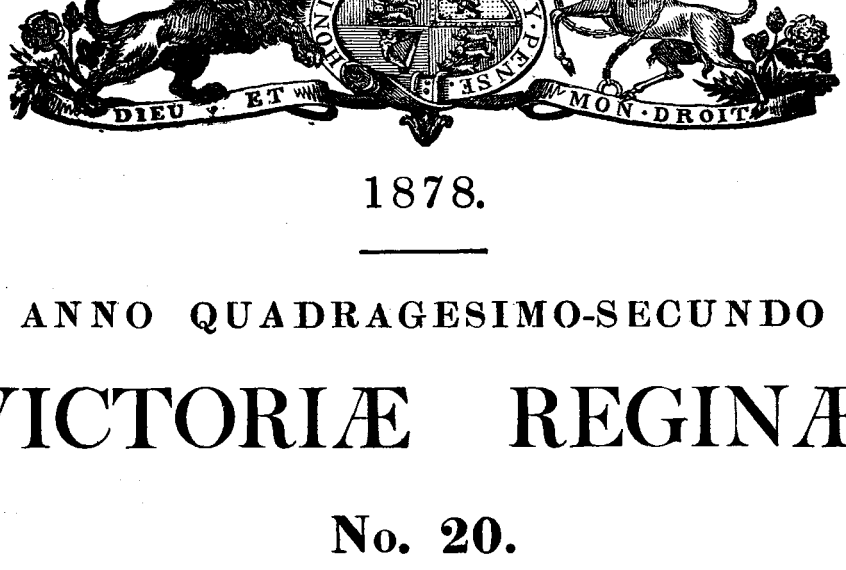
TASMANIA



1878.

ANNO QUADRAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 20.

AN ACT to increase the Supply of Water to the River *Elizabeth* for the benefit of the Inhabitants of the Town of *Campbell Town*. [16 *December*, 1878.]

A.D. 1878.

PREAMBLE

WHEREAS it is expedient for increasing and securing the supply of Water to the River *Elizabeth*, for the benefit of the inhabitants of the Water District of *Campbell Town*, that Trustees should be elected for that purpose, and empowered to execute the necessary works in connection therewith:

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 :—

Interpretation.

1 In this Act, unless the context otherwise determines—

"District" means "The *Campbell Town* Water District:"

"Trustees" means the Trustees for the time being elected under this Act:"

"Landholder" extends to and includes the Owner of any property situate within the District of the annual value of not less than Five Pounds, or the Occupier of any property situate within the District of the annual value of not less than Ten Pounds:

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"Property" shall mean Lands and Buildings:

"Rate" shall mean a Rate duly made under and for the purposes of this Act.

District defined.

2 So much of the Colony of *Tasmania* as is described and set forth in the Schedule shall be a District for the supply of Water to the Water District of *Campbell Town*, and shall be called "The *Campbell Town* Water District."

Election of Trustees.

First election of Trustees.

3 The Governor in Council shall, within One month after the commencement of this Act by notice in the *Gazette*, require the landholders within the District, at a time, hour, and place to be named in such notice, to elect from amongst such landholders Five persons to be the Trustees of the District for the purposes of this Act.

Mode of election of Trustees.

4 The first and every election of Trustees shall be held in the same manner as elections of Trustees of Road Districts are held under "The Cross and Bye Roads Act, 1870;" and all vacancies amongst the Trustees shall be filled, and the retirement and annual election of new Trustees shall take place, in the same manner as if they were Trustees of Road Districts under the said Act.

Portions of 33 Vict. No. 8 to be applicable.

5 The provisions of "The Cross and Bye Roads Act, 1870," relating to—

Meetings of Landholders,
Election and Retirement of Trustees,
Meetings of Trustees,
Road Rate,
Suits by and against Trustees,

shall, except Sections Thirty-five, Seventy-nine, and Eighty of the said Act, be applicable to—

The Meetings of Landholders,
The Election and Retirement of Trustees,
The Meetings of Trustees,
The Rate made by the Trustees, and
Suits by and against the Trustees,

under and for the purposes of this Act, and shall be incorporated herewith.

Rate.

Trustees may make and levy a Rate.

