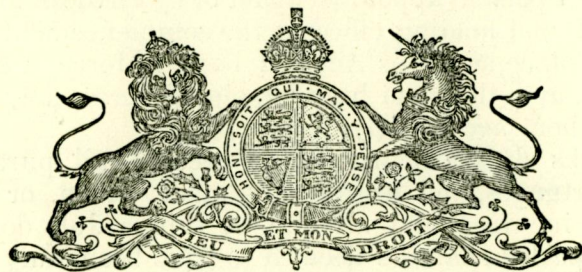


New South Wales.



ANNO SECUNDO

EDWARDI VII REGIS.

Act No. 57, 1902.

An Act to consolidate enactments relating to the Conserving and Utilising Water for Irrigation in the Land District of Hay. [Assented to, 3rd September, 1902.]

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 :—

PART I.

Preliminary.

1. This Act may for all purposes be cited as the "Hay short title. Irrigation Act, 1902," and is divided into Parts as follows :—

PART I.—*Preliminary provisions*—ss. 1-5.

PART II.—*Constitution of the trust*—ss. 6-12.

A

PART

*Hay Irrigation.*PART III.—*Administration*—ss. 13-29.PART IV.—*Loans*—ss. 30-41.PART V.—*Offences and penalties*—ss. 42-49.Repeal First
Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

(2) All rules, regulations, and by-laws made under the provisions of any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been made under the corresponding provisions of this Act.

(3) All persons appointed under or by virtue of any enactment hereby repealed, and holding office at the commencement of this Act, shall remain in office as if this Act had been in force at the time they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

All works duly constructed or erected, all purchases, sales, exchanges, mortgages, and leases duly made, given, or granted, all liabilities duly incurred, and all acts or things duly done under the Acts hereby repealed shall be deemed to have been duly constructed, erected, made, given, granted, incurred, or done, respectively, under the corresponding provisions of this Act, but at the date on which the same were in fact constructed, erected, made, given, granted, incurred, or done.

Portions of Acts at
variance with this.
55 Vic. No. 25, s. 2.

3. Nothing contained in the Municipalities Act, 1897, or the Country Towns Water and Sewerage Act of 1880 shall be construed to control, limit, or restrict the operation of this Act, or to interfere with its provisions in respect of the construction or maintenance of works, or the storage, distribution, or supply of water, or in respect of the borrowing of money, the valuation of property, or the fixing or levying of rates.

Miners not to divert
water.
Ibid. s. 3.

4. Notwithstanding anything contained in any Act, now in force, relating to mining, no holder of a miner's right or mineral license shall be entitled to divert or use water to the prejudice of any rights acquired or enjoyed under this Act; but no rights acquired or enjoyed under any Act relating to mining shall be interfered with, or prejudiced, or taken from the owner thereof without compensation.

Interpretation of
terms and
arrangement of
sections.
Ibid. s. 4.

5. In the construction of this Act, unless the context or subject-matter otherwise indicates, or requires—

“Domestic use,” when employed with reference to water, means use for household purposes, but does not include use for the irrigation of gardens or land, or for the watering of stock or the washing of sheep.

“Irrigation area” means the lands and hereditaments described in the Second Schedule to this Act, and all lands which from time to time may be secured by the trust.

“Justice” means justice of the peace.

“Owner

Hay Irrigation.

- “Owner” includes lessee or occupier.
 “Prescribed” means prescribed by this Act or by the regulations thereunder, or by the by-laws of the trust.
 “Regulations” means the regulations made under this Act.
 “Stock” means cattle, horses, sheep, and all other domestic animals.
 “The trust” means the “Hay Irrigation Trust.”

PART II.

Constitution of trust.

6. (1) The body authorised to carry out this Act shall consist of six persons appointed as hereinafter mentioned and their successors, who, by the name of “The Hay Irrigation Trust,” shall continue to be a body corporate, and shall for the purposes of this Act have perpetual succession and a common seal, and, subject to the sanction of the Minister and to the provisions hereinafter contained, have power to hold, purchase, sell, exchange, mortgage, and lease lands, tenements, stores, goods, chattels, and other property, and by agreement with the lessee to exchange any land now or hereafter let by the trust for other land more conveniently situated for the supply and delivery by the trust of water on the land, and shall be capable of suing and being sued; but no part of the land described in the Second Schedule hereto shall be sold, exchanged, or mortgaged.

Constitution of the
Hay Irrigation
Trust.
55 Vic. No. 25, s. 5.
60 Vic. No. 30,
ss. 1, 2.

(2) The Governor may, by notification in the Gazette, appoint six persons as follows:—

- (a) three persons resident in the Land District of Hay; and
 (b) three officers of the Public Service,
 as members of the trust.

(3) The Governor may at any time call upon any person so appointed to resign, or may remove him from the trust.

(4) The Governor shall, as soon as practicable after the occurring of any vacancy, by notification in the Gazette, appoint some other person to be a member of the trust.

(5) The trust may elect a president and appoint officers for the purpose of carrying out the provisions of this Act.

7. No member of the trust shall be the holder of any paid office or situation under the trust, or receive any salary, emoluments, or expenses of any kind from the trust, but any member of the trust may become a lessee of any portion of the trust lands under the provisions of this Act.

Members of the
trust not to be paid.
55 Vic. No. 25, s. 6.

Hay Irrigation.

Members of the trust may not be contractors.

55 Vic. No. 25, s. 7.

Penalty for illegally acting as a member.

Ibid. s. 8.

8. No member of the trust shall tender for, obtain, or hold any contract, or any part or share in any contract, for works or surveys to be constructed or made by the trust.

9. Every person who—

- (a) being disqualified from acting as a member of the trust by reason of his being the holder of a paid office under the trust, or receiving a salary, emoluments, or expenses of any kind from the trust; or
- (b) being the holder of any contract, or any part or share in any contract, for works or surveys to be constructed or made by the trust,

attends a meeting of the members of the trust and votes thereat as a member, shall, for every meeting at which he is so present and acting, be liable to a penalty not less than ten pounds or more than fifty pounds.

Revocation of allotment of common.

Ibid. s. 9.

Property vested in the trust.

Ibid. s. 10.

10. From and after the passing of this Act the irrigation area shall cease to be or form part of the temporary common of Hay.

11. (1) For the purposes of this Act there shall be vested in the trust absolutely—

- (a) the irrigation area, except such land as the Minister may decide to set apart from time to time for public purposes;
- (b) all dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping-machinery, reservoirs, and other works constructed or erected in pursuance of this Act;
- (c) the water which is at any time in any pipe, reservoir, creek, dam, or other work constructed by the trust in pursuance of this Act.

(2) The land so vested shall be held and administered by the trust, subject to the provisions of this Act and the approval of the Governor.

(3) Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation throughout the State.

(4) Whenever it is deemed necessary in the public interest the Governor may by proclamation dissolve the trust, and take control of the whole of the lands, works, goods, chattels, and funds at the time belonging to or vested in the trust, subject to all liabilities and obligations attaching to the same, and with all the powers hereby created.

Alteration of Second Schedule.

60 Vic. No. 30, s. 4.

12. The Governor may, by notification in the Gazette, amend the Second Schedule hereto by enlarging or contracting the boundaries therein described, and the said Schedule so amended shall be deemed to be the Second Schedule to this Act.

PART

Hay Irrigation.

PART III.

Administration.

13. (1) Subject to the provisions hereinafter contained the trust may at any time exercise any of the following powers, that is to say, to—

- (a) erect and construct upon any part of the irrigation area such dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping-machinery, reservoirs, canals, watercourses, embankments, or other works as may be necessary or expedient for carrying out the objects of this Act;
- (b) construct a dam, or flood-gate, or both, across the mouth of the Bungay Creek, at the junction of the said creek with the river Murrumbidgee, or elsewhere on the said creek or any of its affluents;
- (c) widen or deepen, or close or divert any existing creek, lagoon, swamp, or watercourse within the irrigation area;
- (d) lay pipes or cut trenches or ducts outside the irrigation area for the purpose of delivering water to owners of adjoining lands;
- (e) take water from the river Murrumbidgee by means of pumping or other machinery erected within the municipal area under such regulations as to quantity as the Minister may sanction.

(2) The Minister may at any time cause inspection to be made of any works initiated, constructed, or managed by the trust, and if the construction of such works be dangerous, the Minister may require the trust to make such alterations or improvements as may be deemed necessary.

(3) Nothing in this section shall be construed to authorise the trust to construct any dam, weir, embankment, or other work whatever in or upon the river Murrumbidgee, so as to obstruct, impede, or in any way interfere with the natural flow or the navigation of such river.

14. Whenever any person employed by the trust in pursuance of this Act, while in the execution of his duties, causes injury to land, fences, or other property, or causes loss or damage to any owner of land or other property, the person suffering such injury, loss, or damage shall be entitled to be compensated by the trust.

15. No claim for compensation on account of injury, loss, or damage caused to persons or property, by any person employed by the trust, shall be valid unless made within ninety days after such injury, loss, or damage is sustained.

Hay Irrigation.

Arbitration.
No. 15, 1902, s. 3.

16. Where any compensation is claimed from the trust on account of injury, loss, or damage alleged to have been sustained by any person, and such claim is disputed by the trust, the dispute may be submitted to the arbitration of an arbitrator, or of an umpire and arbitrators, as may be agreed upon by the trust and the person so claiming.

Trust may let.
55 Vic. No. 25, s. 15.
No. 15, 1902, s. 4.

17. (1) The trust may let for any term not exceeding ninety-nine years, in one or more portions of any area, until required for public purposes, any lands, tenements, or hereditaments purchased, or taken in exchange by the trust in pursuance of this Act, or being portion of the irrigation area.

(2) No one person shall select, lease, or hold more than forty acres.

(3) The lessees of such portion of land shall be entitled to compensation for all improvements when required to surrender their leases.

(4) All moneys arising from any such letting shall be applied towards the construction, maintenance, or improvement of the works, roadways, or property of the trust, or in paying or discharging any interest, debt, or obligation which the trust may be liable to pay or discharge.

Lots leased to be improved, or may be relet.

Ibid. s. 5.

18. (1) All lots leased shall be improved to the value of ten pounds per acre.

(2) In the case of a lot applied for before the twenty-first day of January, one thousand nine hundred and two, such improvement shall be effected within two years after such date.

(3) In the case of a lot applied for after such last-mentioned date, such improvement shall be effected within two years after the date of the application.

(4) After the expiration of any such period of two years, the trust may require the lessee of any lot, by notice in writing, served on him personally or by post, or published in a newspaper circulating in the neighbourhood of the lot, or affixed on the lot, to effect the improvements within three months from the serving, publishing, or affixing of the notice. And if the lessee fails to effect the improvements within the said three months, the trust may retake possession of the lot and eject the lessee without any compensation for improvements or otherwise, and relet the lot to another tenant.

Tenant-right in improvements.

Ibid. s. 10.

