

THE ROADS ACT, 1884.

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T A S M A N I A

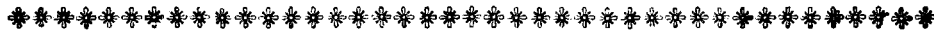


1884.

ANNO QUADRAGESIMO-OCTAVO

VICTORIÆ REGINÆ,

No. 28.



AN ACT to consolidate and amend the Laws A.D. 1884.
relating to Roads. [24 November, 1884.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1 This Act may be cited as “The Roads Act, 1884.”

Short title.

2 This Act shall commence and take effect from and immediately after the Thirty-first day of *December*, 1884.

Commencement.

3 In the construction and for the purposes of this Act, and of all proceedings under this Act, or under any Rules in force or made under this Act, unless the context otherwise determines—

Interpretation.

“District” means a Main Road District constituted under Part II. of this Act:

“District Board” and “Board” mean a Main Road District Board under Part II. of this Act:

“Road District” means a Road District under Part III. of this Act:

“Commissioner” means the Commissioner of Main Roads for *Tasmania*:

“Road” includes Roads, Streets, or Lanes of every description:

“Main Road” means a Main Line of Road under this Act, and includes all bridges upon or used in connection with every such Main Line of Road:

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- “Bridge” includes the *Sorell Causeway*, and the causeways and all approaches to any bridge, and all works used therewith, and all lands, houses, hereditaments, and appurtenances now or at any time hereafter held, used, or occupied in connection with any bridge :
- “Maintenance” means the improving, widening, diverting, altering, and repairing any road :
- “Trustees” means the Trustees for the time being of the Road District for which they have been elected :
- “Cross Road” extends to and includes all bridges and culverts along the line of road, and the footpaths at the side of the road :
- “Landholder” extends to and includes the Owner or Occupier of any property situate within the Road District :
- “Property” means Lands and Buildings :
- “Valuation Roll” means the Valuation or Assessment Roll in force for the time being in which any property situate within a Road District is comprised.
- “Gazette” means *The Hobart Gazette*.

PART II.

MAIN ROADS.

Declaration of
Main Roads.

4 Such Roads as Parliament shall from time to time determine to be Main Roads of *Tasmania* shall be deemed to be Main Roads under and for the purposes of this Part of this Act, in addition to any existing Main Roads, notwithstanding that portions of some of such Roads are situated within the boundaries of certain Road Districts.

Commissioner of
Main Roads.

5 The Minister of Lands and Works for the time being shall be the Commissioner of Main Roads, and in the exercise and execution of the powers given by this Act shall be styled “The Commissioner of Main Roads.”

Powers of Boards
may be exercised
by Commissioner.

6 All powers, duties, and functions by this Act conferred upon any District Board may be exercised by the Commissioner in respect of—

- (i.) The Main Road from the City of *Hobart* to the Town of *Launceston* ; and
- (ii.) The Bridges mentioned in the Schedule (1.) ; and
- (iii.) All Main Roads and portions of Main Roads not being situated in any Main Road District under this Part of this Act ;

which respectively shall be and the same are hereby vested in the Commissioner, and shall from time to time be maintained under the direction of the Commissioner out of moneys to be provided by Parliament from time to time for that purpose.

Commissioner
may appoint and
employ persons.

7 It shall be lawful for the Commissioner, with the approval of the Governor in Council, to appoint and employ such and so many persons as may be necessary for the purposes of this Part of this Act, and the Treasurer may pay to such persons and to any Inspector appointed by the Governor in Council under this Part of this Act such salaries or allowances as the Governor in Council sees fit out of moneys to be provided by Parliament from time to time for that purpose.

Roads.

8—(1.) Where any Main Road or portion of a Main Road is situate in or passes through any Rural Municipality or any part thereof, such Municipality shall be a Main Road District under this Part of this Act. The Municipal Council of such Municipality shall be the Main Road District Board for such District, and the Warden of such Municipality shall be Chairman of such Board.

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Municipalities
and Road Trusts
to be Main Road
Districts.

(2.) Where any Main Road or portion of a Main Road not situate in or passing through a Municipality or any part thereof is situate in or passes through any Road District, such Road District shall be a Main Road District under this Part of this Act. The Trustees of such Road District shall be the Main Road District Board for such Main Road District, and the Chairman of such Trustees shall be Chairman of such Board.

9 The Trustees of any Road District through which any Main Road or part of a Main Road passes shall not, except as herein provided, have the care, control, and management of any such Road or such part thereof respectively.

Powers of Road
Trustees over
Main Roads.

10 Whenever any road or roads, or portion of a road, shall cease to be a Main Road, such road or roads, or portion of a road, shall be deemed to be Cross Roads under this Act within the limits of the respective Road Districts through which such road or roads or portion of a road may pass, and shall be maintained by the Trustees of such Road Districts; and if any part of such road or roads shall be the boundary or boundaries of any adjoining Road Districts, the Trustees of such Road Districts shall jointly take charge of and maintain the aforesaid road or roads.

Main Roads
when no longer
Main Roads to
be Cross Roads in
Road Districts.

11 All Main Roads and portions of Main Roads, except the Main Road from the City of *Hobart* to the Town of *Launceston*, and all Bridges, except those mentioned in Schedule (1.), shall be and the same are hereby vested in and placed under the care, control, and management of the Board of the District in which such roads or portions thereof are situate, and shall be maintained in each District respectively by the respective Board of such District at such annual average cost per mile not exceeding the amount per mile provided by Parliament from time to time for each such Main Road or portion thereof.

Main Roads to be
vested in and
maintained by
Boards.

12 On or before the Thirtieth day of *November* in each year each District Board respectively shall furnish to the Commissioner a statement in writing of such works as may be required to maintain the Main Roads or portions of Main Roads under the control of each respective Board for the ensuing year; and such statement shall set forth—

Boards to send
in an annual
estimate.

- (i.) A description of the works required :
- (ii.) An approximate estimate of the cost of such works :
- (iii.) A statement of the length of road to be maintained.

13 The name of each District Board shall be “The Board of Main Roads for the District of _____,” describing it by the name of the Municipality or Road District as the case may be through which the Main Road or Roads under the authority of such Board pass.

Name of Board.

14—(1.) Every District Board shall cause entries of all proceedings of the Board, with the names of the Members thereof who shall be

Records of pro-
ceedings to be
kept by Board.

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present at each meeting, to be duly made from time to time in books to be provided for the purpose, and every such entry shall be signed by the Chairman of the meeting at which the minutes are confirmed; and such books shall at all reasonable times be open to the inspection of any Member of the Board.

Boards to keep books of account.

(2.) Every District Board shall keep proper books of account in forms to be prescribed by the Governor in Council, in which detailed entries shall be made of all moneys received and disbursed by such Board for the purposes of this Act, and such books of account shall be open to the inspection of any Member of the Board at all reasonable times.

Board not to pay moneys except on certificate of Chairman.

15 It shall not be lawful for any District Board to pay any moneys to or on account of any person for work and labour done for or on account of such Board, or for materials supplied to such Board, unless and until the Chairman of such Board certifies under his hand that such work and labour has been performed, or that such materials have been supplied to the satisfaction of the Board.

Boards to furnish accounts to Colonial Auditor.

16 Each District Board shall furnish, at such periods and in such form as may from time to time be prescribed by the General Rules hereinafter mentioned, full and detailed accounts to the Colonial Auditor, together with such vouchers, books, and documents as he may require in order to verify the items of such accounts.

Boards may make bye-laws with approval of Governor in Council.

17 Each District Board may from time to time frame Bye-laws, not inconsistent with the provisions of this Part of this Act, for all or any of the following purposes:—

- (i.) For regulating the mode in which the business of such Board shall be conducted, and for electing one of its members to preside at meetings at which the Chairman may not be present:
- (ii.) For prescribing the duties of every officer and servant of the Board, and for directing them in the performance of such duties.

And may alter or rescind same with like approval.

And such Board may from time to time change, alter, or rescind such Bye-laws, provided that no such Bye-law, or any change, alteration, or rescission thereof, shall be valid until the approval of the Governor in Council shall have been obtained.

Boards may appoint officers.

18—(1.) Subject to the approval of the Governor in Council, any District Board may appoint and employ all such officers to assist in the execution by such Board of this Act as may be necessary or expedient, at fair salaries or remuneration, payable out of the moneys provided by Parliament for the maintenance of Main Roads under this Part of this Act; and shall and may from time to time remove any of such officers, and appoint others in the room of such as shall be so removed, or as may die or resign their offices.

Members of Board not to be officers.

(2.) No member of a District Board shall be capable of being or continuing a salaried officer of any such Board, or of entering into any contract with such Board for the maintenance of any Main Roads under the control of such Board.

Board may invite tenders for works, and contract.

19—(1.) A District Board may, with the consent of the Governor in Council, enter into contracts with any person or persons, except as hereinbefore mentioned, for the execution of any works directed or authorised

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by this Part of this Act, or for furnishing materials, or for any other things necessary for the purposes thereof; and every such contract shall be in writing, and shall fully specify and define the work to be done, the materials to be furnished, the total price to be paid for the same, the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof; and every such contract shall be executed by the Chairman in the name and on behalf of the Board, and being duly executed by the persons contracting to perform the works therein respectively comprised shall be effectual in law, and shall be binding on the Board and all parties thereto, their successors, heirs, executors, and administrators respectively, as the case may be.

(2.) Before any such contract to the amount of Twenty-five Pounds and upwards shall be entered into by any District Board, notice thereof shall be published, as hereinafter provided, describing the nature of such contract, and inviting any person willing to undertake the same to make proposals for that purpose to such Board; and the Board shall, if the Commissioner approves, accept the proposal which, upon consideration of all the circumstances, shall appear to be most advantageous, and shall take security for the due and faithful performance of every such contract.

(3.) Every such notice shall be published in the *Gazette* and in two consecutive numbers of some newspaper published nearest to the District of such Board at least Ten days previous to a day to be appointed in such notice for the reception of proposals, as hereinbefore provided.

(4.) Any such Board may, with the sanction of the Governor in Council, compound with any person who has entered into such contract, or against whom any action or suit has been brought for any penalty contained in any such contract, or in any bond or other security for the performance thereof, or on account of any breach or non-performance of any such contract, bond, or security for such sums of money or other recompense as the Board may think proper.

20 If in any case no proposal is received by the Board for any work, or if the Board deems any proposal to be excessive, then it shall be lawful for the Board, after again inviting proposals for any such work in the mode hereinbefore prescribed, to appoint and employ such and so many persons, at such wages or other remuneration for the purpose of maintaining and repairing such Road, or portion thereof, as to the Board appears necessary or proper.

If no proposal, or excessive proposal received, Board may maintain road.

21—(1.) Each District Board may let and entrust the maintenance and repairs of any portion, not exceeding Ten miles in length, of any Main Road, within their respective Districts, to any person or persons for a term not exceeding one year, and there shall be from time to time paid to such person or persons the amount agreed to be paid for such maintenance and repair: Provided always, that the maintenance and repair of such portions of Main Roads shall be let by tender, as hereinbefore provided.

Maintenance of portion of Main Road may be let by contract for the term of one year.

(2.) Every person who shall be entrusted with the maintenance and repair of any portion of a Main Road under this Section shall not sub-let such maintenance and repair to any other person, unless under special circumstances to be approved by the Commissioner.

