



ANNO DECIMO

VICTORIÆ REGINÆ,

No. 12.

When repealing this act repeal 5 V. No. 16
12 ✓ No. 5
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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.

Repd. by 43. ✓ No. 13

AN ACT for the better Regulation and Maintenance of the Main Road from the City of Hobart Town to Launceston.

WHEREAS by an Act of this Island passed in the fourth year of the reign of Her present Majesty intituled *An Act for the making altering improving and defining the Main and other Roads of this Island* it was amongst other things enacted that the Main Road from Hobart Town to Launceston in the said Act defined should be placed under the control and management of the Director-General of Roads by whom until further provision in that behalf were made the said Road should be made and kept in repair—AND WHEREAS it is expedient that further provision should now be made for the making and repairing the said Main Road and that provision should also be made for the better regulation and maintenance thereof as hereinafter mentioned—AND WHEREAS it would be convenient that the several provisions aforesaid and all other the provisions in the said recited Act mentioned so far as they relate to the said Main Road should be consolidated into one Act and that the said recited Act should for that purpose be repealed so far as it relates to the said Main Road—BE IT THEREFORE ENACTED by His Excellency SIR JOHN EARDLEY EARDLEY-WILMOT Baronet Lieutenant-Governor of the Island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 several provisions of the said recited Act so far only as they relate to the Main Road in the said Act mentioned and defined and every clause matter and thing in the said Act contained so far only as such

PREAMBLE.

4 V. No. 35

Road Act repealed as to the Main Road only.

clause matter or thing relates to the said Main Road shall be and the same are hereby repealed save and except as to such matters and things as have been already done by authority of the said Act and all offences which have been committed against the said provisions of the said Act which offences shall and may be prosecuted and dealt with in the same manner as they might have been prosecuted and dealt with if this Act had not been made.

Main Road defined.

II. AND BE IT ENACTED AND DECLARED that the road leading from the City of Hobart Town to Launceston in this Island by Bridgewater Oatlands Campbell Town and Perth commencing where the boundary line of Hobart Town crosses the said road and terminating where the said road crosses the boundary line of the Town of Launceston shall be deemed and taken to be the Main Road from the City of Hobart Town to Launceston.

Width of Main Road.

III. AND BE IT ENACTED that the said Main Road shall in all places be sixty feet in width of clear passable road including foot-paths and exclusive of any bank ditch or fence on either side thereof and shall be placed under the control and management of the Director-General of Roads by whom the same shall be made and kept in repair.

Power to erect Toll-gates and to take Toll on the Main Road.

IV. AND BE IT ENACTED that for the purpose of defraying the expense of making and keeping in repair the said Road it shall be lawful for His Excellency the Lieutenant-Governor of this Island with the advice of the Executive Council to cause from time to time such and so many toll-bars toll-gates and toll-houses not exceeding ten at any one and the same time to be erected and built in and upon the said Road at such places as to the said Lieutenant-Governor with the advice of the Executive Council shall from time to time seem fit and in like manner to cause such toll-bars toll-gates and toll-houses to be removed or built or placed on other parts of the said Road and to direct Tolls to be paid at such toll-bars toll-gates and toll-houses for all animals and vehicles passing or repassing through such toll-bars or toll-gates at a rate not exceeding the rates specified in the first Schedule to this Act annexed for each animal and vehicle so passing and repassing as aforesaid and such rates from time to time to reduce or raise to any amount not exceeding the rates specified in the said Schedule—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 until there shall be affixed to such toll-bar toll-gate or toll-house a board on which shall be painted or written in legible characters the tolls payable at the same respectively and the name of the toll-bar toll-gate or toll-house.

Mode of paying over Tolls. Account and disbursement thereof prescribed.

