



ANNO DECIMO-TERTIO

VICTORIÆ REGINÆ,

No. 5.

*By His Excellency SIR WILLIAM THOMAS DENISON, Knight,
Lieutenant-Governor of the Island of Van Diemen's Land and
its Dependencies, with the Advice of the Legislative Council.*

*AN ACT for making repairing and maintaining the
Road leading from the Township of Bothwell to the
Main Road and for making repairing and maintaining
other Roads in the District of Bothwell.*

WHEREAS an Act of Council or Ordinance of this Island was passed in the tenth year of the reign of Her present Majesty Queen VICTORIA intituled *An Act for regulating Cross and Bye Roads* whereby it was amongst other things enacted that the Cross Roads in each District of this Island should be under the control and management of the Court of Quarter Sessions holden in and for such District and should be maintained and repaired under the order and direction of such Court—AND WHEREAS it is expedient to exempt from the operation of the said Act the Cross Road as the same now leads from the Township of Bothwell to the Main Road near the Cross Marsh and all other Cross Roads within the said District of Bothwell as the same is hereinafter defined and to make other provisions in lieu thereof for and in respect of such Roads—BE IT THEREFORE ENACTED by His Excellency SIR WILLIAM THOMAS DENISON Knight Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies with the advice of the Legislative Council of the said Island that from and after the time when this Act shall come into operation the said Cross Road as the same now leads from the Township of Bothwell to the Main Road and all other Cross Roads which now are or hereafter may be within the said District shall be wholly exempted from the operation of the said recited Act and all and singular the provisions therein contained and shall be made repaired maintained and improved by and under the direction control and management of Trustees to be elected and appointed as hereinafter provided.

PREAMBLE.

10 Vict. No. 18.

Road from Bothwell to the Main Road and other Cross Roads in the District of Bothwell exempted from the operation of 10 Vict. No. 18 and placed under Trustees.

II. AND BE IT ENACTED that at any time after this Act shall

Seven or more

householders or landowners in the District defined by this Act may call meeting to elect Trustees.

come into operation it shall be lawful for any seven or more Householders or Landowners of the District hereinafter described to convene a Public Meeting of the Householders and Landowners of such District for the purpose of electing Trustees for carrying out the provisions of this Act such meeting to be holden within the said District and to be convened by public advertisements to be inserted in two consecutive numbers of one newspaper published in Hobart Town and one newspaper published in Launceston such advertisements to name the day time and place of holding such meeting which day shall be at least ten clear days from the time of the last publication thereof and such advertisements shall also state the objects and purposes for which such meeting is called and be signed by the persons convening the same.

Election of Trustees and manner in which such election shall take place.

III. AND BE IT ENACTED that at any such meeting so convened as last aforesaid it shall be lawful for the Householders and Landowners of the District hereinafter described who shall be present at such meeting to appoint a Chairman or person to preside thereat and immediately thereupon to proceed to elect and to elect from among the Householders and Landowners residing within such District as aforesaid any unequal number not being less than three nor more than five as and to be Trustees for the purposes of this Act and every such election shall and may be made by the votes of the Householders and Landowners so present as aforesaid and the votes of the majority thereof shall be conclusive as to the person or persons so elected as aforesaid—PROVIDED that any such person so elected shall assent or express himself willing to become such Trustee as aforesaid and to take upon himself the duties thereof—PROVIDED ALSO that any vote tendered at the said meeting may be objected to by any such Householder or Landowner present as aforesaid on the ground that the person tendering the same is not a Householder or Landowner within the meaning of this Act and not otherwise and every such objection shall be decided by the Chairman or person presiding at such meeting and every such decision shall be final as to the vote so tendered—AND PROVIDED ALSO that if the number of Trustees so elected shall exceed three any three of such Trustees shall be a quorum and may lawfully exercise and do the several powers and authorities acts matters and things by this Act provided to be exercised or done by the Trustees elected as by this Act directed.

Three elected Trustees to be a quorum.

Trustees to be elected annually on the first Saturday of May.

IV. AND BE IT ENACTED that every such election of Trustees so to be had and made as aforesaid shall be finished in one day without any adjournment whatsoever and the Trustees so elected shall continue and remain in office for the period of one year thence next ensuing and at and after the expiration of the said term of one year a new election of the same or new Trustees or Trustee shall and may be had and made in the manner aforesaid for the period of one year and so from time to time at and after the expiration of any and every year for which Trustees shall be so elected as aforesaid new elections of Trustees shall and may be had and made in manner aforesaid—PROVIDED ALWAYS that the Trustees first elected under the authority of this Act shall continue in office until the first Saturday in the month of May

now next ensuing and on such first Saturday in the month of May aforesaid and on every succeeding first Saturday in the month of May in each and every succeeding year such annual election of Trustees as aforesaid shall be had and made as hereinbefore provided—PROVIDED ALSO that if at the expiration of any year for which any such Trustees may have been elected as aforesaid no such meeting as is hereinbefore provided shall be called for the purpose of electing new Trustees or if no such meeting shall take place or no new Trustee or Trustees shall be elected or the same re-elected then and in any such case the Trustees last elected or appointed as herein provided shall continue to be such Trustees until such meeting shall be called and such election of other or the same Trustees or Trustee shall be made in manner aforesaid and the Trustees so continuing in office beyond the said period of one year shall so long as they remain such Trustees have all the powers and authorities and be subject to all the liabilities which they would have enjoyed or been subject to had they been duly re-elected by the Householders and Landowners at such meeting as aforesaid any thing in this Act to the contrary in any wise notwithstanding.