6 For the purpose of raising the necessary funds for carrying out the several objects of this Act, it shall be lawful for the Trustees to make and levy a Rate upon the annual value, as ascertained by any Assessment Roll in force relating to such properties, of all properties within the District: Provided that such Rate shall not in any one year exceed One Shilling in the Pound upon the annual value of the said properties.

Upon making Rate, notice of same to be given.

7 Upon the making of any such Rate, a notice signed by not less than Three Trustees, specifying the amount in the Pound of the Rate, the period for which the same is made, and at what times the same is payable, shall be published in the *Gazette*; and upon any such notice

being so published the rate therein mentioned shall be payable and paid at the times specified in such notice by the persons liable to pay the same, according to the annual value of all properties within the District as shown by the Assessment Roll relating to such properties; and it shall not be necessary in any such notice 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 are hereinbefore in that behalf mentioned. A.D. 1878.

8 It shall be lawful for the Trustees, for the purposes of this Act, to borrow on Mortgage any sum or sums of money not exceeding Seven thousand Pounds, and to make and grant Mortgages of the Rates to be levied and paid under the authority of this Act in security of the payment of the money so borrowed and interest thereon; and if after having borrowed the said sum or sums, or any part thereof, the Trustees pay off the same, it shall be lawful for the Trustees again to borrow the amount so paid off, and so from time to time; and the provisions of "The Cross and Bye Roads Act, 1870," relating to *Loans*, except Sections 99 to 102 both inclusive, shall, subject to the provisions of this Act, be applicable to Mortgages to be granted under the authority of this Act, and shall be incorporated herewith. Power to borrow money.

9 It shall be lawful for the Trustees for the time being of any Bank for Savings in *Tasmania*, now established or hereafter to be established, to advance and lend to the Trustees under this Act, upon the security aforesaid, the whole or any part of the sum which such Trustees are authorised to borrow under this Act, anything in the Act of Council of the 12th *Victoria*, No. 1, to the contrary notwithstanding. Savings Banks may invest in such loans.

Powers of Trustees.

10 The Trustees may purchase, acquire, and take such land as they deem necessary for the purposes of this Act. Trustees may purchase land.

11 The Trustees, their officers and workmen, may at all reasonable times in the day-time, upon giving Twenty-four hours previous notice in writing, enter into and upon any lands required for the purposes of this Act for the purpose of surveying or valuing the same. Power to enter upon land.

12 *The Lands Clauses Act* shall, except as hereby expressly varied, be incorporated with this Act, but— 21 Vict. No. 11 incorporated.

1. There shall not be incorporated with this Act the Sections and provisions of the said Act hereinafter mentioned; that is to say,—Section Eight, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; Section Nine, whereby it is provided that the certificate of the Justices shall be evidence that the capital has been subscribed:
2. In the construction of this Act and the said incorporated Act this Act shall be deemed to be the Special Act, and the Trustees shall be deemed to be "the Promoters of the undertaking."

13 Where the Trustees give notice of their intention to take land for any of the purposes hereinbefore set forth, and the compensation in respect thereof is determined as in cases of disputed compensation, if If compensation excessive Trustees may give up land.

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the Trustees deem it inexpedient to pay the amount of compensation so determined, they 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.

Powers of Trustees.

14 The Trustees shall, for the purposes of this Act, have and exercise the following powers and authorities :—

1. To make, construct, repair, alter, and remove such dams, sluices, or other works on the River *Elizabeth*, or any waters flowing into the said river, as the Trustees deem necessary :
2. To enter, or cause their servants or workmen to enter upon any land on either side of the said river or waters for the purpose of making, constructing, repairing, altering, or removing any dam, sluice, or other work by this Act authorised to be made, constructed, repaired, altered, or removed :
3. To remove soil, and to place stone, bricks, wood, or other materials in, upon, or beneath any land within One hundred yards of any dam, sluice, or other work made or constructed, or at any time about to be made or constructed, under the provisions of this Act :

Provided that the owner of any land so entered upon shall be entitled to compensation from the Trustees for all loss or injury he may sustain by reason of the construction of any dam, sluice, or work, in part or in whole, upon his land ; and also for any other injury he may sustain by reason of the exercise by the Trustees of any of the powers vested in them by virtue of this Act ; and such compensation shall be as certained and determined in the mode prescribed by *The Lands Clauses Act*, in cases of disputed compensation.

