, out of the funds raised under this Act, carry out any works of water conservation that he deems desirable, and maintain and administer the same, and no charge shall be made for water supplied to travelling stock from such works when situated on

Works of water conservation costing £5,000 or less.

or



*Water and Drainage.*

or near to any public highway: Provided that the Minister shall before carrying out any such works, where the estimated cost exceeds five hundred pounds, refer the proposal to the Board and obtain their report thereon.

*Constitution of trusts.*

Constitution of trusts.

6. Where the estimated cost of any work of water conservation exceeds five thousand pounds, and in respect of any works of water supply, irrigation, or drainage, the Minister shall notify in the Gazette and in some newspaper circulating in the district affected by such works proposals for the construction of such works, and the constitution of a trust for maintaining, administering, and extending such works.

Contents of proposals.

7. Any such proposal shall contain—

- (a) a description of the purpose for which it is proposed to constitute the trust;
- (b) a plan and description of the works and of the land, whether covered with water or not, proposed to be taken or acquired for the purposes of such works and of their cost or estimated cost;
- (c) the rate of interest, which shall not exceed four per centum per annum, and shall be paid by the trust on the actual cost or on the estimated cost, plus ten per centum, whichever is the lesser sum;
- (d) the charges to be paid by the trust for water to be supplied by the Crown and the conditions of such supply;
- (e) the maximum rate which may be assessed by the trust;
- (f) a description of the trust district;
- (g) the number of trustees being either three or five;
- (h) the number of years within which the cost of the work shall be extinguished by a sinking fund.

Minister on petition by one third of occupiers and owners to refer proposal to Board for inquiry.

8. If, within eight weeks after such notification, a petition is presented to the Minister signed by at least one-third in number of the occupiers of Crown land, including homestead selectors, conditional lessees, and settlement lessees, and owners of other land within the proposed trust district, objecting to the proposal, he shall refer the proposal to the Board for inquiry and report.

For the purpose of any such inquiry such Board shall have the power to subpoena witnesses and take evidence on oath.

Witnesses expenses.

Every person who when required by the Board attends as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena on the trial of an action in the District Court, and, in case of dispute as to the amount to be allowed, the same shall be referred to the Registrar of the nearest District Court who, on request under the hand of the Chairman of the Board, shall ascertain and certify the proper amount of such expenses.



*Water and Drainage.*

9. (1) If within the said period no such petition is received, or if the Board reports in favour of the proposal, with or without modifications, the Governor may constitute the trust with such modifications of the proposal as the Board may recommend, or where no reference is made to the Board, with such modifications as the Minister may think fit.

If no petition or if Board reports in favour of proposal the Governor may constitute the trust.

(2) The constitution of the trust shall be notified by the Minister in the Gazette.

(3) Upon such notification the conditions of the proposal, with such modifications (if any) as aforesaid, shall be binding on the trust and on the Crown, and the Minister may, out of the funds raised under this Act, carry out the works described in the proposal.

Upon notification of the trust, the Minister may carry out any works described in the proposal.

*Works under other Acts.*

10. The Minister may, out of the funds raised under this Act, carry out any work which he is authorised to carry out under the Public Watering Places Act, 1900, or the Artesian Wells Act, 1897.

Works under Public Watering Places Act and Artesian Wells Act.

*Completion of certain works already commenced.*

11. (1) The Minister may, out of the said funds, complete any works of water supply, water conservation or irrigation, or of drainage under construction at the commencement of this Act.

Works of water supply, &c., already commenced may be completed.

(2) The Minister may notify proposals for the completion of any such work and for the constitution of a trust in respect thereof, and may notify proposals for the constitution of a trust in respect of any such work constructed and under his immediate control at the commencement of this Act, and in any such case the provisions of sections seven, eight, and nine shall be applicable mutatis mutandis.

Trusts may be constituted in respect of such works and of any already constructed.

*Construction of works.*

12. Every work, other than a State work, which the Minister is authorised by this Act to carry out shall be carried out under the Public Works Act, 1900, and all the powers and provisions of the said Act relating to authorised works shall be applicable to such work, and for all purposes of the said Act such work shall be deemed to be an "authorised work," and the Minister shall be deemed a "Constructing Authority" within the meaning of the said Act:

Works to be carried out under Public Works Act, 1900, and to be "authorised works" and Minister a "Constructing Authority" within that Act.

Provided that no such work which interferes with any rights under any license granted by the Crown under the Water Rights Act, 1902, or any other Act, shall be carried out until and unless the Minister has given to the holder of such license the following notice of his intention to carry out such work, that is to say—

- (a) where the unexpired term of the license does not exceed five years, six months' notice;

(b)



*Water and Drainage.*

- (b) where the unexpired term of the license exceeds five years, twelve months' notice.

*Transfer to trust.*

On notification of completion, trust to take over management.

13. The completion of any works in respect of which a trust is constituted under this Act, and the cost of the same shall be notified in the Gazette, and thereupon the trust shall take over the same, and the administration and management thereof upon the terms and conditions prescribed, and shall exercise all the powers contained in this Act except such as are conferred solely upon the Minister, and the interest and charges payable by the trust shall commence to run.

*Alteration of boundaries of trust districts.*

Minister on petition by two-thirds of occupiers or owners to refer proposed alteration to Board.

14. If two-thirds in number of the occupiers of Crown lands including homestead selectors, conditional lessees, and settlement lessees and owners of other lands within any area sign and forward to the Minister a petition that such area be included in a trust district, the Minister shall refer the proposed alteration to the Board, who, after giving the trust an opportunity of expressing their opinion, shall report to the Minister whether in the opinion of the Board the petition ought to be refused or granted with or without modifications, whereupon the Minister may by notification in the Gazette alter the boundaries of such district accordingly, or may refuse the petition.

*Appointment and election of trustees.*

In certain cases Minister to appoint trustees, in other to direct their election.

15. (1) After the constitution of the trust, but before the completion of the works (if any) proposed to be constructed, the Minister shall, by notice in the Gazette, appoint trustees and direct the first election of trustees in pursuance of this Act.

(2) Where the trust district consists wholly of land acquired under the Closer Settlement Act, 1901, or any Act amending the same, or unoccupied Crown lands, all the trustees shall be appointed by the Minister, and shall, subject to the provisions of this Act, hold office until half the land in the district is occupied by persons who are liable to pay rates to the trust.

Thereafter, and in other cases where the number of the trustees is three, one shall be appointed by the Minister and two shall be elected, but where the number of the trustees is five, two shall be appointed by the Minister and the rest shall be elected:

Provided that where the trust district is in the western division, the Western Lands Board shall be sole trustees in lieu of the trustee or trustees hereinbefore mentioned.

Trustees to be elected for three years.

16. Elected trustees shall be elected for three years and shall hold office until their successors are elected.

17.



*Water and Drainage.*

17. For the purpose of the first election of trustees the Minister shall prepare a roll of voters, placing on the roll the names of the persons who in his opinion will be liable to pay rates to the trust, and the persons whose names are on such roll and no others shall be qualified to vote at the first election. Method of first election of trustees.

18. For the purpose of any subsequent election of trustees, a roll of voters containing the names of the persons who are liable to pay rates to the trust shall be prepared by the trustees, and revised in the prescribed manner by the police magistrate having jurisdiction in the district, before whom any person aggrieved by the omission or addition of the name of any person may appear and be heard, and the persons whose names are on such roll and no others shall be entitled to vote at any such election. Subsequent election of trustees.

19. Persons on the roll shall be entitled to vote in the manner following, that is to say :— Cumulative voting.

(a) In the case of a trust placed in charge of drainage work or irrigation works, the occupier of an area of land not exceeding fifty acres shall be entitled to one vote ; of an area exceeding fifty acres but not exceeding three hundred acres, to two votes ; and of an area exceeding three hundred acres, to three votes.

(b) In the case of a trust in charge of water supplies for domestic and stock purposes, the occupier of an area of land not exceeding two thousand acres shall have one vote ; the occupier of more than two thousand acres but not more than ten thousand acres, two votes ; and the occupier of more than ten thousand acres, three votes.

20. Any person entitled to vote at the election of trustees may be elected as trustee. But no person who has been convicted of any criminal offence shall be capable of being appointed or elected or to act as a trustee, and where a trustee becomes incapable as aforesaid, his office shall become vacant. Qualification of persons entitled to be elected as trustees.

21. In the first election of trustees the Minister shall appoint a returning officer, and may for any succeeding election appoint a returning officer, or delegate this power to the trustees. Minister to appoint returning officer for first election, but for any succeeding election may delegate this power to trustees.

The Minister shall appoint the date of any election and the polling places, and shall notify the same in the Gazette and a local newspaper.

22. The mode of election of trustees shall be as prescribed by the regulations. Mode of election to be as prescribed.

23. Any vacancy caused by the death, resignation, or incapacity of a trustee shall be filled by appointment or election, as the case may be. Vacancy how filled.

*Powers*



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*Water and Drainage.*

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*Powers and duties of trustees.*

Duties of trustees.

**24.** The trustees shall be charged with the duty of maintaining and administering the works of water supply, water conservation, irrigation, and drainage mentioned in the notification constituting the trust or thereafter constructed within the trust district.

Powers and duties of trustees.

**25.** Trustees shall have the following duties and powers :—

- (a) They shall maintain in a state of efficiency the works under their charge.
- (b) They shall fix and levy rates to provide for the maintenance and management of such works and for interest, charges, and sinking fund.
- (c) They shall keep proper accounts of all moneys received and paid.
- (d) They shall pay to the Treasury at such times as may be fixed by the Minister the interest and charges payable by them and make due provision for a sinking fund, and all sums received on account of any such sinking fund shall be carried by the Colonial Treasurer to a special account to be entitled "The Water and Drainage Loan Redemption Fund," and all other sums to the Consolidated Revenue Fund.
- (e) They may appoint, with the sanction of the Minister, such officers or servants as may be required.

Power of trustees or their officers to enter and inspect.

**26.** In the exercise and discharge of their powers and duties, the trustees by themselves or their officers may enter any land within the trust district and make any inspection or survey they may deem necessary, and effect repairs or alterations to any works, but in so doing shall avoid as far as practicable causing any loss, injury, or damage. They shall not be responsible for any loss, injury, or damage caused by them, unless claim in writing be made within three months thereafter.

Trustees may fix and levy rates.

**27.** (1) For the purpose of providing money for exercising their powers and performing their duties under this Act the trustees may fix and levy rates upon the whole of the lands within the trust district as follows :—

- (a) In connection with the supply of water for stock purposes, a rate per acre of the land benefited by the works shall be fixed and the rate may vary in proportion to the benefit received as aforesaid. When water is supplied down a natural channel, a rate per mile of the lands benefited as aforesaid, measured according to the frontage to the channel, may be fixed, and the rate may vary in proportion to the benefit received.
- (b) In connection with the supply of water for domestic purposes, a rate for each separate tenement in the trust district shall be fixed, and the rate may vary in proportion to the benefit received.
- (c)



*Water and Drainage.*

- (c) In the case of drainage, a rate per acre of the land benefited by the works shall be fixed ; and this rate may vary according to the distance of the land from drains and in proportion to the benefit received as aforesaid.
- (d) In the case of irrigation, a rate per acre on the whole of the irrigable land within the trust district shall be levied, whereupon the ratepayer shall be entitled to a proportion of the water to be fixed by the trustees either by measure or according to the area irrigated, or which in the opinion of the trustees should be irrigated.
- (e) In all cases, not otherwise in this section provided for, a rate per acre of the land benefited directly or indirectly by the works. This rate shall be fixed yearly, and shall as far as practicable be in proportion to the benefit received as aforesaid.
- (f) In the case of a supply for more than one purpose, separate rates may be fixed calculated on the basis set out for each such purpose.

(2) All such rates shall be payable by the occupiers of the lands.

(3) Any occupier aggrieved by the amount at which he is rated may appeal therefrom to the police magistrate having jurisdiction in the district, who shall hear and determine the matter, and may confirm or vary such amount.

