



ANNO DECIMO

## VICTORIÆ REGINÆ,

No. 18.

*By His Excellency SIR JOHN EARDLEY EARDLEY-WILMOT,  
Baronet, Lieutenant-Governor of the Island of Van Diemen's  
Land and its Dependencies, with the Advice of the Legislative  
Council.*

*AN ACT for regulating Cross and Bye Roads.*

**W**HEREAS by an Act or Ordinance of this Island intituled *An Act for the making altering improving and defining the Main and other Roads of this Island* the Cross and Bye Roads mentioned in the said Act are placed under the management of District Commissioners to be elected as in the said Act in that behalf provided and certain other provisions are made for raising funds by the said Commissioners to be applied in furtherance of the said Act within the several Districts therein mentioned—AND WHEREAS it is expedient that the control and management of the Cross and Bye Roads in each District of this Island should be vested in the Justices of the Peace assembled in Quarter Sessions in each District in manner hereinafter in that behalf provided and that further provision be made for the making repairing and maintaining the Cross Roads in each District—AND WHEREAS the said recited Act requires amendments in other respects and it is expedient that the said recited Act should be repealed so far as the same relates to the Cross and Bye Roads of this Island and that the said amendments and other provisions aforesaid be reduced into one Act—BE IT THEREFORE ENACTED by His Excellency SIR JOHN EARDLEY EARDLEY-WILMOT Baronet Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council that the Cross Roads of this Island shall be such as lead from one Township to another Township or from a Township to the Main Road or from a Township to a navigable River and that such Roads shall in all places be fifty feet in width of clear passable road including footpaths and exclusive of any bank ditch or fence on either side thereof and that the Bye Roads shall be such as lead from any farm or farms through any other person's lands to the Main Road or any Cross or Bye Road or from the Main Road or any Cross or Bye Road

Cross Roads defined and Bye Roads defined.

Cross Roads to be fifty feet in width—Bye Roads thirty-three feet.

through any farm or farms or land in the possession of any person to any land of or belonging to the crown whether the same land be in the actual occupation of the crown or of any tenant or licensee of the crown or be not so occupied as aforesaid or such roads as lead from the Main Road or from any Cross or Bye Road through any farm or farms or land as last aforesaid to the sea-shore and all such Bye Roads shall be of the width of thirty-three feet.

Cross Roads to be under the control of Quarter Sessions.

II. AND BE IT ENACTED that the Cross Roads in each District shall be under the control and management of the Court of Quarter Sessions holden in and for that District and shall be made repaired and maintained under the order and direction of such Court.

Quarter Sessions may assess land in the Districts of Courts at not exceeding three farthings per acre.

III. AND BE IT ENACTED that it shall be lawful for the several Courts of Quarter Sessions respectively to cause Assessments to be made from time to time as occasion may require upon all lands except such as are crown lands situate within the District in which such Courts shall respectively be holden for the purpose of raising the necessary funds for the making and repairing the Cross Roads within such Districts which assessment or assessments shall not in any case exceed in one year in the whole the sum of three farthings per acre.

Quarter Sessions to appoint Surveyor of District and other officers who are subordinate to the Court.

IV. AND BE IT ENACTED that the said Courts of Quarter Sessions respectively shall appoint some fit and proper person as and to be the Surveyor of the District for which such Courts shall respectively be holden which Surveyor shall have the care and management of the Cross Roads of the same District and such Surveyor shall and lawfully may be removed from his office at the discretion of the Court appointing him and such Courts respectively shall have power from time to time as occasion may require to appoint any new Surveyor and every Surveyor of a District shall be subject to the order of the Court of Quarter Sessions and shall be liable in any case of wilful disobedience or neglect of any order of the Court appointing him to be punished as in cases of contempt of Court and the said Courts shall also have power and authority to appoint such and so many Assessors Collectors and other persons as shall be necessary for the purpose of carrying the objects of this Act into execution which persons aforesaid shall also be subject to the order of the Court appointing them and be liable in case of wilful disobedience or neglect of any order of such Court to be punished in the same manner as in case of contempt of Court.

Quarter Sessions may assess dwelling-houses in towns or townships at twopence in the pound annual value.

Exemption of land held with dwelling-house.

V. AND BE IT ENACTED that it shall be lawful for the said Courts of Quarter Sessions respectively to cause Assessments to be made of all messuages and dwelling-houses situate in any town or township within the District for which such Court shall be holden at a rate not exceeding twopence in the pound on the annual rental or annual valued rental of such dwelling-houses—PROVIDED that in case of any such assessment of any messuage or dwelling-house as last aforesaid no land held or occupied by the same person together with such messuage or dwelling-house and which land does not exceed ten acres in quantity shall be liable to assessment under this Act.

VI. AND BE IT ENACTED that all assessments made by authority of this Act shall be paid by the person in possession of the lands messuages or dwelling-houses in respect of or upon which such assessments shall be made and every tenant of any land messuage or dwelling-house shall be entitled to deduct and set off from the rent to be paid by him in respect of such lands messuages or tenements one half the amount of every assessment paid by him and in case of any vacant possession of any lands messuages or dwelling-houses such assessments shall be paid by the owner of such lands messuages or dwelling-houses.

Assessments to be paid by occupier who if a tenant may set off half the assessment against rent.

VII. AND BE IT ENACTED that notice of every Assessment to be made under this Act shall be published for general information in the Hobart Town Gazette for three consecutive weeks previous to the day of confirmation thereof as hereinafter mentioned and every such notice shall specify the amount of assessment to be paid by each person and the land messuages or dwelling-houses in respect of which such person is assessed and the day and place on which such assessment will be confirmed by the Court making the same on which day and at which place every person assessed shall by himself or some other person in that behalf deputed by him attend the said Court and pay into the hands of the Clerk of the Peace or Deputy Clerk of the Peace acting before such Court the amount of assessment which shall then be confirmed by the said Court at which he is rated in respect of or upon any land messuages or dwelling-houses in the District for which such Court shall be holden and in case any person shall be assessed in respect of any such lands messuages or tenements aforesaid at a higher or other rate than by this Act is authorised or shall object to any rate or be assessed where he ought not to be assessed or if there be any error whatsoever in any assessment it shall be lawful for the said Courts respectively on the day and at the place last mentioned to alter amend annul or confirm any such assessment the amount of which assessment in case the same shall be altered or amended shall be then and there paid by the person liable to pay the same as aforesaid and in case no objection shall be made to any such assessment as aforesaid or being made shall be overruled by the Court the same shall be and be deemed and taken to be confirmed by the said Court unless the same shall be altered amended or annulled by the said Court in which case such alteration amendment or annulling of any assessment shall be final and conclusive.

Notice of Assessment and day of confirmation of Assessment and how Assessment to be paid.

VIII. AND BE IT ENACTED that upon the non-payment of any such assessment as aforesaid as in the last Section mentioned and provided the payment thereof shall be enforced by distress and sale as in cases of rent in arrear above the sum of Twenty Pounds of the cattle goods and chattels of the person liable to pay the same wheresoever the same may be found or by an action of debt to be commenced and prosecuted against the person liable to pay such assessment which distress or action as the case may be shall be made or commenced and prosecuted by or in the name of the Surveyor of the District for the time being in which the land messuages or dwelling-houses in respect of which such assessment shall be made shall be situate.

Assessments may be recovered by distress and sale or action of debt.

Assessments paid and recovered to be paid by the person receiving the same into public banks to account of Deputy Chairman of the District.

IX. AND BE IT ENACTED that the amount of all assessments received under this Act and of all sums to be recovered by any such action distress and sale as aforesaid shall be paid by the person receiving or recovering the same as aforesaid after deducting his costs of action charges and expenses of distress and sale as aforesaid into some or one of the public Banks of this Island to the account of the Deputy Chairman for the time being of the Court of Quarter Sessions of the District in which such assessments shall be made or having been made shall be recovered by such action or distress and sale as aforesaid and no sum shall be paid out of such account except by an order of the Court of Quarter Sessions to be signed by the Chairman or Deputy Chairman of such Court or by cheque to be signed by the Deputy Chairman of such Court and some Justice of the Peace resident in the District of such Court.