V. AND BE IT ENACTED that the Tolls collected on the said Main Road shall form one general fund for the making and maintaining the said Road and other purposes connected therewith and shall be paid by the several Collectors of such tolls weekly to the Director-General of Roads or at such other times as he shall direct or to such person or persons as such Director-General shall by writing under his hand appoint to receive the same and the said Tolls when received by the said Director-General shall be by him paid into the Public Treasury of this Island monthly and the said Director-

General shall furnish at such times as shall be directed by the Lieutenant-Governor a return of all Tolls collected at each toll-bar toll-gate or toll-house upon the said Main Road and it shall be lawful for the said Lieutenant-Governor by warrant under his hand directed to the Treasurer of this Island out of the moneys so paid in by the Director-General as aforesaid to direct the issue and payment by the said Treasurer of such sum or sums as from time to time shall to the said Lieutenant-Governor seem meet for the maintaining and repairing of the said Road the payment of the salary of the Director-General of Roads and of the collectors and for all other purposes connected with the management of the said Road and such Director-General shall have power and authority to hire and appoint such and so many collectors of tolls and at such salaries respectively as shall be approved of by the Lieutenant-Governor.

Hiring Collectors.

VI. AND BE IT ENACTED that the said Director-General of Roads whensoever he shall be desirous of altering any part of the said Main Road shall cause a notice to be inserted in the Hobart Town Gazette for three successive months and which notice shall contain the proposed line of the intended alteration of the Main Road and in addition thereto the said Director-General shall cause a true copy of such notice to be personally served upon the landlord or tenant in possession of any lands through which an intended alteration of the said Road is proposed to be made within One Month after its first publication in the said Gazette.

Director-General to give 3 months' notice of intention to alter lines of Main Road.

VII. AND BE IT ENACTED that after the expiration of three months as aforesaid the said Director-General 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 Main Road and shall be under the control and management of the said Director-General 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 Main Road under the control of the said Director-General—PROVIDED that in all cases where by the authority of the said Director-General any fencing is removed for the purpose of altering any part of the said Main Road the land from which the fence hath been so removed shall be protected by a temporary fence which the said Director-General shall cause to be made and continued during the progress of such alteration in the Main Road as aforesaid.

After such notice Director may enter and make Road.

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

Temporary fences to be put up in certain cases.

VIII. AND BE IT ENACTED that it shall be lawful for the Director-General of Roads 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 Main 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.

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

IX. AND BE IT ENACTED that in all cases where an alteration in the Main Road is made through lands previously fenced such lands shall be with an equally substantial fence fenced on both sides by the Director-General.

Altered lines of Main Road to be fenced by Director in certain cases.

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

X. AND BE IT ENACTED that it shall and may be lawful for the Director-General of Roads and for any other person acting under his orders to enter upon land adjoining any highway under the control or management of the Director-General of Roads for the purpose of constructing or repairing any drains or culverts or performing any repairs that may be required to the Main Road without being deemed a trespasser or trespassers.

Powers of entry to trace new line of Main Road.

XI. AND BE IT ENACTED that it shall and may be lawful for the Director-General of Roads 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 the said Main 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 Main 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 Main 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.

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

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

XII. AND BE IT ENACTED that the said Director-General of Roads 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 the said Director-General which expense shall be paid out of the tolls collected on the Main Road aforesaid.

Timber growing within 80 feet of centre of road may be cut down.

XIII. AND BE IT ENACTED that it shall be lawful for the Director-General of Roads and every person acting under or employed by him to cut down all timber growing or standing within eighty feet of the centre of the said Main Road such timber not being within a garden lawn avenue leading to any house or nursery for trees doing nevertheless no unnecessary damage or injury to the fences hedges ditches walls or any other thing upon the land of the person on which such timber shall be growing and such Director-General and other persons employed by him as aforesaid shall not by reason of any entry made by him or them or either of them upon any lands for the purposes aforesaid be deemed to be a trespasser or trespassers.

Certain land not to be taken for Main Road.

XIV. PROVIDED ALWAYS AND BE IT FURTHER ENACTED that nothing in this Act contained shall be construed to authorise or empower the said Director-General of Roads 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.