28. The trustees shall have power to sell water by measure to any ratepayer in addition to the quantity to which he is entitled by payment of rates. Trustees may sell additional water to ratepayers.

*Powers of Minister where trust constituted.*

29. If the trustees by request in writing desire the Minister to improve or extend any works under their charge or increase the quantity of water supplied, the Minister may prepare an estimate of the cost of the proposed work and the interest thereon payable by the trust and a statement of the additional charge to be paid by the trust in respect of the increase of the quantity of water supplied. Such estimate and statement shall be supplied to the trustees. The Minister, on request by trustees to improve or extend any works under their charge, may prepare an estimate of the cost of the proposed work, and upon the receipt of an intimation from the trustees that such estimate has been approved by a special general meeting of voters, may proceed with the construction of proposed works.

Upon the receipt from the trustees of an intimation that the estimate and statement have been approved by a special general meeting of the voters in the trust, of which not less than fourteen days' notice shall be given in the prescribed manner, the Minister may proceed with the construction of the proposed work or may increase the quantity of water supplied.

On the completion of the work or upon the increase of the quantity of water a notification shall be sent to the trustees, and shall be published



*Water and Drainage.*

published in the Gazette, directing that, with the Governor's approval, the interest on the cost of such work and the charges for the increase of water supplied shall be paid by the trust.

Such interest and charges shall commence to run from the date of such notification, and such interest shall be calculated on a sum not exceeding the estimated cost plus ten per centum.

Power of Minister to enter and inspect.

**30.** (1) The Minister, by himself or his officers, may at any time enter any part of a trust district and make an inspection or survey of the works in charge of the trust, and may inspect the records and accounts of the trustees.

Minister may cause repairs to be made at cost of the trust.

If upon such inspection the Minister is of opinion that any of such works are not kept in repair and efficient working order he may cause such repairs, as he may think necessary, to be made at the cost of the trust, and for the purpose of effecting such repairs he shall have the powers of the trustees.

Governor may dissolve trust, or appoint a manager.

(2) In the event of any delay in the election of trustees, or in the event of any default by trustees in the discharge of their duties under this Act or the regulations, the Minister may assume all or any of the powers by this Act conferred on trustees, and the Governor may, if in his opinion sufficient cause exists, dissolve a trust, remove from office trustees, and appoint and direct the election of other trustees, or appoint a manager of the affairs of a trust.

*General and supplemental.*

Trustees to submit to Minister an audited statement of the account of the trust.

**31.** The trustees shall submit to the Minister once every year, and at such other times as the Minister may direct, an audited statement of the accounts of the trust. The Minister may, if in his opinion such audited statement is defective or unsatisfactory, appoint an auditor to prepare a proper statement of accounts, at the cost of the trust.

Power of Minister or trustees to construct conduit.

**32.** (1) The Minister or trustees for the purposes of this Act may construct and maintain and repair any conduit through any land, street, or road.

Any ratepayer of a trust may, with the approval of the trustees, for the purpose of draining his land, cut and make, and maintain and repair drains through any adjacent or neighbouring land:

(2) Provided that the trustees or ratepayer shall make full compensation for any damage occasioned by cutting and making such drains; and such compensation, estimated at one-fifth part above the value of the property affected, shall be assessed by the Board, and when so assessed shall be recoverable in any Court of competent jurisdiction.

Penalties.

**33.** Any person who—

(a) obstructs the trustees or their officers or servants acting under this Act or the regulations or by-laws; or

(b)



*Water and Drainage.*

(b) interferes with works in charge of the trustees ; or  
 (c) destroys, injures, or obliterates any mark or level fixed by the trustees or their officers ; or  
 (d) uses water from the works of the trust otherwise than in the manner and at the times prescribed ; or  
 (e) obstructs the flow of or pollutes any water under the control of a trust ; or  
 (f) commits any breach of the provisions of this Act,  
 shall be liable to a penalty not exceeding twenty pounds, and in the case of a continuing offence to a penalty not exceeding five pounds per day whilst the offence continues, and shall also be liable to be sued by the trustees or by any person for compensation on account of loss or damage caused by his offence.

**34.** The Governor may make regulations for carrying out the provisions of this Act, and in particular for— Governor may make regulations.

the election of trustees and the making and revision of the rolls of voters, and the mode of voting ;  
 the election by the trustees of a chairman ;  
 the intervals within which meetings of trustees must be held ;  
 the procedure at such meetings ;  
 the appointment, payment, and dismissal of officers and servants ;  
 the fixing and notifying of rates ;  
 the hearing of appeals ;  
 the collection and recovery of rates and charging the same on lands in respect of which they are payable ;  
 the keeping of the accounts of trustees ;  
 regulating the payment to the Crown of interest and charges by the trust ;  
 regulating the proceedings of the Board ;  
 regulating special meetings of voters of a trust in pursuance of this Act ;  
 imposing any penalty not exceeding twenty pounds for any breach of the regulations.

Such regulations shall be published in the Gazette.

**35.** (1) The trustees may, subject to the approval of the Governor, make by-laws— Trustees may make by-laws.

prescribing the duties of their officers and servants ;  
 for regulating the supply of water from and the use of the works of the trust ;  
 prescribing the duties of persons as to the maintenance, clearing, cleansing, and repair of the works of the trust ;  
 imposing any penalty not exceeding ten pounds for any breach of the by-laws.

(2) Such by-laws shall have effect when approved by the Governor and published in the Gazette.

All



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*Water and Drainage.*

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All such regulations and by-laws shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

How rates are to be recoverable.

**36.** All rates and all charges imposed by or under this Act or the regulations or by-laws may be recovered in any Court of competent jurisdiction.

*In the name and on the behalf of His Majesty I assent to this Act.*

HARRY H. RAWSON,  
Governor.

State Government House,  
Sydney, 5th December, 1902.



## WATER AND DRAINAGE BILL.

*SCHEDULE showing the Legislative Assembly's Amendments upon and Disagreements from the Legislative Council's Amendments, referred to in Message of 14th November, 1902, A.M.*

F. W. WEBB,  
Clerk of the Legislative Assembly.

Page 2, clause 2, line 4. *Omit "another" insert "such other"*

Page 2, clause 2, lines 5 and 6. *Omit "to act as executive member of the Board" insert "as may be appointed by the Governor"*

Page 4, clause 5, line 6. *Omit "and approval"*

Page 7, clause 17, lines 25 and 26. *Reinsert "and each such person shall be entitled "to one vote only"*

Page 7, clause 18, line 34. *Reinsert "and each such person shall have one vote "only"*

Pages 7 and 8, clause 19. *Omit—*

19. Persons on the roll shall be entitled to vote in the manner following, that Cumulative  
voting.  
is to say:—

- (a) In the case of a trust placed in charge of drainage work or irrigation works, the occupier of an area of land not exceeding fifty acres shall be entitled to one vote; of an area exceeding fifty acres but not exceeding three hundred acres, to two votes; and of an area exceeding three hundred acres, to three votes.
- (b) In the case of a trust in charge of water supplies for domestic and stock purposes, the occupier of an area of land not exceeding two thousand acres shall have one vote; the occupier of more than two thousand acres but not more than ten thousand acres, two votes; and the occupier of more than ten thousand acres, three votes.







## WATER AND DRAINAGE BILL

### *SCHEDULE of the Amendments referred to in Message of 17th September, 1902.*

- Page 1, Title. *Omit "where the cost exceeds £5,000" insert "in certain cases"*
- Page 2, clause 2, line 3. *Omit "and"*
- Page 2, clause 2, line 4. *After "Sewerage" insert "and another officer of the Public Works Department to act as executive member of the Board"*
- Page 2, clause 2, line 6. *Omit "as to any work or undertaking affecting" insert "including where any work affects"*
- Page 2, clause 2, line 9. *Omit "shall be members of such Board"*
- Page 2, clause 2, line 18. *After "work" second occurring insert "of water supply, water conservation, or irrigation, or of drainage"*
- Page 2, clause 2. *After line 26 insert "'Western Division' has the same meaning as in the Crown Lands Act of 1884"*
- Page 3, clause 3, lines 22 and 23. *Omit "Loans Fund Amalgamation Act of 1879" insert "Audit Act, 1902"*
- Page 4, clause 5. *At end of clause add "Provided that the Minister shall before carrying out any such works where the estimated cost exceeds five hundred pounds, refer the proposal to the Board and obtain their report and approval thereon"*
- Page 4, line 7. *Add "s" to "trust"*
- Page 4, clause 6, line 9. *Omit "to" insert "of"*
- Page 4, clause 6, line 10. *Omit "may" insert "shall"*
- Page 4, clause 6, line 10. *After "notify" insert "in the Gazette and in some newspaper circulating in the district affected by such works"*
- Page 4, line 15. *Omit "Constitution of trusts where works cost five thousand pounds or more"*
- Page 4, clause 7, line 24. *Omit "payable on such cost" insert "and shall be paid by the trust on the actual cost or on the estimated cost plus ten per centum whichever is the lesser sum"*
- Page 4, clause 7, line 30. *Omit "and"*
- Page 4, clause 7, line 31. *Omit "not less than" insert "either"*
- Page 4, clause 7, lines 31 and 32. *Omit "nor more than" insert "or"*
- Page 4, clause 7. *At end of clause add "(h) the number of years within which the cost of the work shall be extinguished by a sinking fund"*
- Page 4, clause 8, line 37. *After "selectors" insert "conditional lessees"*
- Page 5, clause 9, lines 10 and 11. *Omit "upon the recommendation of the Minister"*
- Page 5, clause 11. *Omit clause 11 insert new clause 11*
- Page 6, clause 12, line 11. *Omit "1896" insert "1902"*
- Page 6, clause 13, line 23. *Omit "hereafter"*
- Page 6, clause 13, line 24. *Omit "limited in operation to" insert "conferred solely upon"*
- Page 6, clause 13, line 25. *After "Minister" omit remainder of clause insert "and the interest and charges payable by the trust shall commence to run"*
- Page 6, clause 14, line 30. *After "lands" insert "including homestead selectors, conditional lessees, and settlement lessees"*
- Page 6, clause 14, line 37. *Omit "may be" insert "ought to be refused or"*
- Page 6, clause 14, line 38. *Omit "or may recommend the refusal of the petition"*
- Page 7, clause 15, line 7. *After "1901" insert "or any Act amending the same"*
- Page 7, clause 15, line 14. *Omit "four or"*
- Page 7, clause 17, line 25. *After "election" omit remainder of clause*
- Page 7, clause 18, line 29. *After "trustees" insert "and revised in the prescribed manner by the police magistrate having jurisdiction in the district, before whom any person aggrieved by the omission or addition of the name of any person may appear and be heard"*
- Page 7, clause 18, line 34. *After "election" omit remainder of clause*
- Page 7. *After clause 18 insert new clause 19*



- Page 8, clause ~~24~~, **25**, line 29. *After "rates" insert "to provide"*
- Page 8, clause ~~24~~, **25**, line 30. *Omit "shall provide"*
- Page 8, clause ~~24~~, **25**, line 36. *After "fund" insert "and all sums received on account of any such sinking fund shall be carried by the Colonial Treasurer to a special account to be entitled 'The Water and Drainage Loan Redemption Fund,' and all other sums to the Consolidated Revenue Fund"*
- Page 9, clause ~~26~~, **27**, line 9. *After "rates" insert "upon the whole of the lands"*
- Page 9, clause ~~26~~, **27**. At end of clause add "(3) Any occupier aggrieved by the amount at which he is rated may appeal therefrom to the police magistrate having jurisdiction in the district, who shall hear and determine the matter, and may confirm or vary such amount"
- Page 10, clause ~~28~~, **29**, line 14. *After "trust" insert "of which not less than fourteen days' notice shall be given in the prescribed manner"*
- Page 10, clause ~~29~~, **30**, line 38. *Omit "he" insert "the Governor"*
- Page 10, clause ~~29~~, **30**, line 39. *After "trust" insert "remove from office trustees and appoint and direct the election of other trustees"*
- Page 11, clause ~~31~~, **32**, line 10. *After "may" insert "with the approval of the trustees"*
- Page 11, clause ~~33~~, **34**, line 37. *After "making" insert "and revision"*
- Page 11, clause ~~33~~, **34**, line 38. *After "voters" insert "and the mode of voting"*
- Page 12, clause ~~34~~, **35**, line 19. *Omit "twenty" insert "ten"*
- Page 12, clause ~~34~~, **35**, line 21. *Omit "if and"*
- Page 12, clause ~~34~~, **35**, line 22. *Omit "but not otherwise"*
- Page 12, clause ~~34~~, **35**, line 22. *Omit "shall be"*
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*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 7 August, 1902. }*

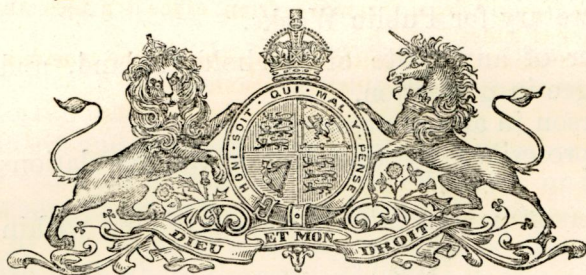
*F. W. WEBB,  
Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, 17th September, 1902. }*

*JOHN J. CALVERT,  
Clerk of the Parliaments.*

## New South Wales.



ANNO SECUNDO

## EDWARDI VII REGIS.

\*\*\*\*\*

Act No. , 1902.