19. (1) Upon the determination of the lease of any lot, the lessee shall be entitled to receive the value to an incoming tenant of the improvements from any person who takes a lease of the land containing the improvements. And in the event of such person not paying the amount then due and unpaid for the value of such improvements, such amount or so much thereof as remains unpaid for the time being shall, until payment thereof, be and remain a charge upon the land containing such

Hay Irrigation.

such improvements while in the hands of a lessee. The value of the improvements to an incoming tenant shall be appraised by the local land board in the manner prescribed by section forty-four of the Crown Lands Act of 1889, but shall be calculated on the basis of the value of such improvements to the land leased, and the payment of the value shall be made by such instalments, and at such dates, as may be prescribed by regulations.

The improvements, in respect of which tenant-right is conferred by this Act, shall in all cases be—

- (a) of a permanent, fixed, and substantial character, and necessary for the profitable occupation of the land; and
- (b) the property of the person claiming to have tenant-right in respect thereof;

and improvements which were forfeited or forfeitable to, or vested in, the trust immediately prior to the accruing of the tenant-right shall not be included:

(2) Provided that—

- (a) the tenant-right shall lapse after the expiration of twelve years from the date of its first accruing, and thereafter the improvements shall be the property of the trust; but such lapsing shall not affect any agreement, appraisalment, or order for payment previously made; and
- (b) the holder of the lease of the land containing the improvements shall be liable to pay any instalments of the value thereof, as appraised by the local land board, which may accrue due during his holding.

20. (1) Subject to the provisions of this Act, the trust may enter into an agreement in writing with the owner of any land within the irrigation area, or not being distant more than three miles in a straight line from the boundary thereof, for the supply and delivery of water upon such land for a term of years not exceeding ten years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement; and in every such agreement the owner of such land shall agree to pay such price for the term limited in the agreement, and to pay the trust for not less water in any year than the minimum quantity in such agreement specified.

Trust may contract to supply water for a term of years.
55 Vic. No. 25, s. 17.

(2) Such agreement by such owner, whether under seal or not, shall be deemed to be a covenant running with the land, and shall bind the land and the successive owners thereof during the said term.

(3) Nothing in such agreement shall be construed to create any obligation on the part of the trust to supply any stated quantity of water in the event of there being at the disposal of the trust an insufficiency of water, as hereinafter provided; but in such case the owner or occupier shall only pay for the water actually supplied to him at the price provided for in such agreement.

Hay Irrigation.

When water insufficient, trust may supply proportionally, and not liable for any inability to supply.
55 Vic. No. 25, s. 18.

21. (1) If at any time the supply of water at the disposal of the trust be insufficient to afford to all persons entitled by contract the supplies which they may respectively be entitled to receive from the trust, the trust may deliver to such persons such amount as the trust deems proper, in quantities proportionate to the quantities which such persons would have been respectively entitled to receive had there been enough water available, and such persons shall be chargeable accordingly.

(2) In no case shall the trust be liable to any action or other proceeding for not supplying water to any person where it has been determined by the Minister that the trust has been without wilful default or negligence upon its part unable to supply such water.

Water to be used only in manner prescribed.
Ibid. s. 19.

22. Water supplied by the trust shall be delivered as prescribed, and no person shall have the right to convey or use such water in a manner or for a purpose other than those prescribed.

Right-of-way for water.
Ibid. s. 20.

23. (1) The trust may acquire by purchase or lease a right-of-way for water through any land, whether it belongs to a private individual, a corporation, or the Crown.

(2) If a right-of-way for a distributory channel, pipe, or conduit of any kind be required by any person to enable him to obtain a supply of water from the trust, the Governor may, on the recommendation of the Minister, resume a right-of-way for such water supply and vest the same in the trust; and in estimating the amount due as compensation to any owner the Minister shall deduct from the value of the right-of-way so resumed and the damage (if any) done by severance or otherwise, the amount by which the remaining land of the said owner has been increased in value by the projected works.

(3) In no case shall the owner have a right to claim in respect of the right-of-way so resumed the increased value due to the projected works.

(4) Any compensation payable under this clause shall be a charge against the trust funds.

Water-way through land not to confer right to water on owner.
Ibid. s. 21.

24. Under no circumstances shall the passage of water through the land of any owner confer on such owner any right, title, or vested interest in such water, but if in open drains the same shall be fenced by the trust, or no compensation shall be allowed for trespass of stock.

Bridges to be built at road crossings.
Ibid. s. 22.

25. Wherever it is necessary to construct a canal or channel of any kind, or to carry a supply of water across any road, a suitable bridge or culvert or other means of crossing without hindrance to the traffic on the said road shall be constructed by the trust.

Rent of lots.
No. 15, 1902, s. 6.

26. (1) The rents of lots leased after the twenty-first day of January, one thousand nine hundred and two, shall be fixed at the time of letting, and shall not be afterwards altered.

(2)

Hay Irrigation.

(2) The rents of lots leased before such last-mentioned date may, on application by the lessee and with the approval of the Minister and after such inquiry as he may direct, be reduced by the trust; but such reduction shall be made only once.

(3) The lessee of a lot shall not sublet except with the approval in writing of the trust.

27. (1) Subject to the sanction of the Minister the trust shall have power to fix rates for water supplied or for land irrigated by the works to be carried out pursuant to this Act. Power to fix rates.
55 Vic, No. 25, s. 24.
No. 15, 1902, ss. 7, 8.

(2) The rates for water shall be of three kinds—

- (a) for domestic use and for watering stock and washing sheep;
- (b) for irrigation;
- (c) for power.

(3) When the measurement of water for irrigation is impracticable, the trust may fix rates per acre for different crops grown, according to their nature; and may fix rates for all kinds of stock to which water is supplied at per head, according to the kind thereof.

(4) The lessee of any lot, whether leased before or after the commencement of this Act, shall pay to the trust at the rate prescribed by by-laws for any water supplied to such lot or to such lessee through any channel which has been constructed by the trust. Lessee to pay for
water supplied.

(5) All rates, rents, and moneys due before or after the commencement of this Act to the trust for water supplied and otherwise may be recovered in any court of petty sessions or District Court having jurisdiction, or in the Supreme Court, by any person appointed by the trust to collect and recover the same. Recovery of rates.

28. The trust may make by-laws—

- (a) to regulate its proceedings at meetings, the number of members to form a quorum, the convening, postponing, or adjourning of ordinary or special meetings; Power to make
by-laws.
55 Vic. No. 25, s. 25
- (b) to deal with all matters in respect of which by-laws are expressly or impliedly referred to in this Act;
- (c) to regulate the administration and maintenance of the works constructed in pursuance of this Act;
- (d) to prescribe the conditions on which water shall be supplied, and the mode of levying rates for same;
- (e) to prescribe the penalties to which any person shall be liable for breach of, or refusal, or neglect to obey, or observe such by-laws.

But no such by-laws shall be put in force until confirmed by the Governor, and published in the Gazette. The production of the Gazette with any such by-laws so published as aforesaid shall in any suit or proceeding whatsoever be sufficient evidence that such by-laws have been made, confirmed, and published as is herein required.

Hay Irrigation.

Governor may make regulations.
55 Vic. No. 25, s. 26.

29. The Governor may make regulations for carrying this Act into full effect, so as to provide for all proceedings and all other matters and things arising under and consistent with this Act and not expressly provided for; and all such regulations shall upon being published in the Gazette be valid in law, and a copy of every such regulation shall be laid before both Houses of Parliament within one month from the publication thereof, if Parliament shall be then sitting, or within one month after the commencement of the session next ensuing.

PART IV.

Loans.

Security for loan.
Ibid. s. 27.

30. The security for the repayment of all moneys raised on loan by the trust and for the payment of interest due thereon shall be—

- (a) the works vested in the trust;
- (b) the proceeds of the sale of water by the trust;
- (c) the rents leviable by the trust on the lands held by the trust; and
- (d) such lands as the trust has purchased.

Sanction of Governor for loans essential, &c.
Ibid. s. 28.

31. The trust shall not borrow money on loan from any source or for any purpose without the sanction of the Governor.

Applications for loans.
Ibid. s. 29.

32. Whenever the trust desires to raise money on loan for the construction of any works authorised by this Act, the trust shall make application to the Minister in writing stating full particulars as to the nature and extent of the land to be benefited by such works, of the existing liabilities (if any) of the trust, and of the estimated cost of the proposed works; and on receipt of such application the Minister shall submit the same, together with such recommendations as he may deem proper, to the Governor, and thereupon the Governor may sanction the raising of a loan by the trust.

Governor may grant loans.

Limit to loans.
Ibid. s. 30.

33. The aggregate amount of any loan raised by the trust, together with the existing liabilities thereof shall not at any time exceed seven years estimated revenue accruing to the trust on the completion of the works proposed to be constructed with the aid of such loan.

Sinking fund to be reckoned an asset.
Ibid. s. 31.

34. When a sinking fund has been formed for the liquidation of any loan, the accumulated amount of such sinking fund shall, for the purpose of estimating the existing liabilities of the trust, be deducted from the amount of such loan.

Rates, how applicable.
Ibid. s. 32.
60 Vic. No. 30, s. 3.

35. The revenue derived from the sale of water and the rents levied in pursuance of the provisions of sections twenty-six and twenty-seven shall be applied as follows:—

- (a) in payment of interest due in respect of loans;
- (b) in contributing to the sinking fund;
- (c)

Hay Irrigation.

- (c) for the maintenance and management of the works of the trust; or
- (d) for the extension and development of such works;
- (e) for the purchase of adjacent lands to be added to the irrigation area.

36. The trust shall keep a separate account for every loan, and such accounts shall at all times be accessible to any officer deputed by the Minister to inspect them, and copies or abstracts of such accounts shall be submitted in such manner and at such times as may be prescribed.

Separate account for each loan.
55 Vic. No. 25, s. 33.

37. The trust shall, during the month of January in each year, furnish under statutory declaration a return showing the mode of expending all moneys borrowed on loan, also the cost of management for the preceding year, with a full account of all receipts and general expenditure for such preceding year, such return to be presented to Parliament if then in session, if not, then within fourteen days after the meeting of Parliament.

Return of expenditure to be presented to Parliament.
Ibid. s. 34.

38. If, in contravention of this Act, the trust raises a loan without the sanction of the Governor, or appropriates any moneys belonging to the trust for the purpose of liquidating any claim for money so illegally borrowed, or without the sanction aforesaid, applies any portion of a loan to a purpose other than that for which the said loan was raised, or otherwise misappropriates a loan or any portion thereof, the members of the trust who have consented to, or participated in, such improper borrowing, appropriation, or application as aforesaid shall be jointly and severally liable to pay the full amount of the moneys so improperly borrowed, appropriated, or applied; and such amount may be sued for by any person, and be recovered from such members of the trust, or any of them, in any Court of competent jurisdiction.

Improperly borrowing or appropriating.
Ibid. s. 35.

39. If, with the sanction of the Governor, the boundaries of the irrigation area or the name of the trust be altered, no bond, mortgage, or agreement entered into by the trust previously to such alteration, shall be rendered invalid, or shall, except as hereinafter provided, be in any way affected by such alteration.

Change of name or boundaries not to affect agreements.
Ibid. s. 36.

