

T A S M A N I A.



1875.

ANNO TRICESIMO-NONO

VICTORIÆ REGINÆ,

No. 12.

AN ACT to amend "The Hobart Town Rivulet Improvement Act." [30 September, 1875.] A.D. 1875.

WHEREAS by the operation of "The Hobart Town Rivulet Improvement Act," and *The Hobart Town Corporation Act*, the said Rivulet and the bed and soil thereof, within the boundaries of the City of *Hobart Town*, are vested in "The Mayor, Aldermen, and Citizens of the City of *Hobart Town*," and power is given to the Municipal Council of the said City to use such Rivulet as a Common Sewer, and to cleanse the same from time to time, and to remove all obstructions therefrom:

PREAMBLE.  
18 Vict. No. 16.  
21 Vict. No. 14.

And whereas from the insufficiency of the provisions of the principal Act such powers have not hitherto been fully exercised by the said Council, and from the accumulation of sewerage matter in the said Rivulet injury is likely to arise to the health of many of the inhabitants of the said City, and from time to time great loss and damage has been done to the property of the inhabitants of the said City by reason of floods which have been caused or aggravated by the presence of obstructions in the bed of the said Rivulet which ought to be removed:

And whereas it is desirable to extend the powers of the principal Act, and it is therefore expedient to amend the same:

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:—

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Interpretation.

**1** In this Act:

“Owner” shall have the meaning assigned to such word in the Fourth Section of *The Police Act*, 1865.

“Abutting” shall apply as well to lands now abutting on the said Rivulet as also to lands which by the widening or altering of the said Rivulet shall hereafter abut on the same Rivulet as so widened or altered.

“The principal Act” means “The Hobart Town Rivulet Improvement Act.”

Municipal Council authorised to have bed of Rivulet cleansed.

**2** The Municipal Council of the City of *Hobart Town* is hereby authorised to take all necessary steps for cleansing the bed or channel of the *Hobart Town Rivulet*, and for removing all obstructions therefrom, and for repairing and maintaining the banks or walls of the said Rivulet, so as to secure an uninterrupted flow for the water and sewerage matter which may flow or be in the said Rivulet; and the said Council shall perform such works in such a manner, as far as practicable, so as to prevent further injury to the health of the inhabitants of the said City, caused by the noxious emanations arising from the accumulations of sewerage matter now existing or which may hereafter exist in the said Rivulet, and so as to prevent future damage accruing to life or property from the overflowing of the waters of the said Rivulet, caused or aggravated by the presence in the bed of the said Rivulet and upon the banks thereof of obstructions to such flow of water as aforesaid; and for the like purposes the said Council shall from time to time thereafter keep the bed of the said Rivulet clear of such obstructions and free from such accumulations of sewerage matter as are hereinbefore referred to.

Expense of retaining walls to be borne by owners of lands abutting on Rivulet.

**3** Whenever the said Municipal Council shall see fit so to do, they shall be at liberty to call upon the owners of lands abutting upon the said Rivulet from time to time to erect, re-erect, or repair retaining walls of or with brick, stone, or other suitable material so as to support and uphold the banks of the said Rivulet, and of such height and thickness as the said Municipal Council may deem necessary; and if the owners of any land abutting upon the said Rivulet neglect during Fourteen days after notice in writing for that purpose, signed by the Town Clerk, to commence to erect, re-erect, or repair, or cause to be commenced to be erected, re-erected, or repaired, or shall neglect to complete within a reasonable time after such notice along and upon the banks of the said Rivulet such retaining walls aforesaid in the manner required by the Municipal Council, the said Council may cause such retaining walls to be so erected, re-erected, or repaired along and upon the banks of the said Rivulet in such manner as the said Council may deem necessary; and for the purposes of the erection or re-erection of such retaining walls or repairing the same the said Council, their agents, servants, and workmen, may enter upon any lands abutting on the said Rivulet without making any compensation therefor, and the expense incurred by the said Council in respect thereof shall be repaid by the owners of such lands by whom the same ought to have been done; and if such owner refuses or neglects to pay such expense within One month after the same has been demanded, such expense shall be recovered in the same way as any Municipal Rate is now recoverable.

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by law ; and such retaining walls shall afterwards be repaired and kept in repair by the owners of the abutting lands ; and such retaining walls shall in every case be erected, re-erected, and repaired respectively under the supervision and to the satisfaction of the City Surveyor. A.D. 1875.

4 From and after the commencement of this Act it shall not be lawful for the owner of any land abutting on the said Rivulet to erect any fence or retaining wall along that portion of his land which abuts on the said Rivulet without the permission in writing of the City Surveyor first obtained for any such purpose, except such owner has received the notice hereinbefore mentioned ; and the said Council may pull down and remove any fence or wall erected and abutting on the said Rivulet which, in the opinion of the City Surveyor, is erected in such a manner as to contravene the provisions or objects of this Act or the principal Act ; and in any such case the said Council may proceed to erect a retaining wall under the provisions of this Act. Owner must not erect wall without sanction of City Surveyor.

5 Any retaining wall to be erected under this Act may be erected either wholly on the bed of the said Rivulet or wholly on the land of the abutting owner, or partly on the bed of the said Rivulet and partly on the land of such abutting owner, as the Council or the City Surveyor may decide ; but no compensation shall in any case be payable to the said abutting owner for the land upon which the said retaining wall or any part thereof may be built. On what land wall may be built.

6 If any building, wall, fence, or other thing, erected, standing, or being upon any land abutting on the said Rivulet is deemed by the City Surveyor to be likely to fall into or obstruct the flow of water in the said Rivulet, he shall, by notice in writing served personally upon the owner of such land, or posted to or left at his last known place of abode in *Tasmania*, require the owner of such land within Seven days after service of such notice to remove such building, wall, fence, or thing, or otherwise to prevent the same from falling into or obstructing the flow of water in the said Rivulet ; and in case the owner of such land is not known or cannot be found, then the said Surveyor shall serve a like notice in like manner upon the occupier of the said land ; and if after the expiration of the said period of Seven days the requirements of such notice have not been complied with, then it shall be lawful for the said Surveyor to enter into and upon the said land with such workmen as may be necessary, and forthwith to remove such building, wall, fence, or thing, or otherwise to prevent the same from falling into or obstructing the flow of water in the said Rivulet ; and the necessary expenses incurred in and about the same may be recovered in the same way as any Municipal Rate is now recoverable by law ; and where any sum of money is paid by any occupier, the same may be deducted from or set off against the rent then due or thereafter to become due to his landlord. Ruinous buildings and fences, &c. to be removed by the owner ; after notice Surveyor may remove same.

7 When and so often as any building, wall, or fence, or any part thereof shall fall into the said Rivulet, or obstruct the flow of water in the same, such building, wall, or fence, and the materials thereof, shall forthwith after notice requiring him so to do has been served upon him by the City Surveyor, be removed by the owner thereof, and if the owner shall not remove the same within Three days after service of such notice upon him, the expense of removing the same by the Removal of obstructions in Rivulet.

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said Surveyor shall be defrayed by the owner of such building, wall, or fence, and if the same is not paid upon demand the amount shall be recoverable in the same way as any Municipal Rate is recoverable by law.

Where the owner of such building, wall, or fence is not known or cannot be found, then the occupier of the land whereon such building, wall, or fence was erected, built, or placed shall be liable to remove such obstruction, or to defray the cost of removing the same.

Acts to be read  
together.

8 This Act and the principal Act shall, save as altered by this Act, be read and construed together as one Act.

Short title.

9 This Act may be cited as "The Hobart Town Rivulet Improvement Act, No. 2."