An Act to provide for the annual expenditure of £200,000 for a period of five years on works of water supply, water conservation, or irrigation and of drainage ; for the constitution of trusts to administer the same ~~where the cost exceeds~~ £5,000 in certain cases ; and to authorise the raising of the said sums by loans.

**B**E it enacted by the King'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 :—

5

### *Preliminary.*

1. This Act may be cited as the “ Water and Drainage Short title.  
Act, 1902.”

2. In this Act—

*Interpretation.*

10 “ Board ” means Board consisting of the Under Secretary of the  
Public Works Department, Engineer-in-Chief for Railway  
Construction,

10—A

94073

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



*Water and Drainage.*

- 5 Construction, Government Architect, Commissioner for Roads and Principal Engineer for Roads and Bridges, Principal Engineer for Harbours and Rivers, and the Principal Engineer for Water Supply and Sewerage, and another officer of the Public Works Department to act as executive member of the Board; and as to any work or undertaking affecting including where any work affects the Western Division, the Western Land Board, as constituted under the Western Lands Act of 1901, shall be members of such Board.
- 10 "Minister" means Secretary for Public Works.
- "Owner" means owner of any estate of freehold in land, and includes a mortgagee in possession.
- "Occupier" means person in actual possession.
- 15 "Prescribed" means prescribed by this Act or the regulations or by-laws.
- "Ratepayer" means person paying rates in respect of land within a trust district.
- "State work" means any work of water supply, water conservation, or irrigation, or of drainage proclaimed as such by the Governor.
- 20 "The regulations" and "the by-laws" mean respectively the regulations and by-laws made under this Act.
- "Trust" means trust constituted under this Act.
- "Trustee" means member of a trust.
- 25 "Trust district" means area over which a trust has jurisdiction under this Act.
- "Western Division" has the same meaning as in the Crown Lands Act of 1884.
- 30 "Works" includes any natural or artificial conduit, well, appliance, machinery, or structure pertaining to or used in connection with a trust.

*Loans for works.*

3. (1) The Governor may raise in the year one thousand nine hundred and two, and in each of the next four succeeding years, by the issue of debentures or the issue of inscribed stock, secured upon 35 the Consolidated Fund of this State, and bearing interest at a rate not exceeding four per centum per annum, a sum not exceeding two hundred thousand pounds, for the purpose of carrying out works of water supply, water conservation or irrigation, or of drainage.

Power to raise £200,000 a year for five years for purposes of water supply.

- (a 2) The loans so authorised may be negotiated wholly or in part in the form of debentures or inscribed stock in the State or in 40 London at such times and for such amounts as may be directed by the Governor.

Stock may be sold in London or Sydney.



*Water and Drainage.*

(b 3) Any stock issued within the State under this Act shall be styled "New South Wales Funded Stock," and shall, if sold otherwise than by tender, be purchasable at the Treasury upon any lawful day.

Creation of stock.

(e 4) The provisions of the Funded Stock Act of 1892, relating to the method of inscription and transfer of stock, and the regulations under such Act, and the forms prescribed in the said regulations, are hereby declared to be applicable to, and shall be followed and used mutatis mutandis in connection with stock issued within the State under the provisions of this Act.

Application hereto of certain provisions of Funded Stock Act of 1892 to stock sold in the State.

10 (d 5) In respect of any stock issued in London under the provisions of this Act, the Governor may make regulations, not being inconsistent with the provisions of the Inscribed Stock Act of 1883, for carrying this Act into effect; and such regulations shall be published in the Gazette and laid before Parliament within fourteen days of the publication thereof, if Parliament be then sitting, and if Parliament be not sitting, then within fourteen days of the commencement of the next session thereof.

Regulations to be made in respect of stock sold in London.

(e 6) All moneys borrowed under this Act shall be paid to the Treasurer, and shall be by him carried to and form part of the General Loan Account, and be appropriated and applied, as required, to the works and services hereinbefore specified, or to any other duly authorised Loan Services, in terms of the ~~Loans Fund Amalgamation Act of 1879~~ **Audit Act, 1902.**

Sums borrowed how to be accounted for and appropriated.

(f 7) Debentures or stock sold or issued under this Act are hereby declared to be for all purposes Government Securities; and all corporations and other persons whatsoever shall have power to invest in the purchase of such debentures and stock any property held by them, whether as trustees or otherwise, which they are not expressly forbidden to invest in Government stock or securities, without on that account being liable as for a breach of trust or incurring any liability whatsoever, provided that such investment is in other respects reasonable and proper.

Power to trustees and others to invest in debentures or stock.

*State works.*

4. The Minister may, subject to the provisions of the Public Works Act, 1900, carry out a "State work" under the said Act out of the funds raised under this Act, and may maintain and administer and, subject as aforesaid, extend the same as he thinks fit.

Construction of "State works."

*Works of water conservation costing five thousand pounds or less.*

5. Where the estimated cost does not exceed five thousand pounds the Minister may, out of the funds raised under this Act, carry out any works of water conservation that he deems desirable, and maintain

Works of water conservation costing £5,000 or less.



*Water and Drainage.*

maintain and administer the same, and no charge shall be made for water supplied to travelling stock from such works when situated on or near to any public highway: **Provided that the Minister shall before carrying out any such works, where the estimated cost exceeds five hundred pounds, refer the proposal to the Board and obtain their report and approval thereon.**

*Constitution of trusts.*

6. Where the estimated cost of any work of water conservation exceeds five thousand pounds, and in respect ~~to~~ of any works of water supply, irrigation, or drainage, the Minister ~~may~~ shall notify in the **Gazette and in some newspaper circulating in the district affected by such works** proposals for the construction of such works, and the constitution of a trust for maintaining, administering, and extending such works. Constitution of trusts.

15 ~~Constitution of trusts where works cost five thousand pounds or more.~~

7. Any such proposal shall contain—

- (a) a description of the purpose for which it is proposed to constitute the trust; Contents of proposals.
- 20 (b) a plan and description of the works and of the land, whether covered with water or not, proposed to be taken or acquired for the purposes of such works and of their cost or estimated cost;
- 25 (c) the rate of interest, which shall not exceed four per centum per annum, ~~payable on such cost;~~ and shall be paid by the trust on the actual cost or on the estimated cost plus ten per centum whichever is the lesser sum;
- (d) the charges to be paid by the trust for water to be supplied by the Crown and the conditions of such supply;
- 30 (e) the maximum rate which may be assessed by the trust;
- (f) a description of the trust district; and
- (g) the number of trustees being ~~not less than either three or more than~~ or five;
- 35 (h) the number of years within which the cost of the work shall be extinguished by a sinking fund.

8. If, within eight weeks after such notification, a petition is presented to the Minister signed by at least one-third in number of the occupiers of Crown land, including homestead selectors, conditional lessees, and settlement lessees, and owners of other land within the proposed trust district, objecting to the proposal, he shall refer the proposal to the Board for inquiry and report. Minister on petition by one third of occupiers and owners to refer proposal to Board for inquiry

40 For the purpose of any such inquiry such Board shall have the power to subpoena witnesses and take evidence on oath.

Every



*Water and Drainage.*

Every person who when required by the Board attends as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena on the trial of an action in the District Court, and, in case of dispute as to the amount to be allowed, the same shall be referred to the Registrar of the nearest District Court who, on request under the hand of the Chairman of the Board, shall ascertain and certify the proper amount of such expenses.

9. (1) If within the said period no such petition is received, or if the Board reports in favour of the proposal, with or without modifications, the Governor may, ~~upon the recommendation of the Minister,~~ constitute the trust with such modifications of the proposal as the Board may recommend, or where no reference is made to the Board, with such modifications as the Minister may think fit.

(2) The constitution of the trust shall be notified by the Minister in the Gazette.

(3) Upon such notification the conditions of the proposal, with such modifications (if any) as aforesaid, shall be binding on the trust and on the Crown, and the Minister may, out of the funds raised under this Act, carry out the works described in the proposal.

20

*Works under other Acts.*

10. The Minister may, out of the funds raised under this Act, carry out any work which he is authorised to carry out under the Public Watering Places Act, 1900, or the Artesian Wells Act, 1897.

*Completion of certain works already commenced.*

11. The Minister may, out of the said funds, complete the construction of the works under construction on the date of this Act coming into force:

Provided that the Minister may, in lieu of completing any such work under the provisions of this section, notify proposals for the constitution of a trust in respect thereof, and thereupon the provisions of sections five, six, seven, and eight shall apply in respect of such work, and for such purpose the completion of such work shall be deemed to be the construction thereof.

11. (1) The Minister may, out of the said funds, complete any works of water supply, water conservation or irrigation, or of drainage under construction at the commencement of this Act.

(2) The Minister may notify proposals for the completion of any such work and for the constitution of a trust in respect thereof, and may notify proposals for the constitution of a trust in respect of any such work constructed and under his immediate control at the commencement of this Act, and in any such case the provisions of sections seven, eight, and nine shall be applicable mutatis mutandis.

*Construction*



*Water and Drainage.*

*Construction of works.*

12. Every work, other than a State work, which the Minister is authorised by this Act to carry out shall be carried out under the Public Works Act, 1900, and all the powers and provisions of the said Act relating to authorised works shall be applicable to such work, and for all purposes of the said Act such work shall be deemed to be an "authorised work," and the Minister shall be deemed a "Constructing Authority" within the meaning of the said Act :

Works to be carried out under Public Works Act, 1900, and to be "authorised works" and Minister a "Constructing Authority" within that Act.

Provided that no such work which interferes with any rights under any license granted by the Crown under the Water Rights Act, 1896 1902, or any other Act, shall be carried out until and unless the Minister has given to the holder of such license the following notice of his intention to carry out such work, that is to say—

- (a) where the unexpired term of the license does not exceed five years, six months' notice ;
- (b) where the unexpired term of the license exceeds five years, twelve months' notice.

*Transfer to trust.*

13. The completion of any works in respect of which a trust is constituted under this Act, and the cost of the same shall be notified in the Gazette, and thereupon the trust shall take over the same, and the administration and management thereof upon the terms and conditions hereafter prescribed, and shall exercise all the powers contained in this Act except such as are limited in operation to conferred solely upon the Minister, provided that the capital on which interest shall be paid shall not exceed the estimated cost plus ten per centum, and the interest and charges payable by the trust shall commence to run.