Power to make Bye-laws.

15 It shall be lawful for the Trustees from time to time to make Bye-laws, and by any subsequent Bye-law to vary or rescind such Bye-laws, for any of the following purposes :—

To prevent the fouling or obstruction of the River *Elizabeth* or the waters thereof or any waters flowing into the said river :

To regulate the use of the waters of the said river for irrigation or other purposes :

To regulate the mode and times of fishing in the said river.

Not to be repugnant to Law.

To be certified by Attorney or Solicitor-General.

Existing penalties not to be increased beyond £10.

No Bye-law to be made by the Trustees shall be repugnant to this Act, or to the general spirit and intendment of the Laws in force in this Colony, and no such Bye-law shall be of any force or effect until it has been published in the *Gazette* and certified by the Attorney or Solicitor-General not to be repugnant to this Act, or to the general spirit and intendment of the Laws in force in this Colony ; and no such Bye-law shall be published in the *Gazette* until such Certificate has been obtained ; and where by this Act any penalty is imposed for any offence it shall not be lawful for the Trustees by any Bye-law to increase such penalty so as to make the whole penalty amount to more than Ten Pounds.

Power to appoint Officers.

16 The Trustees shall, from time to time, appoint a Treasurer and Collector of Rates who may be one or more of the Trustees, and may, from time to time, appoint and employ such Surveyors and other Officers as the Trustees think necessary and proper ; and, from time to time,

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may remove any of such Officers, and appoint others in the room of such as are so removed, or as may die, resign, or discontinue their offices; and may, out of the moneys at the disposal of the Trustees under this Act, pay such salaries and allowances to the said Officers respectively as the Trustees think reasonable: Provided, that nothing herein contained shall prevent the same person from being appointed to hold more than one of such offices at the same time if the Trustees so think fit; and all the provisions of "The Cross and Bye Roads Act, 1870," relating to *Officers and their Accountability* shall be applicable to such treasurer, collector, and other officers, and shall be incorporated with this Act.

Sects. 126 of 33 Vict. No. 8, to be applicable.

17 The trustees shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid under the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any trustee or landholder without fee or reward; and the persons aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same; and any person having the custody of the said books who does not, on the reasonable demand of any person as aforesaid, permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall, for every such offence, incur a penalty not exceeding Five Pounds.

Trustees to keep accounts of receipts and disbursements.

18 All moneys received by the treasurer of the trustees shall be paid by him monthly into some one of the public banks of this Colony to the account of the trustees of the District; and no part of such moneys shall be drawn out of such bank except by cheque signed by the treasurer and countersigned by one of the trustees.

Moneys received to be paid into bank.

19 The trustees shall, before the end of the second week in the month of *January* in each year, cause the accounts of the trustees up to and including the last day of *December* next preceding to be balanced, and also cause a full and true statement and account to be drawn out of the amount of all rates made and levied, and of all moneys received and expended during the preceding year, and also of all debts then owing by and to the trustees, and such statement and account shall be signed by the Chairman and not less than Two trustees; and such statement and account so signed shall be published in the *Gazette* before the end of the month of *February* following.

Statement of accounts to be annually prepared.

Publication of accounts.

20 All moneys whatsoever levied, received, or recovered under the authority of this Act shall be at the sole and absolute disposal of the trustees, to be by them applied in such manner as they see fit in carrying out and effectuating the purposes of this Act and to no other purpose.

Appropriation.

Offences.

21 Every person who is guilty of any of the following Offences shall, for every such Offence, incur a penalty not exceeding Fifty Pounds:—

Offences.

1. Wilfully destroying or injuring any dam, sluice-gate, or work made or constructed, or which may hereafter be made or constructed under the provisions of this Act:
2. Making any sluice or cutting above any dam made or constructed or to be made or constructed as aforesaid, or upon

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either side of the said River for the purpose of carrying any of the Waters of the said River, or any Waters flowing into the said River below any such dam as aforesaid:

3. Doing any Act whereby the Waters of the said River may be reduced to a level below their highest ordinary winter level.