If no new Trustees elected old ones to continue in office.

V. AND BE IT ENACTED that immediately after any such election shall have been so had and made as aforesaid the Chairman of or person presiding at such meeting shall cause to be published in two consecutive numbers of one Hobart Town newspaper the names additions and places of residence of such Trustees so elected or re-elected as aforesaid—PROVIDED ALWAYS that if at any time during his continuance in office as aforesaid any Trustee shall die absent himself or from any cause whatsoever become incapable or unfit to act under the provisions of this Act it shall be lawful for the surviving or continuing Trustees and they are hereby required to nominate and appoint some fit and proper person being a resident householder or landowner within such District as aforesaid to act as Trustee in conjunction with such surviving or continuing Trustees until a new election shall be had and made in manner aforesaid and whenever any such appointment shall be made the same shall immediately be published in one Hobart Town newspaper in manner aforesaid and upon such nomination and appointment all powers and authorities which by virtue of this Act were theretofore vested in or were exercisable by such Trustee so dying absenting himself or becoming incapable or unfit to act as aforesaid shall immediately become and be wholly transferred to vested in and be exercisable by such person so appointed as last aforesaid.

Election of Trustees to be published in a newspaper.

Provision in case of death absence or incapacity of any Trustee during his period of office.

VI. AND BE IT ENACTED that it shall be lawful for the householders and landowners who shall be present at the meeting first holden for the election of Trustees in manner aforesaid under the authority of this Act and at any and every meeting thereafter holden for the election of Trustees under this Act and such householders and landowners are hereby authorised and empowered at any and every such meeting as aforesaid when occasion shall require to fix the rate of assessment to be chargeable upon and paid by as hereinafter provided the several owners and occupiers of all lands messuages tenements and dwelling-houses within the said District whether such lands shall belong to Her Majesty

At meetings to elect Trustees rate of assessment on lands and houses may be fixed.

Her Heirs and Successors or to any other person or persons whatsoever for the purpose of raising the necessary funds for the carrying out the several objects of this Act such rate of assessment in no case however to exceed in one year the sum of One Halfpenny per acre on pasture land the sum of Sixpence per acre on cultivated lands and the sum of Sixpence in the pound on the actual annual rental or annual valued rental such value to be ascertained and determined by the said Trustees of such messuages tenements or dwelling-houses and every such owner or occupier is hereby required to pay and shall pay to such Trustees such rate so assessed as aforesaid accordingly—PROVIDED ALWAYS that all unoccupied lands in the said District belonging to Her Majesty Her Heirs and Successors shall be and the same are hereby wholly exempted from any such assessment of rate as aforesaid nor shall they be in any wise chargeable therewith—PROVIDED ALSO that the payment of rate so assessed as aforesaid in respect of lands within the said District shall exempt the owner or occupier of any messuage tenement or dwelling-house upon such lands and occupied therewith from payment of any rate in respect of such messuage tenement or dwelling-house and in like manner the payment of rate so assessed as aforesaid in respect of any messuage tenement or dwelling-house within the said District shall exempt the owner or occupier of any lands whereon the same is situate and which are occupied therewith from the payment of any rate in respect of such lands—PROVIDED ALSO that no new rate shall be so assessed as aforesaid until all rates previously assessed shall have been expended and applied as by this Act is directed.

Trustees may demand and receive rates.

Rate not to be demanded until after notification thereof and next sitting of Quarter Sessions.

VII. AND BE IT ENACTED that it shall be lawful for such Trustees and they are hereby authorised and empowered from time to time as occasion may require to demand have and receive from the several owners and occupiers of such lands messuages tenements and dwelling-houses as aforesaid such rate so assessed as aforesaid and every such owner and occupier is hereby required to pay and shall pay such rate so assessed accordingly and all such lands messuages tenements and dwelling-houses are and shall be from time to time chargeable with and subject to such rate so assessed as aforesaid which shall from time to time be recoverable raised levied and paid in manner hereinafter mentioned—PROVIDED ALWAYS that at least fourteen days before any such rate so assessed as aforesaid shall be demanded or any proceeding whatsoever had or taken for the recovery thereof in manner hereinafter mentioned notice of the same setting forth the names of the several owners and occupiers of such lands messuages tenements and dwelling-houses so in respect thereof liable and chargeable therewith together with the several sums or amounts to or for which such owners and occupiers are respectively so liable and chargeable shall be transmitted by the said Trustees to the Office of the Surveyor-General of this Island for the time being and be published by the said Trustees by causing true copies thereof to be affixed on the door or doors of every Church and Chapel in the said District and also on the door of the Police Office thereof—AND PROVIDED ALSO that no proceedings shall be had or taken for the recovery of any such rate so

assessed until after the sitting of the Court of General or Quarter Sessions of the Peace for the District of Oatlands which shall be holden next after such transmission and publication for fourteen days as aforesaid.

