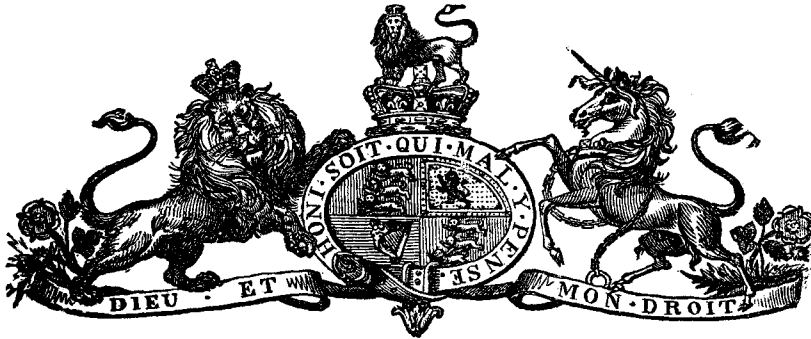


T A S M A N I A.



1857-8.

ANNO VICESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 35.

*see 30 O. 11012
Jan. 64 30 O. 11012
31 O. 11031
42 O. 1106*

AN ACT for levying a Police Rate in Country Districts. [25 February, 1858.]

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 For the purpose of raising a sum of money in aid of the Police Expenditure for the Country Districts for the year 1858, and for every succeeding year, the Governor in Council may, after the completion of the Valuation Rolls under *The Property Valuation Act* in the year 1858, and in every succeeding year, make and levy a Rate, not exceeding the sum of Sixpence in the Pound for any one year, upon the Annual Value of Property throughout the Colony as shown by the Valuation Rolls; and such Rate shall be called "The Rural Police Rate," and shall be payable at such periods and in such proportions as the Governor in Council appoints.

Governor in Council may annually make and levy a Rural Police Rate.

*see 186/12
see 30 O. 11012
* see 31 O. 11031
O. 1*

2 Upon the making of any such Rate a Proclamation shall be published in the *Gazette* declaring the making thereof, and specifying the amount in the Pound of such Rate, and at what periods and in what proportions the same is payable: and upon such Proclamation being so published such Rate shall be payable at the periods and in the proportions specified in such Proclamation; and it shall not be necessary in such Proclamation to set forth the names of the persons liable to the payment of the Rate, or the sums which, according to such Rate, such persons are liable to pay, or any other particulars than hereinbefore in that behalf mentioned.

Upon making of Rural Police Rate same to be notified by Proclamation.

Collectors.

3 The Governor may, from time to time, appoint and employ such Collectors of the Rural Police Rate for each Police District as he deems necessary and proper; and may, from time to time, remove any such Collector and appoint another in his stead; and may pay such salaries or allowances to such Collectors as the Governor thinks reasonable.

Collectors to keep books of account.

4 Every Collector appointed under this Act shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid; and such books shall at all times be open to the inspection of the Colonial Treasurer, or any person appointed by him for that purpose.

Collectors, &c. to pay over moneys within Seven days to the Colonial Treasurer.

5 Every Collector appointed under this Act shall, within Seven days after he has received any moneys by virtue of this Act, or within such other time as the Colonial Treasurer may appoint, pay over such moneys to the Colonial Treasurer, whose receipt for the same shall be a sufficient discharge to such Collector; and every such Collector shall, at such times and in such manner as the Colonial Treasurer directs, deliver to the said Treasurer true and perfect accounts in writing, under the hand of such Collector, of all moneys received by him by virtue of this Act, and of all such moneys paid by him to the said Treasurer, and also a list of the names of all persons who have neglected or refused to pay any Rate payable by them, with a statement of the moneys due from them respectively.

Summary recovery against Collectors failing to account.

6 If any such Collector fails to render such accounts as aforesaid, or to pay over any moneys received by him by virtue of this Act, when thereunto required, or if for Five days after being thereunto required he fails to deliver up to the Colonial Treasurer, or to any person appointed by him to receive the same, all books, papers, and writings, matters, and things in his possession or power relating to the execution of his office, then on complaint thereof being made to a Justice such Justice shall summon such Collector to appear before Two or more Justices, at a time and place to be set forth in such Summons, to answer such charge; and upon the appearance of such Collector, or upon proof that such Summons was personally served upon him or left at his last known place of abode, such Justices may hear and determine the matter in a summary way; and if it appears, either upon confession of such Collector, or upon evidence, or upon inspection of the accounts, that any moneys received by virtue of this Act are in the hands of such Collector, such Justices shall order such Collector to pay the same immediately; and if he fails to pay the amount forthwith, such Justices shall grant a Warrant to levy the same by distress, and in default of sufficient distress shall commit the offender to gaol, there to remain without bail for a period not exceeding Three months, unless the same is sooner paid.

Collector refusing to make out accounts, and deliver up documents, &c., to be committed to prison.

