

T A S M A N I A.



1860.

ANNO VICESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 30.



AN ACT to carry out certain Resolutions of the House of Assembly affecting Mr. *Abbott's* Claim for 165 Acres of Land. [4 October, 1860.]

WHEREAS on the 16th *September*, 1859, the House of Assembly resolved:— PREAMBLE.

- 1st. That the Sheriff or his Deputy shall summon to attend at the Court House, *Hobart Town* or *Launceston*, at the option of Mr. *Abbott*, Twenty-one unpaid Jurors, out of which Seven shall be chosen by lot to try the issue whether Mr. *Abbott* has an equitable claim to 165 Acres of Land (part of 210 Acres of Land formerly claimed by him on the Swamp, *Launceston*).
- 2nd. That the said Seven Jurors shall be sworn to do justice between the Crown and Mr. *Abbott*, and proceed therein and there to try the issue; and in the event of the Arbitrators finding by a majority that Mr. *Abbott* was entitled to the said Land, they shall then proceed to decide the value of the said Land not exceeding the sum of £5000.

In order to give effect to the said Resolutions: Be it enacted by His Excellency the Governor of *Tasmania*, by and with the consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 The Sheriff of *Tasmania* shall, within Fourteen days after a written Requisition of Mr. *Edward Abbott*, to be made within Nine months after the passing of this Act, for that purpose, summon from the list of Jurors for the trial of cases by Special Juries Twenty-one persons, Sheriff to summon Jury within fourteen days.

whose names shall be next in order of rotation, to serve as Special Jurors after the last trial of Civil Issues at *Hobart Town* or *Launceston*, according as Mr. *Abbott* shall require the case to be tried at *Hobart Town* or *Launceston*, to attend at the Court House at *Hobart Town* or *Launceston*, as the case may be, on the Twenty-first day from the date of the Requisition ; and should such Twenty-first day be a *Sunday*, then on the *Monday* following.

Sheriff to take
Seven Jurors by
lot.

2 Upon the attendance of such Jurors, the Sheriff or his Deputy shall proceed to draw out from the jury-box the cards one after another until Seven Jurors appear, in the same manner as is provided by the Seventh Section of *The Special Jury Act* to be done by the Clerk or other Officer of the Court.

Jurors to be
Arbitrators.

3 The Seven Jurors who shall be so drawn as hereinbefore provided shall be Arbitrators to determine the right or claim of Mr. *Abbott* to 165 Acres of Land, part of 210 Acres of Land formerly claimed by him on the Swamp, *Launceston*, and shall have full power to decide such claim or right, and to adjust and determine the Compensation to be paid to Mr. *Abbott* for the same.

Jurors to be
sworn.

4 Before proceeding upon the matter hereby referred to the Arbitrators, the Sheriff or his Deputy is hereby authorised to administer, and shall administer, to each of the said Arbitrators, who are hereby required to take the same, the following Oath:—"I will do justice between the Crown and Mr. *Abbott*—So help me God."

Jurors to be guided
by equity and
good conscience.

5 In the investigation of the claim of Mr. *Abbott* the Arbitrators shall be guided by equity and good conscience only, and by the best evidence that can or may be procured, although not such as would be required or be admissible in ordinary cases ; and shall not be bound by the strict rules of Law or Equity, or by any technicalities or legal terms whatever.

Power of Arbitrators.

6 The Arbitrators shall have such and the same power and authority as Arbitrators appointed by the Supreme Court ; and the award to be made by the said Arbitrators shall be final, and no Rule of Court shall be necessary to give effect to the same : Provided, that the Arbitrators shall not have power to award any larger sum than Five thousand Pounds as Compensation to Mr. *Abbott* in any event.

Award of majority.

7 In case of any difference between the Arbitrators the award shall be made by the majority.

Award to be made
within three
months, and sent
to Colonial Secretary
and Mr.
Abbott.

8 The Arbitrators shall make their award in writing within Three months from the day of their first sitting to hear the matters referred to them by this Act, and shall sit *de die in diem* until they have made their award, *Sundays* excepted ; and, after making their award, shall furnish One copy thereof to the Colonial Secretary and One to Mr. *Abbott*.

Compensation of
Arbitrators.

9 Every Arbitrator shall be entitled to receive such and the same Compensation for his attendance as is provided for a Special Juror under the Twelfth Section of *The Special Jury Act*.

Payment of
money awarded,
and finality of the
award.

10 The award to be made by the Arbitrators shall be in the form or to the effect set forth in the Schedule of this Act ; and if the Arbitrators shall award any sum of money to be due to Mr. *Abbott*, the same

shall be paid to him by the Colonial Treasurer out of any moneys in his hands, and this Act shall be his warrant for paying the same ; and if the Arbitrators shall award that Mr. *Abbott* is not entitled to the 165 Acres hereinbefore mentioned, and that no Compensation is due to him in respect thereof, his claim to the same shall be, and is hereby, barred and extinguished for ever.

11 In referring to this Act it shall only be necessary to use the words Short Title. *Abbott's Land Claim Arbitration Act.*

SCHEDULE.

IN case the Arbitrators, or the majority of them, shall by their Award decide that Mr. *Abbott* has no claim to the One hundred and sixty-five Acres of Land, part of Two hundred and ten Acres of Land formerly claimed by him on the Swamp, *Launceston*, the Award shall be as follows, or to the like effect :—

We find that Mr. *Abbott* has not made out his Claim to the One hundred and sixty-five Acres of Land on the Swamp, *Launceston* ; and that he is not entitled to any compensation in respect thereof.

A. B.
C. D.

Majority of Arbitrators, or the whole, as the case may be.

In case the Arbitrators, or the majority of them, shall by their Award decide that Mr. *Abbott* has a claim to the One hundred and sixty-five Acres of Land, part of the Two hundred and ten Acres of Land formerly claimed by him on the Swamp, *Launceston*, the Award shall be as follows, or to the like effect :—

We find that Mr. *Abbott* has made out his Claim to the One hundred and sixty-five Acres of Land on the Swamp, *Launceston* ; and that he is entitled to the sum of £ as Compensation in lieu thereof.

A. B.
C. D.

The majority of the Arbitrators, or the whole, as the case may be.