VIII. AND BE IT ENACTED that it shall be lawful for any person to appeal to the Justices of the Peace at such Court of General or Quarter Sessions as aforesaid against the said sum or amount of such assessed rate by which he may be affected either on the ground of an over-valuation by the said Trustees as aforesaid of his messuages tenements or dwelling-houses or that his said lands messuages tenements or dwelling-houses are overrated or that he has been rated for more lands messuages tenements or dwelling-houses than he ought to have been or that the lands messuages tenements or dwelling-houses of some other person in the said District are underrated or are omitted altogether from the said rate or on any other ground whatsoever of the inequality or unfairness of the said amount of such assessed rate as respects the lands messuages tenements or dwelling-houses of the party so complaining and any such complaint for or in respect of lands belonging to Her Majesty Her Heirs and Successors shall and may be made by the said Surveyor-General or any person by him duly authorised in that behalf by writing under his hand and the said Justices are hereby authorised and empowered to hear and determine the matter of such complaint and either to confirm or disallow such part or parts of such sum or amount of such assessed rate as hath or have been so appealed against or to correct such over-valuations inequalities disproportions or omissions as shall be proved to exist in such manner as shall to them the said Justices appear fair just and equitable.

Appeal to next Quarter Sessions against rate and Justices thereat empowered to determine same.

IX. AND BE IT ENACTED that the amount of assessed rate for which the occupier of any lands message tenement or dwelling-house not being at the same time the owner thereof shall be chargeable as aforesaid shall be payable and paid in the first instance by such occupier and after actual payment thereof one moiety may be by him deducted from the next payment of rent made by him to the landlord of such lands message tenement or dwelling-house or of licence-fee made to Her Majesty Her Heirs or Successors in the case of any Licensee of Crown Lands or if such licence-fee shall have been paid in advance for the year in which any such amount of assessed rate shall have been actually paid by any such Licensee such moiety thereof shall be repaid to him by the Colonial Treasurer of this Island for the time being on proof to the satisfaction of such Colonial Treasurer of the payment of such amount of assessed rate or such moiety of such rate may be set-off by such occupier in any action brought against him by such landlord for such rent as money advanced by such occupier to the use of such landlord or may be deducted from the amount raised under any levy or distress for such rent in arrear and in case of vacant possession of any lands message tenement or dwelling-house within the said District save and except unoccupied Crown Lands as aforesaid such rate so assessed shall be paid by the owner of such lands message tenement or dwelling-house.

Rate to be paid in first instance by occupier who may deduct or set off half from or against rent.

Rate to be paid to Collectors appointed by Trustees who may demand and receive same.

In case of non-payment Collector may obtain warrant from a Justice to distrain for rate.

Trustees may erect toll-bars appoint Collectors and fix rate of toll to be taken not exceeding rates

X. AND BE IT ENACTED that the rate so assessed as aforesaid to be raised levied and paid from the lands messuages tenements and dwelling-houses in the said District under the provisions of this Act shall be paid by the respective occupiers or owners as aforesaid of such lands messuages tenements and dwelling-houses to Collectors appointed by the said Trustees who are hereby authorised to appoint the same and such Collectors when so appointed are hereby authorised to demand have and receive from the several occupiers or owners of such lands messuages tenements or dwelling-houses the said amount of assessed rate for which their lands messuages tenements or dwelling-houses are so respectively liable to and charged with by virtue of this Act and if any such occupier or owner shall neglect refuse or fail to pay to any such Collector such amount of assessed rate as aforesaid for the space of seven days next after the same shall have been lawfully demanded by such Collector either personally or by written notice left at the last or usual place of abode of such occupier or owner as aforesaid if such place can be found but if not then on such lands messuages tenements or dwelling-houses as aforesaid it shall be lawful for any such Collector and he is hereby empowered to apply to the nearest Justice of the Peace not being a Trustee for such District to issue a warrant which warrant such Justice is hereby authorised and empowered to issue to some fit and proper person to be therein named thereby authorising and requiring such person to levy and raise such amount of assessed rate which such occupier or owner shall so have neglected refused or failed to pay as aforesaid by distress and sale of the goods and chattels of such occupier or owner whose lands messuages tenements or dwelling-houses are so rated and assessed as aforesaid—PROVIDED ALWAYS that no such warrant shall be issued by any such Justice without proof on oath by such Collector of such demand as aforesaid and such neglect refusal or failure in payment thereof as aforesaid—PROVIDED ALSO that no sale of any such goods or chattels shall take place until after the expiration of three days from the seizure thereof and if at any time before any such sale the said amount of assessed rate together with the costs charges and expenses of such distress shall be paid to the person so named in such warrant no such sale shall be effected and all such sums so levied and raised or paid as last aforesaid shall be paid by such person named in such warrant to the Collector at whose instance such warrant shall be issued as aforesaid—PROVIDED ALSO that any person deeming himself aggrieved by the amount of such costs and expenses with which he shall be charged may forthwith apply to the Justice issuing such warrant as aforesaid and such Justice is hereby authorised and empowered to make such order in the matter as to him shall seem just and any person who shall disobey or fail to comply with such order shall be liable and subject to a penalty not exceeding Five Pounds.