40. If, by reason of the alteration of the boundaries of the irrigation area, any works or other property be taken from the trust, compensation therefor shall be paid to the trust, and also to any lessee whose lease may be injuriously affected by such alteration. And if the works or property so taken from the trust form the security, or part of the security, for any loan, the amount of the compensation received therefor shall be applied in liquidation or reduction of such loan.

Compensation for alteration of boundaries.
Ibid. s. 37.

Hay Irrigation.

Validation of loans
by Government.
No. 15, 1902, s. 11.

41. Any loans of money made before the twenty-first day of January, one thousand nine hundred and two, to the trust out of the General Loan Account shall be deemed to have been lawfully made subject only to any terms or conditions in respect of such loans binding on or to be performed by the trust in pursuance of any bond or agreement of the trust. And all the property and all the revenues of the trust are hereby charged with the repayment of such loans and interest thereon at the rate agreed upon.

PART V.

Offences and penalties.

Obstructing Govern-
ment or trust officers.
55 Vic. No. 25, s. 38.

Interfering with
marks.

Depositing material
on land belonging to
Government or to
trust.

Polluting water.

Injury to water,
fences, &c.

Penalty.

Penalties for
trespass.

No. 15, 1902, s. 9.

Wilful injury to
works.

55 Vic. No. 25, s. 39.

42. Whosoever, without proper authority, or reasonable cause, and voluntarily does any of the following acts, that is to say,—

- (a) obstructs, in any way, any person, whether such person is acting under the authority of the trust or of the Minister;
- (b) removes, injures, or in any way interferes with any pegs, bench-marks, or other marks, or objects placed in the execution of his duty by any person employed in pursuance of this Act, in making surveys, levels, or other investigations in connection with any work or project authorised by this Act;
- (c) deposits material or refuse of any kind within the bounds of any land resumed or otherwise acquired for any work authorised by this Act;
- (d) pollutes, or renders less useful the water standing or flowing in any river or work for water conservation and utilisation vested in the trust;
- (e) interferes with the supply or flow of water in any river, creek, stream, or lake, managed or maintained by the trust, or causes injury to fences, works, land, or any other property held or managed or maintained by the trust,

shall for every such offence be liable to a penalty not exceeding twenty pounds, or to imprisonment for a term not exceeding three months.

43. Whosoever without lawful authority—

- (a) allows cattle, horses or sheep to trespass on any enclosed part of the irrigation area not leased by the trust or to damage any works of the trust; or
- (b) removes any soil, timber, or water from any part of the irrigation area not leased by the trust

shall be liable to a penalty not exceeding twenty pounds.

44. Any person who wilfully damages or obstructs any work for water conservation and utilisation vested in the trust, and any person who, without proper authority, interferes with the supply or flow

Hay Irrigation.

flow of water in, into, or from any work constructed or maintained under the provisions of this Act, shall for every such offence be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding one hundred pounds, or to a fine and imprisonment combined within the limits aforesaid.

45. Any person who, being responsible under the provisions of this Act for the proper use and management of a supply of water, neglects to take proper precautions for the prevention of waste of the water, or interferes with the authorised distribution thereof, or uses such water in an unauthorised manner, shall for every such offence be liable to a penalty not exceeding ten pounds, or to imprisonment for a term not exceeding one month.

Waste of water.
55 Vic. No. 25, s. 40.

46. The penalties directed under last section for the wilful or negligent waste of water shall apply to the water-rights acquired under the Mining Act of 1874, or under any other Act or regulation in force relating to mining.

Waste of water under
Mining Act.
Ibid. s. 41.

47. Whenever any person is fined or a penalty is imposed upon any person under this Act, the Justices may direct that one-half of such fine may be paid to the trust or the person or body, if any, injured by such person.

Compensation to
injured parties.
Ibid. s. 42.

48. Any person offending against this Act may be sued for compensation on account of the loss or damage incurred or sustained through his offence; and this liability for the loss and damage caused will not in any way mitigate or affect the concurrent liability to punishment for the said offence under the terms of this Act.

Offenders liable to
pay compensation as
well as penalty.
Ibid. s. 43.

49. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Offenders liable to
punishment under
other Acts.
Ibid. s. 44.

SCHEDULES.

FIRST SCHEDULE.

Reference to Act.	Short title.	Extent of repeal.
55 Vic. No. 25 ...	Hay Irrigation Act ...	The unrepealed portion.
60 Vic. No. 30 ...	Hay Irrigation (Amendment) Act, 1896 ...	The whole.
No. 15, 1902 ...	Hay Irrigation (Amending) Act, 1902 ...	The whole.

Hay Irrigation.

SECOND SCHEDULE.

County of Waradgery, parish of Hay: Commencing on the right bank of the Murrumbidgee River, at the south extremity of the east side of Bourke-street; and bounded thence by that side of that street and its prolongation north to the south-eastern boundary of section 9 of the subdivision of the Hay Irrigation Area, as shown on plan catalogued Misc. 164, Hay, by part of that boundary south-westerly, and by the west boundary of that section and its prolongation north to the south-eastern boundary of section 10, by part of that boundary a line and the south-eastern boundary of section 14 south-westerly, and by part of its west boundary north to a point east from the south-east corner of section 15; thence by a line bearing westerly, parts of which form the southern boundaries of sections 15, 26, 27, 37, 38, 49, 50, 59, and 60, to the extremity of the south-western boundary of section 60; thence by the westernmost boundary of that section north to the south boundary of the Permanent Common at Hay, dedicated 19th May, 1868, by part of that boundary east, and by part of the east boundary of the common north to a point west from the north-west corner of section 64; thence by a line easterly, parts of which form the northern boundaries of sections 64, 65, 55, 44, 42, 43, 32, and 31, to the west boundary of section 20; thence by a line northerly, parts of which form part of the western boundary of that section, and the western boundary of section 22 northerly to the north-western corner of the latter section, by the north boundary of that section a line and the north boundary of section 21 east, and by a line south, parts of which form the east boundaries of sections 21, 20, 19, and 18, to the south-east corner of the last-mentioned section; thence by a line and the south boundary of portion 127 (appropriated for racecourse) of 350 acres east, by the south-eastern boundary of that portion north-easterly, and by its east boundary a line and part of the east boundary of portion 139 north to a point west from the north-west corner of section 2, by a line and the north boundary of the latter section a line and the north boundary of section 1 east, and by the east boundary of the latter section a line and the east boundary of section 3 south to the extremity of the latter boundary; thence by a line, parts of which form the south-eastern boundaries of sections 3, 5, and 6 south-westerly to a point north from the north-east corner of section 30, in the town of Hay; thence by a line south to that corner, by the north boundary of that section and its prolongation (forming also part of the south side of Murray-street) west to the west side of Ward-street, by that side of that street south to the north side of Short-street, by part of that side of that street west to the Murrumbidgee River; and by that river downwards, to the point of commencement,—but exclusive of any part of the area appropriated for the Great South-western Railway.

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

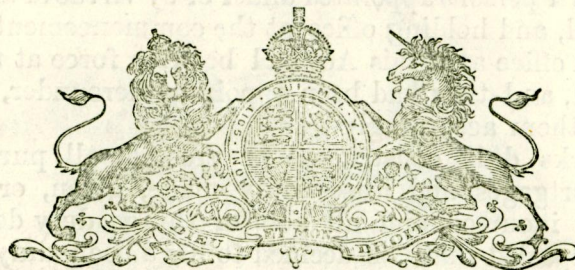
[1s.]

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

Legislative Council Chamber,
Sydney, 20th August, 1902. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SECUNDO

EDWARDI VII REGIS.

Act No. 57, 1902.

An Act to consolidate enactments relating to the Conserving and Utilising Water for Irrigation in the Land District of Hay. [Assented to, 3rd September, 1902.]

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:—

PART I.

Preliminary.

1. This Act may for all purposes be cited as the "Hay Short title. Irrigation Act, 1902," and is divided into Parts as follows:—

PART I.—*Preliminary provisions*—ss. 1-5.

PART II.—*Constitution of the trust*—ss. 6-12.

PART

*Hay Irrigation.*PART III.—*Administration*—ss. 13-29.PART IV.—*Loans*—ss. 30-41.PART V.—*Offences and penalties*—ss. 42-49.Repeal First
Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

(2) All rules, regulations, and by-laws made under the provisions of any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been made under the corresponding provisions of this Act.

(3) All persons appointed under or by virtue of any enactment hereby repealed, and holding office at the commencement of this Act, shall remain in office as if this Act had been in force at the time they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

All works duly constructed or erected, all purchases, sales, exchanges, mortgages, and leases duly made, given, or granted, all liabilities duly incurred, and all acts or things duly done under the Acts hereby repealed shall be deemed to have been duly constructed, erected, made, given, granted, incurred, or done, respectively, under the corresponding provisions of this Act, but at the date on which the same were in fact constructed, erected, made, given, granted, incurred, or done.

Portions of Acts at
variance with this.
55 Vic. No. 25, s. 2.

3. Nothing contained in the Municipalities Act, 1897, or the Country Towns Water and Sewerage Act of 1880 shall be construed to control, limit, or restrict the operation of this Act, or to interfere with its provisions in respect of the construction or maintenance of works, or the storage, distribution, or supply of water, or in respect of the borrowing of money, the valuation of property, or the fixing or levying of rates.

Miners not to divert
water.*Ibid.* s. 3.

4. Notwithstanding anything contained in any Act, now in force, relating to mining, no holder of a miner's right or mineral license shall be entitled to divert or use water to the prejudice of any rights acquired or enjoyed under this Act; but no rights acquired or enjoyed under any Act relating to mining shall be interfered with, or prejudiced, or taken from the owner thereof without compensation.

Interpretation of
terms and
arrangement of
sections.*Ibid.* s. 4.

5. In the construction of this Act, unless the context or subject-matter otherwise indicates, or requires—

“Domestic use,” when employed with reference to water, means use for household purposes, but does not include use for the irrigation of gardens or land, or for the watering of stock or the washing of sheep.

“Irrigation area” means the lands and hereditaments described in the Second Schedule to this Act, and all lands which from time to time may be secured by the trust.

“Justice” means justice of the peace.

“Owner

Hay Irrigation.

- “Owner” includes lessee or occupier.
“Prescribed” means prescribed by this Act or by the regulations thereunder, or by the by-laws of the trust.
“Regulations” means the regulations made under this Act.
“Stock” means cattle, horses, sheep, and all other domestic animals.
“The trust” means the “Hay Irrigation Trust.”

PART II.

Constitution of trust.

6. (1) The body authorised to carry out this Act shall consist of six persons appointed as hereinafter mentioned and their successors, who, by the name of “The Hay Irrigation Trust,” shall continue to be a body corporate, and shall for the purposes of this Act have perpetual succession and a common seal, and, subject to the sanction of the Minister and to the provisions hereinafter contained, have power to hold, purchase, sell, exchange, mortgage, and lease lands, tenements, stores, goods, chattels, and other property, and by agreement with the lessee to exchange any land now or hereafter let by the trust for other land more conveniently situated for the supply and delivery by the trust of water on the land, and shall be capable of suing and being sued; but no part of the land described in the Second Schedule hereto shall be sold, exchanged, or mortgaged.

