



ANNO SEXTO

VICTORIÆ REGINÆ,

No. 13.

By His Excellency SIR JOHN FRANKLIN, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Greek Order of the Redeemer, and a Captain in Her Majesty's Royal Navy, Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies, with the advice of the Legislative Council.

AN ACT to enable the Lieutenant-Governor of this Island for the Time being to make Contracts at certain Rates for the supplying the Town and Port of Hobart Town with pure Water and for other Purposes connected therewith.

WHEREAS an Act was passed by the Legislative Council of this Island in the fifth year of the reign of His late Majesty King William the Fourth intituled *An Act for enabling the Government to secure a Supply of pure Water for the Town and Port of Hobart Town*—AND WHEREAS it is inexpedient that the Works contemplated by that Act should be carried out and performed by the Government of this Island and it is desirable that the same should be executed by such persons as may be willing to contract for the performance of the same Works but sufficient powers have not been vested by that Act in the Lieutenant-Governor of this Island and its Dependencies for the purpose of making such Contracts —**BE IT THEREFORE ENACTED** by His Excellency SIR JOHN FRANKLIN Knight Commander of the Royal Hanoverian Guelphic Order Knight of the Greek Order of the Redeemer and a Captain in Her Majesty's Royal Navy Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council that from and after the passing of this Act it shall be lawful for the Lieutenant-Governor for the time being with the advice of the Executive Council from time to time as occasion may require to make such Contracts under the Public Seal of this Island with such

PREAMBLE.

Lieutenant-Governor empowered to make Contracts with any person for supplying Hobart Town with Water.

person or persons as shall by His Excellency in the said Executive Council be deemed proper for supplying the Town and Port of Hobart Town with pure Water and upon the execution of such Contract or Contracts to nominate and appoint such person or persons so contracting as aforesaid as and to be the Contractor or Contractors for supplying the Town and Port of Hobart Town with pure Water and upon the execution of such Contract or Contracts to nominate and appoint such person or persons so contracting as aforesaid as and to be the Contractor or Contractors for supplying the Town and Port of Hobart Town with pure Water—PROVIDED ALWAYS AND BE IT FURTHER ENACTED that such Contractor or Contractors shall upon the execution of such Contract become bound in a bond to be executed by such Contractor or Contractors and two sufficient sureties to Her Majesty Her Heirs and Successors for the due performance of such Contract or Contracts in such sum of money as His Excellency with the advice of the said Executive Council shall deem sufficient such sureties being first approved of by His Excellency in the said Executive Council.

Contractor to possess the same powers as the Town Surveyor under the 5th William IV.

II. AND BE IT ENACTED that from and after such nomination and appointment as aforesaid such Contractor or Contractors or any person from time to time appointed by him or them in that behalf shall during the continuance only of such Contract or Contracts for the purposes of this Act have exercise and enjoy all such and the same powers privileges and immunities as are given in and by the said Act passed in the fifth year of the reign of His late Majesty King William the Fourth to the Town Surveyor for the time being as fully and effectually in all respects as if such Contractor or Contractors or person appointed by him or them had been named in the said Act instead of such Town Surveyor and all other provisions of the said Act shall during the continuance of such Contract or Contracts only be deemed and taken to apply and shall apply in every case in such and the same manner in all respects as they would have applied if such Contractor or Contractors or person appointed by him or them had been named in the said Act instead of the Town Surveyor for the time being.

Water to be charged for by reference to the annual value of the premises.

Disputes as to annual value.

III. AND BE IT ENACTED that the several amounts at which Water shall be supplied by such Contractor or Contractors to all persons within the limits of Hobart Town shall be ascertained by reference to the annual values of the premises respectively at which they shall require the Water to be supplied and be the produce of any rates upon such values not exceeding the rates in the Schedule to this Act annexed and in case any dispute shall arise between the Contractor or Contractors and any person desirous of being so supplied with Water as aforesaid as to the amount of such annual value then the same shall be determined by two persons one to be appointed by His Excellency the Lieutenant-Governor for the time being and the other by the Contractor or Contractors who shall assess the annual value and their assessment shall be final but in case such persons so to be appointed as aforesaid shall not agree in their assessment then an Umpire shall be appointed by such persons as aforesaid and the decision and assessment of such Umpire shall

be final and such Contractor or Contractors shall thereupon and upon notice of such assessment to be given to him or them in writing be bound to supply such persons with Water at his her or their premises at the rate according to the value so assessed under a penalty not exceeding Fifty Pounds.

