

## Act No. 41, 1897.

**ARTESIAN WELLS.** An Act to provide for the construction of Artesian Wells and works in connection therewith; and to authorise charges to be levied in respect of the same; and for other purposes incidental thereto. [10th December, 1897.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Constitution of districts and construction of work on petition of occupiers.

1. (i) The Governor may notify in the Gazette any proposal for the construction by the Crown of any artesian well, and for the conservation and supply of the water flowing from such well, together with an estimate of the cost of the same; and after such notification the Minister may refer any such proposal to the land board for the land district within which the proposed work would be situate, or to a land board for a land district adjacent thereto; and it shall thereupon become the duty of such land board to forward a report to the Minister describing the land which, in the opinion of the board, would be benefited by water from the proposed well and should be included in any district to be constituted in respect of the said work; and upon receipt of such report the Minister may, by notification in the Gazette, declare the land so described to be a district within which the charges hereinafter in this section mentioned may be levied.

If, after such last-mentioned notification, a petition in favour of the proposal of the Minister is presented to the land board signed by persons—

(a) who constitute a two-thirds majority of the total number of those owning or occupying or being mortgagees of land within the district; and

(b) who own or occupy or are mortgagees of an area exceeding two-thirds of the total area within the district,

the board may report to the Minister recommending that the proposal be carried out.

Thirty days after the receipt of a report to that effect the Minister may carry out the work with funds legally available for the purpose unless an appeal to the Land Appeal Court affecting the same is pending, in which case the carrying out of the work shall be stayed until the appeal is decided: Provided that any such work shall be subject to the provisions of the Public Works Act of 1888.

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(II) Upon the work being completed the Minister may direct the land board to assess the charges to be paid by each occupier of land within the district notified as aforesaid, which charges shall not exceed the yearly value to each occupier of the direct benefit accruing to his land from the construction of the well and from the supply to the said land of water from the well: Provided that the total of such charges shall not exceed six pounds per centum of the cost to the Crown of the construction of the work. Charges to be assessed and levied.

Any charges so assessed shall be payable, at the times and in the manner prescribed, into the Consolidated Revenue Fund: Provided that on the petition of persons liable in the aggregate to pay one quarter of the total amount of the charges, or at the request of the Minister the land board shall make a fresh assessment of the charges to be paid. Any report, recommendation, or decision of a land board under this Act shall be subject to an appeal or reference to the Land Appeal Court in the manner prescribed by the Crown Lands Act of 1884, or any Act amending the same, or any regulations made thereunder. The decision of the said Court shall be final.

2. (I) If the occupiers, owners, or mortgagees of any lands in writing request the Minister to construct an artesian well for the purpose of supplying water to their lands, and consent to pay any charges which may be levied in respect of the same, the Minister may, if he approve of the request, construct the well and such channels and other works for the supply of the water as he may think fit, with funds legally available for the purpose: Provided that the work shall be subject to the provisions of the Public Works Act of 1888. Minister may at request of occupiers construct well and channels.

(II) Upon the work being completed, the Minister may direct the land board of the land district within which the work is situate to assess the charges to be paid by each occupier of any of the said lands, which charges shall not exceed the yearly value to each occupier of the direct benefit accruing to his land from the construction of the well, and from the supply to the said land of water from the well, deduction being made for the probable cost of the maintenance of the channels and works as hereinafter provided. But the total of such charges shall not exceed six pounds per centum of the cost to the Crown of the construction of the work aforesaid. Charges to be assessed and levied.

All charges so assessed shall be payable at the times and in the manner prescribed into the Consolidated Revenue Fund: Provided that on the petition of persons liable in the aggregate to pay one-half of the total amount of the charges, or at the request of the Minister the land board shall make a fresh assessment of charges to be paid.

(III) It shall be the duty of each occupier of any of the said lands, and if any of the said lands should at any time be unoccupied, it shall be the duty of the owner thereof to maintain in good repair and in efficient condition such channels and other works in connection therewith. Occupiers to keep channels in repair.

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therewith as have been constructed through his land ; and any occupier or owner who fails to comply with the provisions of this subsection shall be liable to a penalty not exceeding fifty pounds.

Minister may require compliance with last subsection.

(iv) The Minister, or any person appointed by him in that behalf, may, on being informed of any failure by an occupier or owner to comply with the provisions of the last preceding subsection, require the occupier or owner by notice in writing served on him to effect such repairs, and do such things as he may consider necessary in order to put the channel in an efficient condition. If the occupier or owner for one week after receipt of the notice fails or neglects to comply therewith it shall be lawful for the Minister to cause such repairs and things as aforesaid to be effected and done, and recover from the occupier or owner as the case may be in any Court of competent jurisdiction the expenses thereby incurred.

Charges and expenses a charge on land.

3. All charges and expenses payable under the authority of this Act shall be a charge on the land in respect of which they were payable.

Punishment for wilful destruction of work.

4. (i) Any person who wilfully cuts, breaks, or destroys, or damages, with intent to destroy or render less useful, any work constructed under the authority of this Act shall be liable for all damage and loss sustained by such act, and shall be in addition liable to be fined any sum not exceeding one hundred pounds, or to be imprisoned for any term not exceeding six months.

Penalty for obstruction or diversion of water.

(ii) Any person who wilfully and wrongly obstructs or diverts the flow of water in any channel constructed under the authority of this Act shall be liable to a penalty not exceeding fifty pounds.

Governor may make regulations.

5. The Governor may make regulations—

- (a) for levying and collecting the charges payable under the authority of this Act ; and
- (b) for regulating the supply and use of water from any well constructed under the authority of this Act ; and
- (c) for prescribing the steps to be taken in order to maintain the bores and channels in good repair and in efficient condition ; and
- (d) for carrying out the provisions of this Act.

And may in those regulations impose any penalty not exceeding fifty pounds for any breach of the same.

All regulations on being published in the Gazette shall have the force of law, and shall within fourteen days thereafter be laid on the table of each House of Parliament, if Parliament be then in session, but if not, then within fourteen days after the next meeting of Parliament.

Recovery of penalties.

6. Charges and expenses payable under and penalties imposed by this Act or by any regulations made thereunder may be recovered before a police or stipendiary magistrate or any two justices of the peace in petty sessions.

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*(Consolidated Fund) Appropriation.*

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7. In this Act "Governor" means Governor with the advice of the Executive Council; "Artesian Well" includes an artesian well from which the water does not flow naturally, but has to be raised by pumping or other artificial means; and "Minister" means the Secretary for Mines. Definitions.

8. This Act may be cited as the "Artesian Wells Act, 1897." Short title.

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