Obstructing trustees.

22 If any person wilfully obstructs, hinders, or interrupts, or causes or procures to be obstructed, hindered, or interrupted, the trustees, or any person duly employed or authorised by the trustees, or in the exercise of any power or authority vested in the trustees or any of the persons aforesaid by this Act, or threatens, or assaults, or uses improper or abusive language to any of the persons aforesaid whilst in the performance or execution of his duty under this Act, every such person shall for any such offence, if not otherwise specially provided for, incur a penalty not exceeding Twenty Pounds: Provided, that no proceeding for the recovery of any such penalty, nor the payment thereof, shall be a bar to any action at Law by any of the persons aforesaid for or in respect of any such assault as aforesaid, but every such action may be commenced and proceeded with as if this Act had not been passed, any Law or usage to the contrary notwithstanding.

Offences to be dealt with summarily.
19 Vict., No. 8.
19 Vict., No. 10.

23 All offences against this Act, or any Bye-law, shall be heard and determined in a summary way by any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act;* and any person convicted of any offence against this Act or any Bye-law, may appeal against the conviction in the mode prescribed by *The Appeals Regulation Act.*

Appropriation of penalties.

24 All penalties received by virtue of this Act shall be paid to the treasurer of the trustees, and shall form part of the moneys at the disposal of the trustees for the purposes of this Act.

Persons acting under Act entitled to notice of action, &c.

25 No action shall lie against any person for anything done in pursuance of this Act unless notice in writing of such action, and of the cause thereof, is given to the defendant One month at least before the commencement of the action, and such action is commenced within Three months after the cause of action has accrued; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence; and no plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the defendant, or if the plaintiff becomes nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any defendant has by Law in other cases; and though a verdict is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the case is tried certifies his approbation of the action, and the verdict obtained thereupon.

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SCHEDULE.

Commencing at the junction of the main road with the north-west boundary of the Northern *Macquarie* Road District and bounded by the main road to the Town of *Cleveland,* thence by the north-western, south-western, and south-eastern boundaries of that Town to the north-east boundary of the said Northern *Macquarie* Road District, by the northern and eastern boundaries of that District to the south-west angle of Lot 1427 purchased by *John Meredith,* thence westerly along the southern boundaries of Lots 1430 and 1429 along the southern boundaries of Lots 1428 and 3615 purchased by *Thomas Parramore* and by part of the west boundary of the last-mentioned lot to the south-east angle of Lot 581 purchased by *W. T. Parramore,* by the south boundary of that lot, the south-west boundary of Lot 83 and the south-east boundary of Lot 20, thence by the south-east boundaries of Lot 605 purchased by *Samuel Horton,* a grant to *Samuel Horton,* and Lot 561 purchased by *F. Forth,* by part of the south-west boundary of the last-mentioned lot, and by the south-eastern boundaries of Lots 1328, 2697, 2700, and 2701 to the boundary of the aforesaid Northern *Macquarie* Road District, by that boundary northerly and westerly to the Town of *Abercrombie,* thence continuing along that boundary to the south angle of a grant of 570 acres to *John Headlam,* by the south-west boundary of that grant, the south-west and part of the north-west boundaries of a grant of 1950 acres to *C. B. Viveash,* the north-east and part of the north-west boundaries of a location to *W. E. Godwin,* by the north-east boundaries of Lots 12 and 164 purchased by *Francis Allison* and *Andrew Gatenby* respectively, by part of the south-east, north-east and north-west boundaries of Lot 14 purchased by *Andrew Gatenby,* the south-west and part of the north-west boundaries of a grant to *James Mackersey,* the south-west boundaries of locations to *J. Stirling* and *W. Peet* respectively to the River *Isis,* by that river northerly to a location to *Edward Millar,* thence by a north-westerly line along that location, along locations to *George Gatenby,* along Lot 276 purchased by *A. Gatenby,* along a location to *John Gatenby,* a grant to *Edward Archer,* and a location of 2000 acres to *Thomas Cookson Simpson* to the north-western boundary of the Northern *Macquarie* Road District aforesaid, and thence by that boundary to the point of commencement.

JAMES BARNARD,
GOVERNMENT PRINTER, TASMANIA.