Constitution of the
Hay Irrigation
Trust.
55 Vic. No. 25, s. 5
60 Vic. No. 30,
ss. 1, 2.

(2) The Governor may, by notification in the Gazette, appoint six persons as follows:—

(a) three persons resident in the Land District of Hay; and

(b) three officers of the Public Service,

as members of the trust.

(3) The Governor may at any time call upon any person so appointed to resign, or may remove him from the trust.

(4) The Governor shall, as soon as practicable after the occurring of any vacancy, by notification in the Gazette, appoint some other person to be a member of the trust.

(5) The trust may elect a president and appoint officers for the purpose of carrying out the provisions of this Act.

7. No member of the trust shall be the holder of any paid office or situation under the trust, or receive any salary, emoluments, or expenses of any kind from the trust, but any member of the trust may become a lessee of any portion of the trust lands under the provisions of this Act.

Members of the
trust not to be paid.
55 Vic. No. 25, s 6.

Hay Irrigation.

Members of the trust may not be contractors.

55 Vic. No. 25, s. 7.

Penalty for illegally acting as a member.

Ibid. s. 8.

8. No member of the trust shall tender for, obtain, or hold any contract, or any part or share in any contract, for works or surveys to be constructed or made by the trust.

9. Every person who—

- (a) being disqualified from acting as a member of the trust by reason of his being the holder of a paid office under the trust, or receiving a salary, emoluments, or expenses of any kind from the trust; or
- (b) being the holder of any contract, or any part or share in any contract, for works or surveys to be constructed or made by the trust,

attends a meeting of the members of the trust and votes thereat as a member, shall, for every meeting at which he is so present and acting, be liable to a penalty not less than ten pounds or more than fifty pounds.

Revocation of allotment of common.

Ibid. s. 9.

Property vested in the trust.

Ibid. s. 10.

10. From and after the passing of this Act the irrigation area shall cease to be or form part of the temporary common of Hay.

11. (1) For the purposes of this Act there shall be vested in the trust absolutely—

- (a) the irrigation area, except such land as the Minister may decide to set apart from time to time for public purposes;
- (b) all dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping-machinery, reservoirs, and other works constructed or erected in pursuance of this Act;
- (c) the water which is at any time in any pipe, reservoir, creek, dam, or other work constructed by the trust in pursuance of this Act.

(2) The land so vested shall be held and administered by the trust, subject to the provisions of this Act and the approval of the Governor.

(3) Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation throughout the State.

(4) Whenever it is deemed necessary in the public interest the Governor may by proclamation dissolve the trust, and take control of the whole of the lands, works, goods, chattels, and funds at the time belonging to or vested in the trust, subject to all liabilities and obligations attaching to the same, and with all the powers hereby created.

Alteration of Second Schedule.

60 Vic. No. 30, s. 4.

12. The Governor may, by notification in the Gazette, amend the Second Schedule hereto by enlarging or contracting the boundaries therein described, and the said Schedule so amended shall be deemed to be the Second Schedule to this Act.

PART

Hay Irrigation.

PART III.

Administration.

13. (1) Subject to the provisions hereinafter contained the trust may at any time exercise any of the following powers, that is to say, to—

- (a) erect and construct upon any part of the irrigation area such dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping-machinery, reservoirs, canals, watercourses, embankments, or other works as may be necessary or expedient for carrying out the objects of this Act ;
- (b) construct a dam, or flood-gate, or both, across the mouth of the Bungay Creek, at the junction of the said creek with the river Murrumbidgee, or elsewhere on the said creek or any of its affluents ;
- (c) widen or deepen, or close or divert any existing creek, lagoon, swamp, or watercourse within the irrigation area ;
- (d) lay pipes or cut trenches or ducts outside the irrigation area for the purpose of delivering water to owners of adjoining lands ;
- (e) take water from the river Murrumbidgee by means of pumping or other machinery erected within the municipal area under such regulations as to quantity as the Minister may sanction.

(2) The Minister may at any time cause inspection to be made of any works initiated, constructed, or managed by the trust, and if the construction of such works be dangerous, the Minister may require the trust to make such alterations or improvements as may be deemed necessary.

(3) Nothing in this section shall be construed to authorise the trust to construct any dam, weir, embankment, or other work whatever in or upon the river Murrumbidgee, so as to obstruct, impede, or in any way interfere with the natural flow or the navigation of such river.

14. Whenever any person employed by the trust in pursuance of this Act, while in the execution of his duties, causes injury to land, fences, or other property, or causes loss or damage to any owner of land or other property, the person suffering such injury, loss, or damage shall be entitled to be compensated by the trust.

15. No claim for compensation on account of injury, loss, or damage caused to persons or property, by any person employed by the trust, shall be valid unless made within ninety days after such injury, loss, or damage is sustained.

Hay Irrigation.

Arbitration.
No. 15, 1902, s. 3.

16. Where any compensation is claimed from the trust on account of injury, loss, or damage alleged to have been sustained by any person, and such claim is disputed by the trust, the dispute may be submitted to the arbitration of an arbitrator, or of an umpire and arbitrators, as may be agreed upon by the trust and the person so claiming.

Trust may let.
55 Vic. No. 25, s. 15.
No. 15, 1902, s. 4.

17. (1) The trust may let for any term not exceeding ninety-nine years, in one or more portions of any area, until required for public purposes, any lands, tenements, or hereditaments purchased, or taken in exchange by the trust in pursuance of this Act, or being portion of the irrigation area.

(2) No one person shall select, lease, or hold more than forty acres.

(3) The lessees of such portion of land shall be entitled to compensation for all improvements when required to surrender their leases.

(4) All moneys arising from any such letting shall be applied towards the construction, maintenance, or improvement of the works, roadways, or property of the trust, or in paying or discharging any interest, debt, or obligation which the trust may be liable to pay or discharge.

Lots leased to be improved, or may be relet.

Ibid. s. 5.

18. (1) All lots leased shall be improved to the value of ten pounds per acre.

(2) In the case of a lot applied for before the twenty-first day of January, one thousand nine hundred and two, such improvement shall be effected within two years after such date.

(3) In the case of a lot applied for after such last-mentioned date, such improvement shall be effected within two years after the date of the application.

(4) After the expiration of any such period of two years, the trust may require the lessee of any lot, by notice in writing, served on him personally or by post, or published in a newspaper circulating in the neighbourhood of the lot, or affixed on the lot, to effect the improvements within three months from the serving, publishing, or affixing of the notice. And if the lessee fails to effect the improvements within the said three months, the trust may retake possession of the lot and eject the lessee without any compensation for improvements or otherwise, and relet the lot to another tenant.

Tenant-right in improvements.

Ibid. s. 10.

19. (1) Upon the determination of the lease of any lot, the lessee shall be entitled to receive the value to an incoming tenant of the improvements from any person who takes a lease of the land containing the improvements. And in the event of such person not paying the amount then due and unpaid for the value of such improvements, such amount or so much thereof as remains unpaid for the time being shall, until payment thereof, be and remain a charge upon the land containing such

Hay Irrigation.

such improvements while in the hands of a lessee. The value of the improvements to an incoming tenant shall be appraised by the local land board in the manner prescribed by section forty-four of the Crown Lands Act of 1889, but shall be calculated on the basis of the value of such improvements to the land leased, and the payment of the value shall be made by such instalments, and at such dates, as may be prescribed by regulations.

The improvements, in respect of which tenant-right is conferred by this Act, shall in all cases be—

- (a) of a permanent, fixed, and substantial character, and necessary for the profitable occupation of the land; and
- (b) the property of the person claiming to have tenant-right in respect thereof;

and improvements which were forfeited or forfeitable to, or vested in, the trust immediately prior to the accruing of the tenant-right shall not be included:

(2) Provided that—

- (a) the tenant-right shall lapse after the expiration of twelve years from the date of its first accruing, and thereafter the improvements shall be the property of the trust; but such lapsing shall not affect any agreement, appraisalment, or order for payment previously made; and
- (b) the holder of the lease of the land containing the improvements shall be liable to pay any instalments of the value thereof, as appraised by the local land board, which may accrue due during his holding.

20. (1) Subject to the provisions of this Act, the trust may enter into an agreement in writing with the owner of any land within the irrigation area, or not being distant more than three miles in a straight line from the boundary thereof, for the supply and delivery of water upon such land for a term of years not exceeding ten years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement; and in every such agreement the owner of such land shall agree to pay such price for the term limited in the agreement, and to pay the trust for not less water in any year than the minimum quantity in such agreement specified.

Trust may contract to supply water for a term of years.
55 Vic. No. 25, s. 17.

(2) Such agreement by such owner, whether under seal or not, shall be deemed to be a covenant running with the land, and shall bind the land and the successive owners thereof during the said term.

(3) Nothing in such agreement shall be construed to create any obligation on the part of the trust to supply any stated quantity of water in the event of there being at the disposal of the trust an insufficiency of water, as hereinafter provided; but in such case the owner or occupier shall only pay for the water actually supplied to him at the price provided for in such agreement.

Hay Irrigation.

When water insufficient, trust may supply proportionally, and not liable for any inability to supply.

55 Vic. No. 25, s. 18.

21. (1) If at any time the supply of water at the disposal of the trust be insufficient to afford to all persons entitled by contract the supplies which they may respectively be entitled to receive from the trust, the trust may deliver to such persons such amount as the trust deems proper, in quantities proportionate to the quantities which such persons would have been respectively entitled to receive had there been enough water available, and such persons shall be chargeable accordingly.

(2) In no case shall the trust be liable to any action or other proceeding for not supplying water to any person where it has been determined by the Minister that the trust has been without wilful default or negligence upon its part unable to supply such water.

Water to be used only in manner prescribed.

Ibid. s. 19.

22. Water supplied by the trust shall be delivered as prescribed, and no person shall have the right to convey or use such water in a manner or for a purpose other than those prescribed.

Right-of-way for water.

Ibid. s. 20.

23. (1) The trust may acquire by purchase or lease a right-of-way for water through any land, whether it belongs to a private individual, a corporation, or the Crown.

(2) If a right-of-way for a distributory channel, pipe, or conduit of any kind be required by any person to enable him to obtain a supply of water from the trust, the Governor may, on the recommendation of the Minister, resume a right-of-way for such water supply and vest the same in the trust; and in estimating the amount due as compensation to any owner the Minister shall deduct from the value of the right-of-way so resumed and the damage (if any) done by severance or otherwise, the amount by which the remaining land of the said owner has been increased in value by the projected works.

(3) In no case shall the owner have a right to claim in respect of the right-of-way so resumed the increased value due to the projected works.

(4) Any compensation payable under this clause shall be a charge against the trust funds.

Water-way through land not to confer right to water on owner.

Ibid. s. 21.

24. Under no circumstances shall the passage of water through the land of any owner confer on such owner any right, title, or vested interest in such water, but if in open drains the same shall be fenced by the trust, or no compensation shall be allowed for trespass of stock.

Bridges to be built at road crossings.

Ibid. s. 22.

25. Wherever it is necessary to construct a canal or channel of any kind, or to carry a supply of water across any road, a suitable bridge or culvert or other means of crossing without hindrance to the traffic on the said road shall be constructed by the trust.