Contracts for maintenance not to be sub-let.

22 The Governor in Council may from time to time appoint fit and proper persons to inspect and report upon the condition and state of repair of any Main Roads, and every such Inspector shall have power to enter upon such Main Roads and to inspect the state of the same and all

Inspectors may be appointed to inspect Main Roads.

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materials and machinery used by any District Board or by any persons employed by them, and all books, vouchers, or other documents used or kept in connection therewith.

Powers of Municipal Councils in respect of roads may be vested in Road Trusts.

23 Where by virtue of this Part of this Act the Municipal Council of any Rural Municipality shall become the Main Road District Board for any Main Road or portion of a Main Road, and such Municipal Council shall refuse or neglect to perform the duties and functions by this Act imposed and conferred upon District Boards, it shall be lawful for the Governor in Council, by Proclamation published in the *Gazette*, to vest the powers, duties, and functions of such Municipal Council as such Main Road District Board in the Trustees of the Road District in which such Main Road or portion of a Main Road is situate or passes through, and thereupon all such powers, duties, and functions shall vest in and shall be exercised by such Trustees in the same manner in all respects as if such Trustees had become the Main Road District Board for such Main Road or portion of a Main Road under and by virtue of this Act.

Defaulting District Boards.

24 The Governor in Council, if it shall appear to him that any District Board—

- (i.) Refuses or neglects to perform the duties and functions by this Part of this Act imposed and conferred upon District Boards, or
- (ii.) Refuses or neglects to repair, maintain, and keep in good repair the Main Roads within the District for which any such Board may have been appointed or elected,

may, by Proclamation published in the *Gazette*, suspend the powers and functions of the District Board mentioned in any such Proclamation; and immediately after the publication of such Proclamation in the *Gazette*, the powers, duties, and functions of the last-mentioned Board shall absolutely cease, and shall become vested in and be exercised and exercisable in all respects by the Commissioner until the Governor in Council shall, by Proclamation, declare the lastly hereinbefore mentioned Main Roads to be in a state of repair; and from and after the publication of such last-mentioned Proclamation in the *Gazette* the said District Board shall resume and exercise its powers, functions, and duties as if the same had not been suspended. And in the event of any Board refusing or neglecting to resume and exercise its powers, functions, and duties, the Governor in Council may, by Proclamation published in the *Gazette*, abolish such Board.

Proceedings to open Main Roads.

25 Whenever the Commissioner or any District Board shall have finally determined on the exact course and bearing or any deviation of any Main Road or portion of a Main Road not declared to be a Main Road, such Commissioner or Board respectively shall cause to be deposited in the office of the Minister of Lands and Works survey maps and plans describing the course and bearings and admeasurements of the same, and when and so often as any such survey maps and plans are deposited, shall cause notice thereof to be published by advertisement in the *Gazette*, setting forth such particulars as may be sufficient generally to describe such road or portion of a road, and referring to the survey map and plan deposited as aforesaid; and such maps and plans shall be open to public inspection, and the same, or copies thereof certified under the hand of the Commissioner, shall be evidence in all legal proceedings; but it shall not be necessary for the

Roads.

said Commissioner or Board to cause any maps and plans to be deposited in reference to any roads or portions of roads of which maps and plans have heretofore been deposited in the said office, and such maps and plans so heretofore deposited shall have the same force and effect as if the same had been deposited under the provisions hereof.

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26 The Commissioner or any District Board, subject to the authority of the Governor in Council, may, at any one time by one proceeding, or from time to time, perform any one or more of the following acts:—

Powers of closing and opening, &c. Main Roads.

- (i.) After a Main Road shall have been declared by Law, land required for such Main Road may be taken and a new road may be opened through the same:
- (ii.) Existing roads or any part thereof may be altered or added to or partly closed;
- (iii.) Partly closed roads, or any part thereof, may be exchanged for lands required for new roads or alterations, or may be sold and deeds of exchange, conveyance, memoranda of transfer or other assurance may be duly executed therefor, or where within a Road District, may be retained as the property of the Trustees of such Road District, and at any time sold or exchanged for other land required for roads.

27—(1.) When any Main Road is diverted or altered, the Board for the District in which such road is situate is hereby empowered to stop up any old line of road, or any part thereof, which appears to the Board to be thereby rendered useless, unless such old line of road or such part thereof leads to any lands, house, or place which cannot be conveniently approached by such new line of road or any other then existing road, in which case such old line of road, or so much thereof as may be necessary for the access or approach to such lands, house, or place, shall remain as and be a road to the same; but it shall not thereafter be incumbent upon such Board to maintain such last-mentioned road.

When new Road is constructed old Road may be stopped up.

(2.) In case any dispute or difference arises as to the propriety of stopping up any such line of road, or any part thereof as aforesaid, the same shall be heard and determined in a summary manner, upon the application of any parties interested therein to the Justices assembled at the next Court of General Sessions which is holden in the District within which such line of road or such part thereof is situate, and such Justices are hereby authorised to hear and determine the same, and such determination shall be final and conclusive upon all parties interested in such line of road or such part thereof, and all claiming under them, and such Justices may order such costs to be paid by such person and in such manner as they see fit.

PART III.

CROSS ROADS.

28 The provisions of this Part of this Act shall be construed to be applicable in respect of each Road District.

Application of Part III.

29—(1.) The Governor in Council is hereby empowered, from time to time, by Proclamation—

Governor in Council empowered to divide Colony into Road Districts.

- (i.) To declare any such portion of *Tasmania* as to him seems meet as and to be a Road District for the purposes of this Act:

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- (ii.) To define the boundaries of any Road District :
- (iii.) To assign a specific name to any Road District :
- (iv.) To alter and re-define the boundaries of any Road District :
- (v.) To assign to any Road District a new name in the place of the name theretofore assigned to such Road District :
- (vi.) To abolish any Road District :
- (vii.) To increase the number of Trustees of any Road District to any number not more than Seven, or to diminish such number to any number not less than Five.

(2.) When any portion of *Tasmania* is proclaimed by the Governor in Council as and to be a Road District for the purposes of this Part of this Act, the Governor shall, in such Proclamation, direct that at a time and place therein named, there shall be held within the said District a Meeting of the Landholders of such District for the purpose of electing from amongst such Landholders either Five or Seven Landholders, as fixed by such Proclamation, as and to be Trustees of such Road District for the purposes of this Act; and if more or less than the number of Landholders named in any such Proclamation for election as Trustees shall be declared elected as Trustees at such Meeting, such Election shall be null and void, and it shall be lawful for the Governor in Council by a further Proclamation to direct that, at a time and place therein named, a Meeting of Landholders of such District shall be held for the purpose of electing such number of Landholders as shall be fixed by such Proclamation as and to be Trustees of such Road District; and every such Election shall be held accordingly.

(3.) When the boundaries of any Road District are altered, the Road District as altered shall be deemed to be substituted for the Road District so altered, and the Trustees of the Road District before it was altered shall be the Trustees of the Road District as altered.

(4.) The assigning of a new name to any Road District shall not affect the powers of the Trustees, or any other matter relating to the Road District.

Cross Roads.

30—(1.) The following Roads within each Road District shall be Cross Roads, and shall be the Roads to be constructed, maintained, and regulated by the Trustees under the authority of this Part of this Act:—

- (i.) Any Road leading from one Town to another :
- (ii.) Any Road leading from a Town or public Bridge to the Main Road :
- (iii.) Any Road leading from a Town to a navigable River or Ferry or the Sea-shore :
- (iv.) Any Road or intended Line of Road proclaimed by the Governor as a Cross Road or intended Cross Road before the commencement of this Act by virtue of any Act hereby repealed :
- (v.) Any Road or intended Line of Road proclaimed by the Governor as a Cross Road in manner hereinafter provided :
- (vi.) All Streets within a Town except in any Town in any Rural Municipality.

Governor empowered to proclaim any Road a Cross Road.

(2.) If at any Meeting of Landholders it is decided that it is expedient so to do, the Governor is hereby empowered by Proclamation to declare that any Road or intended Line of Road previously surveyed and marked out shall be a Cross Road.

Roads.

31 When and as often as the Trustees may deem it necessary, it shall be lawful for the Trustees to cause any Street within the suburbs of any Town in the Road District to be altered, widened, diverted, or extended, or otherwise constructed or repaired, with such materials as the Trustees think proper; and for the purposes of this Section all such Streets are hereby vested in such Trustees.

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Certain Streets
vested in Trustees.*Meetings of Landholders.*

32—(1.) Every Meeting of the Landholders of any Road District for the purposes of this part of this Act shall be convened in manner following, and not otherwise, excepting as hereinafter expressly provided: Any number not less than Seven Landholders shall have power to convene a Meeting of Landholders for any of the purposes of this Act, by Notice signed by the Landholders convening the Meeting, specifying the purpose for which, and the day, hour, and place at which the Meeting is to be held, published once in the *Gazette*, and at least twice consecutively in a public Newspaper published in the City or Town nearest to the place in which the Meeting is to be held, Ten clear days at least before the day of holding the Meeting.

Meetings of land-
holders how to be
convened and
held.

(2.) Every such Meeting of Landholders shall be held within the Road District.

(3.) At every such Meeting of Landholders the Landholders present shall appoint from amongst themselves a Chairman to preside thereat, who shall have a casting vote in addition to his vote or votes as a Landholder; and shall within Three days after such Meeting, not being the first meeting for the election of Trustees, furnish a copy of the Minutes thereof to the Chairman or Secretary of the Trustees; and the same shall be entered by the Secretary in the Book in which the Orders and Proceedings of the Trustees are entered.

(4.) It shall not be lawful for a retiring Trustee to preside at any such Meeting of Landholders for the election of Trustees.

33 Any vote tendered at any Meeting of Landholders may be objected to at the Meeting, and if any Poll is taken at any such Meeting, before the closing of such Poll, and not afterwards, by any Landholder present, on the ground that the person tendering the same is not a Landholder within the meaning of this Act, or not entitled to the number of votes tendered, and not otherwise; and every such objection shall be decided by the Chairman presiding at the Meeting, whose decision shall be final.

Votes tendered to
be objected to at
Meetings.

34 All matters by virtue of this part of this Act to be done and decided by the Landholders of any Road District at a Meeting of such Landholders shall be done and decided by the majority of the votes of such Landholders present at the Meeting; and every such Landholder shall have a number of votes proportioned to the annual value, as ascertained by the Valuation Roll, of the property within the Road District owned or occupied by him, according to the scale mentioned and set forth in "The Rural Voting Act, 1884."

Matters to be de-
cided by majority
of votes of Land-
holders present at
Meetings.

35 The decision of the Landholders at any Meeting duly convened for the purpose upon any question which may arise in the carrying out of any of the objects of this Part of this Act shall be binding upon the Trustees: Provided, that nothing contained in this Section shall affect the powers vested in the Trustees of making and levying Rates under this Part of this Act as hereinafter provided.

Landholders may
determine at
Meetings
questions arising
in carrying out
Act.

Roads.

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Trustees.

Time and place
of meeting for
election of
Trustees.