On notification of completion, trust to take over management.

*Alteration of boundaries of trust districts.*

14. If two-thirds in number of the occupiers of Crown lands including homestead selectors, conditional lessees and settlement lessees and owners of other lands within any area sign and forward to the Minister a petition that such area be included in a trust district, the Minister shall refer the proposed alteration to the Board, who, after giving the trust an opportunity of expressing their opinion, shall report to the Minister whether in the opinion of the Board the petition may be ought to be refused or granted with or without modifications, or may recommend the refusal of the petition, whereupon the Minister may by notification in the Gazette alter the boundaries of such district accordingly, or may refuse the petition.

Minister on petition by two-thirds of occupiers or owners to refer proposed alteration to Board.

*Appointment*



*Water and Drainage.*

*Appointment and election of trustees.*

15. (1) After the constitution of the trust, but before the comple-  
tion of the works (if any) proposed to be constructed, the Minister  
shall, by notice in the Gazette, appoint trustees and direct the first  
election of trustees in pursuance of this Act.

In certain cases  
Minister to appoint  
trustees, in other to  
direct their election.

(2) Where the trust district consists wholly of land acquired  
under the Closer Settlement Act, 1901, or any Act amending the same,  
or unoccupied Crown lands, all the trustees shall be appointed by the  
Minister, and shall, subject to the provisions of this Act, hold office  
until half the land in the district is occupied by persons who are liable  
to pay rates to the trust.

Thereafter, and in other cases where the number of the trustees  
is three, one shall be appointed by the Minister and two shall be  
elected, but where the number of the trustees is four or five, two shall  
be appointed by the Minister and the rest shall be elected:

Provided that where the trust district is in the western division,  
the Western Lands Board shall be sole trustees in lieu of the trustee or  
trustees hereinbefore mentioned.

16. Elected trustees shall be elected for three years and shall  
hold office until their successors are elected.

Trustees to be  
elected for three  
years.

17. For the purpose of the first election of trustees the Minister  
shall prepare a roll of voters, placing on the roll the names of the  
persons who in his opinion will be liable to pay rates to the trust, and  
the persons whose names are on such roll and no others shall be  
qualified to vote at the first election, and each such person shall be  
entitled to one vote only.

Method of first  
election of trustees.

18. For the purpose of any subsequent election of trustees, a  
roll of voters containing the names of the persons who are liable to pay  
rates to the trust shall be prepared by the trustees, and revised in  
the prescribed manner by the police magistrate having jurisdiction in  
the district, before whom any person aggrieved by the omission or  
addition of the name of any person may appear and be heard, and the  
persons whose names are on such roll and no others shall be entitled  
to vote at any such election, and each such person shall have one vote only.

Subsequent election  
of trustees.

19. Persons on the roll shall be entitled to vote in the manner  
following, that is to say:—

Cumulative  
voting.

(a) In the case of a trust placed in charge of drainage work or  
irrigation works, the occupier of an area of land not exceeding  
fifty acres shall be entitled to one vote; of an area exceeding  
fifty acres but not exceeding three hundred acres, to two  
votes; and of an area exceeding three hundred acres, to three  
votes.

(b) In the case of a trust in charge of water supplies for domestic  
and stock purposes, the occupier of an area of land not  
exceeding



*Water and Drainage.*

exceeding two thousand acres shall have one vote; the occupier of more than two thousand acres but not more than ten thousand acres, two votes; and the occupier of more than ten thousand acres, three votes.

5 19. 20. Any person entitled to vote at the election of trustees may be elected as trustee. But no person who has been convicted of any criminal offence shall be capable of being appointed or elected or to act as a trustee, and where a trustee becomes incapable as aforesaid, his office shall become vacant. Qualification of persons entitled to be elected as trustees.

10 20. 21. In the first election of trustees the Minister shall appoint a returning officer, and may for any succeeding election appoint a returning officer, or delegate this power to the trustees. Minister to appoint returning officer for first election, but for any succeeding election may delegate this power to trustees.

The Minister shall appoint the date of any election and the polling places, and shall notify the same in the Gazette and a local newspaper.

15 21. 22. The mode of election of trustees shall be as prescribed by the regulations. Mode of election to be as prescribed.

22. 23. Any vacancy caused by the death, resignation, or incapacity of a trustee shall be filled by appointment or election, as the case may be. Vacancy how filled.

*Powers and duties of trustees.*

23. 24. The trustees shall be charged with the duty of maintaining and administering the works of water supply, water conservation, irrigation, and drainage mentioned in the notification constituting the trust or thereafter constructed within the trust district. Duties of trustees.

24. 25. Trustees shall have the following duties and powers:— Powers and duties of trustees.

- (a) They shall maintain in a state of efficiency the works under their charge.
- 30 (b) They shall fix and levy rates to provide for the maintenance and management of such works and shall provide for interest, charges, and sinking fund.
- (c) They shall keep proper accounts of all moneys received and paid.
- 35 (d) They shall pay to the Treasury at such times as may be fixed by the Minister the interest and charges payable by them and make due provision for a sinking fund, and all sums received on account of any such sinking fund shall be carried by the Colonial Treasurer to a special account to be entitled "The Water and Drainage Loan Redemption Fund,"
- 40 (e) They may appoint, with the sanction of the Minister, such officers or servants as may be required.

25. 26. In the exercise and discharge of their powers and duties, the trustees by themselves or their officers may enter any land within the Power of trustees or their officers to enter and inspect.



*Water and Drainage.*

the trust district and make any inspection or survey they may deem necessary, and effect repairs or alterations to any works, but in so doing shall avoid as far as practicable causing any loss, injury, or damage. They shall not be responsible for any loss, injury, or damage 5 caused by them, unless claim in writing be made within three months thereafter.

26. 27. (1) For the purpose of providing money for exercising their powers and performing their duties under this Act the trustees may <sup>Trustees may fix and levy rates.</sup> fix and levy rates upon the whole of the lands within the trust district 10 as follows:—

- (a) In connection with the supply of water for stock purposes, a rate per acre of the land benefited by the works shall be fixed and the rate may vary in proportion to the benefit received as aforesaid. When water is supplied down a natural 15 channel, a rate per mile of the lands benefited as aforesaid, measured according to the frontage to the channel, may be fixed, and the rate may vary in proportion to the benefit received.
- (b) In connection with the supply of water for domestic purposes, 20 a rate for each separate tenement in the trust district shall be fixed, and the rate may vary in proportion to the benefit received.
- (c) In the case of drainage, a rate per acre of the land benefited by the works shall be fixed; and this rate may vary according 25 to the distance of the land from drains and in proportion to the benefit received as aforesaid.
- (d) In the case of irrigation, a rate per acre on the whole of the irrigable land within the trust district shall be levied, where- 30 upon the ratepayer shall be entitled to a proportion of the water to be fixed by the trustees either by measure or according to the area irrigated, or which in the opinion of the trustees should be irrigated.
- (e) In all cases, not otherwise in this section provided for, a 35 rate per acre of the land benefited directly or indirectly by the works. This rate shall be fixed yearly, and shall as far as practicable be in proportion to the benefit received as aforesaid.
- (f) In the case of a supply for more than one purpose, separate 40 rates may be fixed calculated on the basis set out for each such purpose.

(2) All such rates shall be payable by the occupiers of the lands.

(3) Any occupier aggrieved by the amount at which he is rated may appeal therefrom to the police magistrate having juris- 45 diction in the district, who shall hear and determine the matter, and may confirm or vary such amount. 27.



*Water and Drainage.*

27. 28. The trustees shall have power to sell water by measure to any ratepayer in addition to the quantity to which he is entitled by payment of rates. Trustees may sell additional water to ratepayers.

*Powers of Minister where trust constituted.*

5 28. 29. If the trustees by request in writing desire the Minister to improve or extend any works under their charge or increase the quantity of water supplied, the Minister may prepare an estimate of the cost of the proposed work and the interest thereon payable by the trust and a statement of the additional charge to be paid by the trust in respect  
10 of the increase of the quantity of water supplied. Such estimate and statement shall be supplied to the trustees. The Minister, on request by trustees to improve or extend any works under their charge, may prepare an estimate of the cost of the proposed work, and upon the receipt of an intimation from the trustees that such estimate has been approved by a special general meeting of voters, may proceed with the construction of proposed works

Upon the receipt from the trustees of an intimation that the estimate and statement have been approved by a special general meeting of the voters in the trust, of which not less than fourteen  
15 days' notice shall be given in the prescribed manner, the Minister may proceed with the construction of the proposed work or may increase the quantity of water supplied.

On the completion of the work or upon the increase of the quantity of water a notification shall be sent to the trustees, and shall be  
20 published in the Gazette, directing that, with the Governor's approval, the interest on the cost of such work and the charges for the increase of water supplied shall be paid by the trust.

Such interest and charges shall commence to run from the date of such notification, and such interest shall be calculated on a sum  
25 not exceeding the estimated cost plus ten per centum.

29. 30. (1) The Minister, by himself or his officers, may at any time enter any part of a trust district and make an inspection or  
survey of the works in charge of the trust, and may inspect the records and accounts of the trustees. Power of Minister to enter and inspect.

30 If upon such inspection the Minister is of opinion that any of such works are not kept in repair and efficient working order he may cause such repairs, as he may think necessary, to be made at the cost of the trust, and for the purpose of effecting such repairs he shall have the powers of the trustees. Minister may cause repairs to be made at cost of the trust.

35 (2) In the event of any delay in the election of trustees, or in the event of any default by trustees in the discharge of their duties under this Act or the regulations, the Minister may assume all or any of the powers by this Act conferred on trustees, and he the Governor may, if in his opinion sufficient cause exists, dissolve a trust, remove  
40 from office trustees, and appoint and direct the election of other trustees, or appoint a manager of the affairs of a trust. Minister Governor may dissolve trust, or appoint a manager.

*General*



*Water and Drainage.*

*General and supplemental.*

30- 31. The trustees shall submit to the Minister once every year, and at such other times as the Minister may direct, an audited statement of the accounts of the trust. The Minister may, if in his opinion such audited statement is defective or unsatisfactory, appoint an auditor to prepare a proper statement of accounts, at the cost of the trust.

Trustees to submit to Minister an audited statement of the account of the trust.

31- 32. (1) The Minister or trustees for the purposes of this Act may construct and maintain and repair any conduit through any land, street, or road.

Power of Minister or trustees to construct conduit.

10 Any ratepayer of a trust may, with the approval of the trustees, for the purpose of draining his land, cut and make, and maintain and repair drains through any adjacent or neighbouring land :

(2) Provided that the trustees or ratepayer shall make full compensation for any damage occasioned by cutting and making such drains ; and such compensation, estimated at one-fifth part above the value of the property affected, shall be assessed by the Board, and when so assessed shall be recoverable in any Court of competent jurisdiction.

32- 33. Any person who—

Penalties.

- 20 (a) obstructs the trustees or their officers or servants acting under this Act or the regulations or by-laws ; or
- (b) interferes with works in charge of the trustees ; or
- (c) destroys, injures, or obliterates any mark or level fixed by the trustees or their officers ; or
- 25 (d) uses water from the works of the trust otherwise than in the manner and at the times prescribed ; or
- (e) obstructs the flow of or pollutes any water under the control of a trust ; or
- (f) commits any breach of the provisions of this Act,

30 shall be liable to a penalty not exceeding twenty pounds, and in the case of a continuing offence to a penalty not exceeding five pounds per day whilst the offence continues, and shall also be liable to be sued by the trustees or by any person for compensation on account of loss or damage caused by his offence.

35 33- 34. The Governor may make regulations for carrying out the provisions of this Act, and in particular for—

Governor may make regulations.

