

T A S M A N I A.



1887.

ANNO QUINQUAGESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 20.

AN ACT to make better provision for the Valuation and Assessment of Property throughout *Tasmania*.

A.D. 1887.

[20 December, 1887.]

WHEREAS it is expedient to make better provision for the Valuation and Assessment of Property throughout *Tasmania* :

PREAMBLE.

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 :—

1 This Act may be cited for all purposes as “The Assessment Act, 1887.”

Short title.

2 This Act shall commence and come into operation on the Fifteenth day of *December*, One thousand eight hundred and eighty-seven.

Commencement.

3 In this Act, unless the context otherwise determines—
“This Act” shall include all Regulations to be made under it :
“Property” shall include lands and buildings :
“Owner” as applied to any property means the person for the time being in the actual receipt of or entitled to receive, or who, if the property were let to a tenant, would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise ; and shall include any person in the possession

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of any property under any lease or other instrument conferring possession of such property for any term not less than Ten years, without reserving any rent or reserving any annual rent or other periodical payment less than the annual rent that could reasonably be demanded for the use and occupation of such property :

“ Person ” includes “ Company ” :

“ Assessor ” means any Assessor appointed under this Act:

“ Capital value ” of any land shall mean the sum for which the fee simple of such land would sell with all the improvements (if any) thereon at the time it is assessed under this Act :

“ Annual value, ” when applied to any property, shall mean the annual rental that could be reasonably demanded for the use and occupation thereof :

“ Return ” shall include all returns, declarations, statements, and particular information which shall be prescribed to be furnished :

“ Notice ” shall mean any notice written or printed, or partly written and partly printed :

“ District ” includes the City of *Hobart*, the Town of *Launceston*, every Rural Municipality, and every Municipal District which is not a Municipality :

“ Prescribed ” means prescribed by the Regulations to be made under this Act: Provided, that where under this Act anything is required to be done in the “ prescribed form, ” it shall be sufficient if the same be substantially in the form so prescribed or to the effect thereof :

“ Assessment Roll ” includes a Valuation Roll in force in any District not being a Municipality :

“ Gazette ” means the *Hobart Gazette*.

Appointment of Assessors and other officers.

4 The Governor in Council may, from time to time, appoint and employ such Assessors and other officers as he deems necessary and proper for the purposes of this Act; and may, from time to time, suspend from office or remove any such Assessor or other officer and appoint another person in his place or stead.

Salaries of Assessors and other officers.

5 The Governor may, out of the moneys provided by Parliament for that purpose, pay to all such Assessors and other officers as aforesaid, such salaries and allowances as he shall think fit.

Assessors to give notice of Returns.

6 The Assessors shall give or cause to be given not less than **Thirty** clear days' notice in every District of the time and place at which all persons resident in such District shall furnish the prescribed Returns of all such matters and particulars as shall be required for the purposes of this Act; and it shall be the duty of all such persons to apply for the prescribed forms of Returns; and any person failing to furnish such Returns shall not be exempted from any penalty he may have incurred thereby by reason only that he received no notice to furnish the same, or that the prescribed form of Return was not delivered to him.

Persons to provide themselves with forms.

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7 Every person hereby required to furnish any such Return as aforesaid shall prepare and deliver or transmit to the Assessors, on or before the day appointed in such notice, such Returns, in such form and containing such information and particulars as may be prescribed; and every such Return shall be signed by the person making the same, and there shall be appended thereto a declaration in the prescribed form that such Return is true and accurate in all particulars.

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Persons to furnish Returns and declare to truth thereof.

8 The following provisions shall have effect, and the directions therein contained shall be complied with by the respective persons concerned therewith for the purposes of making assessments under this Act; viz.—

Provisions and directions in furtherance of assessment.

- i. Any Returns required to be furnished by any person may be posted to the Assessors at such address as may be prescribed; and such Returns shall be transmitted free of postage, if, on the outside of the letter or packet containing the same the sender thereof shall write the words "Assessment Returns," or words of similar import, and shall also subscribe his or her name and address.
- ii. The Assessors may, when and so often as they think necessary, require any person to make a further or fuller Return respecting value or any other matter authorised by this Act or prescribed by Regulation.

Returns may be forwarded by post.

Assessors may require further Returns.

9 If any person—

- i. Wilfully fails or neglects to furnish any Returns within the prescribed time, every such person shall on proof thereof be liable to forfeit and pay a penalty of not exceeding Five Pounds.

Penalty for making false Returns, &c.