XI. AND BE IT ENACTED that it shall be lawful for the said Trustees and they are hereby authorised and empowered to cause such and so many toll-bars toll-gates and toll-houses to be erected and established upon such roads as aforesaid and to cause such reasonable toll to be demanded and taken at such toll-bars toll-gates or toll-houses as to

them shall seem necessary and proper for the due and sufficient repairing maintaining and improving such roads as aforesaid and for defraying the expenses of and incident to such toll-bars toll-gates and toll-houses and the collection of the toll thereat/and to appoint Collectors of tolls at such toll-bars toll-gates or toll-houses and from time to time to alter increase or reduce the rates of toll to be taken at such toll-bars toll-gates or toll-houses and to remove such toll-bars toll-gates or toll-houses to any other part of such roads—PROVIDED ALWAYS that such toll or tolls shall not at any time exceed the rates mentioned in the Schedule to this Act annexed marked A which shall be taken to be part and parcel of this Act—PROVIDED ALSO that no toll shall be demanded or taken at any such toll-bar toll-gate or toll-house until the place or situation of any such toll-bar toll-gate or toll-house and the rates of toll payable thereat shall have been publicly notified in one newspaper published in Hobart Town at least one week before the same shall be demanded nor unless there shall be at the time of the demanding any such toll affixed to such toll-bar toll-gate or toll-house in some conspicuous place a board on which shall be painted in legible characters in white upon a black ground the tolls payable at the same—PROVIDED ALSO that if more than one toll-bar toll-gate or toll-house shall be erected on the same road under the authority of this Act payment of toll at any one of such toll-bars or toll-gates shall exempt the animal or vehicle in respect of which such toll shall have been paid from the payment during one and the same day of the toll to which it would but for the exemption hereby conferred have been liable at any other of such toll-bars or toll-gates.

specified in
Schedule A.

Rate of tolls and
situation of toll-
bars to be pub-
lished before toll
is demanded and
boards specifying
rate of toll
chargeable thereat
to be put up at
toll-bars.

XII. AND BE IT ENACTED that after such publication in such newspaper as aforesaid the toll or tolls according to the rate or rates specified in and by any such toll-board shall be of the same force and effect as if the same were specifically directed to be paid by this Act and the same shall be paid to the respective Collectors thereof at the respective rates for the respective animals or vehicles as the same shall be specified in and by any such toll-board and if any person shall neglect refuse or fail to pay any such toll when lawfully demanded by any such Collector it shall be lawful for any such Collector by himself or taking such assistance as he shall think necessary to seize and distrain any horse beast cattle carriage or other vehicle or thing upon or in respect of which any such toll is imposed and payable or any of the goods or chattels of the person or persons so neglecting or refusing to pay and if the toll or any part thereof so neglected or refused to be paid and the reasonable charges of such seizure and distress shall not be paid within the space of four days next after such seizure and distress made the person so seizing and distraining may sell the horse beast cattle carriage vehicle or thing or other the goods and chattels so seized and distrained or a sufficient part thereof returning the overplus of the money to arise by such sale (if any) and what shall remain unsold upon demand to the owner thereof after such tolls and the reasonable charges occasioned by such seizure distress and sale shall be deducted.

People using road
liable to tolls so
published which
to be paid to
Collector who
may recover same
by distress and
sale of animal or
thing on which
toll imposed.

Exemptions from toll.

XIII. AND BE IT ENACTED that no toll shall be taken at any toll-bar toll-gate or toll-house erected under the authority of this Act from any Minister of Religion going to or returning from visiting any sick person or prisoner in gaol or on any other such like charitable or religious mission or from any person going to or returning from his usual place of religious worship on Sundays or from the Police Magistrate or Assistant Police Magistrate of the said District when going on or returning from duty or any person going to or returning from any funeral or for any horse or other animal or any cart or other vehicle passing from one part of any farm within the said District to any other part of the same farm provided such horse or other animal such cart or other vehicle be then actually engaged or employed in farming work upon such farm nor shall any such toll be taken for any horse or other animal going only to water or returning therefrom after such watering.

Persons fraudulently claiming exemption from toll liable to a penalty of £5.

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

Penalty for evading tolls or forcing toll-bars or toll-gates.

