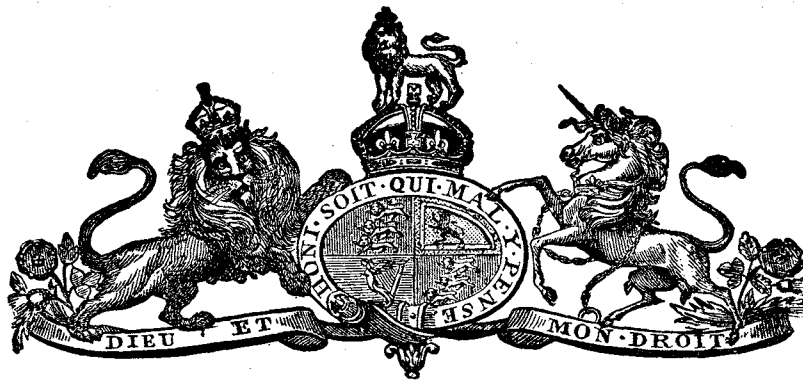


TASMANIA.



1904.

ANNO QUARTO

EDWARDI VII. REGIS,

No. 19.



AN ACT to make provision for a Supply of pure Water for the Town of *Fingal*. A.D. 1904.
[1 November, 1904.]

WHEREAS it is expedient to make legislative provision to ensure a supply of pure Water for the use of the Inhabitants of the Town of *Fingal*, from such sources, and in such manner and under such control, management, and conditions as are hereinafter provided: PREAMBLE.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short Title.

1 This Act may be cited for all purposes as “The *Fingal* Water Act, 1904.” Short title.

Preliminary.

2 In the construction and for the purposes of this Act, and of all proceedings under this Act or under any By-laws in force or made under this Act, unless the context otherwise determines— Interpretation.

“Assessment Roll” means so much of the Assessment Roll that is in force as comprises the property situate in the Water District:

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- “Trustees” means the Municipal Councillors for the time being :
- “Landholder” extends to and includes the owner or the occupier of any property situate within the District whose name is on the Assessment Roll :
- “Minister” means the responsible Minister of the Crown for the time being administering this Act :
- “Property” includes Lands and Buildings :
- “Rate” shall mean a rate duly made under and for the purposes of this Act :
- “Waterworks” extends to and includes all reservoirs, wells, cisters, tanks, aqueducts, watercourses, tunnels, feeders, drains, channels, cuts, floodgates, sluices, conduits, filters, troughs, dams, embankments, pumps, culverts, pipes, pipe-breaks, engines, buildings and other works of what kind soever which are from time to time necessary or used for effecting the purposes of this Act :
- “Street” extends to and includes any public and common highway, road, main road, lane, footway, bridge, square, court, passage, alley, thoroughfare, and public way and place :
- “Person” includes Corporation.
- “Chairman” means the Warden of the Municipal Council.

Division of Act.

3 This Act is divided into Eleven Parts, as follows :—

- Part I.—Trustees and District.
- Part II.—Power of Trustees.
- Part III.—Supply of Water.
- Part IV.—Rates.
- Part V.—Borrowing Money.
- Part VI.—Officers and their accountability.
- Part VII.—Accounts.
- Part VIII.—By-laws.
- Part IX.—Waste or Misuse of Water.
- Part X.—Offences.
- Part XI.—Miscellaneous.

PART I.**TRUSTEES.**

Water District.

4 The Town of *Fingal* as described in the Schedule (1.) hereto is hereby declared to be a Water District under and for the purposes of this Act, and shall be called the *Fingal Water District* ; and whenever in this Act the word “District” is used, the same shall mean and include the *Fingal Water District* as described in the said Schedule (1.).

Fingal Water.

5 The Municipal Council of the *Fingal* Municipality shall be the Trustees under this Act, and shall have all the powers of a Water Trust in carrying out the purposes of the said Act.

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Water Trust.

PART II.**POWERS OF TRUSTEES.***(1.) Power to divert Water.*

6 Subject to the provisions herein contained, the Trustees are hereby empowered and authorised from time to time to take, divert, and appropriate within the said Water District such quantities of the waters of the *South Esk* River and other rivulets and streams flowing through or bounding the said Water District as shall be required by the Trustees for any of the purposes herein mentioned; and from time to time to enter upon the said river and other rivulets and streams and upon the banks and beds thereof, and to construct and erect on and in any portion of the banks and beds of the said river and other rivulets and streams such works as shall be necessary for the purposes of such taking and diversion and appropriation of so much of the said water of the said river and other rivulets and streams as aforesaid.

Trustees
empowered to
divert water of
South Esk River
to erect water-
works.

7 It shall be lawful for the Trustees to use all or any portion of such water as aforesaid for any of the purposes hereinafter specified, viz. :—

Purposes for
which water so
taken may be
used.

- i. To supply the inhabitants of the Town of *Fingal* with water for domestic and manufacturing purposes, and for motive power, and for irrigation;
- ii. To supply water in the Town of *Fingal* and in any contiguous District for any purpose that any person or public or corporate body may require.

(2.) Power to take Land.

8 The Trustees are hereby empowered to purchase, acquire, and take any land which they may consider to be necessary for the purposes of this Act, and which they may think proper to purchase and take.

Purchase of land

9 *The Lands Clauses Act* shall, except as hereby expressly varied, be incorporated with this Act: but—

21 Vict. No. 11
incorporated.

- i. There shall not be incorporated with this Act the Sections and provisions of the said Act hereinafter mentioned; that is to say, —Section Eight, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; Section Nine whereby it is provided that the certificate of the Justices shall be evidence that the capital has been subscribed:

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ii. In the construction of this Act and the said incorporated Act, this Act shall be deemed to be the Special Act and the Trustees shall be deemed to be "the Promoters of the undertaking."