Compensation to be made in certain cases of injury to culti-

XV. AND BE IT ENACTED that in all cases where by authority of this Act the said Main 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 Director-General of Roads 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 Director-General of Roads 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 His Excellency the Lieutenant-Governor of this Island by warrant under his hand to direct the issue of any sum which may be awarded by such Arbitrators or Umpire as aforesaid out of the Public Treasury of this Island 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 Main Road—PROVIDED that no Arbitration shall be had and no compensation shall be made under this Act unless the same shall be demanded within three months after publication of the notice hereinbefore required of altering or diverting the said Main Road.

vated land Lieu-
tenant-Governor
may issue warrant
for amount
awarded.

XVI. 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.

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

XVII. 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 second 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 Director-General or be left at his office and such Director-General 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 third 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 made by such Arbitrators for any period longer than ten days—AND PROVIDED that if the said Director-General of Roads 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

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

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

Arbitrators to
proceed *ex parte*
in certain cases.

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.

Exemption from
Toll.

XVIII. AND BE IT ENACTED that no Toll shall be demanded or taken by virtue of this Act 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 highway or for building rebuilding or repairing any present or any future bridge or bridges on any such highway 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 said Main Road or for any cow or heifer going to or returning from pasture or watering place on the common or reserved land belonging to the town in which the owner of such cow or heifer resides 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 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—PROVIDED that so much of this Act as directs that no toll shall be taken 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 shall not extend so as to exempt any such person or persons from the payment of toll at any toll-bar toll-gate or toll-house situate within the distance of five miles from the boundary of the City of Hobart Town or within the distance of five miles from the boundary of the town of

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Launceston—AND PROVIDED that no toll shall be taken or demanded for any horse waggon wain dray cart or other carriage returning once only through any toll-bar toll-gate or toll-house at which upon the same day toll shall have been paid for the same horse waggon wain dray cart or carriage for passing through the same toll-bar toll-gate or toll-house.

XIX. 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.

Penalty for fraudulently claiming exemption from Toll.

XX. 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.

XXI. 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.

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

XXII. 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

Disputes to be settled by one Justice.

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.

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

XXIII. AND BE IT ENACTED that if any person shall with any horse cattle beast or carriage go off or pass from the Main 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 the said highway 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 the said Main 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.

Collectors guilty of misconduct to be fined.

XXIV. AND BE IT ENACTED that if any collector or other person appointed to collect the tolls on the Main 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 to have their names painted on front of toll-house.

XXV. AND BE IT ENACTED that every toll collector on the Main Road shall place or cause to be placed on some conspicuous parts of the fronts of the several toll-houses or toll-bars at which they shall be respectively stationed and so that the same shall appear to public view their Christian and surnames painted in black on a board with a white ground each of the letters of such name or names to be at least two inches in length and of a breadth in proportion and which board shall be and remain at such toll-house toll-gate or toll-bar during the whole of the time that the person whose name shall be expressed thereon shall be on duty thereat and every such collector shall place or cause to be

placed on the front of the toll-house toll-bar or toll-gate at which such collector shall be stationed the board containing the list of tolls hereinbefore directed to be affixed to the same respectively which board shall also contain the name of the gate toll-bar or toll-house to which the same shall be affixed as well as the list of the tolls payable at such gate where such collector shall be stationed as aforesaid and if any collector of the said tolls shall not place such boards respectively as aforesaid and keep the same there during the time he shall be such collector as aforesaid or 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 boards respectively 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 the Director-General of Roads 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.

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

XXVI. AND BE IT FURTHER ENACTED that if any collector of tolls 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.

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

XXVII. AND BE IT ENACTED that if any Toll Collector shall be discharged from his office by the Director-General of Roads and 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 Toll Collector who shall die in his said office shall refuse to deliver up the possession of such house building and appurtenances within four days after lawful demand for that purpose shall be made then in either of the said cases it shall and may be lawful for any Justice of the Peace upon proof of any such refusal as aforesaid 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 give possession of such house and premises to the said Director-General of Roads or such person as by him shall be appointed to take possession thereof.

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

*Repd. 6-1.
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XXVIII. AND BE IT ENACTED that it shall be lawful for the said Director-General of Roads in and upon the said Main Road 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 in the discretion of the said Director-General shall seem meet for the convenience or security of the Public.