7 If any such Collector summoned as aforesaid refuses to make out such accounts in writing, or to deliver up any books, papers, or writings, matters, or things in his possession or power relating to the execution of his office, such Justices shall commit such offender to gaol, there to remain until he has delivered up all books, papers, writings, matters, and things in his possession or power relating to the execution of his office.

Where Collector about to abscond, a warrant may be issued in the first instance.

8 If any credible person makes oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe that it is the intention of any such Collector as aforesaid to abscond, the Justice before whom the complaint is made may, instead of issuing his Summons, issue his Warrant for bringing such Collector before Two

Justices as aforesaid ; but no person executing such Warrant shall keep such Collector in custody longer than Twenty-four hours without bringing him before some Justice ; and the Justice before whom such Collector is brought may either discharge such Collector, if he thinks there is no sufficient ground for his detention, or order such Collector to be detained in custody so as to be brought before Two Justices at a time and place to be named in such order, unless such Collector gives bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint.

9 No such proceeding against or dealing with any such Collector as aforesaid shall affect any remedy which might otherwise be had against such Collector, or any Surety of such Collector.

Proceedings
against Collectors
not to discharge
Sureties.

10 The Colonial Treasurer shall in every year cause the amount of the Rural Police Rate, so made as aforesaid, payable in respect of every Property to be entered in the blank column in a copy of the Valuation Roll comprising the Property opposite the statement of the Annual Value of the Property ; and shall sign the copies of the Valuation Rolls containing such entries as aforesaid ; and shall furnish every Collector with a copy, signed and containing such entries as aforesaid, of the Valuation Roll relating to the District for which he is Collector ; and such signed copy of the Valuation Roll shall be a sufficient warrant to the Collector for the collection of the several amounts of Rate therein mentioned in respect of the Properties opposite to the statement of the Annual Value of which such amounts of Rate are respectively entered.

Colonial Treasurer
to supply Col-
lectors with
Valuation Rolls
in which the Rate
payable in respect
of each Property
is entered.

11 The Rural Police Rate shall be payable in the first instance by the Occupier of the Property at the time of demand or levy, as the case may be ; but every Occupier, if Tenant, shall be entitled to recover from his Landlord One-half of the amount of such Rate paid by or recovered from him as money paid to the use of the Landlord, or the same may be deducted from, or set-off against, the rent then due or thereafter to become due ; and such Landlord, if Tenant to another of the same Property, may in like manner recover or deduct from his Landlord a sum equal to that recovered or deducted from him as aforesaid, and so on between successive Landlords and Tenants, any agreement made prior to the passing of this Act between any such Landlord and Tenant to the contrary notwithstanding.

Occupiers liable
for Rural Police
Rate in first
instance.

If a Tenant, may
recover One-half
from Landlord.

12 In case there is no Occupier of any Property, or the Occupier cannot be found or is not known, the Rural Police Rate in respect of such Property shall be payable by and recoverable from the Proprietor in the first instance, who shall be entitled to recover One-half thereof from the Tenant, if any, as money paid to his use or, if not paid on demand, by distress as for rent in arrear.

If no Occupier,
Proprietor liable
in first instance.

13 If the person liable fails to pay the amount of Rural Police Rate payable in respect of any Property for the space of Fourteen days after demand thereof in writing by a Collector, any Justice, on the application of the Collector, shall summon such person to appear before him, at a time to be mentioned in the Summons, to show cause why the Rate due from him should not be paid ; and in case no sufficient cause for the non-payment of such Rate is shown the same shall be levied by distress, and such Justice shall issue his Warrant accordingly ; or the Collector may recover such Rate by action of debt in any Court of competent jurisdiction.

Mode of recover-
ing Rural Police
Rate.

Service of
demand.

*Rep. part by 8
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14 Such demand may be made by the Collector by serving the same personally on the person liable, or by leaving the same at his usual or last known place of abode, or by forwarding the same by post addressed to his usual or last known place of abode; and whenever any such demand is sent by the post, the Collector shall deliver the same, duly directed, open and in duplicate, to the Postmaster of any Post Office, who shall compare the said demand and the duplicate, and, on being satisfied that they are alike in their address and in their contents, shall forward one of them to its address by the post, and shall date, sign, and return the other to the Collector; or, if the Collector should happen to be the Postmaster, he shall date, sign, and retain a duplicate of such demand; and the production by the Collector of such signed duplicate shall be evidence of the demand having been delivered to the person at the place mentioned in such duplicate, on the day on which such demand would in the ordinary course of post have been delivered at such place.

All goods found
on Property
liable for Rural
Police Rate.

15 Not only the goods and chattels of the person against whom process is issued for the recovery of any Rural Police Rate shall be liable to be taken under such process, wheresoever the same may be found, but all goods and chattels whatsoever found upon the Property in respect of which the Rate is payable, to whomsoever the same may belong, shall be liable to be taken under the Warrant of Distress or Execution issued for the recovery of such Rate.

If Occupier's
goods insufficient,
Rate may be
recovered from
Proprietor.