Entry upon land.

10 For the purposes of this Act it shall be lawful for the Trustees to enter upon any land, and to take levels of the same, and to set out such parts of such land as the Trustees think necessary, and to dig, cut, trench, and break up the soil, of such land, and to remove all earth, stone, trees, or other things dug or obtained out of the same, and to use such materials in the construction and upholding of the works authorised by this Act.

If compensation excessive Trustees may give up land.

11 Where the Trustees give notice of their intention to take land for any of the purposes hereinbefore set forth, and the compensation in respect thereof is determined as in cases of disputed compensation, if the Trustees deem it inexpedient to pay the amount of compensation so determined, they may, within Twenty-one days after notice of the amount of compensation so determined on, withdraw the first-mentioned notice on payment of all the costs of reference and award.

Construction of waterworks.

12 It shall be lawful for the Trustees, from time to time, to make construct, lay down, maintain, alter, or discontinue such waterworks upon any land within the said Water District as the Trustees think necessary for the purposes of this Act.

Trustees to give notice prior to first entry upon land.

13 Prior to the first entry upon any land by the Trustees for the purposes of this Act, not less than Seven days' notice of the intention of the Trustees to enter shall be given by the Trustees to the owner and occupier, if any: but no notice shall be necessary previous to any subsequent entry by the Trustees upon such land for the purposes of this Act.

Trustees to do as little damage as may be.

14 In the exercise of the powers conferred by this Act the Trustees shall do as little damage as can be, and, in all cases where it can be done, shall provide other watering places, drains, and channels for the use of adjoining lands in place of any such as are taken away or interrupted by the Trustees.

Trustees to make compensation for damage done by execution of works.

15 The Trustees shall make compensation, in manner hereinafter provided, to all parties having a lawful right to the use of any water taken or diverted, or appropriated by the Trustees under the authority of this Act, or having a lawful interest in any land which may be injuriously affected by the construction and maintenance of the waterworks under this Act, or otherwise by the execution by the Trustees of the powers hereby conferred, for all damage sustained by reason of the exercise as to such land or water of the powers vested in the Trustees by this Act other than damage sustained by the diversion or appropriation by the Trustees of water to be used solely for domestic purposes.



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16 Any person claiming such compensation shall prefer his claim by notice in writing addressed to the Trustees, and served upon the Secretary or Chairman of the Trustees, in which notice shall be specified the place of abode of the claimant, the particular act occasioning the damage for which compensation is claimed, the nature and amount of such damage, and the nature of the title or interest of such claimant in or to the water or land, as the case may be, in respect of which the claim is preferred; and if any such person and the Trustees do not agree as to the amount of such compensation, the same, and the application thereof, shall be determined by arbitration in the manner provided by *The Lands Clauses Act* in cases of disputed compensation.

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Persons damaged to make claim for compensation.

Compensation, how to be ascertained.

17 In determining such claims regard shall be had to any benefit which may be done or accrue to the claimant by or as the result of the provisions in this Act contained.

Regard to be had to any benefit to accrue.

18 If the Trustees, by notice in writing, require any person to make claim for compensation for any damage occasioned by the exercise of any of the powers conferred on the Trustees by this Act previously to the service of such notice, such person shall not be entitled to compensation for any damage sustained by reason of the exercise of any such powers previously to the service of such notice, unless he prefers his claim, in manner aforesaid, within Six months after service of such notice.

Persons not making claim when required to be barred.

19 If either party is dissatisfied with the award of the arbitrators or the umpire appointed to determine the amount of compensation to be paid to the owner or occupier of any land taken or occupied under the authority of this Act, or with the decision of the arbitrator or umpire appointed to determine the amount of compensation to be paid to any person claiming the right to use any of the water diverted or appropriated by the Trustees, the dissatisfied party, when the amount of compensation awarded by the arbitrators or the umpire exceeds Fifty Pounds, may appeal from the award of the arbitrators or the umpire, as the case may be, to a Judge of the Supreme Court, and may have the amount of compensation fixed by a Judge of the said Court, in the manner hereinafter provided.

Dissatisfied party may appeal to a Judge of the Supreme Court.

20 If the dissatisfied party desires to appeal from the award of the arbitrators or umpire as aforesaid, he shall, within Fourteen days after the delivery to him of such award, or a copy thereof, give notice in writing to the other party of his intention to appeal, and shall, within One month after the service of such notice upon the opposite party, prosecute such appeal in accordance with the Rules made by the Judges for conducting appeals under "The Main Line Railway Amendment Act, No. 2," so far as such Rules are applicable; and the amount of compensation to be paid in such case shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose, and the Judge

Procedure upon appeal.

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may also, in his discretion, make any Order as to the party by whom the costs of the appeal shall be borne.

Provided, that a Judge of the Supreme Court may, upon what he shall deem sufficient cause, allow an appeal under this Act to be prosecuted after the expiration of the time hereinbefore allowed for that purpose, but no appeal shall be allowed after the expiration of Three months after the service of notice of intention to appeal.

Award not to be made a Rule of Court until Judge determines matter in dispute.

21 Where the dissatisfied party gives such notice of appeal as aforesaid, then the award given by the arbitrators or the umpire shall not be made a Rule of Court until a Judge of the Supreme Court, by an Order in writing under his hand, determines the matter in dispute, or the time hereinbefore allowed for prosecuting the appeal has expired.

Compensation for diverting water to be ascertained by action in the Supreme Court.