36 The Trustees of every Road District shall fix a day in the month of *April* in every year, and shall also fix an hour of the day between Ten of the clock in the forenoon and Two of the clock in the afternoon, and the place, for holding the Annual Meeting of Landholders for the election of Trustees, by notice published once in the *Gazette*, and at least twice consecutively in a public *Newspaper* published in the City or Town nearest to the place in which such Meeting is to be held, and also affixed on or near to the door of every Post Office in such Road District, Ten clear days at least before the day of holding the Meeting.

Election and
retirement of
Trustees.

37 In every Road District on the day fixed for the Annual Meeting of Landholders in such District, Two of the Trustees of such Road District shall retire when the whole number is Five, and Three of the Trustees when the whole number is Seven, who have been longest in office without re-election; and in case more than Two when the whole number is Five, and more than Three when the whole number is Seven, have been an equal period in office without re-election, it shall be determined by lot amongst themselves which of such Trustees, being Two when the whole number is Five, and Three when the whole number is Seven, shall retire, and on such day an election of Trustees to supply the places of such retiring Trustees shall be held in manner hereinafter provided.

Time prescribed
for election may
be extended.

38—(1.) In case the Trustees of any Road District neglect or omit in any year to fix the day, place, and hour for holding the Annual Meeting of Landholders for the election of Trustees, or in case any such Meeting is not held in any District upon any day appointed for that purpose in the month of *April* in any year in pursuance of this Part of this Act, the Governor may extend the time for the election of Trustees in such Road District to any day to be fixed in manner hereinbefore provided before the First day of *June* in any year.

(2.) In case no election of Trustees is held in any year in manner hereinbefore directed, the Trustees then in office shall continue in office until the day which may be fixed in the month of *April* in the succeeding year for the Annual Meeting of Landholders, or until the election of new Trustees, and so from time to time.

(3.) If no election of Trustees shall be held in such succeeding year, it shall be lawful for the Governor in Council, upon the petition of any number of Landholders of such District, not less than Seven, to fix a day, hour, and place for holding a Meeting of Landholders for the election of Trustees, and notice thereof shall be published by the Minister of Lands and Works in the manner hereinbefore provided in respect of the Annual Meeting of Landholders for the election of Trustees.

Landholders to
elect Trustees.

39—(1.) It shall be lawful for the Landholders present at the First Meeting and at every Annual Meeting of Landholders for the election of Trustees of any Road District by open voting to elect from amongst the Landholders of such Road District any number of persons not being more than the number of Trustees then required to be elected, as and to be Trustees of such Road District.

Retiring Trustees
eligible.

(2.) Every Trustee going out of office shall, if qualified, be eligible for re-election.

Roads.

*11/10/50
40/22*

40 The Chairman of every Meeting for the election of Trustees shall appoint a time, not being less than half an hour nor more than One hour, for receiving nominations, which shall be made orally, of candidates for election; and shall also fix a time at the close of the period appointed for receiving nominations for commencing and closing the poll, if any, for such election; and every such poll shall remain open for Two hours at least; and every Landholder is hereby empowered to give, and shall, if he votes, give the number of votes to which he is entitled to any number of persons not exceeding the number of Trustees then to be elected; and every such election of Trustees shall be finished in One day without any adjournment whatsoever.

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Nomination and election of Trustees.

41 If no greater number of persons are nominated for election than the number of Trustees then to be elected, the Chairman shall, at the expiration of the time appointed for receiving nominations, without any Poll being had, declare the persons so nominated to be elected as Trustees; and the persons so declared to be elected shall thenceforth be Trustees of the Road District.

Mode of proceeding if no more persons nominated than Trustees to be elected.

42 If at any time during his continuance in office any Trustee dies, departs from *Tasmania* and remains absent therefrom for the space of Three months, or resigns, or refuses, or from any cause whatsoever becomes incapable or unfit to act as a Trustee, or if his office is declared vacant, it shall be lawful for the surviving or continuing Trustees, and they are hereby required, to appoint some fit and proper person, being a Landholder of the Road District, to act in conjunction with such surviving or continuing Trustees in the place and stead of such first-mentioned Trustee.

Provides for death, &c. of Trustees during period of office.

43—(1.) Forthwith after the first election of Trustees, the Chairman presiding at the Meeting at which such election took place shall cause to be published in the *Gazette* the names and places of residence respectively of every Trustee elected, and shall also cause notice in writing of his election to be served personally on, or left at the usual place of abode of, or transmitted by post to, every person so elected.

Election and appointment of Trustees to be published.

(2.) Forthwith after every annual election of Trustees, the Chairman presiding at the Meeting at which such election took place shall cause to be published in the *Gazette* the names and places of residence of every Trustee elected; and the Chairman of the Trustees shall cause to be published in the *Gazette* the names and places of residence of every Trustee appointed, and shall also cause notice in writing of his election or appointment to be served personally on, or left at the usual place of abode of, or transmitted by post to, every person so elected or appointed.

44 Every person duly qualified, and duly elected or appointed to the office of Trustee, shall if he accepts such office make and subscribe before a Justice of the Peace a Declaration in the form in the Schedule (2.) within One month after notice of his election or appointment has been served on him personally, or left at his usual place of abode, or been transmitted to him by post: and every declaration shall be delivered by the Trustee who has made the same, at the first meeting of the Trustees thereafter at which he is present, to the Chairman of the Trustees.

How Trustees to accept office. Schedule (2.)

45 If any person elected or appointed a Trustee under this Act refuses or fails to accept such office, the same shall thereupon be deemed vacant, and shall be filled up by a fresh election or appointment.

Refusal or failure to accept office.

Roads.

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Trustee absent
from Three con-
secutive Meetings
to vacate office.

46 If any person holding the office of Trustee, having had notice of the intention to hold such Meetings, is absent from Three consecutive Meetings of the Trustees, extending over a period not less than Three months, without leave of absence granted by the Trustees, unless in case of illness, such person shall cease to hold such office; and the Trustees shall in any such case declare such office to be vacant, and the same shall be vacant accordingly.

Quorum of
Trustees.

47 All acts and proceedings relating to this Act which are directed to be had or done by the Trustees, and all the powers and authorities vested in them generally, shall and may be had, done, and exercised by the major part of the Trustees present at any Meeting of the Trustees, the whole number present not being less than Three; and any such Three Trustees shall form a quorum.

Election of
Chairman of
Trustees.

48—(1.) The Trustees shall, at their first Meeting held after the first Election of Trustees, and at their first Meeting held after each Annual Election of Trustees, by the majority of votes of the Trustees present, elect one of their body to be Chairman for the ensuing year; and if at any such Meeting there is an equality of votes in the election of Chairman, it shall be decided by lot which of the Trustees having an equal number of votes shall be the Chairman; and such Chairman shall preside at all Meetings of the Trustees at which he is present; and if at any Meeting of Trustees the Chairman is not present, one of the Trustees present shall be elected Chairman of such Meeting by the majority of votes of the Trustees present thereat.

(2.) In case the Chairman shall die, or by writing under his hand delivered by him to the Trustees at any Meeting of Trustees, or to the Clerk of the Trustees, resign his office, or cease to be a Trustee, the Trustees present at the Meeting next after the occurrence of such vacancy shall choose one of their body to be Chairman, and the Chairman so chosen shall continue in office until the next Annual Meeting for the election of Trustees.

Equal division of
votes.

49 At all Meetings of Trustees all the Trustees present shall vote, save where it is herein otherwise provided, and the questions there considered shall be decided by open voting and by the majority present; and if there is an equal division of votes upon any question, it shall be considered lost.

Trustee not to
vote where he
is pecuniarily
interested.

50 No Trustee shall vote upon any matter in which such Trustee directly, by himself or his partners, has any pecuniary interest; and any Trustee who knowingly offends against this Section shall, on conviction, forfeit and pay for every such offence a sum not exceeding Fifty Pounds.

Orders and pro-
ceedings of
Trustees to be
recorded.

51 All orders and proceedings of the Trustees, together with the names of the Trustees present at every Meeting, shall be entered in a Book to be kept by the Trustees for that purpose, and be signed by the Chairman of the Meetings at which such orders or proceedings are, from time to time, confirmed; and such orders and proceedings so entered and signed by the Chairman of such Meetings shall be deemed to be original orders and proceedings.

Roads to be made
and maintained as
directed by the
Trustees.

52—(1.) The Trustees shall have the care, control, and management of all Cross Roads within the Road District, and are hereby empowered to define, repair, maintain, improve, widen, divert, alter, make, construct, and fence in such Roads, in such manner as the Trustees

Roads.

from time to time determine, in accordance with their view of the wants and necessities of the Road District: Provided, that no Road shall be made under the authority of this Part of this Act of a greater width than Sixty-six feet unless with the consent of the Owners of the Land on each side thereof.

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(2.) Nothing hereinbefore contained shall be held to prevent the exercise by the Minister of Lands and Works for the time being of the powers conferred upon him by Law for the construction or repair of any Road being a Cross Road.

53 The Trustees shall, with the consent of the Municipal Council of any Rural Municipality, expend an amount not less than One-third of any Road Rate collected within any Town in such Municipality in the repair of the Streets and Footpaths in such Town.

Trustees to repair Streets in Municipalities.

54 When any new Line of Road is constructed and completed, or any existing Road or any part thereof diverted or altered, the Trustees are hereby empowered to stop up any old Line of Road, or any part thereof which appears to them to be thereby rendered useless, unless such old Line of Road or such part thereof leads to any lands, house, or place which cannot be conveniently approached by such new Line of Road or any other then existing Road, in which case such old Line of Road, or so much thereof as may be necessary for the access or approach to such lands, house, or place, shall remain as, and be, a Bye Road to the same: Provided always, that in case any dispute or difference arises as to the propriety of stopping up any such Line of Road, or any part thereof as aforesaid, the same shall be heard and determined in a summary manner, upon the application of any parties interested therein to the Justices assembled at the next Court of General Sessions which is holden for the District within which such Line of Road or such part thereof is situate, and such Justices are hereby authorised to hear and determine the same, and such determination shall be final and conclusive upon all parties interested in such Line of Road or such part thereof, and all claiming under them.

When new Road is constructed old Road may be stopped up.

55 In every case in which any gate was erected across any Cross Road on the Twenty-second day of *October*, 1869, such gate may be lawfully maintained and continued so long only as the Trustees by writing authorise the same to be maintained and continued; and in every case in which a Cross Road is hereafter proclaimed, the Trustees may decide whether any, and if so what, gates may be continued, and how long they may be so continued, across such Road, and the same may be lawfully continued accordingly.

Gates on Cross Roads.

Road Rate.

56 It shall be lawful for the Trustees at yearly, half-yearly, or such other periods as to them may seem necessary, to make and levy a Rate, to be called the Road Rate, upon the annual value of the property within the Road District, for the purpose of raising the necessary funds for carrying out in the Road District the several objects of this Part of this Act; and every such Road Rate, when received, shall form part of the moneys at the disposal of the Trustees for the purposes of this Act which are applicable to such Trustees: Provided, that such Road

Trustees may make and levy a Road Rate.

Roads.

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Rate so to be made and levied shall not in any case exceed, in any One Year, the sum of One Shilling in the Pound upon the annual value of the property within the Road District.

Upon making a Road Rate, notice of same to be given.

