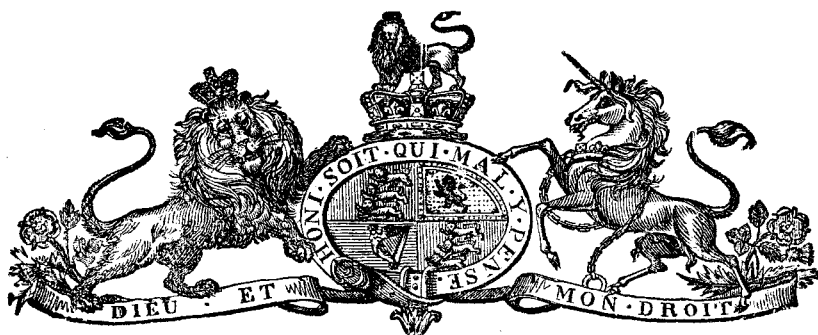


T A S M A N I A.



1867.

ANNO TRICESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 22.



AN ACT to facilitate the Construction of Local Public Works. [11 October, 1867.]

WHEREAS it is expedient to declare and define the terms upon which assistance will be granted towards the construction of Public Works : 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 :—

PREAMBLE.

1 "Work" shall mean and include Railways, Tramways, Bridges, Irrigation and Drainage Works, Jetties, Breakwaters, Works for the supply of water to Towns, and other works.

Interpretation. "Work."

"Occupier" shall mean a Leaseholder having at least Five Years of his Lease unexpired.

"Occupier."

2 The owners or occupiers of property in any part of *Tasmania*, desirous of obtaining assistance in the construction of any work on the terms hereinafter mentioned, may petition the Governor in Council to proclaim such part of *Tasmania* as may be described in such petition, and within which such work is to be constructed, a District for the purposes of this Act, in order to claim assistance in manner herein provided for the construction of any work within such District ; and the Governor in Council may, if he sees fit, proclaim such District or any part thereof to be a District within the provisions of this Act.

Petition for proclamation of District.

3 Upon any District being so proclaimed, a majority of the owners and occupiers of property situate within such District, whose votes shall

Petition for assistance.

Local Public Works.

be calculated in the same manner as if they were voting for the election of Road Trustees within such District, may, by petition to the Governor in Council, seek the benefit of this Act in the construction of any work within such District, and such Petition shall be published in the *Gazette*; and if a counter petition from more than One-third of such owners and occupiers as aforesaid, whose votes shall be so calculated as aforesaid, is received by the Governor before the expiration of Six weeks from the publication of such petition, the prayer of such petition shall not be granted.

Plans and specifications, &c. being furnished, Governor in Council may declare that works shall be constructed.

4 If no such counter petition is received within the time aforesaid, then the Governor may, if he sees fit, require the plans and specifications of such work to be furnished, and may require the report of a competent Engineer upon such work; and upon the Governor in Council being satisfied that such work is one of public benefit and utility, and that the same can be constructed for a specified amount, and that a rate of not more than One Shilling and Sixpence in the Pound on the annual value of property within the District would be sufficient to comply with the terms of this Act, he may, if he sees fit, declare that the proposed work shall be constructed under the provisions of this Act: Provided that in no case shall the cost of any such work exceed Fifty thousand Pounds.

Limit of cost.

Election of Promoters.

5 At any time after it has been declared that a work shall be constructed within any District under the provisions of this Act, then it shall be lawful for the owners and occupiers of property within such District, at a time and place to be named by the Governor, and of which Twenty-one days notice shall be given in the *Gazette*, to elect Five persons to be the Promoters, and they are hereby declared to be the Promoters for all purposes of the said work; and such election shall be held in the same manner that elections for Road Trustees are now held, and all vacancies amongst the Promoters shall be filled, and the retirement and annual election of new Promoters shall take place, as if they were Road Trustees.

Promoters to have control, &c. of work.