22 Where any claim for compensation involves damage alleged to have been sustained by reason of the taking or diversion or appropriation of any water and the right of the claimant in or to such water is disputed by the Trustees, if the Trustees within Fourteen days after the service of the notice of the claim give notice to the claimant that his right in or to such water is disputed, then such claim shall not be determined by arbitration, but shall be determined by an action in the Supreme Court to be brought by the claimant against the Trustees for damages or upon an issue agreed to between the claimant and the Trustees.

Action to be commenced within Three months.

23 Every such action shall be commenced within Three months after the service on the claimant of such notice as aforesaid that his right is disputed, and not afterwards.

Compensation for damage done by failure of the works.

24 The Trustees may from time to time and at all times for ever hereafter pay and make good to the owners and occupiers of all lands and buildings, and to every person whomsoever, all loss, costs, and charges, sums of money, damages, and expenses whatsoever, and for all injury of what nature or kind soever, as well immediate as consequential, which such owners or occupiers or other persons may suffer, incur, pay, expend, or be put to by reason or in consequence of the failure or giving way of any of the waterworks of the Trustees under this Act.

Land acquired under this Act not subject to *The Lands Clauses Act*.

25 No land acquired or held by the Trustees under the authority of this Act and used for the purposes of this Act shall, unless with the consent of the Governor in Council, be subject to the operation of *The Lands Clauses Act* or any Act incorporating the whole or any portion of that Act.

(3.) *Breaking up of Streets.*

Power to break up streets, &c., and to open drains.

26 The Trustees may, from time to time, open and break up the soil and pavement of any street within the District or any Road District or Town or contiguous district through which it may be expedient to

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convey water from the said river and streams for the purposes of this Act, and may open and break up any sewers, drains, or tunnels within or under such streets or roads, and lay down and place therein or thereunder pipes, service-pipes, and other works and engines, and, from time to time, repair, alter, or remove the same; and, for the purposes aforesaid, remove and use all earth and materials in and under such streets and roads, and do all other acts which the Trustees from time to time deem necessary for supplying water to the inhabitants of the said town and ships and contiguous districts, doing as little damage as can be in the execution of the powers hereby granted.

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27 The Trustees shall, before opening or breaking up any street without the District, give to the local authority or persons, if any, under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of the intention of the Trustees to open or break up the same not less than Three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as possible after the beginning of the work or the necessity for the same has arisen.

Notice to be served on persons, if any, having control of streets without the District.

28 No street without the District shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the local authority or persons, if any, having the control or management thereof, or of their officer, and according to such plan as is approved of by such local authority or persons or their officer, or, in case of any difference respecting such plan, then according to such plan as may be determined by Two Justices: Provided, that if the local authority or persons having such control or management as aforesaid and their officer fail to attend at the time fixed for the opening of any such street after having had such notice of the intention of the Trustees as aforesaid, or do not propose any plan for breaking up or opening the same, or refuse or neglect to superintend the operation, the Trustees may perform the work specified in such notice without the superintendence of such local authority or persons or their officer.

Streets not to be broken up except under superintendence of person having control of same.

29 When the Trustees open or break up any street, sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same was broken up and fill in the ground, and reinstate and make good the street, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times whilst any such street is so opened or broken up cause the same to be fenced and guarded, and a light sufficient for the warning of passengers to be set up and kept against the same every night.

Streets, &c., broken up to be reinstated without delay.

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PART III.

SUPPLY OF WATER.

Supply of water for domestic use within the District.

30 The Trustees shall, at the request of the owner or occupier of any dwelling-house situated within the District, whether such dwelling-house appears on the Assessment Roll or not, and which is within One hundred feet of any main or other pipe laid down by the Trustees, furnish to such person by means of communication-pipes and other necessary and proper apparatus, to be provided, laid down, and maintained by the Trustees at the cost of such person, a sufficient supply of water for his domestic purposes, including a supply for any private water-closet and fixed bath in such dwelling-house.

Supply of water to properties beyond the District

31 The Trustees may, upon the application of the owners and occupiers of any properties beyond the District, cause pipes to be laid down and water to be brought to such properties ; and the Trustees shall, by notice under the hand of the Chairman and published in the *Gazette* and also in at least Two consecutive numbers of a public newspaper published or circulating in the District, specify the properties beyond the District to which the Trustees propose to lay down pipes for the purpose aforesaid.

Supply of water for other purposes than domestic use.

32 The Trustees may, if they see fit, furnish to any person a supply of water for irrigation purposes, or for steam-engines, or for warming any dwelling-house or other premises, or for working any machine or apparatus, or for horses or cattle, or for washing carriages, or for gardens, fountains, or ornamental purposes, or for flushing sewers or drains, or for any trade, manufacture, or business, whether carried on in any dwelling-house or in other premises, or for any other purpose not domestic, such respective supplies being so furnished at such charges, and upon such terms and conditions, as may be agreed upon between the Trustees and the person desiring the same.

Provided always, that, as far as possible, the charge for such supply of water shall be uniform to all persons in the same circumstances, and requiring the same extent of supply.

Trustees may determine the description of service-pipes to be used.

33 The description of pipes and other apparatus by means of which water is laid on, distributed, or supplied, within the outer boundary of any premises, shall be such as the Trustees determine, either generally or in classes of cases or in any particular case, and the Trustees shall not be bound to supply water in any case in which the required description of pipes or other apparatus is not provided ; and the Trustees may cut off the pipes or turn off the water from any premises supplied with water until the required description of pipes or other apparatus is provided.

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PART IV.

RATES.

34 It shall be lawful for the Trustees, yearly, half-yearly, or at such other periods as to them may seem necessary, to make and levy a Rate to be paid by the occupiers of all property within the District for the purposes of this Act: Provided, that where such property does not appear on the Assessment Roll, the Rate to be paid by such occupier shall be determined mutually between the Trustees and such occupier.