Punishment for embezzlement of monies received under this Act.

X. AND BE IT ENACTED that if any person entrusted with the receipt or disposal of money under this Act shall fraudulently dispose of or retain in his own possession or apply to his own use or shall not duly account for any money with the receipt or disposal of which he shall have been so entrusted as aforesaid such person shall be deemed and taken to have stolen the same and shall be guilty of larceny and it shall be sufficient in every information or indictment to lay the property in the sum charged therein to have been stolen as the property of the inhabitants of the District in which the said sum was collected or received by virtue of this Act.

Entry of assessments paid to be made in a book to be kept by Deputy Chairman.

XI. AND BE IT ENACTED that an entry shall be made of all assessments paid by any person by the Clerk of the Peace or Deputy Clerk of the Peace acting before such Courts as aforesaid and receiving the same in a book to be for that purpose kept by the Deputy Chairman of every such Court at the time when such assessments respectively shall be paid together with the day and date when such assessments shall be paid as aforesaid and the name of the person by whom and on whose account the same shall be paid which book shall be produced and shown to the Court by the said Deputy Chairman during the time of each Session of the said Court for the use and inspection of the said Court and of the said Clerk of the Peace or Deputy Clerk of the Peace acting before the said Court.

Courts of Quarter Session upon application of five persons may cause Cross Roads to be made or repaired.

XII. AND BE IT ENACTED that it shall be lawful for the said Courts of Quarter Sessions respectively upon the application of any number of persons not less than five resident in the District where any Court of Quarter Sessions shall be holden to cause any Cross Road to be made in such District and upon the application of any number of persons not less than five resident in such District to cause any Cross Road to be put into thorough repair and the Court of Quarter Sessions to which such application shall be made shall have power and authority to determine the matter of every such application and the said Courts of Quarter Sessions respectively shall have power and authority to make all such orders and regulations touching the making or putting into thorough repair of all the Cross Roads in the District in which

such Courts respectively shall be holden as to such Courts respectively shall seem fit and expedient.

XIII. AND WHEREAS Townships have been laid out and declared by authority of the Government to be Townships or reserves for Townships and such Townships or reserves for Townships are at present but little inhabited and ought not to have the benefit of a Cross Road under the provisions of this Act until the number of inhabitants may be sufficient to justify the expense of making a Cross Road to or from such Townships or reserves for Townships and it is expedient that power should be given to the said Courts of Quarter Sessions respectively to limit the making of Cross Roads to or from such Townships or reserves for Townships until such time as in the discretion of the said Courts respectively such Cross Roads may be necessary—BE IT ENACTED that in every such case as aforesaid it shall be lawful for the said Courts respectively to refuse the application of any person or persons for making or repairing any such Cross Road or to postpone the making or repairing such Cross Roads until such time as in the discretion of the said Court shall seem expedient.

Power of Quarter Sessions to limit and suspend the operation of this Act in certain cases.

XIV. AND BE IT ENACTED that the several roads now used and known as Cross Roads in this Island shall be deemed and taken to be and continue to be Cross Roads within the meaning of this Act until the same or any of them shall be altered changed diverted or stopped by the order of the said Courts under the authority of this Act.

Cross Roads now in use to continue till altered by Quarter Sessions.

XV. AND BE IT ENACTED that the Surveyor of every District to be appointed by the Courts of Quarter Sessions respectively shall as soon as conveniently may be after his appointment survey the state of repair and condition of the several Cross Roads of the District for which he shall be Surveyor and report the same from time to time to the Court appointing him and if any such road shall require to be made or repaired such Surveyor shall at the time of making his report deliver to the said Court an estimate of the probable expense of making and putting into complete repair such Cross Road per rod and thereupon such Court shall have power and authority to order such Cross Road to be made or to be put into thorough repair or that any portion of the said Cross Road shall be made or put into thorough repair and to cause assessments to be made and paid as hereinbefore mentioned for the making or putting into thorough repair such Cross Road—PROVIDED AND BE IT ENACTED that no Cross Road or any part of a Cross Road shall be made or put into repair and no assessment shall be made by the Courts of Quarter Sessions respectively for the making or putting into thorough repair any Cross Road or any part of a Cross Road until the Surveyor of the District for which such Court shall be holden shall have furnished to such Court an estimate of the expense per rod of making or putting into thorough repair such Cross Road or any part thereof.

Surveyors of Districts to report state of Cross Roads and estimate of expense of repairing or making.

XVI. AND BE IT ENACTED that when any Cross Road shall have been ordered to be made or put into thorough repair by any

Surveyor may contract for re-

pairs subject to approval of Court.

Court of Quarter Sessions it shall be lawful for the Surveyor of the District in which such road is by such order directed to be made or to be put into thorough repair to contract with any person for the performance of all or any part of the work required to be done in the making or putting into thorough repair such road or any part thereof—PROVIDED that no such contract or contracts shall in any case exceed in the amount to be paid thereon the sum estimated for the making or putting into thorough repair of such road and no such contract or contracts shall be valid in law or binding between the parties contracting until the same be approved of by the Court making such order and the Chairman or Deputy Chairman of such Court shall have put his name at the head of the paper or parchment containing such contract.

After Cross Roads are completed Courts of Quarter Sessions may establish turn-pikes and tolls for future maintenance of such Cross Roads.

XVII. AND BE IT ENACTED that it shall be lawful for the said Courts of Quarter Sessions respectively when any Cross Road shall have been made or put into thorough repair by any order to be made for that purpose to cause such and so many toll-bars toll-gates and toll-houses to be erected upon such Cross Road and to cause such toll to be taken at such toll-bars toll-gates and toll-houses as shall by any order of such Courts respectively be directed to be paid and to appoint collectors of tolls at such toll-bars toll-gates and toll-houses and from time to time to alter and reduce the rates of toll to be taken at such toll-bars toll-gates and toll-houses and to remove any such toll-bars toll-gates and toll-houses to any other part of such Cross Road—PROVIDED that no toll shall be taken at any such toll-bar toll-gate or toll-house until the same shall have been publicly notified in the Hobart Town Gazette at least one week before the same shall be demanded and that no toll shall be taken or demanded at any such toll-bar toll-gate or toll-house unless there shall be affixed to such toll-bar toll-gate or toll-house in some conspicuous place a board on which shall be painted in legible characters in white upon a black ground the tolls payable at the same respectively and the name of the collector and of the toll-bar toll-gate or toll-house.

No toll to be taken or toll-gate set up till the road be certified by two Justices to be in a state of thorough repair when assessment to cease.

XVIII. AND BE IT FURTHER ENACTED that no toll-bar toll-gate or toll-house shall be erected upon any Cross Road and no toll shall be demanded or paid at any toll-bar toll-gate or toll-house upon any Cross Road until it shall have been certified to the Court of Quarter Sessions of the District in which such Cross Road may be by two Justices of the Peace resident in that District that such Cross Road is in a state of thorough repair and no assessment shall be made for the making maintaining or repairing any Cross Road after a toll shall be established upon such Cross Road and all tolls to be taken and recovered for passing such toll-bars toll-gates and toll-houses shall be applied in the maintaining and repairing such Cross Road for the future and the payment of the collectors and other expenses incidental to the repairing and maintaining such Cross Road—PROVIDED that in case any such road as last aforesaid shall become ruinous and out of repair and the same shall be certified to the said Court by two Justices of the Peace resident as aforesaid and that the tolls collected upon such road

If road ruinous and toll insufficient for repair toll may be discon-

shall be insufficient for the repair and maintenance thereof it shall be lawful for the Court of Quarter Sessions for the District in which such road shall be by some order of the said Court to direct from time to time as occasion may require that the tolls theretofore taken upon the said Cross Road shall cease until the said Road shall be put into thorough repair and thereupon the said Cross Road shall be repaired and maintained from the moneys to arise by assessments to be for that purpose made in the same manner as if no toll had been directed to be paid by any such order as hereinbefore mentioned upon such Cross Road.

tinued and assessment made.