6 The Promoters of any work shall have the sole control and management of the construction and maintenance thereof.

The contract for the work being approved the Colonial Treasurer may pay moneys due in respect thereof.

7 Before the construction of any work is commenced the contract for the same shall be approved by the Governor in Council, and thereupon it shall be lawful for the Colonial Treasurer, out of moneys to be provided by Parliament for that purpose, from time to time, to pay such sums as may become due for and in respect of the construction of such work, but so that in every case a sum of Twenty-five Pounds per centum on the value of the work done be retained until the completion of the same; and no payment shall be made by the Colonial Treasurer without a certificate first obtained from the Director of Public Works, or such other person as the Governor may appoint for that purpose, of the value of the work performed, and that the same is performed in accordance with the terms of the contract.

Money to be repaid by District.

8 The money so expended shall be repaid by the District in which such work is to be constructed, to the extent and in manner hereinafter provided.

Rate on property in District.

9 So soon as it may be necessary to provide funds to meet any interest coming due on Debentures which may have been issued in respect of the construction of any work under this Act, there shall be made and

Local Public Works.

levied such a Rate upon the annual value of the property in the District in which such work is constructed or being constructed as will pay as nearly as may be interest on the amount raised by sale of such Debentures as aforesaid, at the rate of Six Pounds per centum per annum, clear of all deductions in respect of costs of collection and otherwise.

10 The amount of such Rate shall be annually fixed by the Promoters until the amount of Debentures and interest is satisfied, as herein provided, and the Rate so fixed shall be made and levied yearly as if the same were a Road Rate, and the District in which it is to be levied were a Road District; and for the purposes of making and levying such Rate the provisions of *The Cross and Bye Roads Act, 1860*, shall be incorporated with this Act; and the Promoters shall have in respect of the said Rate the same powers as Trustees of a Road District have in respect of making and levying Rates under the said Act; and the annual value of property within such District shall be the annual value thereof as ascertained by every Assessment Roll or Valuation Roll in force for the District in which such property is situated, subject to such variations therein as may be made from time to time by a Commissioner or Commissioners to be appointed for that purpose by the Governor; and such Commissioner or Commissioners shall from time to time vary such Assessment and Valuation Rolls with reference to the advantage conferred by any work constructed under this Act upon the several properties within the District in which such work is to be constructed; and all rates shall be made and levied in accordance with the value of the properties when so ascertained.

Amount and mode of levying Rate.

11 The amount raised by every such Rate shall be paid into the Colonial Treasury; and of the said amount One-sixth shall be reserved as a Sinking Fund, and the remaining Five-sixths thereof shall be applied in part payment of the interest on the Debentures issued in respect of the said work, and the balance of such interest shall be paid out of the General Revenue.

Application of Rates.

12 The profit, if any, derived from any such work shall be paid into the Colonial Treasury; and if the amount so paid in any year is less than the amount hereinbefore authorised to be raised by such Rate the same shall go in reduction of the next annual Rate to be made and levied. If in any year the amount of profit paid into the Colonial Treasury is equal to or exceeds the amount authorised to be raised by such Rate, so much thereof as is necessary shall be applied in payment of the proportion of the annual interest which but for the realization of such profit would have to be paid out of the next year's Rate, and the remainder shall be carried to the Sinking Fund; and no Rate shall be again levied so long as the annual amount of profit paid into the Colonial Treasury, and not hereinbefore appropriated, shall be sufficient to pay the annual amount which is by this Act authorised to be annually raised.

Disposal of profits of work.

13 The amount so reserved as a Sinking Fund shall be carried in the books of the Colonial Treasury to the joint account of the Colonial Treasurer and the Commissioner of Crown Lands for the time being, who shall be Commissioners for the investment and management of the said Fund, and the same shall from time to time be invested by the said Commissioners in Debentures of the Government of *Tasmania* and not otherwise; and when the amount of Debentures purchased by any such Fund equals the amount of Debentures issued for the work in respect of which such Fund has accumulated, the debt in respect of such work shall

Sinking Fund.