IV. AND BE IT ENACTED that where any actual loss or damage shall be hereafter sustained by any person or persons in through or over whose lands any Water-course shall hereafter be constructed in pursuance of this Act by any Contractor or Contractors under this Act such loss and damage shall be ascertained and assessed in such and the same manner in all respects as in that behalf is provided by the Third Section of the said Act of the Fifth of William the Fourth Number Fourteen—PROVIDED that in every case in which any such loss or damage shall be sustained by any person or persons by reason of any of the aforesaid acts being done or committed by any Contractor or Contractors under this Act then each loss or damage shall be enquired of and assessed as hereinbefore provided and the amount of such assessment shall within ten days after notice thereof to be given to such Contractor or Contractors be paid by him or them to the person or persons in whose favour such assessment shall have been made as aforesaid and in case such Contractor or Contractors shall neglect or refuse to pay the amount of such assessment within such time as aforesaid then the same shall be recovered by action of debt at the suit of such person or persons against such Contractor or Contractors—PROVIDED ALSO that no claim for Compensation under this Act shall be received or admissible in respect of any act done or any injury alleged to be thereby occasioned unless the same claim be preferred within six calendar months after the doing of the act complained of any thing in the said recited Act to the contrary notwithstanding.

Indemnity to owners of land for damage.

V. AND BE IT ENACTED that if any person shall after the publication of this Act destroy or injure any Tunnel or Water-course now constructed or hereafter to be constructed or whilst being constructed by such Contractor or Contractors or any branch thereof or pipe trench conduit trough pump well tank or cistern or any thing used in the conducting or distributing or receiving Water from any such Tunnel or Water-course or any branch thereof or shall in any manner without the permission of such Contractor or Contractors in that behalf wilfully prevent the flow of Water to or divert the Water of any spring or stream of Water from any such Tunnel or Water-course or shall cause or knowingly suffer any filth stones soil or rubbish or any noxious offensive or unwholesome thing or matter to be cast or to flow into any such Tunnel or Water-course or pipe trench conduit trough pump well tank or cistern or any part thereof respectively (except only at such particular times as such Contractor or Contractors may prescribe) or shall otherwise injure or obstruct the passage of the Water in a pure and wholesome state through the same Water-courses or other channels as aforesaid or either of them every person so offending shall upon conviction forfeit and pay for every such offence a penalty or sum not

Penalty for injuring the Water-works diverting the Water or rendering it noxious.

Punishment for maliciously injuring the Works or rendering the Water noxious.

exceeding Fifty Pounds—AND if any person shall unlawfully and maliciously break destroy or injure any part of any Tunnel or Water-course or any of the main branches thereof or any public reservoir basin or tank used for retaining or conveying Water from any such Tunnel or Water-course or wilfully and maliciously do any act calculated to render the Water therein unwholesome or offensive every such person so offending shall be deemed guilty of a misdemeanor and being convicted thereof shall at the discretion of the Court be liable to fine and imprisonment as in other cases of misdemeanor or to be imprisoned and kept to hard labour for any term not exceeding Two Years.

Proceedings for penalties.

VI. AND BE IT ENACTED that all offences against this Act not otherwise provided for shall upon information in that behalf exhibited be in a summary way heard and determined and all fines and penalties in respect of the same be imposed by and before any two Justices of the Peace and every person feeling aggrieved by any judgment or conviction of such Justices shall be entitled to appeal therefrom in the manner provided respectively by the Act intituled *An Act to regulate Summary Proceedings before Justices of the Peace* and no prosecution under this Act shall be allowed unless the information shall be exhibited within three calendar months after the time of the offence committed.

Indemnity against actions.

VII. AND BE IT ENACTED that if any action shall be brought against the said Contractor or Contractors or any other person whatsoever in consequence of any entry made upon any lands or tenements or any other act or thing whatsoever heretofore or hereafter done or occasioned (in respect of which said entry or other act or thing provision is by this Act or by the said Act passed in the fifth year of the reign of His late Majesty King William the Fourth made for compensation to the party thereby injured) it shall be lawful for the defendant in such action to plead only the general issue and to give the special matter in evidence thereupon any law or usage to the contrary notwithstanding and in case the plaintiff shall become nonsuited or shall discontinue the action or have judgment therein against him the defendant shall recover double costs.

JOHN FRANKLIN.

Passed the Legislative Council this sixteenth day of November, one thousand eight hundred and forty-two,

FR. HARTWELL HENSLOWE, *Clerk of the Council.*

SCHEDULE OF RATES.

For Dwelling Houses.....	{ At a rate not exceeding 1s. 9d. in the Pound upon the annual value.
For Shops with Dwelling Houses attached such Shops requiring no Water for the purposes of Trade	{ At a rate not exceeding 1s. 2d. in the Pound upon the annual value.
For Shops with Dwelling Houses attached such Shops requiring Water for the purposes of Trade	{ At a rate not exceeding 1s. 3½d. in the Pound upon the annual value.
For Warehouses and Offices	{ At a rate not exceeding 7d. in the Pound upon the annual value.
For Breweries and Manufactories..	{ At a rate not exceeding 2s. 9½d. in the Pound upon the annual value.
For Ships.....	{ At a rate not exceeding 4d. per One hundred Gallons or One Halfpenny per Ton per register tonnage for each Ship or Vessel.