And if any person—

- ii. Knowingly and wilfully makes or delivers any false statement in any Returns, or makes any false answer for the purpose of evading assessment; or
- iii. By any falsehood, wilful neglect, fraud, art, or contrivance whatsoever, evades or attempts to evade assessment under this Act;

every such person shall on proof thereof be liable to forfeit and pay a sum of not less than Two Pounds and not exceeding Ten Pounds.

10 From the Returns furnished to the Assessors pursuant to this Act, and from all sources of information and material for making an assessment provided by this Act or the Regulations, the Assessors shall, as soon as conveniently may be, cause an Assessment Book to be prepared as hereinafter provided for each district for the time being; and every Book shall contain the following particulars:—

Assessment Book when to be made.

- i. A short description of and reference to the property assessed;
- ii. The capital value of the property assessed;
- iii. The annual value of the property assessed;
- iv. The name and residence of the occupier of the property assessed;
- v. The name and residence of the owner of the property assessed;

Contents of Assessment Book.

together with all other particulars which may from time to time be prescribed.

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Power to use
other assessments.

11 In the preparation of any such Assessment Book as aforesaid the Assessors may if they think proper use or adopt so much of any assessment then in force which shall have been made by or by the authority of any Municipal Council or by any other authority empowered by law to make assessments of land, as may be applicable to or useful for the purpose of making any assessment under this Act.

Power to inspect,
&c.

12 The Assessors, or any person duly authorised by them, may at all reasonable times inspect free of charge all Assessment or Valuation Rolls relating to any land, and all other books and documents relating to any land, and all other books and documents relating to any assessment or valuation in the custody or power of the Town Clerk or any other officer of the City of *Hobart* or Town of *Launceston*, or the Council Clerk or other officer of any Rural Municipality, and all deeds, certificates, and other evidences of title, books, returns, accounts, and documents in the Lands' Titles Office or the Office of the Registrar of Deeds at *Hobart*, or in any other public office, and may require and take copies thereof or extracts therefrom.

Assistance of
Collectors of
Rates, &c. may
be required.

13 In making any assessment under this Act, the Assessors may require the assistance of any Collector of Road or Municipal Rates in any District, and may from time to time, by order in writing, direct any such Collector, or any other person whomsoever, to appear before them when, where, and as often as such Assessors think fit, and to produce all maps and tracings and any documents in the custody or power of any such Collector or person relating to the value of, or showing the position or boundaries of, any land within such district, and to be examined on oath and answer such questions as such Assessors may put to him touching any of the matters aforesaid; and such Assessors may order any such map, tracing, or document to be left in their possession for such time as they think proper; and any such person disobeying any such Order of the Assessors, or refusing to answer any such question, shall forfeit a penalty not exceeding Ten Pounds.

Irregularity not
to affect assess-
ment.Time prescribed
may be extended.

14 The validity of any assessment shall not be affected by reason that any of the provisions of this Act have not been complied with; and if in any case any matter is not completed by the Assessors within the time prescribed, the Governor in Council may, if he thinks fit, extend the time for completing the same.

Notice to persons
liable to make
Returns.

15 Upon the completion of every Assessment Book, the Assessors shall give the prescribed notice, to every person whose name appears in such book, of the particulars of every assessment and the amount affecting such person, and such notice shall be designated the "Notice of Assessment under Assessment Act."

Provision when
name of owner
unknown.

16 Where the name of an owner of any property cannot after due enquiry be found, such property shall be entered in the Assessment Book as belonging to "the owner."

Assessor, &c. may
enter and ask
questions.

17 Any Assessor may enter at any reasonable hour during the day-time upon any land or into any building for the purpose of assessing the same, and may put to the occupier or owner thereof any questions touching any of the particulars thereof which he is required to furnish.

