

Act No. 78, 1902.

BALRANALD
IRRIGATION.

An Act to consolidate enactments relating to
the conservation and utilisation of water for
irrigation for the Municipality of Balranald.
[15th 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 "Balranald
Irrigation Act, 1902," and is divided into Parts, as follows:—

PART I.—*Preliminary*—ss. 1-4.

PART II.—*Constitution of Trust*—ss. 5-10.

PART III.—*Administration*—ss. 11-35.

PART IV.—*Loans*—ss. 36-48.

PART V.—*Offences and penalties*—ss. 49-55.

Repeal.

2. (1) The Act fifty-sixth Victoria number twenty-six is hereby
repealed.

Saving clause and
operation.

56 Vic. No. 26, s. 2.

(2) All rules, regulations, and by-laws made under the
provisions of the said Act, 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 the Act
hereby repealed, and holding office at the commencement of this Act,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. (4)

Balranald Irrigation.

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given or granted, all liabilities incurred, and all other acts or things done under or by virtue of the Act hereby repealed, shall be deemed to have been constructed, erected, made, given, granted, incurred or done respectively under the corresponding provision of this Act, but at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

(5) 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.

3. 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.

Repeal of parts of
"Mining Act of
1874."
56 Vic. No. 26, s. 3.

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

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

"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 First Schedule to this Act, and any adjoining land which may be purchased or obtained with the sanction of the Governor.

"Owner" includes lessee or occupier, as well as owner in fee-simple.

"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 "Municipality of Balranald Irrigation Trust."

Balranald Irrigation.

PART II.

Constitution of Trust.

Council of
Municipality of
Balranald to be the
Trust.

Trust to be body
corporate.
56 Vic. No. 26, s. 5.

Members of the
Trust not to be paid.
Ibid. s. 6.

Members of the
Trust may not be
contractors.
Ibid. s. 7.

Penalty for illegally
acting as a member.
Ibid. s. 8.

Revocation of
allotment of
Common.
Ibid. s. 9.

Property vested in
the Trust.
Ibid. ss. 10, 48.

5. The authority to carry out this Act shall be the members of the Council of the Municipality of Balranald for the time being, who, by the name of "The Balranald 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 and lease lands, tenements, stores, goods, chattels, and other property, and shall be capable in law of suing and being sued.

6. 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, unless sanctioned at a meeting of the Trust and approved by the Minister.

7. 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.

8. Every person who, 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 who, 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 of not less than ten pounds or more than fifty pounds.

9. From the thirteenth day of June, one thousand eight hundred and ninety-three, the irrigation area shall be deemed to have ceased to be or form part of the temporary common of Balranald.

10. (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 swamp or creek near or within the irrigation area, and in any pipe, reservoir, or other work constructed by the Trust in pursuance of this Act.

(2) The lands so vested shall be held and administered by the Trust, subject to the provisions of this Act, and the approval of the Governor, but no part of the land described in the First Schedule hereto shall be sold, except with the consent of the Trust and of the Governor.

Balranald Irrigation.

(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 belonging to or vested in such Trust, subject to all liabilities and obligations attaching to the same, and with all the powers hereby created.

PART III.

Administration.

11. (1) Subject to the provisions hereinafter contained, it shall be lawful for the Trust at any time after submitting to the Minister a general plan and description of the scheme and obtaining his sanction for the same to exercise any of the following powers, that is to say—

- (a) To 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) to control and use all waters, and at all times hereafter from all creeks, watercourses, lagoons, swamps, canals, trenches, tanks, reservoirs, or other sources lying within or to be constructed or excavated within the irrigation area;
- (c) to widen or deepen, or to close or divert any existing creek, lagoon, swamp, or watercourse within the irrigation area;
- (d) to lay pipes or cut trenches or ducts outside the irrigation area for the purpose of delivering water to owners of adjoining lands;
- (e) to take water from the river Murrumbidgee by means of pumping or other machinery erected within or near the irrigation area on a suitable site to be selected by the Trust and approved of by the Minister 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, maintenance, or management of such works is unsatisfactory, the Minister may require the Trust to make such alterations or improvements as may be deemed necessary or useful, the cost of such inspection to be defrayed by such Trust.

(3)

Balranald Irrigation.

River Murrumbidgee
not to be interfered
with.

(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.

Plans when approved
not to be deviated
from.
56 Vic. No. 26, s. 12.

12. When the designs, plans, and descriptions of any proposed works have been approved by the Minister the Trust shall construct, maintain, and continue such works in accordance with such designs, plans, and descriptions so approved, and no alteration of or deviation from such designs, plans, or descriptions shall be made, except by the authority of the Minister for each and every such alteration or deviation.

Tenders to be called
publicly.
Ibid. s. 13.