- the election of trustees and the making and revision of the rolls of voters, and the mode of voting ;
- the election by the trustees of a chairman ;
- 40 the intervals within which meetings of trustees must be held ;
- the procedure at such meetings ;
- the appointment, payment, and dismissal of officers and servants ;
- the fixing and notifying of rates ;
- the hearing of appeals ;

the



*Water and Drainage.*

- the collection and recovery of rates and charging the same on  
lands in respect of which they are payable ;  
the keeping of the accounts of trustees ;  
regulating the payment to the Crown of interest and charges by  
5 the trust ;  
regulating the proceedings of the Board ;  
regulating special meetings of voters of a trust in pursuance of this  
Act ;  
imposing any penalty not exceeding twenty pounds for any breach  
10 of the regulations.  
Such regulations shall be published in the Gazette.  
34. 35. (1) The trustees may, subject to the approval of the Trustees may make  
Governor, make by-laws— by-laws.  
prescribing the duties of their officers and servants ;  
15 for regulating the supply of water from and the use of the works  
of the trust ;  
prescribing the duties of persons as to the maintenance, clearing,  
cleansing, and repair of the works of the trust ;  
imposing any penalty not exceeding ~~twenty~~ ten pounds for any  
20 breach of the by-laws.  
(2) Such by-laws shall have effect ~~if and~~ when approved  
by the Governor, ~~but not otherwise,~~ and shall be published in the  
Gazette.  
All such regulations and by-laws shall be laid before both  
25 Houses of Parliament within fourteen days after the making thereof,  
if Parliament is then in session, and if not, then within fourteen days  
after the commencement of the next ensuing session.  
35. 36. All rates and all charges imposed by or under this Act How rates are to be  
or the regulations or by-laws may be recovered in any Court of recoverable.  
30 competent jurisdiction.



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

*Legislative Assembly Chamber,  
Sydney, 7 August, 1902.* }

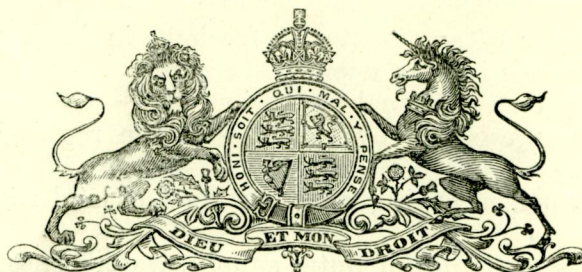
F. W. WEBB,  
*Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, September, 1902.* }

*Clerk of the Parliaments.*

## New South Wales.



ANNO SECUNDO

## EDWARDI VII REGIS.

\*\*\*\*\*

Act No. , 1902.

An Act to provide for the annual expenditure of £200,000 for a period of five years on works of water supply, water conservation, or irrigation and of drainage; for the constitution of trusts to administer the same where the cost exceeds £5,000 in certain cases; and to authorise the raising of the said sums by loans.

**B**E it enacted by the King'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:—

5

### *Preliminary.*

1. This Act may be cited as the "Water and Drainage Short title.  
Act, 1902."

2. In this Act—

10 "Board" means Board consisting of the Under Secretary of the  
Public Works Department, Engineer-in-Chief for Railway  
Construction,

*Interpretation.*

94073

10—A

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



*Water and Drainage.*

- 5 Construction, Government Architect, Commissioner for Roads and Principal Engineer for Roads and Bridges, Principal Engineer for Harbours and Rivers, and the Principal Engineer for Water Supply and Sewerage, and another officer of the Public Works Department to act as executive member of the Board; and ~~as to any work or undertaking affecting~~ including where any work affects the Western Division, the Western Land Board, as constituted under the Western Lands Act of 1901, ~~shall be members of such Board.~~
- 10 "Minister" means Secretary for Public Works.
- "Owner" means owner of any estate of freehold in land, and includes a mortgagee in possession.
- "Occupier" means person in actual possession.
- 15 "Prescribed" means prescribed by this Act or the regulations or by-laws.
- "Ratepayer" means person paying rates in respect of land within a trust district.
- "State work" means any work of water supply, water conservation, or irrigation, or of drainage proclaimed as such by the Governor.
- 20 "The regulations" and "the by-laws" mean respectively the regulations and by-laws made under this Act.
- "Trust" means trust constituted under this Act.
- "Trustee" means member of a trust.
- 25 "Trust district" means area over which a trust has jurisdiction under this Act.
- "Western Division" has the same meaning as in the Crown Lands Act of 1884.
- 30 "Works" includes any natural or artificial conduit, well, appliance, machinery, or structure pertaining to or used in connection with a trust.

*Loans for works.*

3. (1) The Governor may raise in the year one thousand nine hundred and two, and in each of the next four succeeding years, by the issue of debentures or the issue of inscribed stock, secured upon the Consolidated Fund of this State, and bearing interest at a rate not exceeding four per centum per annum, a sum not exceeding two hundred thousand pounds, for the purpose of carrying out works of water supply, water conservation or irrigation, or of drainage.
- 35 Power to raise £200,000 a year for five years for purposes of water supply.
- (a 2) The loans so authorised may be negotiated wholly or in part in the form of debentures or inscribed stock in the State or in London at such times and for such amounts as may be directed by the Governor.
- 40 Stock may be sold in London or Sydney.
- (b 3)



*Water and Drainage.*

(b 3) Any stock issued within the State under this Act shall be styled "New South Wales Funded Stock," and shall, if sold otherwise than by tender, be purchasable at the Treasury upon any lawful day.

Creation of stock.

(e 4) The provisions of the Funded Stock Act of 1892, relating to the method of inscription and transfer of stock, and the regulations under such Act, and the forms prescribed in the said regulations, are hereby declared to be applicable to, and shall be followed and used mutatis mutandis in connection with stock issued within the State under the provisions of this Act.

Application hereto of certain provisions of Funded Stock Act of 1892 to stock sold in the State.

(d 5) In respect of any stock issued in London under the provisions of this Act, the Governor may make regulations, not being inconsistent with the provisions of the Inscribed Stock Act of 1883, for carrying this Act into effect; and such regulations shall be published in the Gazette and laid before Parliament within fourteen days of the publication thereof, if Parliament be then sitting, and if Parliament be not sitting, then within fourteen days of the commencement of the next session thereof.

Regulations to be made in respect of stock sold in London.

(e 6) All moneys borrowed under this Act shall be paid to the Treasurer, and shall be by him carried to and form part of the General Loan Account, and be appropriated and applied, as required, to the works and services hereinbefore specified, or to any other duly authorised Loan Services, in terms of the ~~Loans Fund Amalgamation Act of 1879~~ **Audit Act, 1902.**

Sums borrowed how to be accounted for and appropriated.

(f 7) Debentures or stock sold or issued under this Act are hereby declared to be for all purposes Government Securities; and all corporations and other persons whatsoever shall have power to invest in the purchase of such debentures and stock any property held by them, whether as trustees or otherwise, which they are not expressly forbidden to invest in Government stock or securities, without on that account being liable as for a breach of trust or incurring any liability whatsoever, provided that such investment is in other respects reasonable and proper.

Power to trustees and others to invest in debentures or stock.

*State works.*

4. The Minister may, subject to the provisions of the Public Works Act, 1900, carry out a "State work" under the said Act out of the funds raised under this Act, and may maintain and administer and, subject as aforesaid, extend the same as he thinks fit.

Construction of "State works."

*Works of water conservation costing five thousand pounds or less.*

5. Where the estimated cost does not exceed five thousand pounds the Minister may, out of the funds raised under this Act, carry out any works of water conservation that he deems desirable, and maintain

Works of water conservation costing £5,000 or less.



*Water and Drainage.*

maintain and administer the same, and no charge shall be made for water supplied to travelling stock from such works when situated on or near to any public highway: **Provided that the Minister shall before carrying out any such works, where the estimated cost exceeds**  
5 **five hundred pounds, refer the proposal to the Board and obtain their report and approval thereon.**

*Constitution of trusts.*

6. Where the estimated cost of any work of water conservation exceeds five thousand pounds, and in respect ~~to~~ of any works of water  
10 supply, irrigation, or drainage, the Minister ~~may~~ shall notify in the **Gazette and in some newspaper circulating in the district affected by such works** proposals for the construction of such works, and the constitution of a trust for maintaining, administering, and extending such works.

15 ~~Constitution of trusts where works cost five thousand pounds or more.~~

7. Any such proposal shall contain—

- (a) a description of the purpose for which it is proposed to constitute the trust;  
20 (b) a plan and description of the works and of the land, whether covered with water or not, proposed to be taken or acquired for the purposes of such works and of their cost or estimated cost;  
25 (c) the rate of interest, which shall not exceed four per centum per annum, ~~payable on such cost;~~ and shall be paid by the trust on the actual cost or on the estimated cost plus ten per centum **whichever is the lesser sum**;  
30 (d) the charges to be paid by the trust for water to be supplied by the Crown and the conditions of such supply;  
(e) the maximum rate which may be assessed by the trust;  
(f) a description of the trust district; and  
(g) the number of trustees being ~~not less than~~ either three ~~or more than~~ or five;  
(h) **the number of years within which the cost of the work shall be extinguished by a sinking fund.**

35 8. If, within eight weeks after such notification, a petition is presented to the Minister signed by at least one-third in number of the occupiers of Crown land, including homestead selectors, **conditional lessees, and settlement lessees, and owners of other land within the proposed trust district, objecting to the proposal, he shall refer the**  
40 **proposal to the Board for inquiry and report.**

For the purpose of any such inquiry such Board shall have the power to subpoena witnesses and take evidence on oath.

Every



*Water and Drainage.*

Every person who when required by the Board attends as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena on the trial of an action in the District Court, and, in case of dispute as to the amount to be allowed, the same shall be referred to the Registrar of the nearest District Court who, on request under the hand of the Chairman of the Board, shall ascertain and certify the proper amount of such expenses.

9. (1) If within the said period no such petition is received, or if the Board reports in favour of the proposal, with or without modifications, the Governor may, ~~upon the recommendation of the Minister,~~ constitute the trust with such modifications of the proposal as the Board may recommend, or where no reference is made to the Board, with such modifications as the Minister may think fit.

(2) The constitution of the trust shall be notified by the Minister in the Gazette.

(3) Upon such notification the conditions of the proposal, with such modifications (if any) as aforesaid, shall be binding on the trust and on the Crown, and the Minister may, out of the funds raised under this Act, carry out the works described in the proposal.

20

*Works under other Acts.*

10. The Minister may, out of the funds raised under this Act, carry out any work which he is authorised to carry out under the Public Watering Places Act, 1900, or the Artesian Wells Act, 1897.

*Completion of certain works already commenced.*

25 11. The Minister may, out of the said funds, complete the construction of the works under construction on the date of this Act coming into force:

Provided that the Minister may, in lieu of completing any such work under the provisions of this section, notify proposals for the constitution of a trust in respect thereof, and thereupon the provisions of sections five, six, seven, and eight shall apply in respect of such work, and for such purpose the completion of such work shall be deemed to be the construction thereof.

35 11. (1) The Minister may, out of the said funds, complete any works of water supply, water conservation or irrigation, or of drainage under construction at the commencement of this Act.

(2) The Minister may notify proposals for the completion of any such work and for the constitution of a trust in respect thereof, and may notify proposals for the constitution of a trust in respect of any such work constructed and under his immediate control at the commencement of this Act, and in any such case the provisions of sections seven, eight, and nine shall be applicable mutatis mutandis.

*Construction*



*Water and Drainage.*

*Construction of works.*

12. Every work, other than a State work, which the Minister is authorised by this Act to carry out shall be carried out under the Public Works Act, 1900, and all the powers and provisions of the said Act relating to authorised works shall be applicable to such work, and for all purposes of the said Act such work shall be deemed to be an "authorised work," and the Minister shall be deemed a "Constructing Authority" within the meaning of the said Act:

Works to be carried out under Public Works Act, 1900, and to be "authorised works" and Minister a "Constructing Authority" within that Act.

