

T A S M A N I A.



1 8 7 2.

ANNO TRICESIMO-SEXTO

VICTORIÆ REGINÆ,

No. 18.

AN ACT to facilitate the Construction of Local Public Works. [27 December, 1872.]

WHEREAS it is expedient to declare and define the terms upon which assistance will be granted towards the construction of Public Works, and to amend and consolidate the Acts relating thereto: 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 In the construction of this Act—

“Work” means and includes Railways, Tramways, Bridges, Irrigation and Drainage Works, Jetties, Breakwaters, Works for the supply of water to Towns, Electric Telegraphs, and other Works to be approved by the Governor in Council.

Interpretation. “Work.”

“Occupier” means a resident Leaseholder of any land situate within the District having at least Five years of his Lease unexpired, and also any person occupying Crown land under a contract to purchase the same.

“Occupier.”

“District” means any District duly proclaimed under this Act.

“District.”

2 It shall be lawful for the Governor in Council, upon the petition of a majority of the owners or occupiers of property situate within the part of *Tasmania* described in such petition, praying that such part of *Tasmania* may be declared a District for the purposes of this Act, and that assistance may be afforded to such District in the construction of any

Proclamation of District.

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Work described in such petition, on the terms hereinafter mentioned, to proclaim such part of *Tasmania* as is described in such petition a District for the purposes of this Act.

If within Six weeks after any District has been proclaimed as aforesaid a counter petition is received by the Governor from more than One-third of the owners and occupiers of property within such District, praying that assistance may not be granted to such District under this Act in the construction of such Work, such Proclamation shall become null and void.

For the purpose of ascertaining whether a majority or One-third of the owners and occupiers of property within such District have signed such petition or counter petition as aforesaid, the mode prescribed by "The Cross and Bye Roads Act, 1870," for determining the votes to which Landholders are entitled under that Act shall be applicable to such purpose.

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

3 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 not exceeding Ten thousand Pounds, and that a rate of not more than One Shilling in the Pound on the annual value of the property within the District will be sufficient to comply with the terms of this Act, he may, if he sees fit, by notice in the *Gazette*, declare that the proposed work shall be constructed under the provisions of this Act.

Election of promoters;

4 At a time and place to be named by the Governor in the notice mentioned in the last Section, and of which Twenty-one days notice shall be given in the *Gazette*, and at least Twice consecutively in a public newspaper published in the City or Town nearest to the place in which such meeting is to be held, it shall be lawful for the owners and occupiers of property within such District to elect Five persons to be the Promoters, and the persons so elected are hereby declared to be the Promoters for all purposes of the said work, and shall have the sole control and management of the construction and maintenance thereof.

who shall have control, &c. of work.

Every such election shall be held in the same manner that elections for Road Trustees are now held under "The Cross and Bye Roads Act, 1870;" 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 under the said Act.

Chairman of Promoters.

5 The Promoters shall, as soon as may be after their election, appoint in such manner as they see fit one of their body to be Chairman; and in case the Chairman die or resign his office, or cease to be one of the Promoters, a majority of the Promoters shall forthwith appoint one other of their number to be Chairman.

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

6 Before the construction of any work is commenced the contract for the same shall be approved by the Governor in Council; and after such work is commenced it shall be lawful for the Colonial Treasurer, out of moneys to be provided by Parliament for that purpose, from time to time, to advance and pay such sums as may or have become due for and in respect of expenses incurred by the Promoters in preparing plans and estimates of such work, the amount of which expenses shall be approved by the Governor in Council and shall not exceed the sum of Seven Pounds and Ten Shillings per centum upon the estimated cost of such

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work; and also such sums as may become due for and in respect of the construction of such work, and of the supervision thereof, 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 has been performed in accordance with the terms of the contract.

7 The money so advanced and paid shall be repaid by the District in which such work is constructed or being constructed to the extent and in manner hereinafter provided. Money to be repaid by District.

8 Upon the report of the Colonial Treasurer that it is necessary for the District to provide funds for the repayment with interest thereon of any money advanced and paid by him as aforesaid for the purpose of any such work, the promoters shall forthwith make and levy 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 advanced and paid as aforesaid at the rate of Six Pounds per centum per annum clear of all deductions in respect of costs of collection and otherwise. Rate to repay money advanced for construction of work and interest thereon.