Trustees to fix Water Rate in respect of buildings within the District.

35 Such Rate shall be called a Water Rate, and may be of an amount not exceeding the sum of Two Shillings in the Pound per annum on the assessed annual value of the property within the District, and, except as it is herein otherwise provided, all the provisions of "The Rural Municipalities Act, 1865," relating to the making, levying, collection, and recovery of Rates shall apply to the making, levying, collection, and recovery of every Rate imposed under the authority of this Act, provided that the Water Rate payable in respect of any house or dwelling within the Water District shall in no case be less than Twelve Shillings, nor more than Three Pounds per annum.

Rate may be levied on the annual value of property.

36 No person shall be liable to the payment of the said Water Rate in a greater proportion than upon One-half part only of such annual value of any property occupied by such person unless such property is actually supplied with water for domestic purposes, or unless the mains or other pipes of the Board are laid down and properly supplied with water within One hundred feet from a dwelling-house on such property.

One-half only of Rate to be levied unless premises are supplied with water.

37 Upon the making of any Water Rate under this Act, a notice signed by the Chairman of the Trustees and not less than Two other Trustees, specifying the amount in the Pound of the Rate, the period for which the same is made, and at what time the same is payable, shall be published in the *Gazette*, and also in Two consecutive numbers of a daily newspaper circulating in the District; and upon any such notice being so published, the Rate therein mentioned shall be payable and paid at the time specified in such notice by the persons liable to pay the same, according to the annual value of such property as ascertained and determined by the Assessment Roll then in force; and it shall not be necessary in any such notice to set forth the names of the persons liable to the payment of the Rate, or the sums, which, according to such Rate, such persons are liable to pay, or any other particulars than are hereinbefore mentioned.

Upon making Rate notice of same to be given.

38 When several buildings are supplied with one common pipe, the several occupiers of such building shall be liable to the payment of the same rate for the supply of water as they would have been liable to if each of such several buildings had been supplied with water from the waterworks by a separate pipe.

Where several premises supplied by one pipe each to pay.

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Rate, how to be recovered.

39 If any person liable as herein provided to pay a Water Rate neglects to pay the same within due time after the same had been lawfully demanded, the Trustees may stop the same from flowing into the premises in respect of which such Rate is payable, by cutting off the pipe to such premises or by such means as the Trustees think fit, and may recover the amount due from such person, with the expense of cutting off the water, in the same manner as any Water Rate is recoverable under this Act.

Charges for water, how to be recovered.

40 The like proceedings may be had for recovering and enforcing the payment of any expenses incurred in the execution of this Act which may become payable by any person to the Trustees, or for enforcing and recovering payment for any charge for the supply of water by the Trustees under this Act, as may be had for enforcing and recovering payment of any Water Rate.

No imprisonment for non-payment of Rate or charges.

41 No person shall be liable to be imprisoned for non-payment of any expenses or Water Rate or charge for water supplied under the provisions of this Act.

Persons supplied with water beyond the District to pay Water Rate.

42 The occupiers of all properties beyond the District to which water shall be brought by the Trustees as hereinbefore provided shall pay Water Rates in respect of such properties in the same manner as if such properties were situate within the District, and every Water Rate levied by the Trustees shall be recoverable from all such persons as if such properties were situate within the District.

Power to remit Rates on account of poverty.

43 It shall be lawful for the Trustees, upon the complaint of any person liable to the payment of any Rate, to remit or excuse the payment thereof, or any part thereof, on account of the poverty of such person; and the Trustees shall also remit payment of half the Rate whenever the house in respect of which such Rate is levied has been unoccupied for the unbroken period of Six calendar months or upwards during the year for which such Rate is levied: Provided application in writing be made, and the applicant satisfy the Chairman of Trustees that such house has been so unoccupied.

PART V.**BORROWING MONEY.**

Power to borrow.

44 It shall and may be lawful for the Trustees to borrow, as herein provided, such sum or sums of money, not exceeding the sum of One thousand four hundred Pounds in the whole, as shall from time to time be necessary for defraying the expense of making, constructing, establishing, repairing, carrying on, and managing any Waterworks under the authority of this Act, or the payment of any such compensation as aforesaid, or any other expense incident to the

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effectuating the objects or the preparation and passing of this Act ; and it shall be lawful for the Governor in Council from time to time to grant to the Trustees as a loan or loans, for carrying out the objects of this Act under the provisions of "The Local Public Works Loans Act, 1890." Provided that it shall not be necessary to lay before either House of Parliament plans and specifications of any such proposed works, nor the report of the Engineer-in-Chief thereon, as provided in Section Two of the said Act ; but before any part of the said sum of One thousand four hundred Pounds shall be advanced to the Trustees, plans and specifications of the proposed works, together with a report by the Engineer-in-Chief upon the necessity of such works and probable cost thereof, the sufficiency of the plans and specifications, and upon such other matters connected with the works as the Engineer-in-Chief may deem it desirable to refer to in the said report, and that the works can be completed for the amount proposed to be borrowed, shall be submitted to and approved by the Governor in Council.

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45 The Trustees shall, from time to time, so regulate the Water Rate and charges to be levied and made for the supply of water under the provisions of this Act that the amount of such Rate and Charges shall be, as near as may be, sufficient to pay the interest upon any money borrowed by the Trustees for the purposes of this Act, together with the cost of managing and conducting the Waterworks ; and if in any year the amount received is more than sufficient for all the purposes aforesaid, the Trustees are hereby required, whenever practicable, to make a proportionate reduction in the Rates and Charges payable by the consumers of water to be in the next year made in respect of water supplied under and by virtue of this Act.