Rent of lots.

No. 15, 1902, s. 6.

26. (1) The rents of lots leased after the twenty-first day of January, one thousand nine hundred and two, shall be fixed at the time of letting, and shall not be afterwards altered.

(2)

Hay Irrigation.

(2) The rents of lots leased before such last-mentioned date may, on application by the lessee and with the approval of the Minister and after such inquiry as he may direct, be reduced by the trust; but such reduction shall be made only once.

(3) The lessee of a lot shall not sublet except with the approval in writing of the trust.

27. (1) Subject to the sanction of the Minister the trust shall have power to fix rates for water supplied or for land irrigated by the works to be carried out pursuant to this Act. Power to fix rates.
55 Vic, No. 25, s. 24.
No. 15, 1902, ss. 7, 8.

(2) The rates for water shall be of three kinds—

- (a) for domestic use and for watering stock and washing sheep;
- (b) for irrigation;
- (c) for power.

(3) When the measurement of water for irrigation is impracticable, the trust may fix rates per acre for different crops grown, according to their nature; and may fix rates for all kinds of stock to which water is supplied at per head, according to the kind thereof.

(4) The lessee of any lot, whether leased before or after the commencement of this Act, shall pay to the trust at the rate prescribed by by-laws for any water supplied to such lot or to such lessee through any channel which has been constructed by the trust. Lessee to pay for
water supplied.

(5) All rates, rents, and moneys due before or after the commencement of this Act to the trust for water supplied and otherwise may be recovered in any court of petty sessions or District Court having jurisdiction, or in the Supreme Court, by any person appointed by the trust to collect and recover the same. Recovery of rates.

28. The trust may make by-laws—

- (a) to regulate its proceedings at meetings, the number of members to form a quorum, the convening, postponing, or adjourning of ordinary or special meetings; Power to make
by-laws.
55 Vic. No. 25, s. 25
- (b) to deal with all matters in respect of which by-laws are expressly or impliedly referred to in this Act;
- (c) to regulate the administration and maintenance of the works constructed in pursuance of this Act;
- (d) to prescribe the conditions on which water shall be supplied, and the mode of levying rates for same;
- (e) to prescribe the penalties to which any person shall be liable for breach of, or refusal, or neglect to obey, or observe such by-laws.

But no such by-laws shall be put in force until confirmed by the Governor, and published in the Gazette. The production of the Gazette with any such by-laws so published as aforesaid shall in any suit or proceeding whatsoever be sufficient evidence that such by-laws have been made, confirmed, and published as is herein required.

Hay Irrigation.

Governor may make regulations.
55 Vic. No. 25, s. 26.

29. The Governor may make regulations for carrying this Act into full effect, so as to provide for all proceedings and all other matters and things arising under and consistent with this Act and not expressly provided for; and all such regulations shall upon being published in the Gazette be valid in law, and a copy of every such regulation shall be laid before both Houses of Parliament within one month from the publication thereof, if Parliament shall be then sitting, or within one month after the commencement of the session next ensuing.

PART IV.

Loans.

Security for loan.
Ibid. s. 27.

30. The security for the repayment of all moneys raised on loan by the trust and for the payment of interest due thereon shall be—

- (a) the works vested in the trust;
- (b) the proceeds of the sale of water by the trust;
- (c) the rents leviable by the trust on the lands held by the trust; and
- (d) such lands as the trust has purchased.

Sanction of Governor for loans essential, &c.
Ibid. s. 28.

31. The trust shall not borrow money on loan from any source or for any purpose without the sanction of the Governor.

Applications for loans.
Ibid. s. 29.

32. Whenever the trust desires to raise money on loan for the construction of any works authorised by this Act, the trust shall make application to the Minister in writing stating full particulars as to the nature and extent of the land to be benefited by such works, of the existing liabilities (if any) of the trust, and of the estimated cost of the proposed works; and on receipt of such application the Minister shall submit the same, together with such recommendations as he may deem proper, to the Governor, and thereupon the Governor may sanction the raising of a loan by the trust.

Governor may grant loans.

Limit to loans.
Ibid. s. 30.

33. The aggregate amount of any loan raised by the trust, together with the existing liabilities thereof shall not at any time exceed seven years estimated revenue accruing to the trust on the completion of the works proposed to be constructed with the aid of such loan.

Sinking fund to be reckoned an asset.
Ibid. s. 31.

34. When a sinking fund has been formed for the liquidation of any loan, the accumulated amount of such sinking fund shall, for the purpose of estimating the existing liabilities of the trust, be deducted from the amount of such loan.

Rates, how applicable.
Ibid. s. 32.
60 Vic. No. 30, s. 3.

35. The revenue derived from the sale of water and the rents levied in pursuance of the provisions of sections twenty-six and twenty-seven shall be applied as follows:—

- (a) in payment of interest due in respect of loans;
- (b) in contributing to the sinking fund;
- (c)

Hay Irrigation.

- (c) for the maintenance and management of the works of the trust; or
- (d) for the extension and development of such works;
- (e) for the purchase of adjacent lands to be added to the irrigation area.

36. The trust shall keep a separate account for every loan, and such accounts shall at all times be accessible to any officer deputed by the Minister to inspect them, and copies or abstracts of such accounts shall be submitted in such manner and at such times as may be prescribed.

Separate account for each loan.
55 Vic. No. 25, s. 33.

37. The trust shall, during the month of January in each year, furnish under statutory declaration a return showing the mode of expending all moneys borrowed on loan, also the cost of management for the preceding year, with a full account of all receipts and general expenditure for such preceding year, such return to be presented to Parliament if then in session, if not, then within fourteen days after the meeting of Parliament.

Return of expenditure to be presented to Parliament.
Ibid. s. 34.

38. If, in contravention of this Act, the trust raises a loan without the sanction of the Governor, or appropriates any moneys belonging to the trust for the purpose of liquidating any claim for money so illegally borrowed, or without the sanction aforesaid, applies any portion of a loan to a purpose other than that for which the said loan was raised, or otherwise misappropriates a loan or any portion thereof, the members of the trust who have consented to, or participated in, such improper borrowing, appropriation, or application as aforesaid shall be jointly and severally liable to pay the full amount of the moneys so improperly borrowed, appropriated, or applied; and such amount may be sued for by any person, and be recovered from such members of the trust, or any of them, in any Court of competent jurisdiction.

Improperly borrowing or appropriating.
Ibid. s. 35.

39. If, with the sanction of the Governor, the boundaries of the irrigation area or the name of the trust be altered, no bond, mortgage, or agreement entered into by the trust previously to such alteration, shall be rendered invalid, or shall, except as hereinafter provided, be in any way affected by such alteration.

Change of name or boundaries not to affect agreements.
Ibid. s. 36.

40. If, by reason of the alteration of the boundaries of the irrigation area, any works or other property be taken from the trust, compensation therefor shall be paid to the trust, and also to any lessee whose lease may be injuriously affected by such alteration. And if the works or property so taken from the trust form the security, or part of the security, for any loan, the amount of the compensation received therefor shall be applied in liquidation or reduction of such loan.

Compensation for alteration of boundaries.
Ibid. s. 37.

Hay Irrigation.

Validation of loans
by Government.
No. 15, 1902, s. 11.

41. Any loans of money made before the twenty-first day of January, one thousand nine hundred and two, to the trust out of the General Loan Account shall be deemed to have been lawfully made subject only to any terms or conditions in respect of such loans binding on or to be performed by the trust in pursuance of any bond or agreement of the trust. And all the property and all the revenues of the trust are hereby charged with the repayment of such loans and interest thereon at the rate agreed upon.

PART V.

Offences and penalties.

Obstructing Govern-
ment or trust officers.
55 Vic. No. 25, s. 38.

Interfering with
marks.

Depositing material
on land belonging to
Government or to
trust.

Polluting water.

Injury to water,
fences, &c.

Penalty.

Penalties for
trespass.
No. 15, 1902, s. 9.

Wilful injury to
works.
55 Vic. No. 25, s. 39.

42. Whosoever, without proper authority, or reasonable cause, and voluntarily does any of the following acts, that is to say,—

- (a) obstructs, in any way, any person, whether such person is acting under the authority of the trust or of the Minister;
- (b) removes, injures, or in any way interferes with any pegs, bench-marks, or other marks, or objects placed in the execution of his duty by any person employed in pursuance of this Act, in making surveys, levels, or other investigations in connection with any work or project authorised by this Act;
- (c) deposits material or refuse of any kind within the bounds of any land resumed or otherwise acquired for any work authorised by this Act;
- (d) pollutes, or renders less useful the water standing or flowing in any river or work for water conservation and utilisation vested in the trust;
- (e) interferes with the supply or flow of water in any river, creek, stream, or lake, managed or maintained by the trust, or causes injury to fences, works, land, or any other property held or managed or maintained by the trust,

shall for every such offence be liable to a penalty not exceeding twenty pounds, or to imprisonment for a term not exceeding three months.

43. Whosoever without lawful authority—

- (a) allows cattle, horses or sheep to trespass on any enclosed part of the irrigation area not leased by the trust or to damage any works of the trust; or
- (b) removes any soil, timber, or water from any part of the irrigation area not leased by the trust

shall be liable to a penalty not exceeding twenty pounds.

44. Any person who wilfully damages or obstructs any work for water conservation and utilisation vested in the trust, and any person who, without proper authority, interferes with the supply or flow

Hay Irrigation.

flow of water in, into, or from any work constructed or maintained under the provisions of this Act, shall for every such offence be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding one hundred pounds, or to a fine and imprisonment combined within the limits aforesaid.

45. Any person who, being responsible under the provisions of this Act for the proper use and management of a supply of water, neglects to take proper precautions for the prevention of waste of the water, or interferes with the authorised distribution thereof, or uses such water in an unauthorised manner, shall for every such offence be liable to a penalty not exceeding ten pounds, or to imprisonment for a term not exceeding one month.

Waste of water.
55 Vic. No. 25, s. 40.

46. The penalties directed under last section for the wilful or negligent waste of water shall apply to the water-rights acquired under the Mining Act of 1874, or under any other Act or regulation in force relating to mining.

Waste of water under Mining Act.
Ibid. s. 41.

47. Whenever any person is fined or a penalty is imposed upon any person under this Act, the Justices may direct that one-half of such fine may be paid to the trust or the person or body, if any, injured by such person.

Compensation to injured parties.
Ibid. s. 42.

48. Any person offending against this Act may be sued for compensation on account of the loss or damage incurred or sustained through his offence; and this liability for the loss and damage caused will not in any way mitigate or affect the concurrent liability to punishment for the said offence under the terms of this Act.

Offenders liable to pay compensation as well as penalty.
Ibid. s. 43.

49. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Offenders liable to punishment under other Acts.
Ibid. s. 44.

SCHEDULES.

FIRST SCHEDULE.

Reference to Act.	Short title.	Extent of repeal.
55 Vic. No. 25 ...	Hay Irrigation Act	The unrepealed portion.
60 Vic. No. 30 ...	Hay Irrigation (Amendment) Act, 1896 ...	The whole.
No. 15, 1902 ...	Hay Irrigation (Amending) Act, 1902 ...	The whole.