13. Whenever the estimated cost of the construction of any works proposed to be carried out by the Trust exceeds the sum of fifty pounds, tenders for the construction of such works shall be invited by public advertisement. And where the cost of such works is intended to be defrayed wholly or in part out of loans granted or guaranteed by the Crown, the Trust shall forward the tenders to the Minister, with their recommendation as to which tender, if any, should be accepted. The Minister shall then decide and shall direct the Trust accordingly.

Loan works to be
let by contract.
Ibid. s. 14.

14. All works intended to be defrayed wholly or in part out of loans granted or guaranteed by the Crown shall be let by contract, and the nature and amount of the security to be given by the contractor must be approved by the Minister before any tender shall be accepted.

Vouchers, &c., to be
accessible for
inspection.
Ibid. s. 15.

15. The certificates and vouchers for all payments made out of loans granted or guaranteed by the Crown in the manner prescribed, and all accounts in connection with such works shall at all times be accessible for inspection by any officer appointed by the Minister for that purpose.

Qualified engineers
to be employed.
Ibid. s. 16.

16. (1) The Trust shall employ qualified engineers and surveyors for the preparation of the designs, surveys, plans, and estimates for all works proposed to be carried out in pursuance of this Act.

(2) The Minister may direct the Trust to cease to employ any engineer or surveyor he may think proper at any time and from time to time.

Power of Trust to
act in cases of
emergency.
Ibid. s. 17.

17. Whenever there is reason to apprehend that damage may be caused by floods or otherwise before a reply could be obtained from the Minister, or whenever there is an opportunity to conserve flood-water, which opportunity might be lost before a reply could be received from the Minister, the Trust may, on its own responsibility, and at its own risk, deal with the necessities of such case as it may deem proper; but in every such case the Minister must, without delay, be informed of the circumstances in detail, and his approval shall be applied for forthwith.

Balranald Irrigation.

18. 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.

Compensation for damage done by the Trust.
56 Vic. No. 26, s. 18.

19. 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 six months after such injury, loss, or damage is sustained.

Limit of time within which compensation to be claimed.
Ibid. s. 19.

20. When any person claims compensation from the Trust, on account of injury, loss, or damage sustained, and such claim is disputed by the Trust, the settlement of the dispute shall be submitted to arbitration; and the arbitration shall proceed as provided for in the Arbitration Act, 1902.

Arbitration.
Ibid. s. 21.

21. (1) The Trust may from time to time, with the sanction of Minister, demise, or assign, for any term of years not exceeding thirty years, any lands, tenements, or hereditaments purchased, taken in exchange, or on lease by the Trust in pursuance of this Act, or being a portion or portions of the irrigation area; or may, without such sanction, let or lease any such lands, tenements, or hereditaments from year to year, or for any term not exceeding three years.

Trust may lease.
Ibid. s. 20.

(2) All moneys to arise from any such demise or letting shall be applied towards the construction, maintenance, or improvement of the works 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.

22. No lessee or occupier shall be allowed to transfer his lease to any other person without first having obtained the sanction of the Trust in writing to such transfer.

No lessee shall transfer his lease without sanction of Trust.
Ibid. s. 22.

23. (1) At the expiration of any term for which land may be leased or rented from the Trust, in the event of the lessee or occupier being unwilling to enter upon a fresh tenancy or lease from the Trust, the Trust may appoint one valuer, and the outgoing lessee or occupier may appoint another valuer, and the two persons so appointed shall proceed to value all permanent improvements upon the land, the lease of which has expired, that have been effected at the sole cost of lessee or occupier, and in the event of such valuers disagreeing as to the value of such improvements, some third impartial person shall be mutually chosen as umpire, whose decision shall be final, and all costs of such valuation shall be borne equally by the said lessee or occupier and the Trust.

And in the event of his being unwilling to enter into a new lease, improvements shall be valued and he shall be paid accordingly.
Ibid. s. 23.

(2) The land aforesaid shall then be publicly offered by the Trust, for lease or occupation, upon such terms and conditions as the Trust may deem expedient and subject to the provisions of section twenty-two, and any person applying for the lease or occupation of

such

Balranald Irrigation.

such improved land shall pay to the Trust an amount equal to the value of the permanent improvements estimated as aforesaid, and this payment for improvements shall be paid to the outgoing lessee, less any expenses that may have been incurred in the transfer or valuation, and the said lessee shall give to the tenant a full discharge in writing upon receiving such payment.

Lawful for Trust, after expiration of three months, to reduce estimated value of improvements, and offer lease again.