XIX. AND BE IT ENACTED that every order of a Court of Quarter Sessions made in pursuance of this Act and directing toll to be taken at any toll-bar toll-gate or toll-house shall be of the same force and effect as if the toll by such order directed to be paid had been by this Act specifically directed to be paid and all toll which shall be paid or received to or by any collector at any toll-bar toll-gate or toll-house upon any Cross Road shall be paid by such collector to the Deputy Chairman of the District in which such toll-bar toll-gate or toll-house is situate or to such other person as such Deputy Chairman shall for that purpose authorise by any writing to be signed by such Deputy Chairman to receive or demand the same.

Orders of Courts establishing tolls to have same effect as if part of this Act. Tolls to be paid to Deputy Chairman by Collectors.

XX. AND BE IT ENACTED that no Toll shall be demanded or taken by virtue of this Act at any toll-bar toll-gate or toll-house of or from any person or persons for any horse or horses or other beast or cattle or for any waggon wain dray cart or other carriage employed in carrying or conveying or going empty to fetch carry or convey or returning empty from carrying or conveying having been employed only in carrying or conveying on the same day any stones bricks timber wood gravel soil or other materials for making or repairing any Cross Road in the same District with the toll-bar toll-gate or toll-house or for building rebuilding or repairing any present or any future bridge or bridges in any such District or of or from the Surveyor of any District when engaged in executing or proceeding to execute within the limits of his own District the powers of this Act or for any horse beast or other cattle or carriage employed in carrying or conveying having been employed only in carrying or conveying on the same day any dung soil compost or manure or lime for improving lands or any ploughs harrows or implements of husbandry unless laden also with some other thing not hereby exempted from toll or for any horses or other beast employed in husbandry going to or returning from plough or harrow or to or from pasture or watering place or going to be or returning from being shod or farried such horses or other beasts not going or returning on those occasions more than two miles on the Cross Road on which the exemption shall be claimed or for any beast or cattle going to or returning from pasture upon any Township reserve or of or from any person or persons in respect of any horse or other beast or vehicle in or on which he or they may be going to or returning from his or their usual place of religious worship on Sundays or of or from any person or persons in respect of any hearse or of

Exemption from Toll.

any horse or other beast or vehicle in or on which he or they may be going to or returning from the funeral of any person or from any Minister of Religion going to or returning from visiting any sick person or prisoner in gaol or for any horses or other beasts or carriages of whatever description employed or to be employed solely in conveying the Mails of letters and expresses under the authority of the Postmaster-General of this Island either when employed in conveying fetching or guarding such Mails or expresses or in returning back from conveying or guarding the same or for the horse or horses of any officers or soldiers on their march or on duty or for any horse or horses or other beast or any cart waggon or carriage of any description employed in carrying or conveying or returning empty from carrying or conveying having been employed only in carrying or conveying the arms or baggage of any such officers or soldiers or employed in carrying or conveying or returning empty from having been employed only in carrying or conveying any sick wounded or disabled officers or soldiers or for any horses cattle or other beasts or carriages whatsoever which shall only cross any Cross Road or shall not pass above one hundred yards thereon.

Penalty for fraudulently claiming exemption from Toll.

XXI. AND BE IT ENACTED that every person who shall by any fraudulent or collusive means whatsoever claim or take the benefit of any exemption from toll in this Act contained shall for every such offence forfeit and pay any sum not exceeding Five Pounds and in all cases the proof of exemption shall be upon the person claiming the same.

XXII. AND BE IT ENACTED that in all carriages wherein oxen or neat cattle shall be used two oxen or neat cattle shall be considered as one horse for all purposes mentioned in this Act.

In case of refusal to pay toll Collectors may seize and distrain for toll.

XXIII. AND BE IT ENACTED that if any person subject or liable to the payment of any toll by virtue of this Act shall after demand thereof made neglect or refuse to pay the same or any part thereof it shall be lawful for the persons authorised or appointed to collect such tolls by themselves or taking such assistance as they shall think necessary to seize and distrain any horse beast cattle carriage or other thing upon or in respect of which any such toll is imposed together with their respective bridles saddles gears harness or accoutrements except the bridle or reins of any horse or other beast separate from the horse or beast or any carriage in respect of the horses or cattle drawing the carriage on which such toll is imposed or any of the goods or chattels of the person or persons so neglecting or refusing to pay and if the toll or any part thereof so neglected or refused to be paid and the reasonable charges of such seizure and distress shall not be paid within the space of four days next after such seizure and distress made the person so seizing and distraining may sell the horse beast cattle carriages or things so seized and distrained or a sufficient part thereof returning the overplus of the money to arise by such sale (if any) and what shall remain unsold upon demand to the owner thereof after such tolls and the reasonable charges occasioned by such seizure distress and sale shall be deducted.



XXIV. AND BE IT ENACTED that if any dispute shall happen or arise about the amount of the tolls due or the charges of making keeping or selling any distress made for non-payment of any tolls it shall be lawful for the Collector or the person distraining to retain such distress or the money arising from the sale thereof as the case may be until the amount of the tolls due and the charges of the making keeping and selling the distress be ascertained by some Justice of the Peace who upon application made to him for that purpose shall examine the matter on the oath of the parties or other witness or witnesses which oath such Justice is hereby authorised and empowered to administer and shall determine the amount of the tolls due and shall award such costs and charges to either party as to the said Justice shall appear right and proper all which costs and charges shall and may be levied and recovered in case of non-payment thereof forthwith by distress and sale of the goods and chattels of the person or persons so awarded or directed to pay the same by warrant under the hand and seal of such Justice rendering the overplus if any upon demand after deducting the costs and charges of making such distress and sale to the person or persons whose goods and chattels shall have been so distrained and sold—PROVIDED that no person shall be required to attend before any Justice touching any of the matters aforesaid which Justice shall reside beyond seven miles from the place where such distress shall be made.

Disputes to be settled by one Justice.

XXV. AND BE IT ENACTED that if any person shall with any horse cattle beast or carriage go off or pass from any Cross Road through or over any land or ground near or adjoining thereto not being a public highway and such person not being the owner or occupier or servant or one of the family of the owner or occupier of such land or ground with intent to evade the payment of the tolls granted by this Act or if any owner or occupier of any such land or ground shall knowingly or wilfully permit or suffer any person except as aforesaid with any horse cattle beast or carriage whatsoever to go or pass through or over such land or ground with intent to evade any such tolls or if any person shall fraudulently or forcibly pass through any such toll-bar or toll-gate with any horse cattle beast or carriage or shall leave upon any Cross Road any horse cattle beast or carriage whatsoever by reason whereof the payment of any tolls shall be avoided or lessened or shall take off or cause to be taken off any horse or other beast or cattle from any carriage either before or after having passed through any toll-bar or toll-gate or having passed through any toll-bar or toll-gate shall afterwards add or put any horse or other beast to any such carriage and draw therewith upon any part of any Cross Road so as to increase the number of horses or other beasts drawing the said carriage after the same shall have passed through any toll-bar or toll-gate whereby the payment of all or any of the tolls shall or may be evaded or if any person shall do any other act whatever in order or with intent to evade the payment of all or any of the tolls and whereby the same shall be evaded every such person shall for every such offence forfeit and pay any sum not exceeding Five Pounds.

Penalties imposed in certain cases of evasion of payment of toll.

Collectors guilty of misconduct to be fined.