Rates and charges for water to be so regulated as not to exceed annual expenditure.

PART VI.**OFFICERS AND THEIR ACCOUNTABILITY.**

46—(1.) The Trustees shall, from time to time, appoint a Treasurer, who may be one of the Trustees, and a Secretary, and may, from time to time, appoint and employ a Solicitor, Clerk, and such Surveyors, Collectors of Water Rate, and other Officers as the Trustees think necessary and proper ; and, from time to time, may remove any of such Officers, and appoint others in the room of such as are so removed, or as may die, resign, or discontinue their offices ; and may out of the moneys at the disposal of the Trustees under this Act, pay such salaries and allowances to the said Officers respectively as the Trustees think reasonable.

Power to appoint Officers.

(2.) Nothing herein contained shall prevent the same person from being appointed to hold more than one of such offices at the same time if the Trustees so think fit, except as hereinafter provided.

(3.) It shall not be lawful for the Trustees to appoint the same person to be a Collector and also Treasurer of the Trustees.

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Trustees not to
be Officers.

47 Every person holding any office or place of profit in the gift or disposal of the Trustees, other than that of Treasurer, shall be disqualified from being a Trustee, and if any Trustee is appointed to any such office or place of profit, he shall thereupon cease to be a Trustee: Provided that any Trustee who is appointed Treasurer shall be liable to all the provisions of this Act relating to such officer in the same manner as if he were not a Trustee.

Security from
Officers.

48 Before any person, whether Treasurer, Secretary, Collector, or other Officer, who is entrusted by the Trustees with the custody or control of moneys by virtue of his office, enters upon such office, the Chairman of Trustees shall take sufficient security for the faithful execution thereof.

Officers to keep
account books.

49 Every Officer or person employed by the Trustees shall, in books to be provided by the Trustees for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters for which such sums have been received or paid, and of all acts done by him by direction of the Trustees; and such books shall at all times be open to the inspection of any Trustee.

Payment over
of money by
Officers.

50 Every Collector or other Officer appointed or employed by the Trustees to collect money shall, within Seven days after he has received any moneys on behalf of the Trustees, pay over the same to their Treasurer, and the receipt of such Treasurer for the moneys so paid shall be a sufficient discharge to such Collector or other Officer; and every such Collector or Officer shall, in such time and in such manner as the Trustees direct, deliver to the Trustees true and perfect accounts in writing under his hand of all moneys received by him and of all moneys paid by him to the said Treasurer, and also a list of the names of all persons who have neglected or refused to pay any moneys owing by them, with a statement of the moneys due from them respectively.

Officers to
account.

51 Every Collector and other Officer appointed or employed by the Trustees shall, from time to time when required by the Trustees, make out and deliver to the Trustees, or to any person appointed by the Trustees for that purpose, a true and perfect account in writing under his hand of all moneys received by him on behalf of the Trustees; and such accounts shall state how and to whom and for what purpose such moneys have been disposed of, and together with such accounts such Officer shall deliver the vouchers and receipts for such payments; and every such Officer shall pay to the Trustees, or to any person appointed by the Trustees to receive the same, all moneys which appear to be owing from him upon the balance of such accounts.

Summary pro-
ceeding against
Officers failing to
account.

52 If any such Collector or other Officer fails to render such accounts as aforesaid, or to produce and deliver up all books, vouchers, and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for Five days after

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being thereunto required he fails to deliver up to the Trustees, or to any person appointed by the Trustees to receive the same, all books, papers, and writings, property, effects, matters, and things in his possession or power relating to the execution of his office or belonging to the Trustees, then on complaint thereof being made to a Justice, such Justice shall summon such Officer to appear before Two or more Justices, at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such Officer, or upon proof that such summons was personally served upon him or left at his last known place of abode, such Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such Officer; and if it appears, either upon confession of such Officer, or upon evidence, or upon inspection of the account, that any moneys of the Trustees are in the hands of such Officer, or owing by him to the Trustees, such Justices may order such Officer to pay the same; and if he fails to pay the amount it shall be lawful for such Justices to grant a Warrant to levy the same by distress, and in default of sufficient distress to commit the offender to gaol, there to remain without bail for a period not exceeding Three months, unless the same is sooner paid.

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53 If any such Officer summoned as aforesaid refuses to make out such account in writing, or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writing, property, effects, matters, or things in his possession or power belonging to the Trustees, such Justices may commit such offender to gaol, there to remain until he has delivered up all the vouchers and receipts in his possession or power relating to such accounts, and all the books, papers, writing, property, effects, matters, and things in his possession or power belonging to the Trustees.

Officers refusing to make out accounts, &c., may be committed.

54 If any Trustee or other person acting on behalf of the Trustee makes oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such Officer as aforesaid to abscond, the Justice before whom the complaint is made may, instead of issuing his summons, issue his Warrant for bringing such Officer before such Two Justices as aforesaid; but no person executing such Warrant shall keep such Officer in custody longer than Twenty-four hours without bringing him before some Justice; and the Justice before whom such Officer is brought may either discharge such Officer, if he thinks there is no sufficient ground for his detention, or order such Officer to be detained in custody so as to be brought before Two Justices at a time and place to be named in such Order, unless such Officer gives bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint of the Trustees.

If Officer about to abscond Warrant may be issued.

55 No such proceeding against or dealing with any such Officer as aforesaid shall deprive the Trustees of any remedy which they would otherwise have had against such Officer or any surety of such Officer.

Proceedings against Officers not to discharge sureties.

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PART VII.

ACCOUNTS.

Trustees to keep accounts of receipts and disbursements.