SECOND

Hay Irrigation.

SECOND SCHEDULE.

County of Waradgery, parish of Hay: Commencing on the right bank of the Murrumbidgee River, at the south extremity of the east side of Bourke-street; and bounded thence by that side of that street and its prolongation north to the south-eastern boundary of section 9 of the subdivision of the Hay Irrigation Area, as shown on plan catalogued Misc. 164, Hay, by part of that boundary south-westerly, and by the west boundary of that section and its prolongation north to the south-eastern boundary of section 10, by part of that boundary a line and the south-eastern boundary of section 14 south-westerly, and by part of its west boundary north to a point east from the south-east corner of section 15; thence by a line bearing westerly, parts of which form the southern boundaries of sections 15, 26, 27, 37, 38, 49, 50, 59, and 60, to the extremity of the south-western boundary of section 60; thence by the westernmost boundary of that section north to the south boundary of the Permanent Common at Hay, dedicated 19th May, 1868, by part of that boundary east, and by part of the east boundary of the common north to a point west from the north-west corner of section 64; thence by a line easterly, parts of which form the northern boundaries of sections 64, 65, 55, 41, 42, 43, 32, and 31, to the west boundary of section 20; thence by a line northerly, parts of which form part of the western boundary of that section, and the western boundary of section 22 northerly to the north-western corner of the latter section, by the north boundary of that section a line and the north boundary of section 21 east, and by a line south, parts of which form the east boundaries of sections 21, 20, 19, and 18, to the south-east corner of the last-mentioned section; thence by a line and the south boundary of portion 127 (appropriated for racecourse) of 350 acres east, by the south-eastern boundary of that portion north-easterly, and by its east boundary a line and part of the east boundary of portion 139 north to a point west from the north-west corner of section 2, by a line and the north boundary of the latter section a line and the north boundary of section 1 east, and by the east boundary of the latter section a line and the east boundary of section 3 south to the extremity of the latter boundary; thence by a line, parts of which form the south-eastern boundaries of sections 3, 5, and 6 south-westerly to a point north from the north-east corner of section 30, in the town of Hay; thence by a line south to that corner, by the north boundary of that section and its prolongation (forming also part of the south side of Murray-street) west to the west side of Ward-street, by that side of that street south to the north side of Short-street, by part of that side of that street west to the Murrumbidgee River; and by that river downwards, to the point of commencement,—but exclusive of any part of the area appropriated for the Great South-western Railway.

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

HARRY H. RAWSON,

*State Government House,
Sydney, 3rd September, 1902.*

Governor.

Memo. and Certificate to accompany the Hay
Irrigation Bill.

I CERTIFY that this Bill solely consolidates, and in no way alters, adds to, or amends the law as contained in the enactments therein consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

Hay Irrigation Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
55 VICTORIA No. 25.		
Preamble.	.....
1	.....	Short title.
2	3	
3	4	
4	5	
5	6	
6	7	
7	8	
8	9	
9	10	
10	11	
11	13	
12	14	
13	15	
14	.....	Repealed by s. 2 of Act No. 15, 1902.
15	17	
16	.....	Repealed by s. 2 of Act No. 15, 1902.
17	20	
18	21	
19	22	
20	23	
21	24	
22	25	
23	.....	Repealed by s. 2 of Act No. 15, 1902.
24	27	
25	28	
26	29	
27	30	
28	31	
29	32	
30	33	
31	34	
32	35	
33	36	
34	37	
35	38	
36	39	
37	40	Part repealed by s. 2 of Act No. 15, 1902.
38	42	
39	44	
40	45	
41	46	
42	47	
43	48	
44	49	
Schedule.	.....	Repealed by Hay Irrigation Act Amendment Act, 1895.

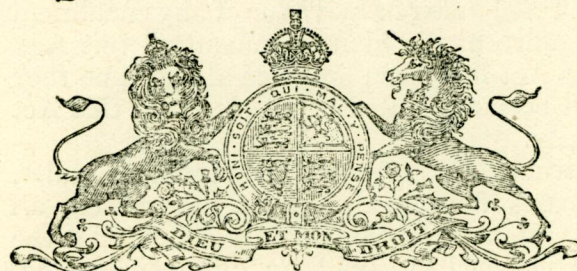
Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
60 VICTORIA No. 30.		
1	6	
2	6	
3	35	
4	12	Part spent.
5	.....	Short title.
Schedule.	Second Schedule.	
ACT No. 15, 1902.		
1	.....	Short title.
2	.....	Repeal.
3	16	
4	17	
5	18	
6	26	
7	27	
8	27	
9	43	
10	19	
11	41	

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

Legislative Council Chamber,
Sydney, 9th July, 1902. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SECUNDO

EDWARDI VII REGIS.

Act No. , 1902.

An Act to consolidate enactments relating to the Conserving and Utilising Water for Irrigation in the Land District of Hay.

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 :—

PART I.

Preliminary.

1. This Act may for all purposes be cited as the "Hay Short title. Irrigation Act, 1902," and is divided into Parts as follows :—

PART I.—*Preliminary provisions*—ss. 1-5.

PART II.—*Constitution of the trust*—ss. 6-12.

*Hay Irrigation.*PART III.—*Administration*—ss. 13–29.PART IV.—*Loans*—ss. 30–41.PART V.—*Offences and penalties*—ss. 42–49.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed. Repeal First Schedule.

(2) All rules, regulations, and by-laws made under the provisions of any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been made under the corresponding provisions of this Act.

(3) All persons appointed under or by virtue of any enactment hereby repealed, and holding office at the commencement of this Act, shall remain in office as if this Act had been in force at the time they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

All works duly constructed or erected, all purchases, sales, exchanges, mortgages, and leases duly made, given, or granted, all liabilities duly incurred, and all acts or things duly done under the Acts hereby repealed shall be deemed to have been duly constructed, erected, made, given, granted, incurred, or done, respectively, under the corresponding provisions of this Act, but at the date on which the same were in fact constructed, erected, made, given, granted, incurred, or done.

3. Nothing contained in the Municipalities Act, 1897, or the Country Towns Water and Sewerage Act of 1880 shall be construed to control, limit, or restrict the operation of this Act, or to interfere with its provisions in respect of the construction or maintenance of works, or the storage, distribution, or supply of water, or in respect of the borrowing of money, the valuation of property, or the fixing or levying of rates. Portions of Acts at variance with this. 55 Vic. No. 25, s. 2.

4. Notwithstanding anything contained in any Act, now in force, relating to mining, no holder of a miner's right or mineral license shall be entitled to divert or use water to the prejudice of any rights acquired or enjoyed under this Act; but no rights acquired or enjoyed under any Act relating to mining shall be interfered with, or prejudiced, or taken from the owner thereof without compensation. Miners not to divert water. Ibid. s. 3.

5. In the construction of this Act, unless the context or subject-matter otherwise indicates, or requires— Interpretation of terms and arrangement of sections.

“Domestic use,” when employed with reference to water, means use for household purposes, but does not include use for the irrigation of gardens or land, or for the watering of stock or the washing of sheep. Ibid. s. 4.

“Irrigation area” means the lands and hereditaments described in the Second Schedule to this Act, and all lands which from time to time may be secured by the trust.

“Justice” means justice of the peace.

“Owner

Hay Irrigation.

- “Owner” includes lessee or occupier.
 “Prescribed” means prescribed by this Act or by the regulations thereunder, or by the by-laws of the trust.
 “Regulations” means the regulations made under this Act.
 “Stock” means cattle, horses, sheep, and all other domestic animals.
 “The trust” means the “Hay Irrigation Trust.”

PART II.

Constitution of trust.

6. (1) The body authorised to carry out this Act shall consist of six persons appointed as hereinafter mentioned and their successors, who, by the name of “The Hay Irrigation Trust,” shall continue to be a body corporate, and shall for the purposes of this Act have perpetual succession and a common seal, and, subject to the sanction of the Minister and to the provisions hereinafter contained, have power to hold, purchase, sell, exchange, mortgage, and lease lands, tenements, stores, goods, chattels, and other property, and by agreement with the lessee to exchange any land now or hereafter let by the trust for other land more conveniently situated for the supply and delivery by the trust of water on the land, and shall be capable of suing and being sued; but no part of the land described in the Second Schedule hereto shall be sold, exchanged, or mortgaged.

Constitution of the
Hay Irrigation
Trust.
55 Vic. No. 25, s. 5
60 Vic. No. 30,
ss. 1, 2.

(2) The Governor may, by notification in the Gazette, appoint six persons as follows:—

- (a) three persons resident in the Land District of Hay; and
 (b) three officers of the Public Service,

as members of the trust.

(3) The Governor may at any time call upon any person so appointed to resign, or may remove him from the trust.

(4) The Governor shall, as soon as practicable after the occurring of any vacancy, by notification in the Gazette, appoint some other person to be a member of the trust.

(5) The trust may elect a president and appoint officers for the purpose of carrying out the provisions of this Act.

7. No member of the trust shall be the holder of any paid office or situation under the trust, or receive any salary, emoluments, or expenses of any kind from the trust, but any member of the trust may become a lessee of any portion of the trust lands under the provisions of this Act.

Members of the
trust not to be paid.
55 Vic. No. 25, s. 6.

Hay Irrigation.

8. No member of the trust shall tender for, obtain, or hold any contract, or any part or share in any contract, for works or surveys to be constructed or made by the trust.

Members of the trust may not be contractors.

55 Vic. No. 25, s. 7.

Penalty for illegally acting as a member.

Ibid. s. 8.

9. Every person who—

- (a) being disqualified from acting as a member of the trust by reason of his being the holder of a paid office under the trust, or receiving a salary, emoluments, or expenses of any kind from the trust; or
- (b) being the holder of any contract, or any part or share in any contract, for works or surveys to be constructed or made by the trust,

attends a meeting of the members of the trust and votes thereat as a member, shall, for every meeting at which he is so present and acting, be liable to a penalty not less than ten pounds or more than fifty pounds.

10. From and after the passing of this Act the irrigation area shall cease to be or form part of the temporary common of Hay.

Revocation of allotment of common.

Ibid. s. 9.

11. (1) For the purposes of this Act there shall be vested in the trust absolutely—

Property vested in the trust.

Ibid. s. 10.

- (a) the irrigation area, except such land as the Minister may decide to set apart from time to time for public purposes;
- (b) all dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping-machinery, reservoirs, and other works constructed or erected in pursuance of this Act;
- (c) the water which is at any time in any pipe, reservoir, creek, dam, or other work constructed by the trust in pursuance of this Act.

(2) The land so vested shall be held and administered by the trust, subject to the provisions of this Act and the approval of the Governor.

(3) Nothing in this Act shall be construed to limit or in any way interfere with the rights of the Crown to the general control of natural supplies of water; and the provisions of this Act shall be subject to the provisions of any general legislation to deal with water conservation throughout the State.

(4) Whenever it is deemed necessary in the public interest the Governor may by proclamation dissolve the trust, and take control of the whole of the lands, works, goods, chattels, and funds at the time belonging to or vested in the trust, subject to all liabilities and obligations attaching to the same, and with all the powers hereby created.