XXVI. AND BE IT ENACTED that if any collector or other person appointed to collect the tolls on any Cross Road shall allow any coach waggon dray cart or other carriage of whatever description or any horse beast or other cattle liable to pay toll to pass through any toll-bar or toll-gate without paying the toll payable thereat or shall be guilty of any other misconduct in his office every collector or other person so offending and being thereof convicted before one Justice shall forfeit for every such offence any sum not exceeding Five Pounds as the Justice by or before whom such offender shall be convicted shall judge proper.

Collectors demanding greater toll than due or guilty of other misconduct to be fined.

XXVII. AND BE IT ENACTED that if any Toll Collector shall demand and take a greater or less toll from any person than he shall be authorised to do by virtue of this Act or of any order or direction made in pursuance thereof or shall demand and take a toll from any person who shall be exempt from the payment thereof and who shall claim such exemption or shall refuse to permit or suffer any person to read or shall in any wise hinder any person from reading the inscriptions on such toll-boards as aforesaid or shall refuse to tell his Christian and surname to any person who shall demand the same on being paid the said tolls or any of them or shall in answer to such demand give a false name or names or upon the legal toll being paid or tendered shall unnecessarily detain or wilfully obstruct hinder or prevent any passenger from passing through any toll-bar or toll-gate or shall make use of any scurrilous or abusive language to any Surveyor of the District in which such toll-bar toll-gate or toll-house is situate or to any traveller or passenger then and in every such case every such Toll Collector shall forfeit and pay any sum not exceeding Five Pounds for every such offence.

Collector not accounting for toll to pay a penalty of £50.

XXVIII. AND BE IT FURTHER ENACTED that if any collector of tolls upon any Cross Road shall neglect or refuse to account for and pay over to the person or persons authorised to receive the same upon demand the money collected and paid at any toll-bar toll-gate or toll-house at which he shall be stationed as collector every such collector shall for every such offence forfeit and pay a penalty not exceeding Fifty Pounds.

Toll Collectors discharged and refusing to give up Toll-houses may be ejected upon warrant.

XXIX. AND BE IT ENACTED that it shall be lawful for any two or more Justices of the Peace of whom one shall be the Deputy Chairman of the Court of Quarter Sessions upon the death resignation or dismissal from office of any Collector appointed to collect the tolls upon any Cross Road within the District of such Court of Quarter Sessions to nominate and appoint some other fit person in his place until the next meeting of such Court of Quarter Sessions which person so to be nominated and appointed shall have the like power and authority and be accountable in the same manner in all respects as the person so dying resigning or being dismissed from office had or would have been if living and that if any Toll Collector who shall be discharged from his office by such Court of Quarter Sessions or other person or persons

in that behalf authorised by such Court shall refuse to deliver up the possession of the house buildings and appurtenances which he enjoyed in right of his appointment to that office within Two Days after notice of his discharge shall be given to him or left at his house or if the wife or family of any such Toll Collector who shall die as aforesaid shall refuse to deliver up the possession of such house building and appurtenances within Four Days after such new appointment shall be made as aforesaid then in either of the said cases it shall and may be lawful for the Chairman or Deputy Chairman of the Court of Quarter Sessions for the District where such house buildings and appurtenances shall be by warrant under his hand and seal to order a Constable or other Peace Officer with such assistance as shall be necessary to enter such house and premises in the day-time and to remove the persons who shall be found therein together with their goods out of such house and to put the new appointed Collector into the possession thereof.

XXX. AND BE IT ENACTED that it shall be lawful for the several Surveyors of the Districts of this Island to be appointed by the Courts of Quarter Sessions under this Act in and upon the Cross Roads under their respective care and management to erect and cause to be erected placed and put up such and so many lamps lamp-posts bars direction boards mile-stones posts rails walls and fences and other things as shall be by any order of the Court of Quarter Sessions directed to be erected built or placed up.

Power of Surveyor to put up lamps mile-stones &c.

XXXI. PROVIDED AND BE IT FURTHER ENACTED that the right interest and property of and in all the toll-gates toll-bars toll-houses lamps bars toll-boards direction boards mile-stones posts rails walls fences and other erections and buildings which shall be erected in pursuance of this Act with the appurtenances thereunto respectively belonging in each of the Districts of this Island and the materials of which the same shall consist and all materials tools and implements which shall be provided for repairing the Cross Roads within any District of this Island and the scrapings of such Cross Roads shall be vested in the Surveyor of the District subject to the order and control of the Court of Quarter Sessions of the District.

Road property vested in Surveyor of the District.

XXXII. AND BE IT ENACTED that if any person or persons shall knowingly and wilfully dig up break or pull down spoil destroy injure or damage any of the toll-gates toll-houses or toll-bars or other erections or buildings lamps bars toll-boards direction-boards mile-stones posts rails walls fences or any culvert covered drain or other work for the sustentation of any Cross Road made erected or put up by authority of this Act he shall be guilty of a misdemeanor and shall be punished by fine and imprisonment at the discretion of the Court before which such person shall be tried.

Wilful destruction of road property a misdemeanor.

XXXIII. AND BE IT ENACTED that if any person shall take away any materials which shall have been gotten dug or gathered for the repair or use of any Cross Road or any materials out of any quarry

Penalty for taking away materials collected for Cross Road.

which shall have been made dug or opened for the purpose of getting materials for the same before the Surveyor of the District in which such Cross Road is and the workmen employed for getting such materials shall have discontinued working therein for the space of one month except the owner or occupier of the land upon which such quarry shall be made and persons authorised by him to get materials in such quarry for his own private use and not for sale every person so offending shall for every such offence forfeit and pay any sum not exceeding Five Pounds.

**Power to Surveyor to remove annoyances on Cross Road.**

**XXXIV. AND BE IT ENACTED** that it shall be lawful for every Surveyor of a District appointed by any Court of Quarter Sessions and such persons as he shall appoint to remove and prevent all annoyances on any part of the Cross Road under his care and management by filth dung ashes rubbish or any other matter or thing whatsoever being laid or thrown upon any Cross Road or upon any land within twenty feet of the side of a Cross Road and to dispose of the same for the benefit of such Cross Road in case the owner thereof shall neglect to remove the same within twelve hours after notice in writing signed by such Surveyor as aforesaid given to such owner or in case the owner is not known then after a like notice affixed for three days to the nearest toll-bar toll-gate or toll-house and to turn any water-courses sinks or drains running into along or out of any Cross Road or any part thereof to the prejudice of the same and to open scour and cleanse any water-courses or ditches adjoining to any Cross Road and make the same as deep and large as such Surveyor shall think proper and necessary in case the owners or occupiers of the adjoining land shall neglect to open scour and cleanse such water-courses or ditches after seven days' notice in writing given for that purpose and the charges thereof and of removing any annoyances shall and may be settled by the Police Magistrate or Assistant Police Magistrate of the District and such charges shall be reimbursed to such Surveyor as aforesaid and the same shall be recovered in such manner as the penalties and forfeitures in the next Section mentioned are directed to be recovered and if after the removal of any such annoyances any person shall again offend in like manner every such person shall for every such offence forfeit and pay a sum not exceeding Five Pounds.

**Power to remove all buildings and fences which obstruct breadth of Cross Road and penalties for injuries to Road.**

**XXXV. AND BE IT ENACTED** that if any person shall make or cause to be made any dwelling-house or other building or any hedge or other fence on or at the sides of any Cross Road in such manner as to reduce the breadth or confine the limits thereof or shall fill up or obstruct any ditch at the side thereof or shall make any drain gutter sink or water-course across or otherwise break up or injure any Cross Road or any part thereof or shall in any manner whatsoever obstruct the free use of any Cross Road every person so offending shall forfeit and pay for every such offence a sum not exceeding Twenty Pounds and it shall be lawful for the Surveyor of any District having the care or management of such Cross Road to cause

such dwelling-house or other building hedge ditch or fence drain sink water-course gutter or other encroachment or obstruction to be taken down or filled up and it shall be lawful for any two Justices of the Peace of whom one shall be the Police Magistrate or Assistant Police Magistrate of the District where such offence shall be committed upon proof thereof to them made upon oath to levy as well the expenses of taking down filling up or cleansing such dwelling-house or other building hedges ditches drains or other encroachments or obstructions as aforesaid as the respective penalties hereby imposed by distress and sale of the offender's goods and chattels rendering the overplus if any to the owner on demand.