57 Upon the making of any Road Rate, a Notice signed by not less than Three Trustees, specifying the amount in the Pound of the Rate, the period for which the same is made, and at what times the same is payable, shall be published in the *Gazette*; and upon any such Notice being so published, the Rate therein mentioned shall be payable and paid at the times specified in such Notice by the persons liable to pay the same, according to the annual value of the property within the Road District as shown by the Valuation Roll; and it shall not be necessary in any such Notice to set forth the names of the persons liable to the payment of the Rate, or the sums which according to such Rate such persons are liable to pay, or any other particulars than hereinbefore in that behalf mentioned.

Occupiers liable for Road Rate in first instance.

58 Every such Road Rate shall be payable in the first instance by the Occupier of the property at the time when the same is made payable by such Notice as aforesaid; but every Occupier, if Tenant, unless otherwise provided by agreement, shall be entitled to recover from his Landlord One-half of the amount of any such Rate paid by or recovered from him as money paid to the use of the Landlord, or the same may be deducted from, or set-off against, the rent then due or thereafter to become due; and such Landlord, if Tenant to another of the same property, may in like manner recover or deduct from his Landlord a sum equal to that recovered or demanded from him as aforesaid, and so on between successive Landlords and Tenants.

If no Occupier, Owner liable in first instance.

59 In case at the time when any Road Rate is made payable by such Notice as aforesaid there is no Occupier of any property, or the Occupier cannot be found or is not known, the Road Rate in respect of such property shall be payable by and recoverable from the Owner in the first instance, who shall be entitled to recover One-half thereof from the Tenant, if any, if not paid on demand, by distress as for rent in arrear, or as money paid to his use.

Provides for change of occupation.

60 In case any change of occupation of any property takes place after the time when any Road Rate is made payable by such Notice as aforesaid, and before the Rate due in respect of such property is paid or recovered, it shall be lawful for the Trustees to recover such Rate in arrear from the person who is the Occupier of such property at the time of demand or levy, as the case may be, or if there is no such Occupier then from the Owner of such property; and any such Occupier, if Tenant, shall be entitled to recover from his Landlord One-half of the amount of Rate so paid by or recovered from him as money paid to the use of the Landlord, or to deduct or set-off the same from or against the rent then due or thereafter to become due, and to recover the other half from the person who was Occupier when the Rate became payable as money paid to his use; and any Owner who has paid or from whom has been recovered any amount of Road Rate in any such case where there is no Occupier at the time of demand or levy, may recover One-half of such amount of Rate from the Tenant, if any, at the time when such amount of Rate was made payable: Provided that no such occupier

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(Or owner) shall in any case be liable for the payment of the said Rate after the expiration of Three months from the time when such Rate is made payable. A.D. 1884.

61 In case any change of ownership of any property takes place after the time when any Road Rate is made payable by such Notice as aforesaid, and before the Rate due in respect of such property is paid or recovered, any amount of Road Rate in arrear paid by or recovered from the Owner for the time being of such property shall be recoverable by him from the person who was Owner of such property when such amount of Rate became payable as money paid to his use. Provides for change of ownership.

62 If any property valued at one entire sum in the Valuation Roll in any year is, after the making of such Roll, subdivided and occupied by more than one occupier, then it shall be lawful for the Trustees to fix for the current year the amount of the proportionate annual value of each subdivision, provided that the total of the amounts so fixed shall not exceed the total value of such property as set forth in the Valuation Roll; and Road Rates shall be paid on the annual value of each of such subdivisions when so ascertained, in the same manner as if the annual value of each such subdivision had been inserted in the Valuation Roll. Recovery of Rate in case of subdivision of property.

63 Every owner or lessor of property in any Road District shall, upon request in writing to be left at or posted to his usual residence from the Chairman of the Road Trustees of such District, deliver or cause to be delivered to such Chairman forthwith a statement in writing setting forth the names of the tenants or occupiers of his property or any part thereof; also the rent payable by each such tenant or occupier, and the area of their respective holdings; and if any owner or occupier neglects so to deliver or cause to be delivered such statement, he shall be liable to pay to the Trustees the Road Rate payable in respect of such property. Owner on demand to furnish names of tenants to Trustees.

64 The Occupiers of Crown Land under Lease or Licence shall be liable to pay only One-half of any Road Rate made under the authority of this Part of this Act in respect of the Crown Land occupied by them; and no such Rate, or any proportion thereof, shall be payable by the Crown, whether as Owner or otherwise. Occupiers of Crown Land to pay half Road Rate.

65 Every such Road Rate shall be paid by the persons liable to pay the same to the Trustees, or a Collector of Road Rate appointed by the Trustees; and in case any such person fails to pay the amount of any such Rate for which he is liable for the space of Fourteen days after the same has been demanded by any Collector of Road Rate, it shall be lawful for any Justice of the Peace, and he is hereby authorised and required, to summon the defaulter to appear before him, or any other Justice of the Peace, at a time and place to be mentioned in the Summons, to show cause why the Rate in arrear should not be paid; and in case the defaulter fail to appear according to the exigency of the Summons, or no sufficient cause for non-payment be shown, the Justice may, and he is hereby authorised and required, to grant a Warrant under his hand, authorising and directing any Collector of Road Rate, or some other fit person, to distrain the goods and chattels of such person whether the same are on the property Recovery of Road Rate.

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in respect of which the Rate is payable or elsewhere, and to cause such goods and chattels when distrained to be sold, and out of the moneys to arise by such sale to pay all costs, charges, and expenses attendant upon such distress and sale, and in the next place to pay the amount of the Rate for which such distress and sale are made, and to pay over the surplus, if any, on demand to the person whose goods and chattels have been so distrained and sold as aforesaid.

Demand of Road Rate.

66 Any Road Rate may be demanded by any Collector of Road Rate, by written or printed or partly written and partly printed notice specifying the amount of Rate demanded, the date of making the Rate, and the property in respect of which the Rate is demanded, left at or posted to the usual or last known place of abode of the person from whom the Rate is sought to be recovered, if such place can after diligent inquiry be discovered, but if not, then affixed to some conspicuous part of the property in respect of which the Rate is demanded.

All goods found on property liable to Road Rate.

67 All goods and chattels whatsoever found upon the property in respect of which any such Road Rate is payable, to whomsoever the same may belong, shall be liable to be taken under the Warrant of Distress issued for the recovery of such Rate: Provided that, in case of change of occupation as hereinbefore mentioned, the same shall not be liable after the expiration of Three months from the time when such Rate is made payable.

Form of Distress Warrant. Schedule (3.)

68 The Warrant of Distress for the recovery of any such Road Rate may be in the form contained in the Schedule (3).

Further Distress in case first is insufficient.

69 In the event of any Distress so made as aforesaid not realising sufficient to pay such Road Rate, costs, charges, and expenses as aforesaid, it shall be lawful, from time to time, to make further and other Distress, in manner aforesaid, until the whole amount of such Rate, costs, charges, and expenses has been fully paid.

Time of sale of goods distrained.

70 The goods and chattels distrained under any such Warrant of Distress shall be sold and disposed of within any time, not being less than Four days, after the making of the Distress.

Appeal to Justice against costs of Distress.

71 Any person deeming himself aggrieved by the amount of the costs, charges, and expenses with which he is charged as attendant upon any such Distress and sale may forthwith apply to the Justice issuing the Warrant of Distress; and such Justice is hereby authorised and empowered to make such order in the matter as to him seems just; and any person who disobeys or fails to comply with such order shall incur a penalty not exceeding Five Pounds.

Distress not unlawful for want of form.

72 No Distress made under the authority of this Act shall be deemed unlawful, or the person making the same be deemed a trespasser, on account of any defect or want of form in the Warrant of Distress, or in any other proceeding relating to such Distress; nor shall the person distraining be deemed a trespasser *ab initio* on account of any irregularity which he may afterwards commit, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action on the case.

Roads.

73 No Summons or Warrant shall be issued at the instance of the Trustees, or any Collector of Road Rate, for the recovery of any Road Rate after the expiration of One Year from the time when such Rate is made payable by such Notice as aforesaid.

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Road Rate not to be recoverable after One year.

74 The provisions of *An Act to facilitate the Collection and Recovery of Rates*, and every amendment thereof, shall be applicable to the collection and recovery of Rates under this Part of this Act.

Applies provisions of 22 Vict. No. 27.

75 The Trustees shall not levy or raise any such Road Rate on—

Certain property exempted from Road Rate.

- (i.) Any property belonging to and occupied by or on behalf of Her Majesty;
- (ii.) Any property hired or used by the Government or by any Municipal Council for any public purpose;
- (iii.) Any Hospital, Benevolent Asylum, or other building used solely for charitable purposes;
- (iv.) Any Church or Chapel or other building used solely for public worship;
- (v.) Any Public School established by "The Board of Education," or any dwelling of the Teacher of such School, and all necessary buildings, whether attached to such School or not; or
- (vi.) Any Public Library or Public Museum.

76 Any persons who may subscribe for or agree to advance any money for or towards the making or maintaining of any Road under the care, control, and management of the Trustees, and who may subscribe their names to any writing for that purpose, shall pay the sums of money so subscribed or agreed to be advanced within such time and in such proportions as may be expressed in the writing subscribed by them; and in case no time or proportions should be expressed in the writing, then at such time and in such proportions as the Trustees order and direct; and the same shall be demanded by and paid to the Treasurer of the Trustees; and if any person fails to pay any such sum, it shall be lawful for the Trustees to recover the same as a debt due to the Trustees.

Recovery of subscriptions towards making Roads.

Bye Roads.

77—(1.) Upon the written application of any Landholder to the Trustees for the definition of a Bye Road for the benefit of such Landholder the Trustees shall, upon the applicant depositing the probable cost of the survey and arbitration, and after such notice, if any, as they deem proper, to the owners and occupiers whose interests may be affected by such Bye Road, authorise and direct a Surveyor to define and lay out such Bye Road, and to draw the necessary plans and specifications for the same.

Trustees may lay out Bye Roads.

(2.) Such Surveyor, with all necessary assistance, is hereby empowered to enter upon any Land for the purpose of defining and laying out such Bye Road, and making such plans and specifications.

78 Upon such Bye Road being so defined and laid out, and the necessary plans and specifications for the same completed, and after Compensation made as hereinafter mentioned, it shall be lawful for the

Land may be taken for purpose of a Bye Road.

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Trustees to enter upon the land so defined and laid out as such Bye Road by such Surveyor as aforesaid, and to take and appropriate the same for the purpose of such Bye Road, and the same shall thenceforth become and be, and be used and enjoyed as, such Bye Road; and thereupon any person interested in such Bye Road is hereby empowered, with all necessary assistance, means, and appliances, to enter upon the same, and to do and execute all such works, matters, and things as may, from time to time, be requisite for the construction, making, repair, and maintenance of such Bye Road.

Compensation to be made for Land taken for purpose of a Bye Road.

79—(1.) Before the Trustees enter upon and take possession of any such Land for the purpose of any such Bye Road, Compensation shall be made to the persons whose Land may be so taken, such Compensation, in case of dispute, to be ascertained by Arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed Compensation; and such Compensation shall be paid by the person making such requisition as aforesaid, and any other person who is proved upon such Arbitration to be interested in the construction of such Bye Road, in such proportions as the Arbitrators or Umpire in their or his award determine.

Notice to be given to persons before being awarded to pay for Bye Road.

(2.) The Arbitrators or Umpire, as the case may be, shall not include in their or his award the name of any person as being interested in the construction of any Bye Road unless such person has had notice to appear, and the opportunity afforded him of being heard before such Arbitrators or Umpire before their or his award has been made.