Provided that no such work which interferes with any rights under any license granted by the Crown under the Water Rights Act, 1896 1902, or any other Act, shall be carried out until and unless the Minister has given to the holder of such license the following notice of his intention to carry out such work, that is to say—

- (a) where the unexpired term of the license does not exceed five years, six months' notice;
- (b) where the unexpired term of the license exceeds five years, twelve months' notice.

*Transfer to trust.*

13. The completion of any works in respect of which a trust is constituted under this Act, and the cost of the same shall be notified in the Gazette, and thereupon the trust shall take over the same, and the administration and management thereof upon the terms and conditions hereafter prescribed, and shall exercise all the powers contained in this Act except such as are limited in operation to conferred solely upon the Minister, provided that the capital on which interest shall be paid shall not exceed the estimated cost plus ten per centum, and the interest and charges payable by the trust shall commence to run.

On notification of completion, trust to take over management.

*Alteration of boundaries of trust districts.*

14. If two-thirds in number of the occupiers of Crown lands including homestead selectors, conditional lessees and settlement lessees and owners of other lands within any area sign and forward to the Minister a petition that such area be included in a trust district, the Minister shall refer the proposed alteration to the Board, who, after giving the trust an opportunity of expressing their opinion, shall report to the Minister whether in the opinion of the Board the petition may be ought to be refused or granted with or without modifications, or may recommend the refusal of the petition, whereupon the Minister may by notification in the Gazette alter the boundaries of such district accordingly, or may refuse the petition.

Minister on petition by two-thirds of occupiers or owners to refer proposed alteration to Board.

*Appointment*



*Water and Drainage.**Appointment and election of trustees.*

15. (1) After the constitution of the trust, but before the completion of the works (if any) proposed to be constructed, the Minister shall, by notice in the Gazette, appoint trustees and direct the first election of trustees in pursuance of this Act.

In certain cases Minister to appoint trustees, in other to direct their election.

(2) Where the trust district consists wholly of land acquired under the Closer Settlement Act, 1901, or any Act amending the same, or unoccupied Crown lands, all the trustees shall be appointed by the Minister, and shall, subject to the provisions of this Act, hold office until half the land in the district is occupied by persons who are liable to pay rates to the trust.

Thereafter, and in other cases where the number of the trustees is three, one shall be appointed by the Minister and two shall be elected, but where the number of the trustees is four or five, two shall be appointed by the Minister and the rest shall be elected:

Provided that where the trust district is in the western division, the Western Lands Board shall be sole trustees in lieu of the trustee or trustees hereinbefore mentioned.

16. Elected trustees shall be elected for three years and shall hold office until their successors are elected.

Trustees to be elected for three years.

17. For the purpose of the first election of trustees the Minister shall prepare a roll of voters, placing on the roll the names of the persons who in his opinion will be liable to pay rates to the trust, and the persons whose names are on such roll and no others shall be qualified to vote at the first election, and each such person shall be entitled to one vote only.

Method of first election of trustees.

18. For the purpose of any subsequent election of trustees, a roll of voters containing the names of the persons who are liable to pay rates to the trust shall be prepared by the trustees, and revised in the prescribed manner by the police magistrate having jurisdiction in the district, before whom any person aggrieved by the omission or addition of the name of any person may appear and be heard, and the persons whose names are on such roll and no others shall be entitled to vote at any such election, and each such person shall have one vote only.

Subsequent election of trustees.

19. Persons on the roll shall be entitled to vote in the manner following, that is to say:—

Cumulative voting.

(a) In the case of a trust placed in charge of drainage work or irrigation works, the occupier of an area of land not exceeding fifty acres shall be entitled to one vote; of an area exceeding fifty acres but not exceeding three hundred acres, to two votes; and of an area exceeding three hundred acres, to three votes.

(b) In the case of a trust in charge of water supplies for domestic and stock purposes, the occupier of an area of land not exceeding



*Water and Drainage.*

exceeding two thousand acres shall have one vote; the occupier of more than two thousand acres but not more than ten thousand acres, two votes; and the occupier of more than ten thousand acres, three votes.

- 5    ~~19.~~ 20. Any person entitled to vote at the election of trustees may be elected as trustee. But no person who has been convicted of any criminal offence shall be capable of being appointed or elected or to act as a trustee, and where a trustee becomes incapable as aforesaid, his office shall become vacant. Qualification of persons entitled to be elected as trustees.
- 10    ~~20.~~ 21. In the first election of trustees the Minister shall appoint a returning officer, and may for any succeeding election appoint a returning officer, or delegate this power to the trustees. Minister to appoint returning officer for first election, but for any succeeding election may delegate this power to trustees.
- 15    The Minister shall appoint the date of any election and the polling places, and shall notify the same in the Gazette and a local newspaper.
21. 22. The mode of election of trustees shall be as prescribed by the regulations. Mode of election to be as prescribed.
22. 23. Any vacancy caused by the death, resignation, or incapacity of a trustee shall be filled by appointment or election, as the case may be. Vacancy how filled.

*Powers and duties of trustees.*

23. 24. The trustees shall be charged with the duty of maintaining and administering the works of water supply, water conservation, irrigation, and drainage mentioned in the notification constituting the trust or thereafter constructed within the trust district. Duties of trustees.
24. 25. Trustees shall have the following duties and powers :— Powers and duties of trustees.
- (a) They shall maintain in a state of efficiency the works under their charge.
- 30    (b) They shall fix and levy rates to provide for the maintenance and management of such works and shall provide for interest, charges, and sinking fund.
- 35    (c) They shall keep proper accounts of all moneys received and paid.
- 40    (d) They shall pay to the Treasury at such times as may be fixed by the Minister the interest and charges payable by them and make due provision for a sinking fund, and all sums received on account of any such sinking fund shall be carried by the Colonial Treasurer to a special account to be entitled "The Water and Drainage Loan Redemption Fund," and all other sums to the Consolidated Revenue Fund.
- (e) They may appoint, with the sanction of the Minister, such officers or servants as may be required.
25. 26. In the exercise and discharge of their powers and duties, the trustees by themselves or their officers may enter any land within the Power of trustees or their officers to enter and inspect.



*Water and Drainage.*

the trust district and make any inspection or survey they may deem necessary, and effect repairs or alterations to any works, but in so doing shall avoid as far as practicable causing any loss, injury, or damage. They shall not be responsible for any loss, injury, or damage  
5 caused by them, unless claim in writing be made within three months thereafter.

26- 27. (1) For the purpose of providing money for exercising their powers and performing their duties under this Act the trustees may  
fix and levy rates upon the whole of the lands within the trust district  
10 as follows:—

(a) In connection with the supply of water for stock purposes, a rate per acre of the land benefited by the works shall be fixed and the rate may vary in proportion to the benefit received as aforesaid. When water is supplied down a natural  
15 channel, a rate per mile of the lands benefited as aforesaid, measured according to the frontage to the channel, may be fixed, and the rate may vary in proportion to the benefit received.

(b) In connection with the supply of water for domestic purposes, a rate for each separate tenement in the trust district shall be fixed, and the rate may vary in proportion to the benefit received.

(c) In the case of drainage, a rate per acre of the land benefited by the works shall be fixed; and this rate may vary according to the distance of the land from drains and in proportion to the benefit received as aforesaid.

(d) In the case of irrigation, a rate per acre on the whole of the irrigable land within the trust district shall be levied, whereupon the ratepayer shall be entitled to a proportion of the water to be fixed by the trustees either by measure or according to the area irrigated, or which in the opinion of the trustees should be irrigated.

(e) In all cases, not otherwise in this section provided for, a rate per acre of the land benefited directly or indirectly by the works. This rate shall be fixed yearly, and shall as far as practicable be in proportion to the benefit received as aforesaid.

(f) In the case of a supply for more than one purpose, separate rates may be fixed calculated on the basis set out for each  
40 such purpose.

(2) All such rates shall be payable by the occupiers of the lands.

(3) Any occupier aggrieved by the amount at which he is rated may appeal therefrom to the police magistrate having jurisdiction in the district, who shall hear and determine the matter, and may confirm or vary such amount.

27.



*Water and Drainage.*

27. 28. The trustees shall have power to sell water by measure to any ratepayer in addition to the quantity to which he is entitled by payment of rates. Trustees may sell additional water to ratepayers.

*Powers of Minister where trust constituted.*

5 28. 29. If the trustees by request in writing desire the Minister to improve or extend any works under their charge or increase the quantity of water supplied, the Minister may prepare an estimate of the cost of the proposed work and the interest thereon payable by the trust and a statement of the additional charge to be paid by the trust in respect of the increase of the quantity of water supplied. Such estimate and statement shall be supplied to the trustees. The Minister, on request by trustees to improve or extend any works under their charge, may prepare an estimate of the cost of the proposed work, and upon the receipt of an intimation from the trustees that such estimate has been approved by a special general meeting of voters, may proceed with the construction of proposed works

Upon the receipt from the trustees of an intimation that the estimate and statement have been approved by a special general meeting of the voters in the trust, of which not less than fourteen days' notice shall be given in the prescribed manner, the Minister may proceed with the construction of the proposed work or may increase the quantity of water supplied.

On the completion of the work or upon the increase of the quantity of water a notification shall be sent to the trustees, and shall be published in the Gazette, directing that, with the Governor's approval, the interest on the cost of such work and the charges for the increase of water supplied shall be paid by the trust.

Such interest and charges shall commence to run from the date of such notification, and such interest shall be calculated on a sum not exceeding the estimated cost plus ten per centum.

29. 30. (1) The Minister, by himself or his officers, may at any time enter any part of a trust district and make an inspection or survey of the works in charge of the trust, and may inspect the records and accounts of the trustees. Power of Minister to enter and inspect.

30 If upon such inspection the Minister is of opinion that any of such works are not kept in repair and efficient working order he may cause such repairs, as he may think necessary, to be made at the cost of the trust, and for the purpose of effecting such repairs he shall have the powers of the trustees. Minister may cause repairs to be made at cost of the trust.

35 (2) In the event of any delay in the election of trustees, or in the event of any default by trustees in the discharge of their duties under this Act or the regulations, the Minister may assume all or any of the powers by this Act conferred on trustees, and he the Governor may, if in his opinion sufficient cause exists, dissolve a trust, remove from office trustees, and appoint and direct the election of other trustees, or appoint a manager of the affairs of a trust. Minister Governor may dissolve trust, or appoint a manager.

*General*



*Water and Drainage.*

*General and supplemental.*

30. 31. The trustees shall submit to the Minister once every year, <sup>Trustees to submit to</sup> and at such other times as the Minister may direct, an audited statement <sup>Minister an audited</sup> of the accounts of the trust. The Minister may, if in his opinion such <sup>statement of the</sup> <sup>account of the trust.</sup> 5 audited statement is defective or unsatisfactory, appoint an auditor to prepare a proper statement of accounts, at the cost of the trust.

31. 32. (1) The Minister or trustees for the purposes of this Act <sup>Power of Minister or</sup> may construct and maintain and repair any conduit through any land, <sup>trustees to construct</sup> <sup>conduit.</sup> street, or road.

10 Any ratepayer of a trust may, with the approval of the trustees, for the purpose of draining his land, cut and make, and maintain and repair drains through any adjacent or neighbouring land :

(2) Provided that the trustees or ratepayer shall make full compensation for any damage occasioned by cutting and making such 15 drains ; and such compensation, estimated at one-fifth part above the value of the property affected, shall be assessed by the Board, and when so assessed shall be recoverable in any Court of competent jurisdiction.

32. 33. Any person who—

Penalties.

- 20 (a) obstructs the trustees or their officers or servants acting under this Act or the regulations or by-laws ; or  
(b) interferes with works in charge of the trustees ; or  
(c) destroys, injures, or obliterates any mark or level fixed by the trustees or their officers ; or  
25 (d) uses water from the works of the trust otherwise than in the manner and at the times prescribed ; or  
(e) obstructs the flow of or pollutes any water under the control of a trust ; or  
(f) commits any breach of the provisions of this Act,

30 shall be liable to a penalty not exceeding twenty pounds, and in the case of a continuing offence to a penalty not exceeding five pounds per day whilst the offence continues, and shall also be liable to be sued by the trustees or by any person for compensation on account of loss or damage caused by his offence.