XXXVI. AND BE IT ENACTED that if any person shall ride upon any footpath or causeway by the side of any Cross Road made or set apart for the use or accommodation of foot passengers or shall lead or drive any horse ass mule swine or cattle or carriage of any description or any wheelbarrow truck or sledge or any single wheel of any waggon cart or carriage apart therefrom upon any such footpath or causeway or shall cause any injury or damage to be done to the same or shall haul or draw or cause to be hauled or drawn upon any part of such Cross Road any timber stone or other thing otherwise than upon wheeled carriages or shall suffer any timber stone or other thing which shall be carried principally or in part upon wheeled carriages to drag or trail upon such road or shall use any instrument whatsoever for the purpose of retarding the descent of any cart or other carriage down any hill in such manner as to destroy injure or disturb the surface thereof or if any person driving any horse or other beast on the said road carrying any iron bar or rod basket or pannier or any other matter or thing shall place such bar rod basket or pannier matter or thing so that the same or any of them shall project more than thirty inches from the side of such horse or other beast or so as in any manner to obstruct or impede the passage of any person or any horse beast or carriage travelling along such Cross Road or if any person shall make or assist in making any bonfire or set fire to or let off any fire-work whatsoever within thirty feet of the side of any Cross Road or shall make any fire upon any Cross Road or Bye Road or if any person shall leave any waggon wain cart or other carriage whatever upon any Cross Road or on the side thereof without any proper person in the sole care or custody thereof longer than may be necessary to load or unload the same except in cases of accident and in cases of accident for a longer time than may be necessary to remove the same or shall not place such waggon wain or other carriage during the time of loading or unloading the same or of taking refreshment as near to one side of the road as conveniently may be either with or without any horse or beast of draft harnessed or yoked thereto or shall lay any timber stone hay straw dung manure lime soil ashes rubbish or other matter or thing whatsoever upon any Cross Road or on the side or sides thereof or the footpaths or causeways adjoining to the prejudice of such road or footways or to the prejudice annoyance interruption or personal danger of any person travelling or shall suffer any water filth dirt or other offensive matter or thing whatsoever

For prevention of injuries to a Road and the safe enjoyment of the Road by passengers.

to run or flow into or upon such Road or footpaths from any house building erection lands or premises adjacent thereto or if any person shall after having blocked or stopped any cart waggon or other carriage in going up a hill or rising ground cause or suffer to be or remain on such Road the stone or other thing with which such cart or other carriage shall have been blocked or stopped or if any person shall wantonly extinguish the light of any lamp erected or placed in or near the side of any Cross Road by authority of this Act every person offending in any of the cases aforesaid shall for each and every such offence forfeit and pay a penalty not exceeding Five Pounds.

Carts not to be  
driven by children  
alone.

XXXVII. AND WHEREAS carts wains drays and waggons are frequently entrusted to the care of children who are unable to guide the animals drawing the same to the great inconvenience and danger of the Public—BE IT THEREFORE ENACTED that no cart wain dray or waggon travelling on any Cross Road shall be driven by any person who shall not be of the full age of thirteen years under a penalty not exceeding Ten Shillings to be paid by the owner of such cart wain dray or waggon.

For prevention of  
accidents by  
negligent conduct.

XXXVIII. AND WHEREAS accidents frequently happen by the negligence or wilful misbehaviour of persons driving carriages on the public roads—BE IT THEREFORE ENACTED that if the driver of any waggon dray or cart of any kind shall ride upon any of such carriages on any Cross Road not having some other person on foot or on horseback to guide the same (such light carts as are usually driven with reins and are then conducted by some person holding the reins of the horse or horses drawing the same excepted) or if the driver of any carriage whatsoever on any Cross Road shall not keep his carriage or other vehicle on the left or near side of the Road or shall by negligence or wilful misbehaviour cause any hurt or damage to any person or carriage passing or being upon any such Road or shall quit the Road and go on the other side of the hedge or fence enclosing the same or wilfully be at such distance from such carriage or in such a situation whilst it shall be upon such Road that he cannot have the direction and government of the horses and cattle drawing the same or if any person shall drive or act as the driver of any such waggon wain dray or cart not having the owner's name painted conspicuously on the right side thereof or if any person shall wilfully prevent any other person from passing him or her or any carriage under his or her care upon such Road or by negligence or misbehaviour prevent hinder or interrupt the free passage of any carriage of Her Majesty's subjects on any Cross Road every such driver so offending in any of the cases aforesaid and being convicted of any such offence either by his own confession the view of a Justice of the Peace or by the oath of one or more credible witness or witnesses shall for every such offence forfeit and pay any sum not exceeding Forty Shillings in case such driver shall not be the owner of such carriage and in case the offender be the owner of such carriage then any sum not exceeding Five Pounds and every such driver offending in either of the said cases may by the authority of this Act with or without any warrant be

apprehended by any person or persons who shall see such offence committed and be conveyed before some Justice of the Peace to be dealt with according to law and if any such driver in any of the cases aforesaid shall refuse to discover his name it shall and may be lawful for the Justice before whom he shall be taken or to whom any such complaint shall be made to commit him by warrant under his hand and seal to imprisonment in any Gaol or House of Correction to be kept to hard labour for any period not exceeding three months by a description of his person and the offence only without adding any name or designation but expressing in the proceeding that he refused to discover his name.

XXXIX. AND BE IT ENACTED that all fines penalties and forfeitures for the recovery whereof no other remedy is by this Act provided shall and may be recovered and levied in a summary way before any two Justices of the Peace one of whom shall be a stipendiary Magistrate in the manner provided by an Act of this Island intituled *An Act to regulate Summary Proceedings before Justices of the Peace* and such fines and penalties not hereinbefore otherwise specifically appropriated when so levied and recovered shall go and be applied in and towards the maintenance of the Cross Road upon which the offence shall have been committed or in respect of which the penalty shall be levied.

Recovery of penalties and appropriation.

XL. AND BE IT ENACTED that before any Surveyor of any District shall enter upon the duties of his office he shall give a bond to the Chairman or Deputy Chairman of the District of which he shall be appointed Surveyor with such surety or sureties and in such amount as to such Chairman or Deputy Chairman shall seem fit for his duly and faithfully accounting for applying and paying such sums which shall come to his hands as such Surveyor as aforesaid in the form in the Schedule to this Act annexed which bond such Chairman or Deputy Chairman as aforesaid is hereby authorised to take.

District Surveyor to give bond before entering upon office.

XLI. AND BE IT ENACTED that in case any bond given by any Surveyor of a District shall become forfeited it shall be lawful for the Chairman or Deputy Chairman of the District for the time being to put such bond in suit in the name of the Chairman or Deputy Chairman to whom such bond was given notwithstanding such Chairman or Deputy Chairman shall then have ceased to be Chairman or Deputy Chairman or be dead or insolvent and the monies received in any such suit shall after deducting thereout the costs of action paid or to be paid by the Chairman or Deputy Chairman putting such bond in suit be and form part of the general fund of the District applicable to the purposes of this Act—PROVIDED ALWAYS that in every case in which such bond shall be put in suit by any other than the Chairman or Deputy Chairman to whom the same was given such last-mentioned Chairman or Deputy Chairman his executors and administrators shall be and they are hereby indemnified of and from all costs and expenses.

Chairman or Deputy Chairman for time being may put bond in suit.