(3.) The Trustees may, within Twenty-one days after notice of the amount of Compensation determined on, withdraw the notice of their intention to take such Land if the applicant or applicants fail to deposit the sum awarded in the hands of the Trustees within Fourteen days after the amount of Compensation has been determined upon.

In estimating compensation to be paid for land taken for Bye Road, benefit to owner to be considered.

80 In estimating the amount of compensation to be paid to any person for land taken for a Bye Road, the Arbitrators or Umpire shall take into consideration the benefit that is likely to accrue to the person whose land is about to be so taken for such Bye Road, and the Arbitrators or Umpire, in awarding compensation to be paid for taking such land, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the Arbitrators or Umpire that the benefit likely to accrue to the person through whose land such Road is about to be taken is equal to or greater than the loss he will sustain by reason of the taking of his land for such Road, the Arbitrators or Umpire may award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid.

Bye Roads to be fenced.

81 Before any such Road so defined and laid out as aforesaid is used as a Bye Road, the same shall, if required by the Owners or Occupiers of the land through which it passes, unless otherwise directed by the Arbitrators or Umpire as hereinafter provided, be sufficiently fenced in and kept fenced in for a period of Five years on both sides to the satisfaction of the Trustees, so as to prevent injury to the Owners or Occupiers of such Lands by trespass or otherwise, by and at the expense of the applicant and other persons so proved as aforesaid to be interested in the construction of such Bye Road.

By whom fencing to be erected.

82 The Trustees are hereby empowered and required to ascertain and determine the respective portions of such fencing to be erected by

Roads.

the several persons required to fence such Bye Road, and to fix the time within which such portions of fencing shall respectively be completed; and in case any such person fails to erect the portion of fencing to be erected by him within the time fixed for that purpose, it shall be lawful for any other of such persons to erect the same; and such other person as last aforesaid shall be entitled to recover the cost and expense of erecting such portion of fencing as last aforesaid, as money paid to the use and at the request of the person so failing to erect such portion of fencing.

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83—(1.) The Arbitrators or Umpire appointed to decide the amount of compensation to be allowed for land taken for a Bye Road, or if there is no dispute as to compensation, then Arbitrators and an Umpire, who shall be appointed by the person whose land is so taken and by the Trustees in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation, shall take into consideration the probable traffic along such Road, and the desirability or otherwise of the same being fenced in on both sides; and the Arbitrators or Umpire may by any document declare that the Road shall only be fenced in on one side, or that it shall remain unfenced, and the Road on being fenced in on one side or remaining unfenced, as the case may be, in accordance with such declaration as aforesaid, may be used without being first fenced in on both sides, anything hereinbefore to the contrary notwithstanding.

Arbitrators may decide whether Road is to be fenced.

(2.) In case any Bye Road is directed to be fenced in on one side only, or to remain unfenced, then before the said road is used, wherever the same passes through any fence, a substantial gate properly hung and latched, of not less than Ten feet in width, to be approved of by the Trustees, shall be erected by the party on whose application the Bye Road is granted.

84 Every such gate shall have distinctly painted thereon the words "Bye Road Gate," and also the words "Shut the Gate under Penalty of Five Pounds;" and every person passing through any such gate shall shut and fasten the same, and any person who fails or neglects to shut any such gate on passing through the same, or to fasten the same, shall forfeit and pay a penalty not exceeding Five Pounds: Provided, that no person shall be liable to any penalty under this Section unless such gate is, at the time of such failure or neglect, in good and sufficient repair.

Penalty for not shutting gates.

85 All powers and authorities herein contained in relation to Bye Roads may, where no Road District exists, or where there are no Trustees in any Road District, be exercised by such person or Boards as the Governor in Council may appoint for that purpose, as fully and effectually to all intents and purposes as if a Road District existed, and as fully and effectually as if there were Trustees of such Road District.

As to Bye Roads where no Road District exists, or where there are no Trustees.

Officers and their Accountability.

86—(1.) The Trustees shall, from time to time, appoint a Treasurer, who may be one of the Trustees, and may, from time to time, appoint and employ a Solicitor, Clerk, and such Surveyors, Collectors of Road Rate, and other Officers as the Trustees think necessary and proper;

Power to appoint Officers.

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and, from time to time, may remove any of such Officers, and appoint others in the room of such as are so removed, or as may die, resign, or discontinue their offices; and may, out of the moneys at the disposal of the Trustees under this Part of this Act, pay such salaries and allowances to the said Officers respectively as the Trustees think reasonable.

(2.) Nothing herein contained shall prevent the same person from being appointed to hold more than one of such offices at the same time if the Trustees so think fit, except as hereinafter provided.

(3.) It shall not be lawful for the Trustees to appoint the same person to be a Collector of Road Rate and also Treasurer of the Trustees.

Trustees not to be officers.

87 Every person holding any office or place of profit in the gift or disposal of the Trustees, other than that of Treasurer, shall be disqualified from being a Trustee, and if any Trustee is appointed to any such office or place of profit he shall thereupon cease to be a Trustee: Provided that any Trustee who is appointed Treasurer shall be liable to all the provisions of this Act relating to such officer in the same manner as if he were not a Trustee.

Security from Officers.

88 Before any person, whether Treasurer, Clerk, Collector, or other Officer, who is entrusted by the Trustees with the custody or control of moneys by virtue of his office, enters upon such office, the Chairman of Trustees shall take sufficient security for the faithful execution thereof.

Officers to keep account books.

89 Every Officer or person employed by the Trustees shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters for which such sums have been received or paid, and of all acts done by him by direction of the Trustees; and such books shall at all times be open to the inspection of any Trustee.

Payment over of moneys by Officers.

90 Every Collector or other Officer appointed or employed by the Trustees to collect money shall, within Seven days after he has received any moneys on behalf of the Trustees, pay over the same to their Treasurer, and the receipt of such Treasurer for the moneys so paid shall be a sufficient discharge to such Collector or other Officer; and every such Collector or Officer shall, in such time and in such manner as the Trustees direct, deliver to the Trustees true and perfect accounts in writing under his hand of all moneys received by him and of all moneys paid by him to the said Treasurer, and also a list of the names of all persons who have neglected or refused to pay any moneys owing by them, with a statement of the moneys due from them respectively.

Officers to account.

91 Every Collector and other Officer appointed or employed by the Trustees shall, from time to time when required by the Trustees, make out and deliver to the Trustees, or to any person appointed by the Trustees for that purpose, a true and perfect account in writing under his hand of all moneys received by him on behalf of the Trustees; and such account shall state how and to whom and for what purpose such moneys have been disposed of, and together with such account such Officer shall deliver the vouchers and receipts for such payments; and every such Officer shall pay to the Trustees, or to any person appointed by the Trustees to receive the same, all moneys which appear to be owing from him upon the balance of such accounts.

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92 If any such Collector or other Officer fails to render such accounts as aforesaid, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for Five days after being thereunto required he fails to deliver up to the Trustees, or to any person appointed by the Trustees to receive the same, all books, papers, and writings, property, effects, matters, and things in his possession or power relating to the execution of his office or belonging to the Trustees, then, on complaint thereof being made to a Justice, such Justice shall summon such Officer to appear before Two or more Justices, at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such Officer, or upon proof that such summons was personally served upon him or left at his last known place of abode, such Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such Officer; and if it appears, either upon confession of such Officer, or upon evidence, or upon inspection of the account, that any moneys of the Trustees are in the hands of such Officer, or owing by him to the Trustees, such Justices may order such Officer to pay the same; and if he fails to pay the amount it shall be lawful for such Justices to grant a Warrant to levy the same by distress, and in default of sufficient distress to commit the offender to gaol, there to remain without bail for a period not exceeding Three months, unless the same is sooner paid.

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Summary proceeding against Officers failing to account.

93 If any such Officer summoned as aforesaid refuses to make out such account in writing, or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Trustees, such Justices may commit such offender to gaol, there to remain until he has delivered up all the vouchers and receipts in his possession or power relating to such accounts, and all the books, papers, writings, property, effects, matters, and things in his possession or power belonging to the Trustees.

Officers refusing to make out accounts, &c. may be committed.

94 If any Trustee or other person acting on behalf of the Trustees makes oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such Officer as aforesaid to abscond, the Justice before whom the complaint is made may, instead of issuing his summons, issue his Warrant for bringing such Officer before such Two Justices as aforesaid; but no person executing such Warrant shall keep such Officer in custody longer than Twenty-four hours without bringing him before some Justice; and the Justice before whom such Officer is brought may either discharge such Officer, if he thinks there is no sufficient ground for his detention, or order such Officer to be detained in custody so as to be brought before Two Justices at a time and place to be named in such Order, unless such Officer gives bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint of the Trustees.

If Officer about to abscond, Warrant may be issued.

95 No such proceeding against or dealing with any such Officer as aforesaid shall deprive the Trustees of any remedy which they would otherwise have had against such Officer or any surety of such Officer.

Proceedings against Officers not to discharge sureties.

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Accounts.

Trustees to keep accounts of receipts and disbursements.

96—(1.) The Trustees shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid under the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which book shall at all reasonable times be open to the inspection of any Trustee or any holder of any Debenture issued by the Trustees under “The Local Bodies Loans Act” or any amendment thereof, or any Mortgagee or Transferee in security of any Rate or Special Rate, or other Creditor of the Trustees, without fee or reward; and the persons aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same; and any person having the custody of the said books who does not, on the reasonable demand of any person as aforesaid, permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall, for every such offence, incur a penalty not exceeding Five Pounds.

45 Vict. No. 16.

39 Vict. No. 11.

(2.) The provisions contained in the Fourth Section of “The Audit Act, No. 2,” shall extend and apply to the accounts hereinbefore mentioned.

Moneys received to be paid into Bank.

97 All moneys received by the Treasurer of the Trustees shall be paid by him monthly into some Public Bank in *Tasmania* to the account of the Trustees of the Road District; and no part of such moneys shall be drawn out of such Bank except by cheque signed by the Treasurer and countersigned by One of the Trustees.

Statement of accounts to be annually prepared.

98—(1.) The Trustees of every Road District shall, before the end of the second week in the month of *March* in each year, cause the accounts of the Trustees up to and including the last day of *February* next preceding to be balanced, and also cause a full and true statement and account to be drawn out of the amount of all Rates made and levied, and of all contracts entered into, and of all moneys received and expended during the preceding year, and also of all debts then owing by and to the Trustees, and such statement and account shall be signed by the Chairman and not less than Two Trustees.

39 Vict. No. 11.

(2.) The provisions contained in the Fifth Section of “The Audit Act, No. 2,” shall extend and apply to the statement and account hereinbefore mentioned.

Publication of accounts.

99 The statement and account mentioned in the last preceding section shall, when audited, be published in the *Gazette* by the Colonial Auditor as soon as may be after such accounts have been audited.

Title to the Road Property.

Road property vested in Trustees.

100 The property in the Roads, and in all Land purchased by the Trustees for the purposes of this Part of this Act, and in all moneys at the disposal of the Trustees for the purposes thereof, and in all lamps, direction-boards, mile-stones, walls, fences, posts, rails, and other erections, buildings, and things erected or provided by the Trustees, with the several appliances and appurtenances thereto respectively belonging, and the materials of which the same consist, and all materials, tools,

Roads.

implements, and things furnished and provided by the Trustees for the purposes of this Act, together with the scrapings of the Roads, shall, for the purposes of this Act, be vested in the Trustees of the Road District. A.D. 1884.