12. The Governor may, by notification in the Gazette, amend the Second Schedule hereto by enlarging or contracting the boundaries therein described, and the said Schedule so amended shall be deemed to be the Second Schedule to this Act.

Alteration of Second Schedule.

60 Vic. No. 30, s. 4.

PART

Hay Irrigation.

PART III.

Administration.

13. (1) Subject to the provisions hereinafter contained the trust may at any time exercise any of the following powers, that is to say, to—

- (a) erect and construct upon any part of the irrigation area such dams, weirs, flood-gates, culverts, aqueducts, sluices, flumes, pipes, engines, pumping-machinery, reservoirs, canals, watercourses, embankments, or other works as may be necessary or expedient for carrying out the objects of this Act ;
- (b) construct a dam, or flood-gate, or both, across the mouth of the Bungay Creek, at the junction of the said creek with the river Murrumbidgee, or elsewhere on the said creek or any of its affluents ;
- (c) widen or deepen, or close or divert any existing creek, lagoon, swamp, or watercourse within the irrigation area ;
- (d) lay pipes or cut trenches or ducts outside the irrigation area for the purpose of delivering water to owners of adjoining lands ;
- (e) take water from the river Murrumbidgee by means of pumping or other machinery erected within the municipal area under such regulations as to quantity as the Minister may sanction.

(2) The Minister may at any time cause inspection to be made of any works initiated, constructed, or managed by the trust, and if the construction of such works be dangerous, the Minister may require the trust to make such alterations or improvements as may be deemed necessary.

(3) Nothing in this section shall be construed to authorise the trust to construct any dam, weir, embankment, or other work whatever in or upon the river Murrumbidgee, so as to obstruct, impede, or in any way interfere with the natural flow or the navigation of such river.

14. Whenever any person employed by the trust in pursuance of this Act, while in the execution of his duties, causes injury to land, fences, or other property, or causes loss or damage to any owner of land or other property, the person suffering such injury, loss, or damage shall be entitled to be compensated by the trust.

15. No claim for compensation on account of injury, loss, or damage caused to persons or property, by any person employed by the trust, shall be valid unless made within ninety days after such injury, loss, or damage is sustained.

16.

Hay Irrigation.

16. Where any compensation is claimed from the trust on account of injury, loss, or damage alleged to have been sustained by any person, and such claim is disputed by the trust, the dispute may be submitted to the arbitration of an arbitrator, or of an umpire and arbitrators, as may be agreed upon by the trust and the person so claiming.

Arbitration.
No. 15, 1902, s. 3.

17. (1) The trust may let for any term not exceeding ninety-nine years, in one or more portions of any area, until required for public purposes, any lands, tenements, or hereditaments purchased, or taken in exchange by the trust in pursuance of this Act, or being portion of the irrigation area.

Trust may let.
55 Vic. No. 25, s. 15.
No. 15, 1902, s. 4.

(2) No one person shall select, lease, or hold more than forty acres.

(3) The lessees of such portion of land shall be entitled to compensation for all improvements when required to surrender their leases.

(4) All moneys arising from any such letting shall be applied towards the construction, maintenance, or improvement of the works, roadways, or property of the trust, or in paying or discharging any interest, debt, or obligation which the trust may be liable to pay or discharge.

18. (1) All lots leased shall be improved to the value of ten pounds per acre.

Lots leased to be improved, or may be relet.

(2) In the case of a lot applied for before the twenty-first day of January, one thousand nine hundred and two, such improvement shall be effected within two years after such date.

Ibid. s. 5.

(3) In the case of a lot applied for after such last-mentioned date, such improvement shall be effected within two years after the date of the application.

(4) After the expiration of any such period of two years, the trust may require the lessee of any lot, by notice in writing, served on him personally or by post, or published in a newspaper circulating in the neighbourhood of the lot, or affixed on the lot, to effect the improvements within three months from the serving, publishing, or affixing of the notice. And if the lessee fails to effect the improvements within the said three months, the trust may retake possession of the lot and eject the lessee without any compensation for improvements or otherwise, and relet the lot to another tenant.

19. (1) Upon the determination of the lease of any lot, the lessee shall be entitled to receive the value to an incoming tenant of the improvements from any person who takes a lease of the land containing the improvements. And in the event of such person not paying the amount then due and unpaid for the value of such improvements, such amount or so much thereof as remains unpaid for the time being shall, until payment thereof, be and remain a charge upon the land containing such

Tenant-right in improvements.
Ibid. s. 10.

Hay Irrigation.

such improvements while in the hands of a lessee. The value of the improvements to an incoming tenant shall be appraised by the local land board in the manner prescribed by section forty-four of the Crown Lands Act of 1889, but shall be calculated on the basis of the value of such improvements to the land leased, and the payment of the value shall be made by such instalments, and at such dates, as may be prescribed by regulations.

The improvements, in respect of which tenant-right is conferred by this Act, shall in all cases be—

- (a) of a permanent, fixed, and substantial character, and necessary for the profitable occupation of the land; and
- (b) the property of the person claiming to have tenant-right in respect thereof;

and improvements which were forfeited or forfeitable to, or vested in, the trust immediately prior to the accruing of the tenant-right shall not be included:

(2) Provided that—

- (a) the tenant-right shall lapse after the expiration of twelve years from the date of its first accruing, and thereafter the improvements shall be the property of the trust; but such lapsing shall not affect any agreement, appraisalment, or order for payment previously made; and
- (b) the holder of the lease of the land containing the improvements shall be liable to pay any instalments of the value thereof, as appraised by the local land board, which may accrue due during his holding.

20. (1) Subject to the provisions of this Act, the trust may enter into an agreement in writing with the owner of any land within the irrigation area, or not being distant more than three miles in a straight line from the boundary thereof, for the supply and delivery of water upon such land for a term of years not exceeding ten years, or from year to year, at a price, by measure or otherwise, to be stated in such agreement; and in every such agreement the owner of such land shall agree to pay such price for the term limited in the agreement, and to pay the trust for not less water in any year than the minimum quantity in such agreement specified.

Trust may contract to supply water for a term of years.
55 Vic. No. 25, s. 17.

(2) Such agreement by such owner, whether under seal or not, shall be deemed to be a covenant running with the land, and shall bind the land and the successive owners thereof during the said term.

(3) Nothing in such agreement shall be construed to create any obligation on the part of the trust to supply any stated quantity of water in the event of there being at the disposal of the trust an insufficiency of water, as hereinafter provided; but in such case the owner or occupier shall only pay for the water actually supplied to him at the price provided for in such agreement.

Hay Irrigation.

21. (1) If at any time the supply of water at the disposal of the trust be insufficient to afford to all persons entitled by contract the supplies which they may respectively be entitled to receive from the trust, the trust may deliver to such persons such amount as the trust deems proper, in quantities proportionate to the quantities which such persons would have been respectively entitled to receive had there been enough water available, and such persons shall be chargeable accordingly.

When water insufficient, trust may supply proportionally, and not liable for any inability to supply.

55 Vic. No. 25, s. 18.

(2) In no case shall the trust be liable to any action or other proceeding for not supplying water to any person where it has been determined by the Minister that the trust has been without wilful default or negligence upon its part unable to supply such water.

22. Water supplied by the trust shall be delivered as prescribed, and no person shall have the right to convey or use such water in a manner or for a purpose other than those prescribed.

Water to be used only in manner prescribed.

Ibid. s. 19.

23. (1) The trust may acquire by purchase or lease a right-of-way for water through any land, whether it belongs to a private individual, a corporation, or the Crown.

Right-of-way for water.

Ibid. s. 20.

(2) If a right-of-way for a distributory channel, pipe, or conduit of any kind be required by any person to enable him to obtain a supply of water from the trust, the Governor may, on the recommendation of the Minister, resume a right-of-way for such water supply and vest the same in the trust; and in estimating the amount due as compensation to any owner the Minister shall deduct from the value of the right-of-way so resumed and the damage (if any) done by severance or otherwise, the amount by which the remaining land of the said owner has been increased in value by the projected works.

(3) In no case shall the owner have a right to claim in respect of the right-of-way so resumed the increased value due to the projected works.

(4) Any compensation payable under this clause shall be a charge against the trust funds.

24. Under no circumstances shall the passage of water through the land of any owner confer on such owner any right, title, or vested interest in such water, but if in open drains the same shall be fenced by the trust, or no compensation shall be allowed for trespass of stock.

Water-way through land not to confer right to water on owner.

Ibid. s. 21.

25. Wherever it is necessary to construct a canal or channel of any kind, or to carry a supply of water across any road, a suitable bridge or culvert or other means of crossing without hindrance to the traffic on the said road shall be constructed by the trust.

Bridges to be built at road crossings.

Ibid. s. 22.

26. (1) The rents of lots leased after the twenty-first day of January, one thousand nine hundred and two, shall be fixed at the time of letting, and shall not be afterwards altered.

Rent of lots.

No. 15, 1902, s. 6.

Hay Irrigation.

(2) The rents of lots leased before such last-mentioned date may, on application by the lessee and with the approval of the Minister and after such inquiry as he may direct, be reduced by the trust; but such reduction shall be made only once.

(3) The lessee of a lot shall not sublet except with the approval in writing of the trust.

27. (1) Subject to the sanction of the Minister the trust shall have power to fix rates for water supplied or for land irrigated by the works to be carried out pursuant to this Act. Power to fix rates. 55 Vic, No. 25, s. 24. No. 15, 1902, ss. 7, 8.

(2) The rates for water shall be of three kinds—

- (a) for domestic use and for watering stock and washing sheep;
- (b) for irrigation;
- (c) for power.

(3) When the measurement of water for irrigation is impracticable, the trust may fix rates per acre for different crops grown, according to their nature; and may fix rates for all kinds of stock to which water is supplied at per head, according to the kind thereof.

(4) The lessee of any lot, whether leased before or after the commencement of this Act, shall pay to the trust at the rate prescribed by by-laws for any water supplied to such lot or to such lessee through any channel which has been constructed by the trust. Lessee to pay for water supplied.

(5) All rates, rents, and moneys due before or after the commencement of this Act to the trust for water supplied and otherwise may be recovered in any court of petty sessions or District Court having jurisdiction, or in the Supreme Court, by any person appointed by the trust to collect and recover the same. Recovery of rates.

28. The trust may make by-laws—

- (a) to regulate its proceedings at meetings, the number of members to form a quorum, the convening, postponing, or adjourning of ordinary or special meetings; Power to make by-laws. 55 Vic. No. 25, s. 25
- (b) to deal with all matters in respect of which by-laws are expressly or impliedly referred to in this Act;
- (c) to regulate the administration and maintenance of the works constructed in pursuance of this Act;
- (d) to prescribe the conditions on which water shall be supplied, and the mode of levying rates for same;
- (e) to prescribe the penalties to which any person shall be liable for breach of, or refusal, or neglect to obey, or observe such by-laws.

But no such by-laws shall be put in force until confirmed by the Governor, and published in the Gazette. The production of the Gazette with any such by-laws so published as aforesaid shall in any suit or proceeding whatsoever be sufficient evidence that such by-laws have been made, confirmed, and published as is herein required.