Power to Director-General to put up lamps mile-stones &c.

Road property
vested in Director-
General.

XXIX. PROVIDED AND BE IT FURTHER ENACTED that the right interest and property of and in all toll-gates toll-bars toll-houses lamps bars toll-boards direction boards mile-stones posts rails walls fences and other erections and buildings with the appurtenances thereunto respectively belonging or the materials of which the same shall consist which have been erected or put up by the Director-General of Roads by authority of the said in part repealed Act or which shall be erected or put up by authority of this Act and of all tools and implements which shall be provided for repairing the Main Road and the scrapings of the Main Road shall be vested in the said Director-General subject to the order of His Excellency the Lieutenant-Governor.

Wilful destruction
of road property
a misdemeanor.

XXX. 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 the Main Road made erected or put up by authority of this Act or of the said in part repealed 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.

Penalty for taking
away materials
collected for
Main Road.

XXXI. 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 the said Main Road or any materials out of any quarry which shall have been made dug or opened for the purpose of getting materials for the same before the Director-General of Roads or the workmen employed for getting such materials shall have discontinued working therein for the space of one month except the owner and 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 Di-
rector to remove
annoyances on
Main Road.

XXXII. AND BE IT ENACTED that it shall be lawful for the Director-General of Roads and such persons as he shall appoint to remove and prevent all annoyances on any part of the Main Road by filth dung ashes rubbish or any other matter or thing whatsoever being laid or thrown upon the said Main Road or upon any land within twenty feet thereof and to dispose of the same for the benefit of the said Main Road in case the owner thereof shall neglect to remove the same within twelve hours after notice in writing signed by such Director-General 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 the Main 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 highway and make the same as deep and large as such Director-General shall think proper and necessary in case the owners or occupiers of the adjoining land shall neglect to open scour or 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 the Director-General 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

*See 87 ✓
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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.

XXXIII. 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 the said Main 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 the said Main Road or any part thereof or shall in any manner whatsoever obstruct the free use of the said Main 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 said Director-General of Roads 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.

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

XXXIV. AND BE IT ENACTED that if any person shall ride upon any footpath or causeway by the side of the said Main 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 the said Main 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 highway or if any blacksmith or other person occupying a blacksmith's shop situate near any highway and having a window or door fronting the said road shall not by good and close shutters or doors every evening after sunset bar and prevent the light from such shop shining into and upon the said 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 the said Main Road or if any person shall leave any waggon wain cart or other carriage whatever upon such 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

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

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 such highway 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 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 the said 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 sum not exceeding Five Pounds.

Animals suffered to wander about Road to be impounded.

XXXV. AND BE IT ENACTED that if any horse ass sheep swine or other beast or cattle of any kind shall be found wandering straying or lying upon any part of the said Main Road or by the sides thereof except on such parts of the said Road as pass through any unenclosed ground it shall be lawful for any Constable to seize and impound every such horse ass sheep swine or other beast or cattle in the nearest pound where any such animal shall be so found and the said horse ass sheep beast swine or other cattle there to detain until the owner thereof shall pay the sum of Five Shillings to the person impounding the same together with the charges of impounding and keeping the same and in case the said penalty charges and expenses shall not be paid within the time by any law now or hereafter to be in force allowed for payment of the costs and charges of impounding such animals it shall be lawful for the poundkeeper in whose pound such animals or any of them shall be impounded to sell the same after giving such notice of sale as by any such law as aforesaid is or shall be required and out of the money arising from such sale after deducting the said penalty charges and expenses of impounding keeping and selling any such animal as aforesaid to pay to the person impounding the same the said sum of Five Shillings and the overplus if any to the owner thereof—PROVIDED that no greater sum than Five Shillings shall be paid to any person impounding any number of animals under this Act by each owner of such animals.

Penalty for rescuing animals impounded or distressed.