XV. AND BE IT ENACTED that if any person shall go off or pass from any road as aforesaid with any horse cattle beast carriage vehicle or thing in respect of which toll is payable by virtue of this Act or shall pass through or over any land or ground near or adjoining to such road not being a public highway and such person not being the owner or occupier or servant or one of the family of the owner or occupier of such land with intent to evade the payment of toll authorised by this Act or if any person shall fraudulently or forcibly pass through or by any toll-bar toll-gate or toll-house erected under this Act with any horse cattle beast carriage vehicle or thing whatsoever subject to such toll as aforesaid by reason whereof the payment of all or any of such toll shall or may be evaded or if any person shall do any other act whatsoever in order or with intent to evade the payment of all or any of such toll and whereby the same shall be evaded every such person shall for every such offence forfeit and pay a penalty or sum not exceeding Five Pounds.

Trustees may compound with any person for the payment of toll.

XVI. AND BE IT ENACTED that it shall and may be lawful for the Trustees under this Act from time to time as to them shall seem desirable to compound with any person for the passing of his or her horses cattle or other animals or his or her carts carriages or other vehicles through all or any of the toll-bars or toll-gates which shall be erected under this Act and all such composition money shall for such period as may be agreed upon be paid in advance and shall be applied in like manner as the tolls received by virtue of this Act are directed to be applied.

Penalty on Collector taking more

XVII. AND BE IT ENACTED that if any such toll collector shall demand or take a greater or less toll from any person than he

shall be authorised to do by virtue of this Act or shall refuse to permit or suffer any person to read or shall in any wise hinder any person from reading the inscriptions on any such toll-board as aforesaid or shall refuse to tell his christian and surname to any person who shall inquire the same on payment of the tolls demanded by such Collector or shall in answer to such demand give a false name or names or upon the legal toll being paid or tendered or where no toll shall be legally due shall unnecessarily detain or wilfully obstruct hinder or prevent any person his or their horse beast or other animal or his or their vehicle of any kind whatsoever from passing through any such toll-bar or toll-gate or shall be guilty of misconduct in his office then and in every such case any such toll collector shall forfeit and pay for every such offence any sum not exceeding Five Pounds.

or less than proper toll or misconducting himself.

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

Wilfully injuring toll-bars or other works for sustentation of roads a misdemeanor.

XIX. AND BE IT FURTHER ENACTED that all right interest and property of and in all toll-gates toll-bars toll-houses lamps bars toll-boards direction-boards mile-stones posts rails walls fences and other erections buildings and things which shall be erected or provided in pursuance of this Act with the several appliances and appurtenances thereto respectively belonging and the materials of which the same shall consist and all materials tools implements and things which shall be furnished and provided by the Trustees for making repairing maintaining or improving any Road made repaired maintained or improved under the authority of this Act together with the scrapings of such Roads shall be vested in the Trustees for the time being elected or appointed under this Act.

Toll-gates and other road property vested in the Trustees.

XX. AND BE IT ENACTED that it shall be lawful for the Trustees for the time being to appoint from time to time as they shall deem necessary a Treasurer Solicitor Clerk and Surveyor and to make to him or them such reasonable remuneration to be paid out of the monies coming into their hands under this Act as the Trustees from time to time shall think proper and it shall be lawful for such Trustees to remove from office any such Treasurer Solicitor Clerk or Surveyor so by them appointed as aforesaid.

Trustees may appoint a Treasurer Solicitor Clerk or Surveyor.

XXI. AND BE IT ENACTED that all monies received by such Treasurer shall be paid by him into some one of the Public Banks at Hobart Town aforesaid to the account of "The Trustees of the Both-

Money received by Treasurer to be paid into a

Bank to account of Trustees.

well Roads" and no part of such monies shall be drawn out of such Bank except by cheque signed by such Treasurer and countersigned by some one of such Trustees.

Collectors neglecting or refusing to account and pay over monies subject to a penalty and persons entrusted with monies under this Act fraudulently disposing of or retaining same guilty of larceny.

XXII. AND BE IT ENACTED that if any Collector appointed by virtue of this Act shall neglect or refuse to account for and pay over upon lawful demand to him made the monies collected or received by or paid to such Collector under the authority of this Act every such Collector shall for every such offence forfeit and pay a penalty not exceeding Fifty Pounds and if any such Collector or person appointed by such Trustees or by such Lessee or Farmer of Tolls as hereinafter provided or any person entrusted with the receipt or disposal of money under the authority of this Act shall fraudulently dispose of or retain in his own possession or apply to his own use any money with the receipt or disposal of which he shall have been entrusted by virtue of this Act such Collector or person shall be deemed and taken to have stolen the same and shall be guilty of larceny and it shall be sufficient in every information or indictment to lay the property in the sum charged therein to have been stolen as the property of any one of the Trustees under this Act for the time being or of such Lessee or Farmer of Tolls.

Trustees may enter upon Roads to repair or improve same and upon lands to make and repair Roads and for other necessary purposes of Act.