56 The Trustees shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid under the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any Trustee or creditor of the Trustees, without fee or reward; and the persons aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same; and any person having the custody of the said books who does not, on the reasonable demand of any person as aforesaid, permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall for every such offence, incur a penalty not exceeding Five Pounds.

Moneys received to be paid into Bank.

57 As soon as the moneys at any time in the hands of the Collector or the Treasurer of the Trustees shall amount to Five Pounds he shall forthwith pay the same into some Public Bank in this State to the account of the Trustees; and no part of such moneys shall be drawn out of such Bank except by cheque signed by the Chairman and Treasurer of the Trustees.

Statement and account to be annually prepared.

58 The Trustees shall, before the end of the second week in the month of *March* in each year, cause the accounts of the Trustees up to and including the last day of *December* next preceding to be balanced, and also cause a full and true statement and account to be drawn out of the amount of all rates made and levied, and of all moneys received and expended during the preceding year, and also of all debts then owing by and to the Trustees; and such statement and account shall be signed by the Chairman and not less than Two Trustees.

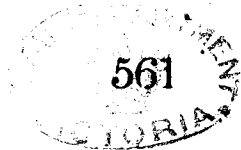
Audit of accounts

1 Ed. VII. No. 15.

59 The accounts of the Trustees mentioned in the Fifty-sixth Section of this Act shall be subject and liable to all the provisions of "The Audit Act, 1901," in the same manner as the accounts of Trustees of Road Districts are now subject and liable; and the statement and account mentioned in the of Fifty-eighth Section of this Act shall be forwarded to the Auditor-General during the month of *March* in every year; and such statement and accounts, with the report of the said Auditor-General thereon, shall be published in the *Gazette* as soon as may be after the same have been audited.

Appropriation.

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



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PART VIII.

BY-LAWS.

61 The Trustees shall have power from time to time to make, alter, modify, amend, or repeal By-laws for the following purposes :—

- i. For regulating the charges, terms, and conditions upon which water shall be supplied in the cases provided for by Sections Thirty-one and Thirty-two of this Act :
- ii. For regulating the description of pipes and other apparatus by means of which water may be laid on, distributed, or supplied from the waterworks, and for prohibiting the use of any other description of pipes or apparatus :
- iii. For regulating the distance or distances from the waterworks at which yards, pigsties, stables, cow-houses, cesspools, closets, and such like places shall be made, placed, or erected :
- iv. For preventing injury to the waterworks :
- v. For regulating all or any matters and things whatsoever connected with the water to be supplied by means of the waterworks :
- vi. And otherwise for the better effectuating any of the purposes of this Act in any manner not otherwise sufficiently provided for :

And to provide that any such By-law may be enforced by cutting off the pipe or turning off the water, or by such pecuniary penalty, not exceeding in any case the sum of Ten Pounds.

62 No By-law to be made by the Trustees shall be of any force and effect until it has been certified by the Attorney or Solicitor-General not to be repugnant to this Act or to the general spirit and intendment of the Laws in force in *Tasmania*, and published in the *Gazette*.

63 All By-laws made hereunder shall be published in the *Gazette*, and shall be laid before both Houses of Parliament within Fourteen days after the publication thereof if Parliament is then sitting, or if not then sitting, then within Fourteen days from the next assembling of Parliament ; and upon publication in the *Gazette* all such By-laws shall have the force of law.

PART IX.

WASTE OR MISUSE OF WATER.

64 In case any person, when required by the Trustees, neglects to keep the pipes and other apparatus by means of which his premises are supplied with water in good repair, the Trustees may cut off the pipe or turn off the water from such premises until such pipes and other apparatus are sufficiently repaired.

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Trustees may
repair service-
pipes.

65 The Trustees may repair any such pipe or other apparatus so as to prevent any such waste of water, and the expenses of such repair shall be repaid to the Trustees by the person so allowing the same to be out of repair, and may be recovered by the Trustees from such person in a summary way.

Cisterns, &c., to
be constructed so
as to prevent
waste or impurity.

66 Every cistern or other receptacle for water which the Trustees may permit to be used, and every closet, soil-pan, and private bath supplied with water by the Trustees, shall be so constructed and used in such manner as may be prescribed by regulations to be made by the Trustees, so as effectually to prevent the waste, misuse, or undue consumption of water, and the flow or return of foul air or other noisome or impure matter into the mains or pipes of the Trustees, or into any pipes connected or communicating therewith; and the Trustees may cut off the pipe attached to, or turn off the water supplied to, any cistern or other receptacle for water so permitted to be used, or any closet, soil-pan, or private bath which is not constructed and used as prescribed as aforesaid, until such cistern or other receptacle for water, or such closet, soil-pan, or private bath is constructed and used as prescribed as aforesaid.

Power to enter
premises to
inspect.

67 Any officer of the Trustees or other person acting under the authority of the Trustees may at all reasonable times enter into any house or premises supplied with water by virtue of this Act, in order to examine if there is any waste or misuse of such water; and if such Officer or other person is at any such time refused admittance into such house or premises for the purpose aforesaid, or is prevented from making such examination as aforesaid, the Trustees may cut off the water from such house or premises.

PART X.

OFFENCES.

Penalty for
obstructing
Trustees.

68 Every person who wilfully obstructs, hinders, or interrupts the Trustees, or any person acting under the authority of the Trustees, in doing or performing any work by this Act authorised to be done or performed by the Trustees, or in the exercise of any power or authority by this Act conferred on the Trustees, shall for every such offence incur a penalty not exceeding Fifty Pounds.

Injuring water-
works or prevent-
ing flow of water.