Appropriation.

101 All moneys whatsoever levied, received, or recovered under the authority of this Part of this Act shall be at the sole and absolute disposal of the Trustees, to be by them applied in the payment of the interest of any money borrowed under any Act heretofore or hereafter to be passed, as well as any Sinking Fund or sum of money set apart in each year for the redemption of the principal money borrowed as aforesaid; the payment of the necessary salaries and wages of the several Officers, servants, and others appointed and employed by the Trustees, and of the necessary expenses attending the collection or recovery of such moneys; in repairing, maintaining, improving, widening, diverting, altering, making, constructing, fencing, and completing any Road or new Line of Road in the Road District; and generally in carrying out and effectuating in the Road District the several purposes of this Act which are applicable to such Trustees, and to no other purpose. Appropriation.

102 The Trustees of any Road District may, if they see fit, out of the moneys received by them by virtue of this Part of this Act— Trustees may contribute to Roads, &c. out of District.

- (i.) Contribute towards the repair and maintenance of any Street within any Town in such District, being a Main Road, or part thereof :
- (ii.) Contribute towards the repair and maintenance of any Cross Road, Bye Road, or Bridge in any adjoining District, or between the District of such Trustees and any adjoining District :
- (iii.) Contribute towards the maintenance, repair, or purchase of any Bye Road, or any Ford or Ferry.

PART IV.

PURCHASE AND TAKING OF LAND AND MATERIALS.

103 Every District Board and the Trustees are hereby respectively empowered to purchase and take, in the mode prescribed by *The Lands Clauses Act*, such Land within the District or Road District, as the case may be, as the Board or the Trustees respectively may deem necessary for the purpose of widening, diverting, altering, or improving any Road, or making any new Line of Road, or of obtaining any Materials for any such purpose, or as the Board or the Trustees respectively may deem necessary for any other of the purposes of this Act which are respectively applicable to such Board or the Trustees, as the case may be; and, subject to the provisions of this Act, *The Lands Clauses Act* shall be incorporated with this Act, and for the purposes of such incorporation the Board or the Trustees, as the case may be, shall be deemed to be the promoters of the undertaking. Purchase and taking of land.

104 Where a District Board or the Trustees, as the case may be, give notice of an intention to take land for any of the purposes hereinbefore set forth, and the compensation in respect thereof is determined as in cases of disputed compensation, if the Board or the Trustees respectively deem it inexpedient to pay the amount of compensation so determined, the Board or the Trustees, as the case may be, may, within Land may be given up if compensation excessive.

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Twenty-one days after notice of the amount of compensation so determined on, withdraw the first-mentioned notice, on payment of all the costs of reference and award.

In estimating compensation to be paid for land taken for a Road, benefit to owner to be considered.

105 Notwithstanding anything in *The Lands Clauses Act* contained, in estimating the amount of compensation to be paid to any person for land taken for improving, widening, diverting, altering, or making any Road, the arbitrators or umpire shall take into consideration the benefit that is likely to accrue to the person whose land is about to be so taken for such Road, and the arbitrators or umpire, in awarding compensation to be paid for taking such land, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the arbitrators or umpire that the benefit likely to accrue to the person through whose land such Road is about to be taken is equal to or greater than the loss he will sustain by reason of the taking of his land for such Road, the arbitrators or umpire may award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid.

Entry upon Land.

106 Whenever it is intended to take any Land for any of the purposes of this Act, it shall be lawful for any Board or for the Trustees, after Seven days' notice served upon the Occupier, to enter upon any Land and to stake out the same in such manner as the Board or the Trustees, as the case may be, think necessary or expedient; and if any person wilfully pulls up, removes, or destroys the stakes or other marks used for the purposes aforesaid, every person so offending shall, for every such offence, incur a penalty not exceeding Fifty Pounds.

Renting Land.

107 It shall also be lawful for any Board or for the Trustees to contract and agree with the persons interested in any Land for the demise of such Land for the purpose of obtaining materials from such land for the repair or construction of any Road or new Line of Road, or for any other of the purposes of this Act, which are respectively applicable to such Board or the Trustees, as the case may be.

Uncultivated Land may be used for temporary Road.

108 Any Board and the Trustees are hereby respectively empowered to make use of any uncultivated Land within the District or Road District, as the case may be, for the purpose of constructing a temporary Road whilst any Road is being made, diverted, altered, or repaired, without making compensation for the same: 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: Provided also, that on the completion of such repairs any damage done to the Lands through which such temporary Road may pass shall in all respects, as far as practicable, be made good by the Board or the Trustees, as the case may be.

Crown Land may be taken for purposes of the Act.

109 It shall be lawful for any Board or for the Trustees to take and use for any of the purposes of this Act which are respectively applicable to such Board or the Trustees, as the case may be, any Crown Land which the Governor may authorise to be taken and used for such purpose.

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110 It shall be lawful for any Board or for the Trustees, after Seven days' notice to the Owner and Occupier, to enter upon any uncultivated land, and to cut down and carry away all such indigenous timber as may be required for making, repairing, or fencing any Road or new Line of Road, or any other of the purposes of this Act which are respectively applicable to such Board or the Trustees, as the case may be, upon making full compensation for such timber to the Owner of the land: Provided, that it shall not be lawful for the Board or for the Trustees, as the case may be, to cut down any such indigenous timber where it is made to appear to their satisfaction that the same has been, and is intended to be, reserved and used by the Owner or Occupier of the land for the purpose of ornament or shelter.

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Timber may be taken from uncultivated Land upon making Compensation.

111 Where it is deemed necessary to obtain Materials from any land for the repair or construction of any Road or new Line of Road, or any other of the purposes of this Act which are respectively applicable to any Board or the Trustees, as the case may be, it shall be lawful for such Board or for the Trustees, after Seven days' notice to the Owner and Occupier, to enter upon such land, and to dig, quarry, and carry away all such Materials as may be required for any such purpose, making full compensation to all parties interested for the damage thereby sustained.

Materials may be taken from Lands upon making compensation.

112 The compensation for taking indigenous timber from uncultivated land, or Materials from any land, for the purposes of this Act, shall be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

Compensation for Timber and Materials how to be ascertained.

113 Nothing in this Act contained shall, without the consent of the Owner, authorise the purchase or taking by any Board or by the Trustees of any Land which is a garden, yard, lawn, orchard, or planted walk or avenue to a house, or enclosed ground planted as an ornament or shelter to a house, or planted as a nursery for trees, or the taking of any Materials from or the cutting down of any Timber growing on any such Land, or the taking of any such Land for the purpose of a Bye Road, or the opening of any drain or watercourse on, to, or through such Land.

Gardens, &c. not to be taken without consent of Owner.

114 It shall be lawful for any Board or for the Trustees to sell and dispose of, in the manner prescribed by *The Lands Clauses Act*, any Land purchased or taken by them respectively for the purposes of this Act which is not required for any such purpose, and the purchase money arising from any such sale shall be applied by such Board or Trustees to the purposes of this Act which are respectively applicable to such Board or the Trustees, as the case may be; and in the application of the provisions of *The Lands Clauses Act* to the purposes of this Act the enactment contained in this Section shall be substituted for Section 78 of that Act.

Lands not required may be sold.

115—(1.) It shall be lawful for any Board to enter upon any land adjoining any road or new line of road of which the Board has the care, control, and management, for the purpose of maintaining such road.

Entry upon adjoining Lands for executing Works.

(2.) It shall be lawful for the Trustees to enter upon any Land adjoining any Road or new Line of Road, of which the Trustees have

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the care, control, and the management, for the purpose of constructing or repairing such Road.

(3.) Any land entered upon under this Section shall be fenced in or otherwise so secured by the Board or the Trustees, as the case may be, as to afford to the owner or occupier of such land an equal protection against trespass as was possessed by such owner or occupier previously to the entering upon such land.

Power to make
Drains on adjoining
Lands.

116 Every Board and the Trustees shall have power respectively to make, cleanse, and keep open all Drains or Watercourses which they may deem necessary in and through any Land adjoining or near to any Road or new Line of Road of which such Board or Trustees, as the case may be, have the care, control, and management.

Timber growing
near Roads may
be cut down.

117 Every Board and the Trustees are hereby respectively empowered to cut down and remove all indigenous Timber growing or standing within Seventy-five Feet of the centre of any Road of which such Board or Trustees, as the case may be, have the care, control, and management, making good all damage or injury to the fences, hedges, ditches, walls, or any other thing upon the Land of the person on which such Timber may be growing or standing ; but such Trustees shall not be empowered to cut down any Timber reserved, planted, or to be planted for the purposes of ornament or protection.

Quarries to be
fenced in or other-
wise secured.

118 Every Board and the Trustees, as the case may be, shall cause to be filled up, or in other respects rendered secure, all pits or quarries that may have been opened or used by them respectively for any of the purposes of this Act, and shall, so soon as any work is completed, cause all fences taken down in the prosecution of the same to be well and sufficiently restored.

PART V.

RULES.—LEGAL PROCEEDINGS.

Governor in
Council may
make General
Rules prescribing
certain things.

119—(1.) The Governor in Council may from time to time make, and from time to time alter and rescind Rules prescribing the following things:

- (i.) The times, form, and manner at and in which and the restrictions under which moneys from time to time voted by Parliament for the maintenance of Main Roads and bridges within each District shall be applied for, received, deposited, and expended by the Board of such District :
- (ii.) The mode in which the Boards of any two Districts shall construct and maintain any of the roads and bridges under Part II. of this Act which may now or hereafter form a portion or the whole of a boundary line between such two Districts :
- (iii.) The amount for which every officer employed by a District Board and having the custody or control of moneys shall give security, and the nature of such security :
- (iv.) The manner in which the accounts of each and every Board shall be kept, and the periods at which and the form and manner in which such accounts shall be furnished to the Colonial Auditor :

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- (v.) For preventing any injury to any Bridge maintained or coming under the provisions of Part II. of this Act: A.D. 1884.
- (vi.) For regulating the travelling and the traffic, and for enforcing good order upon, over, and along any of such Bridges :
- (vii.) For prescribing the width of the tires of the wheels of vehicles used upon any Main Road, with respect to the weight of any load to be carried upon any such vehicle.

(2.) It shall be lawful for the Governor in Council to appoint by such Rules such penalties as he deems necessary for enforcing such Rules, not exceeding in any case the sum of Five Pounds.

120 The Trustees may, with the approval of the Governor in Council, from time to time make, and from time to time alter and rescind Rules— Trustees may make Rules.

- (i.) For preventing any injury to any Bridge vested in the Trustees :
- (ii.) For regulating the travelling and the traffic, and for enforcing good order upon, over, and along any such Bridge :
- (iii.) For prescribing the width of the tires of the wheels of vehicles upon any Road under the care, control, and management of the Trustees, with respect to the weight of any load to be carried upon any such vehicle ;

And may by any such Rule prescribe a penalty for enforcing any such Rule, not exceeding in any case the sum of Five Pounds.

121 All Rules made under this Act shall be published in the *Gazette*, and in the District or Road District, as the case may be, and laid before both Houses of Parliament within Fourteen days after the publication thereof, if then sitting, and if not sitting, then within Fourteen days after the next Meeting of Parliament. Rules to be published.