XXIII. AND BE IT ENACTED that it shall be lawful for the said Trustees and they are hereby empowered by themselves or any other person or persons for that purpose appointed or employed by them and with all necessary and proper means appliances and materials of any nature or kind whatsoever to enter upon any Road or any part or parcel thereof which by virtue of the provisions of this Act shall be under the control and management of the said Trustees for the purpose of repairing improving or maintaining the same or in like manner to enter upon any land or lands whether the same shall belong to Her Majesty Her Heirs or Successors or any other person or persons whatsoever for the purpose of widening diverting altering or improving any such Road or any part or parcel thereof as aforesaid or for the purpose of making constructing and fencing in any new line of Road within the said District or any part or parcel thereof or for any other purpose necessary for the carrying out the objects of this Act and the said Trustees may and are hereby authorised and empowered so to repair improve maintain widen divert or alter any such Road or any part or parcel thereof as aforesaid or to make construct and fence in any such new line of Road—PROVIDED ALWAYS that no such new line of Road or any part or parcel thereof or any widening diversion or alteration of any Road as aforesaid or any part or parcel thereof shall be made through or over any garden yard or any park planted walk or avenue to a house or any enclosed ground planted as an ornament or shelter to a house or planted and set apart as a nursery for trees or any part thereof respectively without the consent of the owner or proprietor thereof in writing first had and obtained.

Dimensions of roads and other

XXIV. AND BE IT ENACTED that the several Roads to be repaired maintained improved widened diverted altered or made constructed and

fenced in under the authority of this Act shall be so repaired maintained improved widened diverted altered made constructed or fenced in in manner directed by the said Trustees and the breadth width and dimensions of such Roads and all other particulars in relation thereto shall be ascertained fixed and determined upon by the said Trustees in accordance with their view of the wants and necessities of the said District—PROVIDED that no Road widened diverted altered or made under this Act shall exceed sixty feet in width nor shall it be lawful for the said Trustees to remove or cause to be removed any existing fence or obstruction where the width of the Road left free from any such fence or obstruction shall be in the clear sixty feet.

particulars relating thereto to be ascertained and determined by Trustees but roads not to exceed sixty feet in width.

XXV. AND BE IT ENACTED that it shall and may be lawful for such Trustees so elected or appointed as aforesaid and for every other person acting under their orders to enter upon any land adjoining any Road or new line of Road under the control and management of such Trustees for the purpose of constructing or repairing any drains or culverts or performing any other repairs or works that may be necessary for the same—AND it shall also be lawful for such Trustees and for every other person acting under their orders and they are hereby respectively empowered to enter upon any uncultivated lands with all necessary and proper carriages oxen and horses and to cut down all such indigenous timber and to dig and quarry all such gravel stone lime and soil or other material as may be required for repairing maintaining improving widening diverting or altering any such Road or making constructing or fencing in any such new line of Road or any part or parcel thereof as aforesaid or for constructing or repairing any drain or culvert or performing any other work necessary thereto and to carry away the same and the said Trustees may so enter for all or any or either of the purposes aforesaid without being deemed nor shall they be deemed trespassers on any such land—PROVIDED that such Trustees 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 for the purposes aforesaid and shall so soon as such work is completed cause all fences taken down in the prosecution of the same to be well and sufficiently restored by and at the expense of such Trustees.

Trustees may enter upon adjoining lands for the purpose of performing works of the road and upon uncultivated lands for materials.

XXVI. AND BE IT ENACTED that it shall and may be lawful for the said Trustees to treat contract and agree for the purchase thereof with the owners of or others interested in any lands tenements or hereditaments which shall be deemed necessary for the purpose of erecting toll-bars toll-gates or toll-houses under this Act or for the purpose of widening diverting altering or improving any Road or making and constructing any new line of Road or for otherwise effectuating any of the purposes of this Act and it shall also be lawful for such Trustees to contract and agree with any such owner or others for the amount of compensation to be paid to such owner or others for or in respect of any loss or damage which such owner or others may otherwise sustain under the operation of this Act and it shall and may also be lawful for the said Trustees to contract and agree with

Trustees may purchase or rent land for purposes of Act and make compensation for damage done by them.

any person or persons for the purchase or demise from him her or them of any land for the purpose of obtaining stone gravel or other materials from such land for the use or repair of any Road or new line of Road or for the erecting any toll-house and appurtenances or any other work for the purposes of this Act—AND it shall also be lawful for such Trustees at any time thereafter to sell the land so purchased by them either by tender or by public auction and to apply the proceeds of any such sale in furtherance of the objects of this Act.

Compensation to be made to persons through whose land road may be made.

XXVII. AND BE IT ENACTED that in all cases in which the Trustees under this Act shall so widen divert or alter any such Road or make or construct any new line of Road or any part or parcel thereof as hereinbefore provided through or over any land or lands whatsoever compensation shall be made to the person or persons through or over whose land or lands any such Road or new line of Road or any part or parcel thereof shall be so widened diverted altered made or constructed such compensation to be ascertained by arbitration in manner hereinafter provided—PROVIDED ALWAYS that no such Road or any part or parcel thereof shall be so widened diverted or altered or any new line of Road made or constructed through or over any lands belonging to Her Majesty Her Heirs or Successors or used for any public purpose without the consent of the Surveyor-General of this Island first had and obtained and upon such consent being signified such Road or new line of Road may be so widened diverted or altered or made and constructed without any compensation made or paid or to be made or paid in respect of such crown lands.