35 33. 34. The Governor may make regulations for carrying out the <sup>Governor may make</sup> <sup>regulations.</sup> provisions of this Act, and in particular for—

- the election of trustees and the making and revision of the rolls of voters, and the mode of voting ;  
the election by the trustees of a chairman ;  
40 the intervals within which meetings of trustees must be held ;  
the procedure at such meetings ;  
the appointment, payment, and dismissal of officers and servants ;  
the fixing and notifying of rates ;  
the hearing of appeals ;

the



*Water and Drainage.*

- the collection and recovery of rates and charging the same on  
lands in respect of which they are payable ;  
the keeping of the accounts of trustees ;  
regulating the payment to the Crown of interest and charges by  
5 the trust ;  
regulating the proceedings of the Board ;  
regulating special meetings of voters of a trust in pursuance of this  
Act ;  
imposing any penalty not exceeding twenty pounds for any breach  
10 of the regulations.  
Such regulations shall be published in the Gazette.  
34. 35. (1) The trustees may, subject to the approval of the Trustees may make  
by-laws. Governor, make by-laws—  
prescribing the duties of their officers and servants ;  
15 for regulating the supply of water from and the use of the works  
of the trust ;  
prescribing the duties of persons as to the maintenance, clearing,  
cleansing, and repair of the works of the trust ;  
imposing any penalty not exceeding ~~twenty~~ ten pounds for any  
20 breach of the by-laws.  
(2) Such by-laws shall have effect ~~if and~~ when approved  
by the Governor, ~~but not otherwise,~~ and shall be published in the  
Gazette.  
All such regulations and by-laws shall be laid before both  
25 Houses of Parliament within fourteen days after the making thereof,  
if Parliament is then in session, and if not, then within fourteen days  
after the commencement of the next ensuing session.  
35. 36. All rates and all charges imposed by or under this Act How rates are to be  
recoverable. or the regulations or by-laws may be recovered in any Court of  
30 competent jurisdiction.

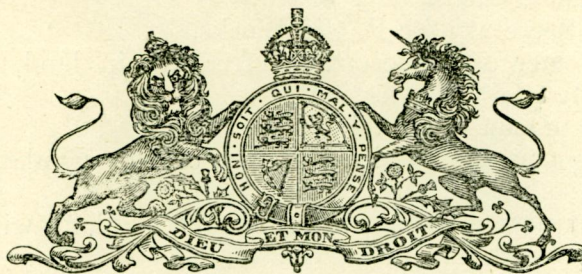


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 7 August, 1902.* }

F. W. WEBB,  
*Clerk of the Legislative Assembly.*

## New South Wales.



ANNO SECUNDO

EDWARDI VII REGIS.

\*\*\*\*\*

Act No. , 1902.

An Act to provide for the annual expenditure of £200,000 for a period of five years on works of water supply, water conservation, or irrigation and of drainage ; for the constitution of trusts to administer the same where the cost exceeds £5,000 ; and to authorise the raising of the said sums by loans.

BE it enacted by the King'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 :—

5

### *Preliminary.*

1. This Act may be cited as the "Water and Drainage Short title.  
Act, 1902."

2. In this Act—

Interpretation.

10

"Board" means Board consisting of the Under Secretary of the  
Public Works Department, Engineer-in-Chief for Railway  
Construction,

10—A

94073



*Water and Drainage.*

- Construction, Government Architect, Commissioner for Roads and Principal Engineer for Roads and Bridges, Principal Engineer for Harbours and Rivers, and the Principal Engineer for Water Supply and Sewerage; and as to any work or undertaking affecting the Western Division, the Western Land Board, as constituted under the Western Lands Act of 1901, shall be members of such Board.
- 5 "Minister" means Secretary for Public Works.
- "Owner" means owner of any estate of freehold in land, and includes a mortgagee in possession.
- 10 "Occupier" means person in actual possession.
- "Prescribed" means prescribed by this Act or the regulations or by-laws.
- "Ratepayer" means person paying rates in respect of land within a trust district.
- 15 "State work" means any work proclaimed as such by the Governor.
- "The regulations" and "the by-laws" mean respectively the regulations and by-laws made under this Act.
- 20 "Trust" means trust constituted under this Act.
- "Trustee" means member of a trust.
- "Trust district" means area over which a trust has jurisdiction under this Act.
- 25 "Works" includes any natural or artificial conduit, well, appliance, machinery, or structure pertaining to or used in connection with a trust.

*Loans for works.*

3. The Governor may raise in the year one thousand nine hundred and two, and in each of the next four succeeding years, by the issue of debentures or the issue of inscribed stock, secured upon the Consolidated Fund of this State, and bearing interest at a rate not exceeding four per centum per annum, a sum not exceeding two hundred thousand pounds, for the purpose of carrying out works of water supply, water conservation or irrigation, or of drainage :—
- 30 Power to raise £200,000 a year for five years for purposes of water supply.
- 35 (a) The loans so authorised may be negotiated wholly or in part in the form of debentures or inscribed stock in the State or in London at such times and for such amounts as may be directed by the Governor. Stock may be sold in London or Sydney.
- 40 (b) Any stock issued within the State under this Act shall be styled "New South Wales Funded Stock," and shall, if sold otherwise than by tender, be purchasable at the Treasury upon any lawful day. Creation of stock.

(c)



*Water and Drainage.*

- (c) The provisions of the Funded Stock Act of 1892, relating to the method of inscription and transfer of stock, and the regulations under such Act, and the forms prescribed in the said regulations, are hereby declared to be applicable to, and shall be followed and used mutatis mutandis in connection with stock issued within the State under the provisions of this Act.
- (d) In respect of any stock issued in London under the provisions of this Act, the Governor may make regulations, not being inconsistent with the provisions of the Inscribed Stock Act of 1883, for carrying this Act into effect; and such regulations shall be published in the Gazette and laid before Parliament within fourteen days of the publication thereof, if Parliament be then sitting, and if Parliament be not sitting, then within fourteen days of the commencement of the next session thereof.
- (e) All moneys borrowed under this Act shall be paid to the Treasurer, and shall be by him carried to and form part of the General Loan Account, and be appropriated and applied, as required, to the works and services hereinbefore specified, or to any other duly authorised Loan Services, in terms of the Loans Fund Amalgamation Act of 1879.
- (f) Debentures or stock sold or issued under this Act are hereby declared to be for all purposes Government Securities; and all corporations and other persons whatsoever shall have power to invest in the purchase of such debentures and stock any property held by them, whether as trustees or otherwise, which they are not expressly forbidden to invest in Government stock or securities, without on that account being liable as for a breach of trust or incurring any liability whatsoever, provided that such investment is in other respects reasonable and proper.

Application hereto of certain provisions of Funded Stock Act of 1892 to stock sold in the State.

Regulations to be made in respect of stock sold in London.

Sums borrowed now to be accounted for and appropriated.

Power to trustees and others to invest in debentures or stock.

*State works.*

4. The Minister may, subject to the provisions of the Public Works Act, 1900, carry out a "State work" under the said Act out of the funds raised under this Act, and may maintain and administer and, subject as aforesaid, extend the same as he thinks fit.

Construction of "State works."

*Works of water conservation costing five thousand pounds or less.*

5. Where the estimated cost does not exceed five thousand pounds the Minister may, out of the funds raised under this Act, carry out any works of water conservation that he deems desirable, and maintain

Works of water conservation costing £5,000 or less.



*Water and Drainage.*

maintain and administer the same, and no charge shall be made for water supplied to travelling stock from such works when situated on or near to any public highway.

*Constitution of trust.*

5        6. Where the estimated cost of any work of water conservation exceeds five thousand pounds, and in respect to any works of water supply, irrigation, or drainage, the Minister may notify proposals for the construction of such works, and the constitution of a trust for maintaining, administering, and extending such works. Constitution of trust.

10 *Constitution of trusts where works cost five thousand pounds or more.*

7. Any such proposal shall contain—

- (a) a description of the purpose for which it is proposed to constitute the trust;
- 15 (b) a plan and description of the works and of the land, whether covered with water or not, proposed to be taken or acquired for the purposes of such works and of their cost or estimated cost;
- (c) the rate of interest, which shall not exceed four per centum per annum, payable on such cost;
- 20 (d) the charges to be paid by the trust for water to be supplied by the Crown and the conditions of such supply;
- (e) the maximum rate which may be assessed by the trust;
- (f) a description of the trust district; and
- 25 (g) the number of trustees being not less than three nor more than five.

Contents of proposals.

8. If, within eight weeks after such notification, a petition is presented to the Minister signed by at least one-third in number of the occupiers of Crown land, including homestead selectors and settlement lessees, and owners of other land within the proposed trust district, Minister on petition by one third of occupiers and owners to refer proposal to Board for inquiry.

30 objecting to the proposal, he shall refer the proposal to the Board for inquiry and report.

For the purpose of any such inquiry such Board shall have the power to subpoena witnesses and take evidence on oath.

Every person who when required by the Board attends as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena on the trial of an action in the District Court, and, in case of dispute as to the amount to be allowed, the same shall be referred to the Registrar of the nearest District Court who, on request under the hand of the Chairman of the Board, shall

40 ascertain and certify the proper amount of such expenses. Witnesses expenses.



*Water and Drainage.*

9. (1) If within the said period no such petition is received, If no petition or if Board reports in favour of proposal the Governor may constitute the trust. or if the Board reports in favour of the proposal, with or without modifications, the Governor may, upon the recommendation of the Minister, constitute the trust with such modifications of the proposal as the Board may recommend, or where no reference is made to the Board, with such modifications as the Minister may think fit.

(2) The constitution of the trust shall be notified by the Minister in the Gazette.

10 (3) Upon such notification the conditions of the proposal, Upon notification of the trust, the Minister may carry out any works described in the proposal. with such modifications (if any) as aforesaid, shall be binding on the trust and on the Crown, and the Minister may, out of the funds raised under this Act, carry out the works described in the proposal.

*Works under other Acts.*

10. The Minister may, out of the funds raised under this Act, Works under Public Watering Places Act and Artesian Wells Act. carry out any work which he is authorised to carry out under the Public Watering Places Act, 1900, or the Artesian Wells Act, 1897.

*Completion of certain works already commenced.*

11. The Minister may, out of the said funds, complete the Certain works already commenced may be completed. construction of the works under construction on the date of this Act coming into force :

20 Provided that the Minister may, in lieu of completing any such work under the provisions of this section, notify proposals for the constitution of a trust in respect thereof, and thereupon the provisions of sections five, six, seven, and eight shall apply in respect of such work, and for such purpose the completion of such work shall be deemed to be the construction thereof.

*Construction of works.*

12. Every work, other than a State work, which the Minister is authorised by this Act to carry out shall be carried out under the Works to be carried out under Public Works Act, 1900, and to be "authorised works" and Minister a "Constructing Authority" within that Act. Public Works Act, 1900, and all the powers and provisions of the said Act relating to authorised works shall be applicable to such work, and for all purposes of the said Act such work shall be deemed to be an "authorised work," and the Minister shall be deemed a "Constructing Authority" within the meaning of the said Act :

35 Provided that no such work which interferes with any rights under any license granted by the Crown under the Water Rights Act, 1896, or any other Act, shall be carried out until and unless the Minister



*Water and Drainage.*

Minister has given to the holder of such license the following notice of his intention to carry out such work, that is to say—

- (a) where the unexpired term of the license does not exceed five years, six months' notice;
- 5 (b) where the unexpired term of the license exceeds five years, twelve months' notice.

*Transfer to trust.*

13. The completion of any works in respect of which a trust is constituted under this Act, and the cost of the same shall be notified  
 10 in the Gazette, and thereupon the trust shall take over the same, and the administration and management thereof upon the terms and conditions hereafter prescribed, and shall exercise all the powers contained in this Act except such as are limited in operation to the Minister, provided that the capital on which interest shall be paid  
 15 shall not exceed the estimated cost plus ten per centum.
- On notification of completion, trust to take over management.