16 In case sufficient goods and chattels of the Occupier of any Property cannot be found to satisfy any Rural Police Rate, the same, or any portion thereof left unrecovered, shall be recoverable from the Proprietor of the Property in the same manner as the same was originally recoverable from the Occupier; and such Proprietor shall be entitled to recover from the Occupier any portion of such Rate to which such Occupier is liable as money paid to his use, or, if not paid on demand, by distress as for rent in arrear.

If Occupier and
Proprietor un-
known, Collector
may distrain on
any goods on
Property.

17 In case the Occupier and Proprietor of any Property in respect of which the Rate is due is not known or cannot be found, it shall be lawful for the Collector, without previous demand and without Warrant to distrain any goods and chattels whatsoever he may find on such Property, and to cause the same to be sold, and out of the moneys arising from such sale to pay all costs and expenses attendant on such distress and sale and the amount of the Rate due, and to pay the surplus, if any, to the person whose goods are distrained and sold on demand.

Form of Warrant
of Distress.

Constables to
aid in making
distress.

18 The Warrant of Distress for the recovery of any such Rate may be in the form contained in the Schedule; and in all cases where a distress is authorised by this Act to be made, all Constables shall, on being required by a Collector, aid in making a distress or sale under a penalty for refusal not exceeding Five Pounds.

Further distress
in case first one
insufficient.

19 In the event of any distress so made as aforesaid not realising sufficient to pay such Rate, costs, charges, and expenses as aforesaid, it shall be lawful from time to time to make further and other distress, in manner aforesaid, until the whole amount of such Rate, costs, charges, and expenses, has been fully paid.

Distress not un-
lawful for want of
form.

20 No distress made under the authority of this Act shall be deemed unlawful, or the person making the same be deemed a trespasser, on account of any defect or want of form in the Warrant of Distress or in

any other proceeding relating to such distress; nor shall the person distraining be deemed a trespasser *ab initio* on account of any irregularity which he may afterwards commit, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case.

21 Any unpaid Rate shall be and remain a charge upon the Property in respect of which such Rate is payable, and may be recovered at any future time as if the then Occupier had himself been liable to the payment of the Rate so remaining unpaid; and the production of the receipt for such overdue Rate paid by or recovered from any Tenant for any Rate due before the commencement of his tenancy shall be a discharge for the amount so paid or recovered in payment of rent to the Landlord; and such Landlord shall be entitled to recover from the person who was Tenant when the Rate became payable the proportion of the Rate to which such Tenant was liable as money paid to his use.

Unpaid Rate a charge upon the Property.

22 Nothing in this Act contained shall extend to any Property belonging to or in the occupation of Her Majesty; or to any Property hired by the Government for any public purpose; or to any Hospital, benevolent Asylum, or other building used solely for charitable purposes; or to any Church or Chapel, or other building used solely for public worship; or shall authorise the making or levying of any Rural Police Rate in respect of property situate within the City of *Hobart Town* or Town of *Launceston*.

Exemptions.

23 For the purposes of this Act the terms "Property," "Proprietor," and "Owner," shall have the same meaning as the same terms in *The Property Valuation Act*.

Meaning of "Property," "Proprietor," and "Owner."

24 In referring to this Act it shall be sufficient to use the expression *The Rural Police Rate Act*.

Short Title.



SCHEDULE.

DISTRESS WARRANT.

TASMANIA } To X.Y.

TO WIT. } WHEREAS complaint has been made before me J.P., a Justice of the Peace in and for *Tasmania*, by X.Y., a Collector under *The Rural Police Rate Act*, that A.B. of _____ has not paid the sum of _____ payable by him in respect of certain Property situate [*describe Property*] by virtue of the Rural Police Rate made on or about the _____ day of _____ 1858, although the same has been duly demanded of him: And whereas the said A.B. having appeared before me in pursuance of my Summons for that purpose, has not shown sufficient cause why the said sum of _____ should not be paid [*or*, And whereas it has been proved to me upon Oath that the said A.B. has been summoned to appear before me to show cause why the said sum of _____ should not be paid, and that the said A.B. has neglected to appear according to such Summons, and has not shown any sufficient cause why the said sum of _____ should not be paid]: These are therefore to command you forthwith to make Distress of the Goods and Chattels of the said A.B. wheresoever the same may be found, and also of all Goods and Chattels found by you upon the said Property to whomsoever the same may belong; and (unless at any time before the sale of the Goods and Chattels so by you distrained the said sum of _____, together with all costs, charges, and expenses attendant upon such Distress, be paid to you) that you cause the said Goods and Chattels so by you distrained to be sold, and out of the money arising by such sale that you detain the said sum of _____, and also all costs, charges, and expenses attendant upon such Distress and Sale, rendering to the said A.B., or other person whose Goods and Chattels are so distrained by you, as the case may be, the overplus (if any) on demand; and if no sufficient Distress can be made of the Goods and Chattels of the said A.B., or otherwise as aforesaid, that then you certify the same to me together with this Warrant.

Given under my hand, this _____

day of _____

1858

J.P.