Such compensation where payable to be ascertained and determined by arbitration.

XXVIII. AND BE IT ENACTED that before any Road or any part or parcel thereof shall be so widened diverted or altered or any new line of Road or any part or parcel thereof so made or constructed through or over any land or lands except as last aforesaid notice in writing under the hands of the said Trustees or two of them (which notice may be in the form contained in the Schedule to this Act annexed marked B) shall be served upon the owner or occupier of such land or lands requiring him or them to nominate some person as an Arbitrator to act jointly with an Arbitrator nominated by the said Trustees who are hereby empowered to nominate and appoint the same and such owner or occupier shall within one week after the service of such notice appoint an Arbitrator accordingly and it shall be lawful for such Arbitrators and they are hereby authorised and empowered to appoint an Umpire and it shall be lawful for the said Arbitrators or Umpire to hold such meetings as may be necessary for the investigation and despatch of the matters so referred to arbitration and to examine on oath all witnesses produced before such Arbitrators or Umpire and to adjourn the hearing of the matters so submitted from time to time as occasion may require and to do and execute all other usual and proper matters and things incident or necessary to the making of their or his award and such Arbitrators or Umpire are hereby required to make their or his award touching the matters aforesaid in the form or as near thereunto as circumstances will admit in the Schedule to this Act annexed marked C and every such award shall be final and conclusive to all intents and purposes and

Form of award and time of making same.

shall not be set aside reversed or vacated save and except for corruption only—PROVIDED ALWAYS that no such adjournment or adjournments whether made by the said Arbitrators or Umpire shall collectively exceed the period of fifteen days and provided that every such award so made under the provisions of this Act shall be so made within the period of one calendar month from the date of the appointment of such Arbitrator by such owner or occupier as aforesaid—AND PROVIDED that if such owner or occupier shall fail neglect or refuse within the time aforesaid to nominate and appoint an Arbitrator to act in conjunction with the Arbitrator so appointed by the said Trustees it shall be lawful for such last-named Arbitrator to proceed *ex parte* and the award to be made by such Arbitrator shall be final and conclusive to all intents and purposes and shall not be set aside reversed or vacated save and except for corruption only.

Proceedings in case owner or occupier neglects to appoint arbitrator.

XXIX. AND BE IT ENACTED that in all cases in which such notice as last aforesaid shall be served upon such occupier or tenant of such land or lands it shall be the duty of such occupier or tenant and he is hereby required and enjoined forthwith to give notice to the landlord or person under whom he holds such land or lands of such intention of the said Trustees to widen divert or alter any such Road or to make or construct any such new line of Road or any part or parcel thereof as last aforesaid and if such occupier or tenant shall fail or neglect to give such notice he shall be liable and subject to an action on the case at the suit of such landlord or person under whom he holds who shall therein recover such damages as shall be equivalent to any loss or injury which he shall have sustained by reason of the failure or neglect to give such notice.

Occupier or tenant to apprise landlord of intended arbitration.

XXX. AND BE IT ENACTED that it shall be lawful for the said Arbitrators or Umpire in any such their award as aforesaid to ascertain award and determine what portions of the amount so awarded as compensation as aforesaid shall be respectively paid to the owner and occupier of the said lands in respect of which such award shall be made as aforesaid and such portions shall be respectively paid accordingly by the said Trustees out of the monies to be by them raised and levied in manner herein provided but in case any person entitled to demand compensation under this Act shall be absent from this Colony or shall be under any legal disability such demand shall and may be made by an agent or other person authorised by the person who shall be so absent and such compensation shall and may be paid to such agent or person authorised as aforesaid to the use of the person so being absent as aforesaid and such demand shall and may be made by any guardian committee husband or trustee of any person under legal disability and entitled to demand such compensation as aforesaid and such compensation shall and may be paid to such guardian committee husband or trustee as aforesaid to the use of such person under such legal disability and the receipt of any such agent guardian committee husband or trustee shall be a sufficient discharge for any such compensation.

Award may determine manner in which compensation to be paid.

Provision in case party entitled to same absent from the Colony or under legal disability.

Trustees may let the tolls and Lessee have the same powers to collect them as the Trustees.

XXXI. AND BE IT ENACTED that it shall and may be lawful for the Trustees elected or appointed under and by virtue of this Act if they shall see fit so to do to let or farm out for any term not exceeding twelve months the tolls authorised to be collected under the provisions of this Act together with any toll-bar toll-gate or toll-house such letting or farming out to be either by tender to be advertised in two consecutive numbers of two Hobart Town newspapers seven days at least before the day appointed for the opening of such tenders or otherwise by public auction duly advertised in like manner such security being taken in either case by the said Trustees as they may deem necessary and desirable for the due payment of the rent or sum stipulated to be paid for such tolls and any Lessee or Farmer of Tolls during the continuance of any such letting or farming out or any Collector or person by him appointed is hereby authorised and empowered to demand take have and receive such tolls so let or farmed out and to ensure and enforce the recovery thereof in the same mode and by the same ways and means to all intents and purposes as the said Trustees or Collectors by them appointed might and could under and by virtue of this Act have demanded taken had received ensured or recovered such tolls if the same had not been so let or farmed out—PROVIDED ALWAYS that previously to letting or farming out any such tolls as herein provided the said Trustees shall fix and determine the maximum rate which may be demanded and taken for any animal vehicle or thing passing any such toll-gate toll-bar or toll-house during the continuance of such letting or farming out—PROVIDED ALSO that such maximum rate so fixed by the said Trustees shall in no case exceed the rate or rates specified in Schedule A to this Act annexed and that it shall not be competent to such Trustees to increase or decrease such rate or rates during the continuance of any such letting or farming out.