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- 18** If the Assessors shall be dissatisfied with any Return furnished by any person under this Act they may make further enquiry by writing, and if they shall not within Fourteen days receive any answer, or shall receive an unsatisfactory answer, it shall be lawful for them by summons, in a form to be prescribed, to require such persons as they may think fit to attend before them at such place near to the residences of such persons as they may think fit, and to produce such books, papers, documents, and evidences touching the assessment in question as may respectively be in their custody or control, and then and there to be examined by the Assessors touching the said assessment. A.D. 1887.
Assessors, if dissatisfied, may make enquiry and summon witnesses.
- 19** Every person so summoned shall be bound to obey the said summons and to answer truthfully all questions on such examination, and in default thereof the person so failing, without lawful excuse, shall upon conviction incur a penalty not exceeding Ten Pounds. Party summoned to attend.
- 20** The Assessors may examine upon oath all persons who appear to give evidence before them, and may administer the oath necessary for that purpose. Assessors may examine upon oath.
- 21** The owner of any property comprised in any such Assessment Book as aforesaid, or his attorney or agent, may, within Thirty days after receiving the prescribed notice of any assessment, appeal against the same in the manner hereinafter provided upon the ground that such assessment is excessive. Ground of appeal.
- 22** All appeals against any assessment made under this Act shall be heard and determined by the Supreme Court in the manner hereinafter provided. Mode of appeal.
- 23** Sittings of the Supreme Court for hearing and determining appeals under this Act shall be held before a Judge of the said Court at such times and places as the Governor in Council may appoint; and every person acting as Registrar or Bailiff of any Court held under "The Small Debts Act" at any place which the Supreme Court shall appoint as a place for holding sittings for hearing appeals under this Act shall be deemed to have been duly appointed the Registrar or Bailiff of the Supreme Court in respect of the jurisdiction conferred upon the Supreme Court by this Act. Sittings of the Court to hear appeals.
- 24** Every appeal against any assessment made under this Act shall be commenced by a written notice of appeal in the form prescribed or as near thereto as circumstances will permit; and every such notice of appeal shall be signed by the appellant or his attorney or agent, and shall be filed with the Registrar in the same manner as Plaints are filed under "The Small Debts Act," but no fees or charges shall be payable on the filing of any such notice. Notice of appeal to be filed with Registrar.
- 25** Every such notice of appeal filed as aforesaid shall be accompanied by two copies thereof, and the Registrar shall endorse upon such notice of appeal, and on each copy thereof, the date on which the same was filed, and shall affix his signature to such endorsement, and shall cause one copy of such notice to be served on the Assessors so many days before the day upon which the appeal is to be heard as summonses are directed to be served by the Rules of Practice under Notice of appeal to be served on Assessors.

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“The Small Debts Act;” and, subject to the provisions of this Act relating to the hearing of such appeals, all subsequent proceedings in connection with the hearing and determining of such appeals shall be in conformity with the provisions of “The Small Debts Act” and the Rules of Practice made under that Act, so far as they are applicable, but the Assessors shall not be required to enter any notice of defence or answer of any kind to any such notice of appeal.

Judge to decide questions of law and fact.

26 The Judge before whom any such appeal shall be heard shall decide all questions of law and fact arising at the hearing thereof; and in every case in which the decision of the Judge is contrary to any entry or particular of assessment contained in any Assessment Book, he shall cause such entry or particular of assessment to be altered in accordance with his decision, and shall initial every such alteration.

Registrar shall keep a record of proceedings.

27 The Registrar acting at any place at which any sittings of the Supreme Court shall be held for hearing and determining such appeals under the provisions of this Act, shall keep a Record Book of all proceedings of the Court upon the hearing and determining of any such appeals at all such sittings of the Court, and all entries in the said book, or a copy thereof, purporting to be signed and certified by the Registrar, shall at all times be admitted in all Courts and places whatsoever as evidence of such entries, and of the proceeding referred to by any such entry or entries, and of the regularity of such proceeding, without any further proof.

Commissioners may be appointed to hear appeals.

28 Notwithstanding anything to the contrary, contained in this Act, the Governor in Council may, from time to time, appoint one or more Commissioners to hear and determine appeals against any assessment made under this Act, at such times and places as the Governor in Council may think fit; and all proceedings in connection with the hearing and determining of any appeal before a Commissioner appointed as aforesaid shall be the same as the proceedings before a Judge of the Supreme Court under this Act.

Costs of appeal.

29 The Court may, at its discretion, refuse to award any costs to either the Assessors or appellant, or may order either the Assessors or the appellant to pay to the other party to any such appeal all or so much of the costs properly and necessarily incurred in reference thereto as shall to such Court seem just; and the Court shall, upon determining such appeal, fix in a summary way the amount of the costs (if any) to be paid.

How costs recoverable from appellant.

30 In every case in which the Court shall order the appellant to pay to any Assessor any costs of appeal, the amount of such costs as fixed by the Court shall be recoverable by execution against the lands and goods and chattels of the appellant, in accordance with the provisions of “The Small Debts Act” relating to Execution.

How costs recoverable from Assessor.