122 All Rules in force when this Act takes effect shall be deemed to have been made under this Act, and shall remain in force until rescinded by any Rules made under this Act. Rules already made to remain in force until rescinded.

123 Each District Board and the Trustees may sue or be sued by the respective names of "The Board of Main Roads for the District of _____," and "The Trustees of the Road District of _____," naming the District or Road District of which they are the Board or the Trustees, as the case may be, without otherwise naming such Board or Trustees ; and no action, suit, or other proceeding commenced or had by or against the Board or the Trustees shall abate or be in any way affected by reason of the death, resignation, absence, or new election or appointment of any Member of the Board or of any Trustee, as the case may be, but the same may be carried on and proceeded with as if no such change had taken place. Board and Trustees how to sue and be sued.

124 In any proceeding, civil or criminal, relating to any property or money vested in any District Board or in the Trustees, as the case may be, for the purposes of this Act, it shall be sufficient to describe such property or money as the property or money of "The Board of Main Roads for the District of _____," or of "The Trustees of the Road District of _____," naming the District or Road District of which they are the Board or the Trustees, as the case may be, without otherwise naming such Board or Trustees.

Property may be laid in the Board or Trustees.

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Books containing records to be evidence in Courts of Justice, &c.

125 Every Book in which Orders and Proceedings are entered under the provisions of this Act shall be received as *prima facie* evidence in all Courts, and before all Judges, Justices of the Peace, and others, that such Orders and Proceedings were duly made and had; and the onus of proving that such Orders and Proceedings respectively were not duly made and had shall in all cases rest upon the defendant or the party disputing the validity thereof.

PART VI.

OFFENCES AND PENALTIES.

Injuring Roads.

126 Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Five Pounds;

- (i.) Riding upon any Footpath made or set apart for the use or accommodation of foot passengers by the side of any Road:
- (ii.) Wilfully leading or driving any Animal or Vehicle, or any single wheel of any Vehicle, or wheeling or drawing any wheelbarrow, truck, or sledge upon any such Footpath:
- (iii.) Hauling or drawing, or causing to be hauled or drawn, upon any part of any Road any timber, stone, or other thing otherwise than upon a wheeled Vehicle:
- (iv.) Suffering any timber, stone, or other thing which is carried principally or in part upon a wheeled Vehicle to drag or trail upon any Road:
- (v.) Suffering pigs to root up or damage any Road, or the hedges or banks on the sides thereof:
- (vi.) Suffering any cattle, horse, sheep, pig, ass, or goat to stray or be upon any fenced Road:
- (vii.) Using any instrument for the purpose of retarding the descent of any Vehicle down hill, or which prevents the wheel or wheels of such Vehicle revolving, in such manner as to destroy, injure, or disturb the surface of any Road:
- (viii.) Wilfully suffering a wheel of any Vehicle to run in any Drain by the side of any Road for the purpose of retarding the descent of such Vehicle down hill:
- (ix.) Making a fire upon any Road:
- (x.) Not placing any Vehicle during the time of loading or unloading the same, or of taking refreshment or of halting, as near to one side of the Road as conveniently may be, either with or without any Animal harnessed or yoked thereto:
- (xi.) Laying or causing to be laid any timber, stone, hay, straw, dung, manure, lime, soil, ashes, rubbish, or other like matter or thing upon any Road:
- (xii.) After having blocked or stopped any Vehicle in going up or down hill, causing or suffering to be or remain on the Road the stone or other thing with which such Vehicle has been blocked or stopped:
- (xiii.) Removing soil from any Road or from the sides thereof, or removing, barking, felling, or cutting trees on any Road or on the sides thereof, the property of the Board or the Trustees, as the case may be.

Roads.

127 Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Twenty Pounds over and above the damages occasioned thereby ;

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Further penalty
for certain injuries.

- (i.) Pulling down, damaging, or destroying any Lamp or Lamp-post put up, erected, or placed in or near the side of any Road or Bridge, or extinguishing the light of any such Lamp :
- (ii.) Pulling down, defacing, damaging, or destroying any direction-board, mile-stone, wall, fence, post, or rail made, erected, or set up by the Board or the Trustees, as the case may be :
- (iii.) Injuring or damaging any Road or Bridge.

128 Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Twenty Pounds ;

Encroachments on
Roads.

- (i.) Making or causing to be made any building, or any hedge or other fence, on or at the side of any Road, in such manner as to reduce the breadth or confine the limits thereof :
- (ii.) Any person being the owner or occupier of land adjoining any Road—
 - (a.) Permitting or suffering any hedge separating such land from such Road to continue to encroach or to encroach on such Road so as to reduce the breadth or confine the limits thereof, or to grow to a height of more than seven feet, without the consent in writing of the Board or the Trustees, as the case may be ; or
 - (b.) Permitting or suffering any such hedge in any manner whatsoever to obstruct any road :
- (iii.) Filling up or obstructing any ditch at the side of any Road, or any ditch made by the Trustees through the adjoining land for the purpose of draining such Road :
- (iv.) Making any drain, gutter, sink, or watercourse upon or across any Road or any Footpath made or set apart for the use or accommodation of foot passengers by the side of any Road :
- (v.) Wilfully sitting or standing on any road or bridge in such a manner as to render it dangerous for any person to ride or drive thereupon :
- (vi.) In any manner whatsoever wilfully obstructing the free passage, use, or enjoyment of any Road :

And it shall be lawful for every Board or for the Trustees, after Ten days' notice in writing to such owner or occupier as aforesaid, to cause any such building, hedge, or the growth or after-growth thereof, ditch or fence, drain, watercourse, gutter, or other encroachment or obstruction to be taken down, cut, cleared, or filled up, or, where any hedge has been allowed to grow to a greater height than seven feet, to be cut down to the height of not less than five feet, or, where any ditch is filled up or obstructed, to be opened and cleansed ; and it shall be lawful for any Two Justices, upon proof thereof upon oath to them made, to levy the expenses of taking down, filling up, cutting, clearing, or cleansing, as the case may be, such building, hedge, or the growth or after-growth thereof, ditch, drain, or other encroachment or obstruction

Roads.

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as aforesaid, by distress and sale of the offender's goods and chattels, rendering the overplus, if any, to such offender on demand: Provided, that nothing herein contained shall prevent the making or constructing across or under any Road of any covered drain or culvert for the making and constructing of which the sanction of the Board or of the Trustees has been first obtained.

Penalty for erecting any steam engine, or burning lime within Fifty yards of road.

129 It shall not be lawful for any person to erect or cause to be erected within Fifty yards of any road, any wind-mill or steam-engine, unless such wind-mill or steam-engine shall be within some house or other building, or behind some wall or fence sufficient to secure the same from the road, so that the same may not be dangerous to passengers, horses, or cattle; nor shall it be lawful for any person to make any fire for burning or calcining limestone, bricks, clay, or the making of coke or charcoal within the distance of Twenty-five yards of any such road, unless the same shall be within some building, or behind some wall or fence sufficient to screen the same from such road; and in case any person shall offend in any of the cases aforesaid he shall forfeit and pay for every such offence a sum not exceeding Five Pounds.

Breach of duty by Trustee or Chairman.

130 If any Member of a District Board, or any Trustee, or the Chairman of such Board or of the Trustees or of any Meeting of Landholders, wilfully neglects or refuses to perform any duty, matter, or thing which he is appointed or enjoined to perform under this Act, or in any manner infringes or disobeys any provision of this Act, such Member, Trustee, or Chairman shall, for every such offence, incur a penalty not exceeding Twenty Pounds.

Penalty on Trustee for being interested in a contract with the Trustees.

131 Every person who, being a Trustee, continues to be or becomes, directly or indirectly, by means of partnership with any other person or otherwise howsoever, wilfully or knowingly engaged or interested in any contract or agreement, or employment with, by, or on behalf of the Trustees, except as proprietor or shareholder of any Joint Stock Company contracting with the Trustees, or except as hereinbefore provided, shall incur a penalty not exceeding One hundred Pounds nor less than Ten Pounds.

Obstructing Board or Trustees.

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

Roads.

133 All offences against this Act or any Rule in force or made under this Act, and all penalties and sums of money imposed or made payable by this Act or any such Rule, shall, where no other mode of proceeding is by Law provided, be heard, determined, and recovered in a summary way by and before One or more Justice or Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*. A.D. 1884.
Offences to be dealt with summarily.
19 Vict. No. 8.

134 No person shall, unless otherwise expressly provided, be imprisoned for nonpayment of any penalty under this Act, or for want of sufficient distress, for a longer period than Three Months, to be computed from the day, if such offender has been arrested, on which he was actually arrested. Imprisonment for penalties limited to Three months.

135—(1.) Any portion not exceeding one moiety of every penalty imposed upon any person for any offence against this Act or the Rules in force or made hereunder may be paid to the informer should the convicting Justice or Justices so order. Appropriation of penalties.

(2.) Except as hereinbefore provided, all penalties received by virtue of this Act shall, in the case of a District Board, be paid into the Treasury, and form part of the Consolidated Revenue Fund, and in the case of the Trustees of a Road District, shall be paid to the Treasurer of the Trustees of the Road District within which the offence in respect of which the penalty is imposed was committed, and shall form part of the moneys at the disposal of the Trustees for the purposes of this Act.

136 Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act which is recoverable in a summary manner, may, unless otherwise expressly provided, appeal against the same in the mode prescribed by *The Appeals Regulation Act*. Appeal from penalties.
19 Vict. No. 10.

137 If any person entrusted with the receipt or disposal of money under the authority of this Act, whether a Trustee or not, fraudulently disposes of or retains in his own possession, or applies to his own use, any money with the receipt or disposal of which he has been entrusted by virtue of this Act, he shall be guilty of Larceny, and may be punished accordingly. Frauds by persons entrusted with moneys.

138 Any Trustee may sue and be sued by the Trustees, and be proceeded against criminally, in the same manner as if he were not a Trustee; and in any such suit or proceeding the Trustees may be described, and the property laid, as in a suit or proceeding by or against a stranger. Any Trustee may be sued notwithstanding his being a Trustee.

PART VII.

MISCELLANEOUS.

139 Whenever before the passing of this Act the Public Roads within any Municipality have been placed under the care and management of such Municipality, such Municipality shall be deemed to be a Road District, and the Municipal Council of such Municipality shall be deemed to be the Trustees thereof, and the Councillors of such Muni-

Municipalities to continue Road Districts.

Roads.

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May be discontinued.

pality shall hold office as Trustees during the tenure of their office as Councillors, anything to the contrary in this Act contained notwithstanding: Provided, however, that the Governor in Council may by Proclamation in the *Gazette*, upon the Petition of such Municipal Council, or upon the Petition of a majority in number and value of the Municipal Electors of such Municipality, or of any part thereof, divest the Municipality of such care and management as aforesaid, and thereupon the Municipality as such shall cease to be a Road District, and the Councillors thereof shall cease to be the Trustees thereof.

Cattle straying on enclosed parts of Roads may be impounded.