*Alteration of boundaries of trust districts.*

14. If two-thirds in number of the occupiers of Crown lands and owners of other lands within any area sign and forward to the Minister a petition that such area be included in a trust district, the Minister  
 20 shall refer the proposed alteration to the Board, who, after giving the trust an opportunity of expressing their opinion, shall report to the Minister whether in the opinion of the Board the petition may be granted with or without modifications, or may recommend the refusal of the petition, whereupon the Minister may by notification in the  
 25 Gazette alter the boundaries of such district accordingly, or may refuse the petition.
- Minister on petition by two-thirds of occupiers or owners to refer proposed alteration to Board.

*Appointment and election of trustees.*

15. (1) After the constitution of the trust, but before the completion of the works (if any) proposed to be constructed, the Minister  
 30 shall, by notice in the Gazette, appoint trustees and direct the first election of trustees in pursuance of this Act.
- In certain cases Minister to appoint trustees, in other to direct their election.

- (2) Where the trust district consists wholly of land acquired under the Closer Settlement Act, 1901, or unoccupied Crown lands, all the trustees shall be appointed by the Minister, and shall, subject to  
 35 the provisions of this Act, hold office until half the land in the district is occupied by persons who are liable to pay rates to the trust.

Thereafter, and in other cases where the number of the trustees is three, one shall be appointed by the Minister and two shall be elected, but where the number of the trustees is four or five, two shall  
 40 be appointed by the Minister and the rest shall be elected:

Provided



*Water and Drainage.*

Provided that where the trust district is in the western division, the Western Lands Board shall be sole trustees in lieu of the trustee or trustees hereinbefore mentioned.

16. Elected trustees shall be elected for three years and shall  
5 hold office until their successors are elected.

Trustees to be  
elected for three  
years.

17. For the purpose of the first election of trustees the Minister  
shall prepare a roll of voters, placing on the roll the names of the  
persons who in his opinion will be liable to pay rates to the trust, and  
the persons whose names are on such roll and no others shall be  
10 qualified to vote at the first election, and each such person shall be  
entitled to one vote only.

Method of first  
election of trustees.

18. For the purpose of any subsequent election of trustees, a  
roll of voters containing the names of the persons who are liable to pay  
rates to the trust shall be prepared by the trustees, and the persons  
15 whose names are on such roll and no others shall be entitled to vote  
at any such election, and each such person shall have one vote only.

Subsequent election  
of trustees.

19. Any person entitled to vote at the election of trustees may  
be elected as trustee. But no person who has been convicted of any  
criminal offence shall be capable of being appointed or elected or to  
20 act as a trustee, and where a trustee becomes incapable as aforesaid,  
his office shall become vacant.

Qualification of  
persons entitled to  
be elected as trustees.

20. In the first election of trustees the Minister shall appoint  
a returning officer, and may for any succeeding election appoint a  
returning officer, or delegate this power to the trustees.

Minister to appoint  
returning officer for  
first election, but for  
any succeeding  
election may delegate  
this power to  
trustees.

25 The Minister shall appoint the date of any election and the  
polling places, and shall notify the same in the Gazette and a local  
newspaper.

21. The mode of election of trustees shall be as prescribed by  
the regulations.

Mode of election to  
be as prescribed.

30 22. Any vacancy caused by the death, resignation, or incapacity  
of a trustee shall be filled by appointment or election, as the case may  
be.

Vacancy how filled.

*Powers and duties of trustees.*

23. The trustees shall be charged with the duty of maintaining  
35 and administering the works of water supply, water conservation,  
irrigation, and drainage mentioned in the notification constituting the  
trust or thereafter constructed within the trust district.

Duties of trustees.

24. Trustees shall have the following duties and powers:—

Powers and duties of  
trustees.

40 (a) They shall maintain in a state of efficiency the works under  
their charge.

(b) They shall fix and levy rates for the maintenance and manage-  
ment of such works and shall provide for interest, charges,  
and sinking fund.

45 (c) They shall keep proper accounts of all moneys received and  
paid. (d)



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*Water and Drainage.*

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- (d) They shall pay to the Treasury at such times as may be fixed by the Minister the interest and charges payable by them and make due provision for a sinking fund.
- (e) They may appoint, with the sanction of the Minister, such officers or servants as may be required.

5           25. In the exercise and discharge of their powers and duties, the trustees by themselves or their officers may enter any land within the trust district and make any inspection or survey they may deem necessary, and effect repairs or alterations to any works, but in so  
10 doing shall avoid as far as practicable causing any loss, injury, or damage. They shall not be responsible for any loss, injury, or damage caused by them, unless claim in writing be made within three months thereafter.

15           26. (1) For the purpose of providing money for exercising their powers and performing their duties under this Act the trustees may fix and levy rates within the trust district as follows:—

- 20           (a) In connection with the supply of water for stock purposes, a rate per acre of the land benefited by the works shall be fixed and the rate may vary in proportion to the benefit received as aforesaid. When water is supplied down a natural channel, a rate per mile of the lands benefited as aforesaid, measured according to the frontage to the channel, may be fixed, and the rate may vary in proportion to the benefit received.
- 25           (b) In connection with the supply of water for domestic purposes, a rate for each separate tenement in the trust district shall be fixed, and the rate may vary in proportion to the benefit received.
- 30           (c) In the case of drainage, a rate per acre of the land benefited by the works shall be fixed; and this rate may vary according to the distance of the land from drains and in proportion to the benefit received as aforesaid.
- 35           (d) In the case of irrigation, a rate per acre on the whole of the irrigible land within the trust district shall be levied, whereupon the ratepayer shall be entitled to a proportion of the water to be fixed by the trustees either by measure or according to the area irrigated, or which in the opinion of the trustees should be irrigated.
- 40           (e) In all cases, not otherwise in this section provided for, a rate per acre of the land benefited directly or indirectly by the works. This rate shall be fixed yearly, and shall as far as practicable be in proportion to the benefit received as aforesaid.
- 45           (f) In the case of a supply for more than one purpose, separate rates may be fixed calculated on the basis set out for each such purpose.



*Water and Drainage.*

(2) All such rates shall be payable by the occupiers of the lands.

27. The trustees shall have power to sell water by measure to any ratepayer in addition to the quantity to which he is entitled by payment of rates. Trustees may sell additional water to ratepayers.

*Powers of Minister where trust constituted.*

28. If the trustees by request in writing desire the Minister to improve or extend any works under their charge or increase the quantity of water supplied, the Minister may prepare an estimate of the cost of the proposed work and the interest thereon payable by the trust and a statement of the additional charge to be paid by the trust in respect of the increase of the quantity of water supplied. Such estimate and statement shall be supplied to the trustees. The Minister, on request by trustees to improve or extend any works under their charge, may prepare an estimate of the cost of the proposed work, and upon the receipt of an intimation from the trustees that such estimate has been approved by a special general meeting of voters, may proceed with the construction of proposed works

Upon the receipt from the trustees of an intimation that the estimate and statement have been approved by a special general meeting of the voters in the trust, the Minister may proceed with the construction of the proposed work or may increase the quantity of water supplied.

On the completion of the work or upon the increase of the quantity of water a notification shall be sent to the trustees, and shall be published in the Gazette, directing that, with the Governor's approval, the interest on the cost of such work and the charges for the increase of water supplied shall be paid by the trust.

Such interest and charges shall commence to run from the date of such notification, and such interest shall be calculated on a sum not exceeding the estimated cost plus ten per centum.

29. (1) The Minister, by himself or his officers, may at any time enter any part of a trust district and make an inspection or survey of the works in charge of the trust, and may inspect the records and accounts of the trustees. Power of Minister to enter and inspect.

If upon such inspection the Minister is of opinion that any of such works are not kept in repair and efficient working order he may cause such repairs, as he may think necessary, to be made at the cost of the trust, and for the purpose of effecting such repairs he shall have the powers of the trustees. Minister may cause repairs to be made at cost of the trust.

(2) In the event of any delay in the election of trustees, or in the event of any default by trustees in the discharge of their duties under this Act or the regulations, the Minister may assume all or any of the powers by this Act conferred on trustees, and he may, if in his opinion sufficient cause exists, dissolve a trust, or appoint a manager of the affairs of a trust. Minister may dissolve trust, or appoint a manager.

*General and supplemental.*

30. The trustees shall submit to the Minister once every year, and at such other times as the Minister may direct, an audited statement of account of the trust. Trustees to submit to Minister an audited statement of the account of the trust.



*Water and Drainage.*

of the accounts of the trust. The Minister may, if in his opinion such audited statement is defective or unsatisfactory, appoint an auditor to prepare a proper statement of accounts, at the cost of the trust.

31. (1) The Minister or trustees for the purposes of this Act Power of Minister or trustees to construct conduit.  
5 may construct and maintain and repair any conduit through any land, street, or road.

Any ratepayer of a trust may, for the purpose of draining his land, cut and make, and maintain and repair drains through any adjacent or neighbouring land:

10 (2) Provided that the trustees or ratepayer shall make full compensation for any damage occasioned by cutting and making such drains; and such compensation, estimated at one-fifth part above the value of the property affected, shall be assessed by the Board, and when so assessed shall be recoverable in any Court of competent  
15 jurisdiction.

32. Any person who—

Penalties.

- (a) obstructs the trustees or their officers or servants acting under this Act or the regulations or by-laws; or
- (b) interferes with works in charge of the trustees; or
- 20 (c) destroys, injures, or obliterates any mark or level fixed by the trustees or their officers; or
- (d) uses water from the works of the trust otherwise than in the manner and at the times prescribed; or
- 25 (e) obstructs the flow of or pollutes any water under the control of a trust; or

(f) commits any breach of the provisions of this Act,  
shall be liable to a penalty not exceeding twenty pounds, and in the case of a continuing offence to a penalty not exceeding five pounds per day whilst the offence continues, and shall also be liable to be sued by  
30 the trustees or by any person for compensation on account of loss or damage caused by his offence.

33. The Governor may make regulations for carrying out the Governor may make regulations.  
provisions of this Act, and in particular for—

- the election of trustees and the making of the rolls of voters;
- 35 the election by the trustees of a chairman;
- the intervals within which meetings of trustees must be held;
- the procedure at such meetings;
- the appointment, payment, and dismissal of officers and servants;
- the fixing and notifying of rates;
- 40 the hearing of appeals;
- the collection and recovery of rates and charging the same on lands in respect of which they are payable;
- the keeping of the accounts of trustees;
- regulating the payment to the Crown of interest and charges by  
45 the trust;

regulating



*Water and Drainage.*

- regulating the proceedings of the Board ;  
 . regulating special meetings of voters of a trust in pursuance of this  
 Act ;  
 imposing any penalty not exceeding twenty pounds for any breach  
 5 of the regulations.  
 Such regulations shall be published in the Gazette.  
 34. (1) The trustees may, subject to the approval of the Trustees may make  
by-laws.  
 Governor, make by-laws—  
 10 prescribing the duties of their officers and servants ;  
 for regulating the supply of water from and the use of the works  
 of the trust ;  
 prescribing the duties of persons as to the maintenance, clearing,  
 cleansing, and repair of the works of the trust ;  
 15 imposing any penalty not exceeding twenty pounds for any breach  
 of the by-laws.  
 (2) Such by-laws shall have effect if and when approved  
 by the Governor, but not otherwise, and shall be published in the  
 Gazette.  
 All such regulations and by-laws shall be laid before both  
 20 Houses of Parliament within fourteen days after the making thereof,  
 if Parliament is then in session, and if not, then within fourteen days  
 after the commencement of the next ensuing session.  
 35. All rates and all charges imposed by or under this Act How rates are to be  
recoverable.  
 or the regulations or by-laws may be recovered in any Court of  
 25 competent jurisdiction.



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