Hay Irrigation.

29. The Governor may make regulations for carrying this Act into full effect, so as to provide for all proceedings and all other matters and things arising under and consistent with this Act and not expressly provided for; and all such regulations shall upon being published in the Gazette be valid in law, and a copy of every such regulation shall be laid before both Houses of Parliament within one month from the publication thereof, if Parliament shall be then sitting, or within one month after the commencement of the session next ensuing.

Governor may make regulations.
55 Vic. No. 23, s. 26.

PART IV.

Loans.

30. The security for the repayment of all moneys raised on loan by the trust and for the payment of interest due thereon shall be—

Security for loan.
Ibid. s. 27.

- (a) the works vested in the trust;
- (b) the proceeds of the sale of water by the trust;
- (c) the rents leviable by the trust on the lands held by the trust; and
- (d) such lands as the trust has purchased.

31. The trust shall not borrow money on loan from any source or for any purpose without the sanction of the Governor.

Sanction of Governor for loans essential, &c.
Ibid. s. 28.

32. Whenever the trust desires to raise money on loan for the construction of any works authorised by this Act, the trust shall make application to the Minister in writing stating full particulars as to the nature and extent of the land to be benefited by such works, of the existing liabilities (if any) of the trust, and of the estimated cost of the proposed works; and on receipt of such application the Minister shall submit the same, together with such recommendations as he may deem proper, to the Governor, and thereupon the Governor may sanction the raising of a loan by the trust.

Applications for loans.
Ibid. s. 29.

Governor may grant loans.

33. The aggregate amount of any loan raised by the trust, together with the existing liabilities thereof shall not at any time exceed seven years estimated revenue accruing to the trust on the completion of the works proposed to be constructed with the aid of such loan.

Limit to loans.
Ibid. s. 30.

34. When a sinking fund has been formed for the liquidation of any loan, the accumulated amount of such sinking fund shall, for the purpose of estimating the existing liabilities of the trust, be deducted from the amount of such loan.

Sinking fund to be reckoned an asset.
Ibid. s. 31.

35. The revenue derived from the sale of water and the rents levied in pursuance of the provisions of sections twenty-six and twenty-seven shall be applied as follows:—

Rates, how applicable.
Ibid. s. 32.

- (a) in payment of interest due in respect of loans;
- (b) in contributing to the sinking fund;

60 Vic. No. 30, s. 3.

(c)

Hay Irrigation.

- (c) for the maintenance and management of the works of the trust; or
- (d) for the extension and development of such works;
- (e) for the purchase of adjacent lands to be added to the irrigation area.

36. The trust shall keep a separate account for every loan, and such accounts shall at all times be accessible to any officer deputed by the Minister to inspect them, and copies or abstracts of such accounts shall be submitted in such manner and at such times as may be prescribed.

Separate account for each loan.
55 Vic. No. 25, s. 33.

37. The trust shall, during the month of January in each year, furnish under statutory declaration a return showing the mode of expending all moneys borrowed on loan, also the cost of management for the preceding year, with a full account of all receipts and general expenditure for such preceding year, such return to be presented to Parliament if then in session, if not, then within fourteen days after the meeting of Parliament.

Return of expenditure to be presented to Parliament.
Ibid. s. 34.

38. If, in contravention of this Act, the trust raises a loan without the sanction of the Governor, or appropriates any moneys belonging to the trust for the purpose of liquidating any claim for money so illegally borrowed, or without the sanction aforesaid, applies any portion of a loan to a purpose other than that for which the said loan was raised, or otherwise misappropriates a loan or any portion thereof, the members of the trust who have consented to, or participated in, such improper borrowing, appropriation, or application as aforesaid shall be jointly and severally liable to pay the full amount of the moneys so improperly borrowed, appropriated, or applied; and such amount may be sued for by any person, and be recovered from such members of the trust, or any of them, in any Court of competent jurisdiction.

Improperly borrowing or appropriating.
Ibid. s. 35.

39. If, with the sanction of the Governor, the boundaries of the irrigation area or the name of the trust be altered, no bond, mortgage, or agreement entered into by the trust previously to such alteration, shall be rendered invalid, or shall, except as hereinafter provided, be in any way affected by such alteration.

Change of name or boundaries not to affect agreements.
Ibid. s. 36.

40. If, by reason of the alteration of the boundaries of the irrigation area, any works or other property be taken from the trust, compensation therefor shall be paid to the trust, and also to any lessee whose lease may be injuriously affected by such alteration. And if the works or property so taken from the trust form the security, or part of the security, for any loan, the amount of the compensation received therefor shall be applied in liquidation or reduction of such loan.

Compensation for alteration of boundaries.
Ibid. s. 37.

Hay Irrigation.

41. Any loans of money made before the twenty-first day of January, one thousand nine hundred and two, to the trust out of the General Loan Account shall be deemed to have been lawfully made subject only to any terms or conditions in respect of such loans binding on or to be performed by the trust in pursuance of any bond or agreement of the trust. And all the property and all the revenues of the trust are hereby charged with the repayment of such loans and interest thereon at the rate agreed upon.

Validation of loans
by Government.
No. 15, 1902, s. 11.

PART V.

Offences and penalties.

42. Whosoever, without proper authority, or reasonable cause, and voluntarily does any of the following acts, that is to say,—
- (a) obstructs, in any way, any person, whether such person is acting under the authority of the trust or of the Minister;
 - (b) removes, injures, or in any way interferes with any pegs, bench-marks, or other marks, or objects placed in the execution of his duty by any person employed in pursuance of this Act, in making surveys, levels, or other investigations in connection with any work or project authorised by this Act;
 - (c) deposits material or refuse of any kind within the bounds of any land resumed or otherwise acquired for any work authorised by this Act;
 - (d) pollutes, or renders less useful the water standing or flowing in any river or work for water conservation and utilisation vested in the trust;
 - (e) interferes with the supply or flow of water in any river, creek, stream, or lake, managed or maintained by the trust, or causes injury to fences, works, land, or any other property held or managed or maintained by the trust,

Obstructing Govern-
ment or trust officers.
55 Vic. No. 25, s. 38.

Interfering with
marks.

Depositing material
on land belonging to
Government or to
trust.

Polluting water.

Injury to water,
fences, &c.

shall for every such offence be liable to a penalty not exceeding twenty pounds, or to imprisonment for a term not exceeding three months.

Penalty.

43. Whosoever without lawful authority—

- (a) allows cattle, horses or sheep to trespass on any enclosed part of the irrigation area not leased by the trust or to damage any works of the trust; or
- (b) removes any soil, timber, or water from any part of the irrigation area not leased by the trust

Penalties for
trespass.
No. 15, 1902, s. 9.

shall be liable to a penalty not exceeding twenty pounds.

44. Any person who wilfully damages or obstructs any work for water conservation and utilisation vested in the trust, and any person who, without proper authority, interferes with the supply or flow

Wilful injury to
works.
55 Vic. No. 25, s. 39.

Hay Irrigation.

flow of water in, into, or from any work constructed or maintained under the provisions of this Act, shall for every such offence be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding one hundred pounds, or to a fine and imprisonment combined within the limits aforesaid.

45. Any person who, being responsible under the provisions of this Act for the proper use and management of a supply of water, neglects to take proper precautions for the prevention of waste of the water, or interferes with the authorised distribution thereof, or uses such water in an unauthorised manner, shall for every such offence be liable to a penalty not exceeding ten pounds, or to imprisonment for a term not exceeding one month.

Waste of water.
55 Vic. No. 25, s. 40.

46. The penalties directed under last section for the wilful or negligent waste of water shall apply to the water-rights acquired under the Mining Act of 1874, or under any other Act or regulation in force relating to mining.

Waste of water under
Mining Act.
Ibid. s. 41.

47. Whenever any person is fined or a penalty is imposed upon any person under this Act, the Justices may direct that one-half of such fine may be paid to the trust or the person or body, if any, injured by such person.

Compensation to
injured parties.
Ibid. s. 42.

48. Any person offending against this Act may be sued for compensation on account of the loss or damage incurred or sustained through his offence; and this liability for the loss and damage caused will not in any way mitigate or affect the concurrent liability to punishment for the said offence under the terms of this Act.

Offenders liable to
pay compensation as
well as penalty.
Ibid. s. 43.

49. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Offenders liable to
punishment under
other Acts.
Ibid. s. 44.

SCHEDULES.

FIRST SCHEDULE.

Reference to Act.	Short Title.	Extent of repeal.
55 Vic. No. 25 ...	Hay Irrigation Act	The unrepealed portion.
60 Vic. No. 30 ...	Hay Irrigation (Amendment) Act, 1896 ...	The whole.
No. 15, 1902 ...	Hay Irrigation (Amending) Act, 1902 ..	The whole.

Hay Irrigation.

SECOND SCHEDULE.

County of Waradgery, parish of Hay: Commencing on the right bank of the Murrumbidgee River, at the south extremity of the east side of Bourke-street; and bounded thence by that side of that street and its prolongation north to the south-eastern boundary of section 9 of the subdivision of the Hay Irrigation Area, as shown on plan catalogued Misc. 164, Hay, by part of that boundary south-westerly, and by the west boundary of that section and its prolongation north to the south-eastern boundary of section 10, by part of that boundary a line and the south-eastern boundary of section 14 south-westerly, and by part of its west boundary north to a point east from the south-east corner of section 15; thence by a line bearing westerly, parts of which form the southern boundaries of sections 15, 26, 27, 37, 38, 49, 50, 59, and 60, to the extremity of the south-western boundary of section 60; thence by the westernmost boundary of that section north to the south boundary of the Permanent Common at Hay, dedicated 19th May, 1868, by part of that boundary east, and by part of the east boundary of the common north to a point west from the north-west corner of section 64; thence by a line easterly, parts of which form the northern boundaries of sections 64, 65, 55, 44, 42, 43, 32, and 31, to the west boundary of section 20; thence by a line northerly, parts of which form part of the western boundary of that section, and the western boundary of section 22 northerly to the north-western corner of the latter section, by the north boundary of that section a line and the north boundary of section 21 east, and by a line south, parts of which form the east boundaries of sections 21, 20, 19, and 18, to the south-east corner of the last-mentioned section; thence by a line and the south boundary of portion 127 (appropriated for racecourse) of 350 acres east, by the south-eastern boundary of that portion north-easterly, and by its east boundary a line and part of the east boundary of portion 139 north to a point west from the north-west corner of section 2, by a line and the north boundary of the latter section a line and the north boundary of section 1 east, and by the east boundary of the latter section a line and the east boundary of section 3 south to the extremity of the latter boundary; thence by a line, parts of which form the south-eastern boundaries of sections 3, 5, and 6 south-westerly to a point north from the north-east corner of section 30, in the town of Hay; thence by a line south to that corner, by the north boundary of that section and its prolongation (forming also part of the south side of Murray-street) west to the west side of Ward-street, by that side of that street south to the north side of Short-street, by part of that side of that street west to the Murrumbidgee River; and by that river downwards, to the point of commencement,—but exclusive of any part of the area appropriated for the Great South-western Railway.