XXXVI. AND BE IT ENACTED that in case any person shall rescue or attempt to rescue or release any horse ass sheep swine or other beast or cattle of any kind which shall be seized for the purpose of being impounded under this Act from the pound where the same shall be so impounded or shall pull down damage or destroy the same pound or any part thereof or any lock or bolt belonging thereto or with which the same shall be fastened or shall rescue or release or attempt to rescue or release any distress or levy which shall be made under this Act until or before such horse ass sheep swine or other beast or cattle as aforesaid seized or so impounded or such distress or levy so made shall be discharged by due course of law every person so offending shall upon conviction thereof before the Police Magistrate or Assistant Police

Repealed 16 V. 5. Sec. 1

Magistrate of the District where the offence shall have been committed either upon confession of the party or parties offending or upon the oath of one witness which oath the said Justice is hereby authorised to administer be committed by such Justice by warrant under his hand and seal and imprisoned and kept to hard labour for any time not exceeding three calendar months in any Gaol or House of Correction.

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 the said Main 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.

Carts not to be driven by children alone.

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 the said Main 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 such 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 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 thereon 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 the said 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.

For prevention of accidents by negligent conduct.

Recovery of penalties and appropriation.

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 recovered shall go and be applied in and towards the maintenance of the said Main Road.

Act not to extend to any bridge or ferry.

XL. AND BE IT ENACTED that nothing in this Act contained shall extend or be construed to extend to the regulation of any toll to be taken at or charged for the passing or repassing any bridge or ferry over any stream of water crossing the Main Road or to give any power or authority whatsoever to the Director-General of Roads upon or over any part of the line of the said Main Road which now is or hereafter may be declared to be the approach to any Bridge or Ferry.

Explanation of terms.

XLI. AND BE IT ENACTED that the term Lieutenant-Governor used in this Act shall be deemed and taken to intend and mean the person for the time being lawfully administering the Government of this Colony and that every word importing the singular number shall extend and be applied to several persons or things as well as to one person or thing and every word importing the masculine gender only shall extend and be applied to a female as well as a male except where the nature of the provision or the context of this Act shall exclude such construction and that the term Director-General of Roads shall be taken to mean the person for the time being filling that or any other office under the control and management of which the Main Road shall from time to time be placed by His Excellency the Lieutenant-Governor.

E. EARDLEY-WILMOT.

Passed the Legislative Council, this
twenty-fourth day of August, one
thousand eight hundred and forty-six,

ADAM TURNBULL, *Clerk of the Council.*

SCHEDULE 1.

	<i>s. d.</i>		<i>s. d.</i>	
For every Horse	0 4	or Carriage of any description upon two wheels not drawn by any Horse or other Cattle but in any other way or being attached to some other Carriage drawn by any Horse or other Cattle		
Mare	0 4			
Gelding	0 4			
Colt	0 4			
Filly	0 4			
Mule	0 2			
Ass	0 2			
Cow	0 2			
Bull	0 2		For every Cart Wain Waggon Dray or other Carriage of any description upon four or more wheels drawn by one or more Horses not exceeding four	0 6
Ox	0 2		If drawn by more than four Horses	1 0
Heifer.....	0 2		For each Cart Wain Waggon Dray or other Carriage upon four or more wheels not drawn by any Horse or other Cattle but in any other way or being attached to some other Carriage drawn by any Horse or other Cattle.....	1 10
Calf.....	0 2			
For all Sheep by the score ..	0 4			
Sheep less than a score per head..	0 0½			
Swine by the score	0 4			
Swine less than a score per head	0 0½			
For every Cart Wain Dray or Carriage of any description upon two wheels drawn by one Horse	0 8			
If drawn by two Horses....	1 0			
If drawn by more Horses....	1 6			
For every Cart Wain Dray			1 0	

*Recd. by No. 558
12. ✓*

SCHEDULE 2.

To the Director-General of Roads.

SIR

I demand the sum of _____ Pounds as Compensation for the alteration and diversion of the Main 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 3.

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 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 Highway under the control and management of the Director-General of Roads 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 Director-General to the said *S. T.* on the day of

Dated this day of

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

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