31 In every case in which the Court shall order any Assessor to pay to the appellant any costs of appeal, the amount of such costs, as fixed by the Court, shall be a debt due by the Assessors, and shall be payable by them out of the moneys to be provided by Parliament for the purposes of this Act.

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32 At the hearing of any such appeal the Assessment Book, or a copy of so much thereof as relates to the assessment appealed against, certified under the hand of any Assessor, shall be produced by or on behalf of the Assessor, and shall be received as evidence of the matters therein stated.

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Hearing of
appeal.

33 The Governor in Council may from time to time frame Regulations for the following purposes, or any of them; that is to say:—

Regulations.

- i. Prescribing the forms of the Returns to be furnished to the Assessors under this Act, and the contents thereof, and the time and mode of furnishing the same.
- ii. For carrying out the objects of this Act in respect to all matters in this Act in connection with which the word "prescribed" occurs in any section thereof, and generally for carrying out all matters of detail in connection with this Act.

And may by such Regulations appoint such penalties as he deems necessary for enforcing compliance with such Regulations; but no such penalty shall exceed the sum of Ten Pounds.

All such Regulations shall be published in the *Gazette*, and thereupon shall have the force of law and be deemed to be part of this Act, and they shall be laid before both Houses of Parliament as soon as may be after the making thereof.

34 All notices by this Act required to be given by the Assessors or any officer under this Act to the owner or occupier of any property or any other person may, except as otherwise provided, be served personally upon such owner, occupier, or person, or left with some inmate of his place of abode, or by forwarding the same by post addressed to the usual or last known place of abode of such person.

Service of notices.

35 Every notice, demand, or like document given by or on behalf of any Assessor under this Act may be in writing or in print, or partly in writing and partly in print, and shall be sufficiently authenticated if the name of any Assessor or officer by whom the same is given shall be printed thereon.

Notices may be in
writing or in
print.

36 Upon the completion of the Assessment Books such books, or true copies thereof, shall be deposited in each District at such places as may be prescribed, and the same shall be open to inspection by any person, on payment of a fee of One Shilling for every inspection thereof, between the hours of Ten o'clock in the forenoon and Three o'clock in the afternoon on every day except *Sundays*, *Saturdays*, and public holidays; and the contents of each Assessment Book shall be published in the *Gazette*.

Deposit of
Assessment
Books.

37 The production of any Assessment Book, or of any document under the hand of any Assessors purporting to be a copy of or extract from any Assessment Book, shall be conclusive evidence of the making of the assessment, and, except in the case of proceedings in appeal against the assessment, when the same shall be *prima facie* evidence only, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such book or document are absolutely correct; and in all questions and proceedings under any law now or hereafter to be in force relating to any Tax, Rate, or Duty, and in all other proceedings whatsoever, it shall be sufficient to refer to an entry in the Assessment

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Book in force for the time being under this Act for any District, and such entry shall be received as conclusive evidence that the value of the land or other property specified therein is at the date of the reference, and has been from the commencement of the period to which such Assessment Book applies, of the amount therein set forth; and such entry may be proved by an extract from the Assessment Book purporting to be signed by any Assessor.

Penalty for obstructing officers, &c.

38 If any person shall obstruct any Assessor or other officer acting in the discharge of his duties under this Act, or shall refuse or neglect to answer any lawful question put by any such Assessor or officer relating to any land belonging to or occupied by such person, or shall give any false or evasive answer, he shall be liable to a penalty not exceeding Ten Pounds.

Recovery of penalties.

19 Vict. No. 8.

39 All offences against this Act, or any Regulation, and all penalties and sums of money imposed or made payable by this Act, or by any Regulation, shall, where no other mode of proceeding is provided, be heard, determined, and recovered in a summary way by and before any Two Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person aggrieved by any penalty or sum of money imposed or made payable in a summary way as afore-said may appeal therefrom in the mode prescribed in *The Appeals Regulation Act*.

Appropriation of penalties.

40 All penalties imposed under this Act, or any Regulation made hereunder, shall be appropriated to the Consolidated Revenue Fund of *Tasmania*.

Action against officers, &c.

41 Unless otherwise expressly provided, no action shall lie against any officer or any other person for anything done in pursuance of this Act, unless notice in writing of such action is given to the defendant at least One month before the commencement of the action, and such action is commenced within Three months after the cause of action has accrued; and in any action against any officer or person for anything done in pursuance of this Act or in the execution of the powers or authorities conferred thereby or by the Regulations, the defendant in such action may plead the general issue and give this Act and the special matter in evidence at the trial.