Local Public Works.

be deemed to be extinguished, and no further Rate shall be made upon the District in which such work was constructed in respect of such work, and the work shall thereupon become the property of the District.

If Promoters fail to pay money into Treasury in respect of work, Governor may raise it by a Rate.

14 If in any year the Promoters fail to pay into the Colonial Treasury in respect of any work in any District an amount sufficient to comply with the provisions of this Act in respect of such work, then the Governor shall by a Rate on the property in such District levy and raise such amount as aforesaid; and the Governor shall have the same powers as are hereby conferred on the Promoters for making and levying a Rate to raise such amount.

Timber may be taken from uncultivated land upon making compensation.

15 It shall be lawful for the Promoters, after Fourteen days' notice to the owner or occupier, to enter upon any uncultivated land, and to cut down and to carry away all such indigenous timber as may be required for constructing or completing any of the works, or any other of the purposes of this Act, making full compensation for such timber to the owner of the land: Provided, that it shall not be lawful for the Promoters to cut down any such indigenous timber where it is made to appear to their satisfaction that the same has been, and is intended to be, reserved and used by the owner or occupier of the land for the purpose of ornament or shelter: Provided also, that when such timber is cut down, the Promoters shall, if required to do so, cause to be cleared away or burnt all such parts of the timber as are not necessary for the purposes of the Promoters.

Materials may be taken from land upon making compensation.

16 Where it is deemed necessary to obtain materials for the repair or construction of any of the works, or any other of the purposes of this Act, from any land, it shall be lawful for the Promoters, after Seven days' notice to the owner or occupier, to enter upon such land, and to dig, quarry, and carry away all such materials as may be required for any such purpose, making full compensation to all parties interested for the material taken, and the damage thereby sustained.

Promoters may take land.

17 The Promoters of any work may enter upon and take such land as may be necessary for the construction of such work in the mode prescribed by *The Lands Clauses Act*, which is hereby incorporated with this Act; and the compensation for taking indigenous timber from uncultivated land, or materials from any land, for the purposes of this Act, shall be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

Ascertainment of compensation.

Proceedings by or against Promoters.

18 In all proceedings, civil or criminal, it shall be sufficient to describe the property in any such work as the property of "The Promoters of" such work, describing such work in general terms; and all proceedings at law or in equity may be had and taken by or against the Promoters of any such work under the name of "The Promoters of" such work, describing the same in general terms, and no action or suit shall abate by reason of any change taking place in the persons constituting such Promoters.

Regulations.

19 At any time after the commencement of any of the works to be constructed under this Act, it shall be lawful for the Promoters with the consent of the Governor in Council to make Regulations, and from time to time to alter or rescind the same,—

For regulating the manner and terms on which the public shall use and enjoy any works constructed under the authority of this Act:

Local Public Works.

For suspending the use thereof for the purpose of alterations or repairs :

For fixing the amount of Fares for the conveyance of passengers, and the charges for the carriage of animals and goods, upon any Railway or Tramway constructed under the authority of this Act :

For fixing the amount of Tolls upon passengers, animals, and vehicles using any Roads or Bridges constructed under the authority of this Act :

For preventing any damage or injury to any of the works :

For regulating generally the travelling and traffic upon or along any of the works, and for the maintenance of good order thereon and along.

20 Every such Regulation shall be binding in respect of any such work whether complete or incomplete, and shall be published in the *Gazette* ; and the production of a copy of the *Gazette* purporting to contain any Regulation made under the provisions of the said Act or this Act shall be received in all Courts as *primâ facie* evidence of such Regulation. Regulations to be published.

21 Every person who offends against any such Regulation shall, upon conviction thereof before any Two Justices of the Peace in the manner prescribed by *The Magistrates Summary Procedure Act*, forfeit and pay a sum not exceeding Fifty Pounds for each offence. Breach of Regulations.

22 This Act may be cited as “The Local Public Works Act, 1867.” Short title.