140 It shall be lawful for any person to seize and impound, in the Pound nearest to where it is found, any horse, ass, sheep, pig, or other beast or cattle of any kind found wandering, straying, or lying on any enclosed Road; and every such animal so impounded shall be there detained till the costs and charges of impounding and keeping the same are paid by the owner; and in case such costs and charges are not paid within the time allowed by Law in other cases of impounding cattle, the Poundkeeper may sell the animal so impounded, after giving such notice as by such Law is in that behalf required; and after deducting the costs and charges of impounding, keeping, and selling such animal out of the proceeds of sale, shall pay the overplus, if any, to the owner on demand; and if not demanded within Sixty days after sale, such overplus shall be paid to the Board of the District or to the Trustees of the Road District, as the case may be, within which the animal impounded was seized, and be applicable by them to the purposes of this Act.

Repairs, &c. to Road, &c. uniting two Districts.

141 Whenever any District Board or the Trustees, as the case may be, are of opinion that any Bridge should be constructed, or any repairs or work should be done to or on any Road or Bridge under the care, control, and management of such Board or Trustees which will be a benefit to any adjoining District or Road District, as well as to their own District or Road District, it shall be lawful for such Board or Trustees to give to the Board or the Trustees of the adjoining District or Road District notice in writing requiring the said last-mentioned Board or Trustees, as the case may be, to concur with them in constructing such Bridge or in executing such repairs or work; and if an agreement shall not be entered into for constructing such Bridge or for executing such work within One month after service of such notice, the Board or the Trustees giving such notice may construct such Bridge or execute such work at their own costs and charges, and it shall be lawful for the Commissioner of Main Roads to decide, upon such evidence as he may deem sufficient, as to the manner in which the cost of constructing such Bridge or of executing such work shall be borne, and he is hereby empowered to pay to the Board or Trustees constructing such Bridge or executing such work as aforesaid, out of any moneys which the defaulting Board or Trustees may be at any time thereafter entitled to receive out of the Consolidated Revenue Fund such portion, if any, as he may deem just of the said costs and charges.

Owners to keep hedges from spreading over the Road.

142 The owner of any land which is or has at any time been separated from any Road by a hedge or live fence shall keep such Road clear from all seedlings, suckers, and other off-sets from such hedge or live fence; and in the event of seedlings, suckers, or off-sets from any such fence growing upon such Road, the District Board or the Trustees, as

Roads.

the case may be, having the care, control, and management thereof, may cause a written notice to be served on the owner requiring him to remove the same within Fourteen days, and in default the Board or Trustees may cause the same to be removed; and the owner shall forthwith on demand pay the expenses of removing the same to such Board or the Trustees, as the case may be. **A.D. 1884.**

143 Any Notice required to be given by any Board or by the Trustees by virtue of the provisions of *The Lands Clauses Act*, or of this Act, shall be sufficient if signed by any Two Members of the Board or any two of the Trustees, as the case may be, or by their Chairman, Solicitor, or Clerk respectively. **Notices to be given by Board or Trustees how to be signed.**

144 Wherever by this Act authority is conferred on any Board or on the Trustees to enter upon any Land for the purposes of this Act, or to do any act in or relating to the construction or maintenance of any road or other work, the same authority shall equally extend to all persons acting by the direction of the Board or of the Trustees, as the case may be, and to all necessary agents, assistants, servants, workmen, means and appliances whatsoever. **Powers to extend to Officers duly authorised.**

145 All powers and authorities which by any Act are given to or vested in— **Certain special powers vested in the Commissioner.**

The Trustees of the *West Tamar Road District* in respect of the Bridge over the *South Esk River* near *Launceston* :

The Trustees of the *Sorell Causeway* : and

The *Bridgewater Commissioners* :

shall be continued, and the same are hereby vested in and shall, save as aforesaid, be exercisable by the Commissioner, except the power to make rates and borrow money upon such security as is named in any Act relating thereto. And the provisions of the said several Acts shall not be deemed to be repealed by this Act except in so far as they are repugnant to the provisions of this Act, and, save as aforesaid, this Act and the said several Acts shall be read together as one Act.

All powers conferred upon the Governor by any of the said Acts shall be exercisable by the Governor in Council.

146 No action shall lie against any person for anything done in pursuance of this Act unless notice in writing of such action, and of the cause thereof, is given to the Defendant One Month at least before the commencement of the action, and such action is commenced within Three Months after the cause of action has accrued; and in any such action the Defendant may plead the general issue, and give this Act and the special matter in evidence; and no Plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the Defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the Defendant, or if the Plaintiff becomes nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the Plaintiff, the Defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any Defendant has by Law in other cases; and though a verdict is given for **Persons acting under Act entitled to notice of action, &c.**

Roads.

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the Plaintiff in any such action, such Plaintiff shall not have costs against the Defendant unless the Judge before whom the case is tried certifies his approbation of the action, and the verdict obtained thereupon.

Protection to
Commissioner
and to Members
of Board against
process.

147 The Commissioner or any District Board being a party to or executing in such capacity any contract or other instrument, or otherwise lawfully executing any of the powers hereby given, shall not be liable to be sued or prosecuted by any person whomsoever, and the bodies, goods, and lands of the Commissioner, and of every Member of every Board appointed under this Act, shall not be liable to execution of any legal process by reason of any contract or other instrument entered into, signed, or executed by them, or by reason of any of the powers aforesaid; and the Commissioner and the Members of District Boards severally and respectively, their heirs, executors, and administrators, shall be indemnified out of the moneys voted by Parliament applicable to the purposes of this Act, for all payments made or liability incurred in respect of any Act done by them, and for all losses, costs, and damages which they may incur in the execution of the powers granted to them.

Repeal.

148 The Acts set forth in the Schedule (4) are hereby repealed from and after the commencement of this Act: Provided that,—

- (i.) Any enactment or document referring to any Act or enactment hereby repealed shall be construed to refer to this Act or to the corresponding enactment in this Act:
- (ii.) This repeal shall not affect—
 - (a.) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any such enactment; nor
 - (b.) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any such enactment; nor
 - (c.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any such enactment; nor
 - (d.) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed: and
- (iii.) This repeal shall not revive any enactment, right, office, privilege, matter, or thing not in force or existing at the commencement of this Act.

Existing Road
Districts con-
tinued.

149 All Road Districts existing at the time of the commencement of this Act, by virtue of any Act hereby repealed, shall continue to be Road Districts, and shall be deemed to be Road Districts within the meaning and for the purposes of this Act, and shall be subject to its provisions.

Existing Boards,
Trustees, and
Officers con-
tinued.

150 All District Boards and all Trustees elected or appointed, and all Collectors and other Officers and persons appointed under any Act hereby repealed, and in office at the time of the commencement of this Act, shall continue in office notwithstanding such repeal, and shall be deemed to have been elected or appointed under this Act, and shall be subject to its provisions, and the rotation in which any such Trustee shall retire shall be the same as if this Act had not been passed.

Roads.

- 151** All Roads and other works made, constructed, or repaired, and all other matters and things whatsoever made or done under any Act hereby repealed, shall, for the purposes of this Act, be deemed to have been made, constructed, repaired, or done under this Act. A.D. 1884.
Existing Roads, &c. to be embraced by provisions of this Act.
- 152** All contracts, bonds, covenants, securities, and proceedings whatsoever made, entered into, or commenced under any Act hereby repealed, and subsisting at the time of the commencement of this Act, shall remain in full force and effect, and continue available and be continued as if the same had been made, entered into, or commenced under this Act. Existing contracts, &c. continued.
- 153** All moneys provided by Parliament for the purposes of any Act hereby repealed, and remaining unexpended upon the commencement of this Act, may be expended, notwithstanding such repeal, as if this Act had not been passed. Moneys may be expended.
- 154** All Special Rates and Mortgages of Special Rates made before the commencement of this Act shall be deemed to have been made under this Act, and all Special and other Rates made under any Act hereby repealed, and not paid or recovered at the time of the commencement of this Act, shall be payable and recoverable as if this Act had not been passed. Recovery of rates not paid.
- 155** Where in any Act *The Main Roads Act, 1880*, or *The Cross and Bye Roads Act, 1860*, or *The Cross and Bye Roads Act, 1870*, may be referred to, the same shall, for the purposes of the first-mentioned Act, be deemed to mean this Act. Reference to former Acts.
- 156** Nothing hereinbefore contained shall affect or be deemed to affect the provisions of "An Act to make special Provision in certain Particulars for the *Great Lake Road District*." This Act not to affect 24 Vict. No. 8.

SCHEDULE.

(1.)

The Bridge across the River *Derwent*, at *Bridgewater*.

The Bridge across the *South Esh* River, near *Launceston*.

(2.)

I, *A.B.*, having been elected a Trustee of the Road District of _____, do hereby solemnly declare that I take the said Office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

A.B.

Roads.

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(3.)

DISTRESS WARRANT FOR ROAD RATE.

TASMANIA } To X.Y. [a Collector of Road Rate for the Road District of
TO WIT. } *or some other fit person.*]

WHEREAS complaint has been made before [me], a Justice of the Peace, that A.B. of [] has not paid the sum of [] payable by him in respect of certain property situate [describe property fully] by virtue of the Road Rate for the Road District of [] made on or about the [] day of []

18 [], although the same has been duly demanded of him : And whereas it appears to me upon the oath of [the said X.Y.] a Collector of Road Rate for the said Road District, that the said sum of [] has been duly demanded by him from the said A.B. and that the said A.B. has failed to pay the same for the space of [] days after such demand made and has not paid the same : And whereas the said A.B. having appeared before me in pursuance of a Summons issued by [me] for that purpose, has not shown sufficient cause why the said sum of []

should not be paid : [or And whereas it has been proved to me upon oath that the said A.B. has been summoned to appear before [me] or such other Justice of the Peace as might now be here to show cause why the said sum of [] should not be paid, and the said A.B. has neglected to appear according to such Summons, and has not shown any sufficient cause why the said sum of [] should not be paid :] These are therefore to command you

forthwith to make Distress of the Goods and Chattels of the said A.B. wheresoever the same may be found, and also of all Goods and Chattels found by you upon the said property to whomsoever the same may belong ; and unless at any time within the space of [Five] days after such Distress by you made the said sum of [] together with all costs, charges, and expenses attendant upon such Distress, be paid to you, that you cause the said Goods and Chattels so by you distrained to be sold, and out of the money arising by such sale that you detain the said sum of [] and also all costs, charges, and expenses attendant upon such Distress and Sale, rendering to the said A.B. or other person whose Goods and Chattels are so distrained by you, as the case may be, the overplus, if any, on demand ; [in case the Warrant is directed to some other person than the Collector, and the said sum of [] you are hereby commanded to pay to (the said X.Y.) the said Collector of Road Rate ;] and if no sufficient Distress can be made of the Goods and Chattels of the said A.B. or otherwise as aforesaid, that then you certify the same to me together with this Warrant.

Given under my hand, this [] day of [] 188 [] .

J.P.,
Justice of the Peace.

(4.)

ACTS TO BE REPEALED.

Date and Number of Act.	Title of Act.
33 Vict. No. 8.	" The Cross and Bye Roads Act, 1870."
43 Vict. No. 13.	" The Main Roads Act, 1880."
44 Vict. No. 30.	An Act to amend "The Main Roads Act, 1880."
45 Vict. No. 29.	An Act to further amend "The Main Roads Act, 1880."
46 Vict. No. 44.	An Act to provide for the Maintenance of certain Main Roads.
47 Vict. No. 29.	An Act to provide for the Maintenance of certain Main Roads.