56 Vic. No. 26, s. 24.

24. Should there be no application to lease such land when publicly offered in the manner specified in section twenty-three, then it shall be lawful for the Trust, after the expiration of three months from the date of its being first offered, to reduce the estimated value of the improvements to such an amount as the Trust decides upon, from time to time, and to publicly offer the lease again until the same is disposed of, but nothing contained herein shall bar or prevent the outgoing lessee from again applying for such lease.

Trust may contract to supply water for a term of years.

Ibid. s. 25.

25. Subject to the provisions of this Act, the Trust may enter into an agreement in writing with the owner or occupier 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 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 take from the Trust not less water in any year than the minimum quantity in such agreement specified, and 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. But 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 such owner or occupier shall pay for the water actually supplied to him at the price provided for in such agreement.

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

Ibid. s. 26.

26. 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, it shall be competent for the Trust to deliver to such persons such amount as the Trust may deem 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, and 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.

Balranald Irrigation.

27. No person supplied with water by the Trust shall have the right to transfer such supply, or any portion thereof, to any other person without the sanction of the Trust. And in all receipts given for water-rates paid to the Trust, and in all papers and documents referring to such rates, a note shall be entered to the effect that the right to any water supplied by the Trust is not transferable, save by permission of the Trust, given in writing.

Water-rights not transferable, save by permission of Trust.
56 Vic. No. 26, s. 27.

28. 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. 28.

29. (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. 29.

(2) If a right-of-way for a distributory channel, pipe, or conduit of any kind is 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.

30. 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. 30.

31. 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 must be constructed by the Trust.

Bridges to be built at road crossings.
Ibid. s. 31.

32. In the sale of water the Trust shall, as far as practicable, sell the water by measurement.

Water to be sold by measurement.
Ibid. s. 32.

33. (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.
Ibid. s. 33.

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

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

(3)

Balranald Irrigation.

(3) In addition to these rates, the Trust, subject to the sanction aforesaid, may fix a rate per acre on land so irrigated as aforesaid; and also when the measurement of water for irrigation is impracticable, may fix rates per acre for different crops grown, according to their nature; and where it is impracticable to measure water used by stock, the Trust may fix rates for all kinds of stock to which water is supplied at per head, according to the kind thereof.

Recovery of rates.

(4) All rates and moneys due to the Trust for water supplied and otherwise may be recovered in a summary way before any two justices by any person appointed by the Trust to collect and recover the same.

Power to make by-laws.

56 Vic. No. 26, s. 34.

34. The Trust may make by-laws in addition to these set out in the Second Schedule hereto—

- (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;
- (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 assessing property, and levying rates;
- (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;
- (f) to ensure bona fide settlement, improvement, and cultivation of land within the irrigation area, and all matters and things appertaining thereto.

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 proceedings whatsoever be sufficient evidence that such by-laws have been made, confirmed, and published as is herein required.

Governor may make regulations.

Ibid. s. 35.

35. The Governor may prescribe the form of lease to be used under this Act and also 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 with one month from the publication thereof if Parliament is then sitting, or within one month after the commencement of the session next ensuing.

Balranald Irrigation.

PART IV.

Loans.

36. 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.
56 Vic. No. 26, s. 36.

- (a) the lands and works vested in the Trust;
- (b) the proceeds of the sale of water by the Trust; and
- (c) the rates leviable by the Trust on the lands to be irrigated by the works of the Trust.

37. It shall not be lawful for the Trust to borrow money from any source or for any purpose without the sanction of the Governor. Sanction of Governor
for loans essential.
Ibid. s. 37.

38. 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, after making such inquiries as may be deemed necessary, submit the same, together with such recommendations as he may deem proper to the Governor, and thereupon the Governor may direct the granting of a loan to the Trust, subject to the same being first voted by Parliament, or may sanction the raising of a loan by the Trust. Application for loans.
Ibid. s. 38.
Governor may grant
loans.

39. (1) The aggregate amount of any loan raised by the Trust, together with the existing liabilities thereof shall not at any time exceed one half of the estimated value which the land and property of the Trust will possess on the completion of the works proposed to be constructed with the aid of such loan. Limit to loans.
Ibid. s. 39.

(2) Such estimated value shall be determined by the Minister.

40. When a sinking fund has been formed as hereinafter provided 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. 40.

41. Whenever the Trust has raised a loan under the provisions of this Act a sinking fund shall be formed to liquidate the same at such rate and in such manner as the Minister may, at the time of the granting or authorising of such loan, direct. Sinking fund for
each loan.
Ibid. s. 41.

42. The revenue derived from the sale of water and the rates levied in pursuance of the provisions of section thirty-three shall be applied as follows:— Rates, how
applicable.
Ibid. s. 42.

- (a) in payment of interest due in respect of loans;
- (b) in contributing to the sinking fund according to the rate fixed by the Minister;
- (c) for the maintenance and management of the works of the Trust; or
- (d) for the extension and development of such works.

