

TASMANIA

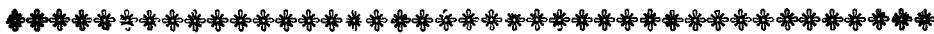


1880.

ANNO QUADRAGESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 32.



AN ACT to provide for the Construction and Execution of certain Public Works. A.D. 1880.

[1 November, 1880.]

BE it 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 :—

**1** In this Act, unless the context otherwise determines— Interpretation.  
“The Minister” means the Minister of Lands and Works for the time being, and includes any person appointed by him or acting under his orders.

**2** It shall be lawful for the Minister to cause to be constructed, completed, improved, or executed, the several Works mentioned in the Schedule at a cost for each separate Work not exceeding the amounts set forth in the said Schedule respectively. Minister to cause Works to be constructed.

**3** The cost of the several Works specified in the Schedule shall be defrayed out of the moneys to be provided by Parliament for that purpose. Defrayment of cost of Works.

**4** For the purpose of constructing and completing the several Works mentioned in the Schedule, the Minister is hereby empowered to purchase and take, in the mode prescribed by *The Lands Clauses Act*, such land as he deems necessary; and, subject to the provisions of this Act, *The Lands Clauses Act* shall be incorporated with this Act; and, for the purposes of such incorporation, the Minister shall be deemed to be the promoter of the several undertakings. Purchase of land for constructing, &c. Works.

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- A.D. 1880. **5** All contracts and other instruments for the purchase, conveyance, or transfer of any land for the purposes of this Act shall be made by, to, and with the Minister, who shall be described in such cases by the name of "The Minister of Lands and Works for the time being" without otherwise naming him; and he shall hold all such land to and for the use of Her Majesty, Her Heirs and Successors; and every such contract and other instrument shall be valid and effectual notwithstanding any change in the person who is the Minister, and may be enforced against the Minister for the time being.
- Contracts for purchase of land to be made by Minister who shall hold same for Her Majesty.
- Deeds not liable to Stamp Duty. **6** No deed or other instrument made by, to, or with the Minister for the purchase, conveyance, or transfer of any land for the purposes of this Act shall be subject to any Stamp Duty now or hereafter imposed by any Act.
- Entry upon land. **7** Whenever it is intended to take any Land for any of the purposes of this Act, it shall be lawful for the Minister, after Seven days' notice served upon the occupier, to enter upon any land and to stake out the same in such manner as the Minister thinks necessary or expedient; and if any person wilfully pulls up, removes, or destroys the stakes or other marks used for the purposes aforesaid, every person so offending shall, for every such offence, incur a penalty not exceeding Fifty Pounds.
- Renting land. **8** It shall also be lawful for the Minister to contract and agree with the persons interested in any land for the demise of such land for the purpose of obtaining materials from such land for any of the purposes of this Act.
- Timber may be taken from uncultivated land upon making compensation. **9** It shall be lawful for the Minister, after Twenty-one days notice to the owner or occupier, to enter upon any uncultivated land, and to cut down and carry away all such indigenous timber as may be required for any of the purposes of this Act, making full compensation for such timber to the owner of the land: but it shall not be lawful for the Minister to cut down any such indigenous timber where it is made to appear to his 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.
- Materials may be taken from land upon making compensation. **10** Where it is deemed necessary to obtain materials for the construction or repair of any of the said Works, or any other of the purposes of this Act, from any land, it shall be lawful for the Minister, after Twenty-one 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.
- Compensation for timber and materials how to be ascertained. **11** 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.
- In estimating compensation to be paid for land taken, benefit to owner to be considered. **12** Notwithstanding anything in *The Lands Clauses Act* contained, in estimating the amount of compensation to be paid to any person for land taken for any of the purposes of this Act, the arbitrators or umpire shall take into consideration the benefit that is likely to accrue to the person whose land is about to be so taken from the construction of any

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Work mentioned in the Schedule, and the arbitrators or umpire, in awarding compensation to be paid for taking such land, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the arbitrators or umpire that the benefit likely to accrue to the person in respect of any such Work is equal to or greater than the loss he will sustain by reason of the taking of his land for such Work, the arbitrators or umpire may award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid. A.D. 1880.

**13** Where the Minister gives notice of his intention to take land for any of the purposes of this Act, and the compensation in respect thereof is determined as in cases of disputed compensation, if the Minister deems it inexpedient to pay the amount of compensation so determined, he may, within Twenty-one days after notice of the amount of compensation so determined on, withdraw the first-mentioned notice on payment of all the costs of reference and award. If compensation excessive Minister may give up land.

**14** Notwithstanding anything to the contrary contained in this or any other Act, if either party is dissatisfied with the award of the arbitrators where the sum awarded for compensation exceeds the sum of Fifty Pounds, and either party desires to have the compensation settled by a Judge of the Supreme Court, and shall, within Ten days after the making of such award and notice thereof, signify such desire by notice in writing to the other party, then the amount of such compensation shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose; and such Judge may also in his discretion make any order as to the person by whom the costs of such proceedings shall be borne. If either party to an award is dissatisfied therewith a Judge of the Supreme Court may decide thereon.

Where the party dissatisfied with the award gives notice to the other party as aforesaid, then such award shall not be made a Rule of Court until such Judge by an order in writing under his hand determines the matter in dispute.

**15** All rules made or to be made by the Judges of the Supreme Court under the Eleventh Section of "The Main Line of Railway Amendment Act, No. 2," shall be applicable to any proceedings taken under the last preceding Section of this Act. Rules made under Sect. 11 of 36 Vict. No. 19 to be applicable.

**16** This Act may be cited as "The Public Works Construction Act, 1880." Short title.

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**SCHEDULE.**


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**JETTIES.**

	£	s.	d.	£	s.	d.
Circular Head and Extension.....	..			600	0	0

**TELEGRAPHS.**

Launceston to Beaconsfield.....	700	0	0			
Latrobe to Sheffield.....	250	0	0			
Sorell to Dunally.....	500	0	0			
				<u>£1450</u>	<u>0</u>	<u>0</u>

**SURVEYS AND TRACKS.**

Mount Bischoff to Pieman River and Macquarie Harbour	1000	0	0			
Leading Tracks to facilitate Exploration for Minerals....	1000	0	0			
				<u>£2000</u>	<u>0</u>	<u>0</u>