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

- i. Destroys or injures any of the waterworks:
- ii. Otherwise injures or obstructs the passage of the water in a pure and wholesome state through any waterworks of the Trustees.

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70 Every person who commits any of the offences next following shall, for every such offence, incur a penalty not exceeding Ten Pounds:— A D. 1904.

- i. Every person who bathes in any part of the *South Esk* River within a mile above the intake of the waterworks of the Trustees, or washes, throws, or causes to enter therein any dog or other animal alive or dead : Fouling water.
- ii. Every person who throws any dead animal, rubbish, dirt, filth, or other noisome thing into any such part of the *South Esk* River as aforesaid, or into any waterworks of the Trustees, or within half a mile of the intake, washes or cleanses in the said river any cloth, wool, leather, or skin of any animal, or any clothes or other thing :
- iii. Every person who causes or permits the water of any sink, sewer, or drain, steam-engine boiler, or other filthy water belonging to him or under his control, to run or be brought into any such part of the *South Esk* River as aforesaid, or into any waterworks of the Trustees, or who does or permits any other act whereby the water of the waterworks or supplying the same is fouled :
- iv. Every person who permits or suffers the drainage from any yard, pigsty, stable, cow-house, or any place to so run, drain, or percolate as calculated to render the water in the waterworks or supplying the same unwholesome or offensive.

And every such person shall incur a further penalty of not more than Two Pounds for each day during which such last-mentioned offence is continued after the expiration of Twenty-four hours from the time when notice of the offence has been served on such person by the Trustees.

71 Every person who wilfully and maliciously damages or destroys any of the waterworks or any part thereof, or who wilfully and maliciously does any act calculated to render the water in the waterworks or supplying the same unwholesome or offensive, shall be guilty of a Misdemeanor, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding Three years. Maliciously injuring works or fouling water a Misdemeanor.

72 Any person found committing any offence mentioned in the last preceding Section may be immediately apprehended without a warrant by any constable or any person who sees such offence committed, and forthwith taken before a Justice of the Peace to be dealt with according to law. Certain offenders may be apprehended.

73 Every owner or occupier of any premises supplied with water under this Act who supplies to any other person, or wilfully permits him to take any of such water from any cistern or pipe in or on such premises, unless for the purpose of extinguishing any fire, or unless he Allowing persons not supplied to use the water,

Fingal Water.

- A.D. 1904. is a person supplied with water by the Trustees from the waterworks, and the pipes belonging to him are, without his default, out of repair, shall for every such offence incur a penalty not exceeding Twenty Pounds.
- Taking water without authority. **74** Every person who, without due authority, takes any water from any waterwork belonging to the Trustees, or any pipe leading to any such waterwork or other like place containing water belonging to the Trustees, other than such as may have been provided for the gratuitous use of the public, shall for every such offence incur a penalty not exceeding Twenty Pounds.
- Attaching service-pipe without authority. **75** Any person who makes any pipe to communicate with any waterwork or pipe of the Trustees, without the authority of the Trustees in that behalf, shall incur a penalty not exceeding Twenty Pounds.
- Suffering service-pipe to be out of repair. **76** Every person supplied with water by the Trustees who suffers any pipe or other apparatus by means of which his premises are supplied with water to be out of repair, so that the water supplied to him by the Trustees is wasted, shall for every such offence incur a penalty not exceeding Five Pounds.
- Destroying valves, &c. **77** Every person who wilfully or carelessly breaks, injures, or opens any locks, cock, valve, pipe, work, or engine belonging to the Trustees, or flushes or draws off water from the reservoirs or other waterworks of the Trustees, or does any other wilful act whereby such water is wasted, shall for every such offence incur a penalty not exceeding Twenty Pounds.
- Fouling water by gas. **78** Whenever the water supplied by the Trustees is fouled by the gas of any persons making or supplying gas, such persons shall for every such offence incur a penalty not exceeding Twenty Pounds, and a further penalty not exceeding Ten Pounds for each day during which the offence continues after the expiration of Twenty-four hours from the service of notice of such offence.
- Accessories to offences liable as principals. **79** Where the doing of any act or thing is made punishable by this Act, or by any By-law in force under the authority of this Act, with any penalty, fine, or forfeiture, the causing, procuring, permitting, or suffering such act or thing to be done shall be punishable in like manner.
- Appeal from penalties. **80** Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act may, unless otherwise expressly provided, appeal against the same in the manner prescribed by *The Appeals Regulation Act*.
- 19 Vict. No. 10.



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PART XI.

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MISCELLANEOUS.

81 Whenever by this Act authority is conferred on the Trustees to enter upon any land for the purposes of this Act, or to do any act in or relating to the construction or maintenance of any work, the same authority shall equally extend to all persons acting by the direction of the Trustees, and to all necessary agents, assistants, servants, workmen, means, and appliances whatsoever.

Powers conferred on Trustees to extend to officers duly authorised.

82 No person shall be disqualified from acting as a Judge, Justice of the Peace, Juror, or otherwise in any proceeding under this Act, or any Act incorporated herewith, by reason only of his being a landholder of the District, or by reason of his being liable to any rate or charge for water supplied under this Act, or of his premises being supplied, or being so situated as to be capable of being supplied, with water under this Act.

Interest in execution of Act not to be a disqualification.

83 The Trustees shall sue and be sued, and all proceedings before any Court or a Judge of any Court, and all proceedings taken or adopted in pursuance of the provisions of this Act, shall be taken or adopted by or against them, by the name of "The Trustees of the *Fingal Water District*," without otherwise naming such Trustees, and service of any legal process on the Chairman or Secretary shall be deemed and taken as good service on the said Trustees.

Trustees, how to sue and be sued.