The Rate to be made as aforesaid shall, in respect of any Bridge or Breakwater, be of such an amount as will pay interest at the rate of Three Pounds per centum per annum on the amount advanced and paid as aforesaid for the purposes of such work clear of all deductions in respect of costs of collection or otherwise.

Out of any moneys set apart under the 99th Section of *The Waste Lands Act*, it shall be lawful for the Governor in Council to appropriate annually a sum of money equal to the amount of the Rate collected for the repayment of the money advanced and paid by the Colonial Treasurer as aforesaid for constructing any such Bridge or Breakwater; but such sum of money shall not in respect of any work exceed in any one year the amount collected by any such Rate. 34 Vict. No. 10.

9 The amount of such Rate shall be determined by the promoters annually, and shall be made and levied yearly by them until the amount advanced and paid as aforesaid has been repaid with interest thereon as aforesaid; save that, in the case of any Bridge or Breakwater constructed under the provisions of this Act, such Rate shall be made and levied only so long as half the cost of such work remains to be repaid as aforesaid. Amount of Rate.

10 Every such Rate shall be made and levied in the same manner as if the same were a Road Rate and the District were a Road District; and for the purposes of making and levying such Rate the provisions of "The Cross and Bye Roads Act, 1870," relating to *Road Rate* shall be incorporated with this Act; and the promoters shall have in respect of the said Rate the same powers as the Trustees of a Road District have in respect of making and levying Road Rates; and the annual value of property within such District shall be the annual value thereof as ascertained by every Assessment or Valuation Roll in force within the District, subject to such variations as may be lawfully made therein from time to time. Mode of levying Rate.

11 So much of the amount raised by every such Rate as may be necessary shall be paid into the Colonial Treasury; and of the said Application of rates.

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amount, and any addition thereto as hereinbefore provided, 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 for the purposes of this Act, and the balance of such interest shall be paid out of the Land Fund.

Disposal of profits of work.

12 The profit, if any, accruing from any such work in any year shall be paid into the Colonial Treasury before the last day of the month of *February* succeeding such year, and the amount so paid shall, if less than the amount authorised to be raised by such Rate, go in reduction of the Rate to be made and levied as aforesaid in the year in which such profit is paid into the Treasury; but if the amount of such profit is equal to the amount to be raised by such Rate, then no Rate shall be made or levied in the year in which the amount of such profit is paid into the Treasury, and if the same exceeds the amount to be raised by such Rate the excess 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 is sufficient to pay the amount herein directed to be raised by such Rate.

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

13 If in any year the promoters fail to make or levy any Rate if necessary, or to pay to the Colonial Treasurer the amount of any Rate, or any amount of profit as aforesaid, then the Governor shall, by a Rate on the property in such District, levy and raise an amount sufficient to comply with the provisions of this Act in respect of the work constructed or being constructed therein; 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.

Sinking Fund.

14 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 Minister of Lands and Works 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 advanced and paid for the work in respect of which such fund has accumulated, the debt in respect of such work shall 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.

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 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

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Fourteen 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.

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.

Promoters may take land.

Ascertainment of compensation.

18 Every summons, notice, or other such document, and all contracts and agreements required to be signed by the Promoters, may be signed by the Chairman of the Promoters, whose signature shall be sufficient for all purposes; and service of any summons or other proceeding upon the Chairman shall be deemed to be service upon all the promoters of the undertaking.

Documents may be signed by Chairman.

19 In all proceedings, civil or criminal, it shall be sufficient to describe the property in any 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.

Proceedings by or against promoters.

20 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,—

Regulations.

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

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.

21 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 this Act shall be received in all Courts as *prima facie* evidence of such Regulation.

Regulations to be published.

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Breach of Regulations.

22 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 Ten Pounds for each offence.

Application of Act to 35 Vict. No. 12.

23 The provisions of this Act shall be applicable for the purposes of "The Telegraphs Extension Act" as fully and effectually as the provisions of any Act hereby repealed are made applicable thereby.

Repeal.

24 The Acts set forth in the Schedule are hereby repealed, but this repeal shall not affect—

Any thing duly done, any liability incurred, any contract entered into, or any offence wholly or partly committed before the commencement of this Act, which shall continue and may be proceeded upon and dealt with in all respects as if this Act had not been passed.

Short title.

25 This Act may be cited as "The Local Public Works Act, 1872."

SCHEDULE.

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
31 Vict. No. 22.	"The Local Public Works Act, 1867."
34 Vict. No. 16.	"The Local Public Works Amendment Act."