Balranald Irrigation.

Separate account for each loan.
56 Vic. No. 26, s. 43.

43. The Trust shall keep a separate account of 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.

Return of expenditure to be presented to Parliament.
Ibid. s. 44.

44. 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.

Rate of interest with which Trust may be charged.
Ibid. s. 45.

45. The rate of interest which shall be fixed by the Governor as the rate chargeable upon any loan granted to the Trust may be one-half per centum higher, but in no case shall be more than one-half per centum higher than the rate per centum paid by the Government upon the public loan, out of which such loan has been granted to the Trust.

Improperly borrowing or appropriating.
Ibid. s. 46.

46. 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.

Change of name or boundaries not to affect agreements.
Ibid. s. 47.

47. If, with the sanction of the Governor, the boundaries of the irrigation area or the name of the Trust are 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.

Compensation for alteration of boundaries.
Ibid. s. 48.

48. If, by reason of the alteration of the boundaries of the irrigation area, any works or property, other than land, are taken from the Trust, compensation therefor shall be paid to the Trust; and any dispute in respect of the amount of compensation in such case shall be determined by arbitration according to the provisions of the Arbitration Act, 1902. 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.

Balranald Irrigation.

PART V.

Offences and penalties.

49. Whoever, without proper authority 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; Obstructing Government or Trust officers.
- (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; Interfering with marks. 56 Vic. No. 26, s. 49.
- (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; Depositing material on land belonging to Government or to Trust.
- (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; Polluting water.
- (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, 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.

50. 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 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. Wilful injury to works. Ibid. s. 50.

51. 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. Ibid. s. 51.

52. The penalties directed under the 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. 52.

53.

Balranald Irrigation.

Compensation to
injured parties.
56 Vic. No. 26, s. 53.

53. 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 by way of compensation to the Trust or the person or body, if any, injured by such person.

Offenders liable to
pay compensation as
well as penalty.
Ibid. s. 54.

54. 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
punishment under
other Acts.
Ibid. s. 55.

55. 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.

SCHEDULES.

FIRST SCHEDULE.

All that piece or parcel of land in the State of New South Wales, county of Cairns and parish of Balranald, area about two thousand acres: Commencing at the north-west corner of the permanent common of one thousand four hundred and sixty-four acres, dedicated twelfth January, one thousand eight hundred and eighty-three; and bounded thence on part of the east by part of the western boundary of that common bearing south about one hundred and ninety-six chains seventy-four links to a point east of the north-east corner of portion nine of ten acres one rood; on part of the south by a line west to that corner by the northern boundary of that portion, the northern boundaries of portions ten, eleven, and twelve of ten acres one rood each, and a line in all bearing westerly about forty-two chains to the eastern boundary of the suburban lands at Balranald, as proclaimed in the Gazette of twenty-second February, one thousand eight hundred and eighty-eight; on part of the west by part of that boundary bearing north about one hundred and one chains to the north-east corner of those suburban lands; on the remainder of the south by the northern boundary of the suburban lands aforesaid bearing west one hundred and fifty chains to the north-west corner of those suburban lands, being a point north of the north-east corner of portion fifteen of two hundred and ninety-two acres one rood; again on part of the west by a line bearing north about ninety-eight chains to a point west of the north-west corner of portion one hundred and twenty of three hundred acres, dedicated for a racecourse, twenty-first May, one thousand eight hundred and ninety-two; on part of the north by a line bearing east about one hundred and five chains to that corner; on the remainder of the east by the western boundary of that portion bearing southerly fifty chains to its south-west corner; again on part of the north by the southern boundary of that portion bearing easterly sixty chains to its south-east corner; and on the remainder of the west by the eastern boundary of that portion bearing northerly fifty chains to its north-east corner; and on the remainder of the north by a line bearing easterly about thirty chains, to the point of commencement.

Inscribed Stock.

SECOND SCHEDULE.

By-laws and regulations.

Not less than five acres and not more than forty acres shall be held by any one person.

No person under the age of eighteen years shall be allowed to lease land, and no married woman shall be allowed to lease land in her own right, separate from her husband.

Any land leased or rented from the Trust shall be substantially fenced by the occupier within twelve months from date of occupation.

Permanent improvements to the value of at least two pounds per acre shall be effected upon all holdings within three years from the first occupation of the same; this includes value of fencing, and improvements to the value of another two pounds per acre shall be made within the next ensuing two years, that is five years from date of occupation.

Within two years from occupation one-third of the area occupied shall be put under cultivation, and within three years from date of occupation, at least one-half of the area shall be put under cultivation; and after that date, at no time during occupation, shall less than this area be kept under cultivation.

An inspector shall be appointed by the Trust to see that all conditions and improvements are faithfully carried out.