Surveyors to submit plans of intended alteration of Cross Road to Quarter Sessions.

**XLII. AND BE IT ENACTED** that the Surveyor of any District whensoever he shall be desirous of altering any part of a Cross Road shall submit some plan of such alteration together with an estimate of the expense of effecting such alteration to the Court of Quarter Sessions of the District in which such Cross Road and the alteration thereof shall be and it shall be lawful for such Court of Quarter Sessions to make such order thereupon and such assessment for providing the expense of making the alteration as to such Court shall seem fit and in case such Court shall by any such order as aforesaid direct any such alteration to be made such Surveyor shall cause a true copy of such order to be served personally upon the landlord or tenant in possession of any lands through which the intended alteration of the Cross Road is proposed to be made within One Month after the date of such order.

Persons affected by intended alterations of Cross Road to appear and object at Quarter Sessions next after order expires.

**XLIII. AND BE IT ENACTED** that at the next sitting of the Court of Quarter Sessions for the District in which such Cross Road and the alteration thereof intended to be made shall be after the expiration of such order as in the preceding Section mentioned it shall be competent for any person who shall be affected by any such order to appear before the said Court and object to such order being confirmed and thereupon it shall be lawful for such Court upon the hearing of any such objection to annul or confirm such order as aforesaid as to such Court shall seem expedient and if no such objection shall then be made or being made shall be overruled by the said Court it shall be lawful for such Court to confirm such order.

After confirmation of order Surveyor may enter and make Road.

Line of road when defined to be part of Cross Road.

Temporary fences to be put up in certain cases.

**XLIV. AND BE IT ENACTED** that after the confirmation of any such order as aforesaid the said Surveyor and all persons acting under his orders shall have authority to enter upon the said land and to define and make the line of road of which notice shall have been so given as aforesaid and such line of road when defined shall be taken to be part of the Cross Road and shall be under the care and management of the said Surveyor and upon the completion thereof the old line of road in place of which such new line of road hath been made shall be discontinued and cease to be a part of the Cross Road—**PROVIDED** that in all cases where by the authority of any such Surveyor any fencing is removed for the purpose of altering any part of a Cross Road the land from which the fence hath been so removed shall be protected by a temporary fence which such Surveyor shall cause to be made and continued during the progress of such alteration in the Cross Road as aforesaid.

Uncultivated land may be made use of as temporary road during repair of Cross Road.

**XLV. AND BE IT ENACTED** that it shall be lawful for every Surveyor of a District and for every person acting under his orders to make use of any uncultivated land for the purpose of constructing a temporary road while the Cross Road is undergoing repair—**PROVIDED** that the temporary road shall be fenced in or otherwise so secured as to afford to the person through whose land such temporary road may pass an equal protection against trespass as was possessed by such person previously to the construction of such temporary road.



XLVI. AND BE IT ENACTED that in all cases where an alteration in a Cross Road is made through lands previously fenced such lands shall be with an equally substantial fence fenced on both sides by the Surveyor of the District.

Altered lines of Cross Road to be fenced by Surveyor in certain cases.

XLVII. AND BE IT ENACTED that it shall and may be lawful for the Surveyor of a District and for any other person acting under his orders to enter upon land adjoining any Cross Road under the care or management of such Surveyor for the purpose of constructing or repairing any drains or culverts or performing any repairs that may be required to the Cross Road without being deemed a trespasser or trespassers.

Power of entry upon adjoining land to construct culverts and drains.

XLVIII. AND BE IT ENACTED that it shall and may be lawful for the Surveyor of the District and for any person or persons acting under or appointed by him to enter for the purpose of tracing out or making any alteration of the line of a Cross Road into any land not being an orchard garden cultivated ground yard park plantation or avenue leading to any house and to enter any such land as aforesaid adjacent to the Cross Road with all necessary and proper carriages oxen and horses and to cut down all such indigenous timber and to dig and quarry all such gravel stone lime and soil as may be required for making and repairing the said Cross Road or for constructing or repairing any drain or culvert or performing any other work necessary thereto and to carry away the same without being deemed a trespasser or trespassers.

Powers of entry to trace new line of Cross Road.

Power to take materials from adjacent lands to make or repair Cross Road culverts and drains.

XLIX. AND BE IT ENACTED that the Surveyor of a District shall cause to be filled up or in other respects rendered secure all pits or quarries that may have been opened or used by him for the purposes aforesaid and shall so soon as such work is completed cause all fences taken down in the prosecution of such work to be well and sufficiently restored by and at the expense of such Surveyor which expense shall be paid out of the assessments to be collected in the District.

Surveyor to cause all pits dug to be secured and fences restored.

L. PROVIDED ALWAYS AND BE IT FURTHER ENACTED that nothing in this Act contained shall be construed to authorise or empower any Surveyor of a District to take in or make use of or to order or direct any road or highway to be made in or through any garden yard or any park planted walk or avenue to a house or any enclosed ground planted as an ornament or shelter to a house or planted and set apart as a nursery for trees or any part thereof respectively without the consent of the owner or proprietor thereof in writing first had and obtained.

Certain land not to be taken for Cross Road.

LI. AND BE IT ENACTED that in all cases where by authority of this Act a Cross Road shall be altered or diverted so as that the new line of road be made to pass over any cultivated lands it shall be lawful for the owner landlord or tenant in possession of any such cultivated land as aforesaid to demand of and from the Surveyor of the

Compensation to be made in certain cases of injury to cultivated land.  
Deputy Chairman

may issue warrant  
for amount  
awarded.

District compensation for any injury sustained by him by reason of any such alteration or diversion as aforesaid and such compensation shall be assessed by two Arbitrators to be chosen one by the said Surveyor and the other by the person claiming such compensation and such Arbitrators shall have power to appoint an Umpire and it shall be lawful for the Court of Quarter Sessions of the District by any order to be made by such Court to direct the Deputy Chairman to pay to such Surveyor any sum which may be awarded by such Arbitrators or Umpire as aforesaid out of any funds in the hands of such Deputy Chairman which shall have been received by virtue of this Act to the person or persons in whose favour the award shall be made in respect of the injury sustained by any such alteration or diversion of the said Cross Road—PROVIDED that no Arbitration shall be had and no compensation shall be made under this Act unless the same shall be demanded within one month after confirmation of the order hereinbefore mentioned for altering or diverting the said Cross Road.

Compensation  
may be demanded  
by and made to  
agents and repre-  
sentatives of per-  
sons under legal  
disability.

LII. AND BE IT ENACTED that in every case where any person entitled to demand compensation under this Act shall be absent from this Colony or shall be under any legal disability such demand shall and may be made by an Agent or other person in that behalf authorised by the person who shall be so absent and such compensation shall and may be paid to such Agent or person authorised as aforesaid to the use of the person so being absent as aforesaid and such demand shall and may be made by any guardian committee husband or trustee of any person under legal disability and entitled to demand such compensation as aforesaid and such compensation shall and may be paid to such guardian committee husband or trustee as aforesaid to the use of such person under such legal disability.

Demands for com-  
pensation to be  
made in the form  
prescribed.