84 The property in all land purchased by the Trustees, and in all moneys at their disposal for the purposes of this Act, and in all waterworks, with the several appliances and appurtenances thereto belonging, and the materials of which the same consist, and all materials, tools, implements, and things furnished and provided by the Trustees for the purposes of this Act, shall for the purposes of this Act be vested in the Trustees of the *Fingal Water District* for the time being without otherwise naming such Trustees; and in any proceedings civil or criminal relating to any such land, waterworks, money, or property so vested in the Trustees for the purposes of this Act, it shall be sufficient to describe such property, waterworks, or money as the property, waterworks, or money of "The Trustees of the *Fingal Water District*."

Property may be laid in the Trustees.

85 All offences against this Act, or any By-law made hereunder, shall be heard and determined in a summary way by any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*; and all penalties for offences against this Act shall be applied to the use of the Trustees, and shall be paid to the Treasurer of the Trustees, and shall be carried to the credit of the Water Account.

Offences to be dealt with summarily. 19 Vict. No. 8. Appropriation of penalties.

86 Every Book in which Orders and Proceedings are entered under the provisions of this Act shall be received as *prima facie* evidence in all Courts, and before all Judges, Justices of the Peace, and others.

Books containing records to be evidence in Courts of Justice, &c.

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that such Orders and proceedings were duly made and had; and the onus of proving that such Orders and Proceedings respectively were not duly made and had shall in all cases rest upon the defendant or the party disputing the validity thereof.

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

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

Poll to be taken.

Poll of owners and occupiers to be taken.

88 Notwithstanding anything hereinbefore contained, the Trustees shall not proceed to construct or perform any of the works aforesaid until and after a poll has been taken of the owners and occupiers of property within the Water District, and if at such poll one-third of the aggregate number of votes to which the owners and occupiers of property within the District are entitled as hereinbefore mentioned shall be recorded against the construction of such works as aforesaid, the Trustees shall not proceed to construct the same; and at the taking of such poll every person who desires to vote shall be entitled to as many votes as the number of votes to which such person appears by the Assessment Roll prepared in accordance with the provisions of this Act to be entitled on the same scale of voting as applies to Municipalities.

Notice of poll to be published.

89 When the Trustees shall decide to take a poll of the owners and occupiers as aforesaid, they shall cause a notice of such poll to be inserted not less than Three times in a daily newspaper circulating in the District, and in two consecutive numbers of the *Gazette*; and such notice shall contain the following particulars:—

- i. The time and place of such election:
- ii. The works proposed to be constructed or performed by the Trustees:
- iii. The estimated cost of such works.

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90 Subject to the foregoing provisions, upon the taking of any poll as aforesaid, all proceedings shall be had and taken as nearly as may be as upon an election of Trustees as the case may require.

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Proceedings to be had as upon election of Councillors.

SCHEDULE.

(1.)

BOUNDARY OF THE FINGAL WATER DISTRICT.

Starting at a point on the eastern bank of the South Esk River, and at the the boundary between Woodlawn (part of Tullochgorum Estate) and the Town of Fingal; south-easterly along Mauley-street, by the said boundary of Woodlawn, to Horne-street, and after crossing the same; north-easterly by that street to Fraser-street; and after crossing the same, north-westerly and north by that street to Percy-street; and after crossing the same, westerly to the South Esk River, and by that river southerly to the point of commencement.

(2.)

DISTRESS WARRANT FOR WATER RATE.

TASMANIA } To X.Y. [a Collector of Water Rate for the Fingal Water District,
TO WIT. } [or some other fit person.]
Whereas complaint has been made before [me] a Justice of the Peace, that A.B. of _____ has not paid the sum of _____ payable by him in respect of certain property situate [describe property fully] by virtue of the Water Rate for the Fingal Water District made on or about the _____ day of _____ 19____, although the same has been duly demanded of him: and whereas it appears to me upon the oath of [the said X.Y.] a Collector of Water Rate for the said Water District that the sum of _____ has been duly demanded by him from the said A.B. and that the said A.B. has failed _____ the same for the space of _____ days after such demand made and has not paid the same: and whereas the said A.B. having appeared before me in pursuance of a Summons issued by [me] for that purpose, has not shown sufficient cause why the said sum of _____ should not be paid: [or And whereas it has been proved to me upon oath that the said A.B. has been summoned to appear before [me] or such other Justice of the Peace as might now be here to show cause why the said sum of _____ should not be paid, and the said A.B. has neglected to appear according to such Summons, and has not shown any sufficient cause why the said sum of _____ should not be paid:] These are therefore to command you forthwith to make Distress of the Goods and Chattels of the said A.B. wheresoever the same may be found, and also of all Goods and Chattels found by you upon the said property to whomsoever the same may belong; and unless at any time within the space of [Four] days after such Distress by you made the said sum of £ _____ and the sum of £ _____ for costs, making together the sum of £ _____ together with all costs, charges, and expenses attendant upon such Distress, be paid to you, that you cause the said Goods and Chattels so by you distrained to be sold, and out of the

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money arising by such sale that you detain the said lastmentioned sum, and also all costs, charges, and expenses attendant upon such Distress and Sale, rendering to the said *A.B.* or other person whose Goods and Chattels are so distrained by you, as the case may be, the overplus, if any, on demand; [*in case the Warrant is directed to some other person than the Collector, and the said sum of* you are hereby commanded to pay to (the said *X.Y.*) the said Collector of Water Rate;] and if no sufficient Distress can be made of the Goods and Chattels of the said *A.B.* or otherwise as aforesaid, that then you certify the same to me together with this Warrant.

Given under my hand this day of 19.

J.P.,
Justice of the Peace.