LIII. AND BE IT ENACTED that every demand for such compensation as aforesaid shall be made in writing in the form or as near thereto as circumstances will admit in the first Schedule to this Act annexed and shall be signed by the party making the same and shall contain the amount of compensation claimed by him and the name of the Arbitrator appointed by him and shall be delivered to the Surveyor of the District or be left at his office and such Surveyor shall within fourteen days after delivery as aforesaid of such demand as aforesaid by writing under his hand nominate and appoint an Arbitrator to meet the Arbitrator mentioned in such demand and the day time and place of meeting for such Arbitrators which meeting shall be held within one month from the day of the delivery of such demand and such Arbitrators shall have power to examine on oath all witnesses produced before them and to adjourn the hearing of the matters submitted to them by the said demand from time to time as occasion shall require and such Arbitrators or Umpire shall make their award touching the matters aforesaid in the form or as near thereto as circumstances will admit in the second Schedule hereunto annexed and such award shall be attested by two witnesses and shall be final and conclusive and shall not be set aside reversed or vacated but for corruption alone—PROVIDED that no adjournment or adjournments collectively shall be

Surveyor  
to nominate one  
Arbitrator within  
14 days of de-  
mand.

made by such Arbitrators for any period longer than ten days—AND PROVIDED that if the said Surveyor of the District shall neglect or refuse within the time aforesaid to nominate and appoint an Arbitrator to meet the Arbitrator so to be named and appointed by the person claiming compensation as aforesaid it shall be lawful for the Arbitrator so named and appointed by the person claiming compensation as aforesaid to proceed *ex parte* and the award to be made by such Arbitrator shall be final and conclusive and shall not be set aside reversed or vacated but for corruption alone.

Arbitrator to proceed *ex parte* in certain cases.

LIV. AND BE IT ENACTED that it shall be lawful for the said Courts of Quarter Sessions respectively by a separate assessment to be for that purpose made by such courts respectively in the manner hereinbefore provided for raising the necessary funds for the making and repairing the Cross Roads to raise a sufficient sum for payment of the salary of the Surveyor of the District which assessment shall in no instance exceed in any one year the sum of one farthing per acre upon the lands in such District and one farthing in the pound upon the annual rental or annual valued rental of any messuage or dwelling-house liable to assessment by this Act which assessment shall and may be raised and paid in the same manner as is hereinbefore provided for raising and paying assessments for the making and repairing the Cross Roads and the payment of such separate assessments shall and may be enforced by distress and sale in the manner hereinbefore provided for enforcing payments of the assessments under this Act.

Salary of Surveyor to be raised by separate assessments not exceeding one farthing per acre.

LV. AND BE IT ENACTED that after any estimate for the making or repairing of any Cross Road shall have been approved by any Court of Quarter Sessions it shall be lawful for the Deputy Chairman of such Court upon the order of such Court or by such cheque signed as hereinbefore mentioned to pay to the Surveyor of the District any sum of money which shall then be at the disposal of such Deputy Chairman as aforesaid and applicable to the purpose not exceeding the amount of such estimate for the purpose of defraying the expenses of making or repairing any such Cross Road and it shall also be lawful for such Deputy Chairman upon any such order as aforesaid or by a cheque to be signed as aforesaid to pay to the Surveyor of the District any sum of money which shall then be at his disposal and applicable to that purpose which shall by any order of the Court of Quarter Sessions of the District be directed to be paid as the salary of such Surveyor and in like manner to pay all other sums of money which shall be by any such order directed to be paid to any Collector Assessor or other person.

Payment of sums for expense of works and salary of Surveyor.

LVI. AND BE IT ENACTED that it shall be lawful for the said Courts of Quarter Sessions respectively by any order to be made by such courts and which order shall be entered in the book hereinbefore directed to be kept by the Deputy Chairman of such courts and shall be signed by the Chairman of the court making the same to fix and determine the amount of salary which shall be annually paid to the person by such court appointed to be Surveyor of the District.

Annual salary of Surveyor to be fixed by order of Court.

Persons having  
receipt and dis-  
posal of moneys  
to account to  
Quarter Sessions.

LVII. AND BE IT ENACTED that every person who shall by this Act be entrusted with the receipt and disposal of moneys shall produce at each quarterly meeting of the said courts and at such other times as they shall by any order of the said courts be required so to do a true and just account of all sums received by them and of the disbursements made by them together with the vouchers for such disbursements and such courts respectively shall proceed to audit and pass such accounts or disallow the same as the case may be and in the event of any such person being deficient in such account the deficiency shall and may be recovered by an action of debt to be commenced and prosecuted in the name of the Chairman of the court before which such deficiency shall appear.

Powers to Courts  
of Quarter  
Sessions to stop  
up and consoli-  
date several roads  
into one.

LVIII. AND WHEREAS it frequently occurs from the unenclosed state of the country that one or more roads not being a Cross Road or the Main Road hath been and are made through the land of one person where either no road ought to exist or one road would be sufficient to the great damage and inconvenience of such person and it would be beneficial to provide a cheap and speedy remedy for this evil and for quieting lawsuits arising therefrom—BE IT THEREFORE ENACTED that whensoever any such person shall be desirous of stopping up or consolidating into one general road any such road or roads as aforesaid it shall be lawful for such person by an application in writing to be made by him and subscribed with his name to be addressed to the Chairman of the Court of Quarter Sessions of the Police District in which such person's lands shall lie and which application shall be accompanied with a true chart of the road or roads showing to what places and from what places such road or roads lead to require that such road or roads be stopped or that one general road be taken instead of several specifying in such chart such general road and thereupon it shall be lawful for such Court as aforesaid and such Court is hereby authorised to hear the application and to decide thereupon and to call before such Court and to examine upon oath all witnesses in support of the application or against it and it shall be lawful for any person to enter a caveat in the office of the Clerk of the Peace or Deputy Clerk of the Peace to any such application either wholly or in part and such caveat shall come on to be heard before such Court as aforesaid together with the application and it shall be lawful for the said Court to examine upon oath all witnesses in support of or against such caveat and such Court shall after hearing the said application and caveat or caveats against the same determine the matter of such application and caveat or caveats by directing any such road or roads as aforesaid to be discontinued and stopped or to be continued open or by directing any new road to be opened and other roads to be stopped up and such determination shall be signified by an order of the Court to be signed by the Chairman or Deputy Chairman of the said Court and which order shall be deposited for safe custody by the Chairman or Deputy Chairman signing the same in the office of the Registrar of Deeds who is hereby authorised and required to receive and keep the same without fee or reward and every person shall be entitled to inspect such order at the office of the said Registrar on payment of a

fee of One Shilling and to receive and have a copy of such order upon payment of a fee of Five Shillings to such Registrar and a copy of such order shall be published in the Hobart Town Gazette by the Chairman of the Court making the same within fourteen days after the date of such order and such Court shall have power to adjourn the hearing of any such application caveat or caveats as aforesaid from time to time as to such Court shall seem meet—PROVIDED that no such application caveat or caveats shall come on to be heard respectively before any such Court as aforesaid unless a copy of such application shall have been published by the person making the same at least one month before the day of the hearing the same in one public newspaper published at Hobart Town and one public newspaper published at Launceston and unless every such caveat shall have been entered in the office of the Clerk of the Peace at least one week before the day of the hearing of such application and caveat or caveats.

LIX. AND BE IT ENACTED that it shall be lawful for such Courts respectively upon the hearing of any such application caveat or caveats as aforesaid to determine whether any such road or roads shall be continued open as footways or footways and horseways or footways horseways and carriage ways or drift-ways or any or either of such ways and such determination shall be stated in the order hereinbefore directed to be published in the Hobart Town Gazette by the Chairman of the Court making the same and upon the publication of such order as aforesaid such roads shall be and be deemed and taken to be footways or footways and horseways or footways horseways and carriage ways or drift-ways or any or either of such ways as the same shall be expressed in such order and all such roads shall be and are hereby declared to be Bye-ways common to all Her Majesty's subjects—AND such Courts respectively shall have power and authority to make such rules and regulations for the hearing and conduct of every such application caveat and caveats as aforesaid as to the said Courts respectively shall seem meet and most conducive to the ends of justice.

Courts to determine the nature of certain roads.

LX. PROVIDED AND BE IT FURTHER ENACTED that the said Courts of Quarter Sessions respectively shall not have power or authority to hear or determine any question matter or thing relating to any right of way appendant to any lands tenements or hereditaments.

Limitation of powers of Courts of Quarter Sessions in certain rights of way.

LXI. AND WHEREAS great inconvenience frequently arises by reason of there being no bye-way through and over lands where such bye-way ought to exist and it is just to make provision for remedy thereof—BE IT THEREFORE ENACTED that where any persons shall be desirous of having any such bye-way for the convenience of access to or egress from any lands in their occupation established through and over the land of another or others it shall be lawful for such persons by an application in writing to be made by them and subscribed with their own proper names to be addressed to the Chairman of the Court of Quarter Sessions of the Police District in which such land shall lie through which they shall be desirous that a bye-way be made and which application shall be accompanied with a true chart

Power to Courts of Quarter Sessions to order Bye-way to be opened.

showing to what places and from what places such bye-way is intended to lead to require that such bye-way be declared by the said Court of Quarter Sessions and thereupon it shall be lawful for such Court as aforesaid and such Court is hereby authorised to hear such application and to decide thereupon and to call before such Court and to examine upon oath all witnesses in support of the application or against it and it shall be lawful for any person to enter a caveat in the office of the Clerk of the Peace to any such application either wholly or in part and such caveat shall come on to be heard before such Court as aforesaid together with such application as aforesaid and it shall be lawful for such Court to examine upon oath all witnesses in support of or against such caveat and such Court shall have power and authority to make such rules and regulations for the hearing and conduct of such application caveat or caveats as to such Court shall seem meet and shall be most conducive to the ends of justice and such Court shall also have power and authority from time to time to adjourn the hearing of any such application caveat and caveats and after the hearing of such application caveat or caveats the said Court shall also have power and authority to determine the matter of such application caveat or caveats and such determination shall be notified by an order of the said Court to be signed by the Chairman or Deputy Chairman thereof and which order shall be deposited for safe custody by the Chairman or Deputy Chairman signing the same in the office of the Registrar of Deeds who is hereby authorised and required to receive and keep the same without fee or reward and every person shall be entitled to inspect the said order at the office of the said Registrar on payment of a fee of One Shilling and to receive and have a copy of such order on payment of a fee of Five Shillings to the said Registrar and a copy of the said order shall be published in the Hobart Town Gazette within Fourteen Days from the day of the date thereof—PROVIDED that no such application caveat or caveats shall come on to be heard respectively before any such Court as aforesaid unless a copy of such application shall have been published by the persons making the same at least One Month before the day of the hearing the same in one public newspaper published at Hobart Town and one public newspaper published at Launceston at least One Month before the day of the hearing the same and unless every such caveat shall have been entered in the office of the Clerk of the Peace at least One Week before the day of the hearing of such application and caveat or caveats.

Orders of Courts  
of Quarter  
Sessions on the  
subject of the  
preceding sections  
to be final.

Limitation of  
actions.

LXII. AND BE IT ENACTED that every order made upon any such application caveat or caveats as in this Act mentioned by any such Court as aforesaid shall be final and conclusive and every such bye-way shall and may be closed or opened and enjoyed and used by all Her Majesty's subjects according to the right of way specified in any such order so published as by this Act directed and no action suit or other proceeding shall be had or commenced by or against any person by reason of his shutting up or using any such road or bye-way as aforesaid according to the terms specified in any such order—AND if any action shall be brought against any person for shutting up any road or for using any bye-way according to the terms of any such order as

aforesaid it shall be lawful for such person to plead the general issue in any such action and give this Act and the special matter in evidence and if the Plaintiff in any such action shall become nonsuit or discontinue his action or a verdict shall pass against him or judgment be given against him upon demurrer or otherwise he shall pay double costs of action to the Defendant and no writ *ad quod damnum* shall be sued out or prosecuted by any person for or on account of the shutting up or opening any such byeway and it shall not be necessary to sue out or prosecute the said writ in any case in order to the full enjoyment of and right to use such bye-way in any case whatsoever.

LXIII. AND BE IT ENACTED that when any bye-way shall be made by authority of this Act through any enclosed land it shall be lawful for the proprietor occupier or occupiers of such land over which such bye-way shall be made to submit to the Court of Quarter Sessions for the Police District in which such bye-way shall be an estimate of the expense of fencing such bye-way and thereupon it shall be lawful for such Court (if such estimate be approved by the said Court) and such Court is hereby authorised and required by an order of such Court to be signed by the Chairman or Deputy Chairman thereof to direct the whole expense to be paid by the persons making application for such bye-way to such proprietor occupier or occupiers as aforesaid within such time as such court shall think fit and reasonable or in lieu thereof that such persons making such application as aforesaid shall erect or cause and procure to be erected within such time as to such court shall seem just to be specified in such order such fence as aforesaid and a copy of such order shall be served within Fourteen Days from the date of such order by the party procuring such order to be made upon the persons applying for such bye-road—PROVIDED that unless the person or persons by such order directed to pay such expense of fencing or to erect such fencing as aforesaid shall within the time in such order specified pay for or erect such fencing in the said order mentioned then and in either of such events the order by which such bye-way shall be declared shall be null and void and of no effect—AND PROVIDED that until such order shall be fully complied with by the person or persons thereby directed to pay for or put up such fencing as aforesaid such person or persons shall not use or acquire or have any right to use such bye-way as aforesaid.

Courts of Quarter Sessions may order fencing to be done.

LXIV. AND BE IT ENACTED that the terms Chairman and Deputy Chairman in this Act used shall be construed to intend and mean the Chairman and Deputy Chairman for the time being of the Courts of Quarter Sessions respectively and that the term Surveyor of a District shall be construed to intend and mean the Surveyor for the time being and that the term Districts in this Act used shall intend and mean the Police Districts of this Island as the same are now or hereafter may be defined according to law and that the words importing the singular number shall be construed to include the plural in all cases not repugnant to the context.

Explanation of terms.

Recovery of  
penalties.

LXV. AND BE IT ENACTED that all fines and penalties for the recovery whereof no other remedy is provided by this Act and all offences for the punishment whereof no other remedy is hereinbefore provided shall and may be imposed levied tried and determined in a summary manner as provided by the Act of this Island intituled *An Act to regulate Summary Proceedings before Justices of the Peace.*

E. EARDLEY-WILMOT.

Passed the Legislative Council, the twenty-fifth day of September, one thousand eight hundred and forty-six,

ADAM TURNBULL, *Clerk of the Council.*

### SCHEDULE 1.

To the Surveyor of the District of

SIR

I demand the sum of \_\_\_\_\_ Pounds as Compensation for the alteration and diversion of the Cross Road under your management through the cultivated land of *A. B.* situate at \_\_\_\_\_ in the Police District of \_\_\_\_\_

(Signed) *A. B.*  
*Or C. D. Agent or Guardian or Committee*  
*or Husband or Trustee of A.B.*  
*[as the case may be].*

### SCHEDULE 2.

*A. B.* and *C. D.* the Arbitrators [*or E. F.* the Umpire chosen by *A. B.* and *C. D.* the Arbitrators] chosen in pursuance of the Act of this Island intituled [*here state the title of this Act*] to inquire into the demand of *S. T.* for compensation claimed by him in respect of damage alleged to be done to the cultivated land of the said *S. T.* [*or of G. H.* for whom he claims as Agent &c. as the case may be] by the diversion of the Cross Road under the management of *U. X.* Surveyor of the District of \_\_\_\_\_ do assess the same at £ \_\_\_\_\_ and the costs of this Arbitration at £ \_\_\_\_\_ and adjudge the said several sums of £ \_\_\_\_\_ and £ \_\_\_\_\_ to be paid by the said Surveyor to the said *S. T.* on the \_\_\_\_\_ day of \_\_\_\_\_ out of the moneys to be received by him for that purpose by any order of the Court of Quarter Sessions of the District of \_\_\_\_\_ Dated this \_\_\_\_\_ day of \_\_\_\_\_

(Signed) *A. B.* (sealed)  
*C. D.* (sealed)  
*or E. F.* sealed)

*O. P.* }  
*F. L.* } Witnesses.