A special meeting of Householders and Landowners in the District may determine any question arising out of carrying Act into effect.

XXXII. AND BE IT ENACTED that a Special Meeting of the Householders and Landowners within the said District may from time to time be convened by any three of such Householders or Landowners by advertisement to be inserted in any newspaper published in Hobart Town ten days at least before the holding of such meeting at which meeting any question which shall arise in carrying out any of the objects of this Act may be decided by the majority of such Householders and Landowners present at such meeting who shall appoint from amongst themselves a Chairman to preside thereat and such Chairman shall have a casting vote in addition to his vote as a member of such meeting and the decision of every such meeting shall be binding upon the Trustees so far as relates to the matter thereat decided.

Trustees to publish their accounts annually.

XXXIII. AND BE IT ENACTED that the Trustees for the time being elected or appointed as aforesaid shall fourteen days before the first Saturday in the month of May in each and every year publish in one Hobart Town newspaper a true and faithful account signed by such Trustees of all rates tolls and other monies received by such Trustees under the authority of this Act during the previous year together with the mode in which and purposes to which such rates tolls and other monies shall have been appropriated.

XXXIV. AND BE IT ENACTED that if any person shall ride upon any footpath or causeway by the side of any Road made or set apart for the use or accommodation of foot passengers or shall wilfully lead or drive any horse ass mule swine or cattle or vehicle of any description or any wheelbarrow truck or sledge or any single wheel of any waggon cart or carriage upon any such footpath or causeway or shall designedly cause any injury or damage to be done to the same or shall haul or draw or cause to be hauled or drawn upon any part of any such Road as aforesaid any timber stone or other thing otherwise than upon wheeled carriages or vehicles or shall suffer any timber stone or other thing which shall be carried principally or in part upon wheeled carriages to drag or trail upon any such Road to the injury thereof or shall use any material or instrument whatsoever for the purpose of retarding the descent of any cart or other carriage down any hill in such manner as to destroy or injuriously disturb the surface thereof or shall make any fire upon any such Road as aforesaid or shall lay or cause or direct to be laid any timber stone hay straw dung manure lime soil ashes rubbish or other matter or thing whatsoever upon any such Road or if any person shall after having blocked or stopped any cart waggon or other carriage in going up a hill or rising ground cause or suffer to be or remain on such Road the stone or other thing with which such cart or other carriage shall have been blocked or stopped every person offending in any of the cases aforesaid to the injury or obstruction of any such footpath causeway or road or the use or enjoyment thereof shall for each and every such offence forfeit and pay a penalty not exceeding Five Pounds.

Penalty for injuring footpaths or damaging or leaving obstructions on Roads.

XXXV. AND BE IT ENACTED that all monies whatsoever assessed imposed levied raised received or recovered under or by virtue of this Act shall be at the sole and absolute disposal of the Trustees elected or appointed under the authority of this Act to be by them applied in the first place in discharge of all necessary expenses attending the preparation and passing of this Act in the next place in repairing maintaining improving widening diverting altering making constructing fencing or completing any such road or new line of road the erection of toll-bars toll-gates or toll-houses and appurtenances thereto belonging the payment of the necessary salaries and wages of the several officers servants and others appointed and employed by such Trustees and the payment of the necessary expenses attending the collection or recovery of such monies as well as the payment of any outlay or expense that the said Trustees shall necessarily incur in carrying out the objects of this Act and for otherwise effectuating the several purposes of this Act.

Rates and tolls or proceeds of tolls to be at the disposal of the Trustees for repairing Roads &c.

XXXVI. AND BE IT ENACTED that any one of the Trustees elected or appointed under this Act may sue or be sued in the name of the whole and no action suit or other proceeding commenced or had by or against such Trustee shall abate or be in any way affected by reason of the death absence change or new election or appointment of any Trustees or Trustee under this Act but the same may be carried on and proceeded with in the name of the Trustee in whose name such

Trustees may sue and be sued in the name of one. No action to be affected by the death absence or change of Trustees.

Person acting under Act may plead general issue and give special matter in evidence.

suit was instituted in such and the same manner in all respects as if no such death absence change or new election or appointment had taken place or been and if any action shall be brought against any Trustee Surveyor or Collector or any other person whatsoever for any thing done under the authority or in pursuance of this Act such Trustee Surveyor or Collector or other person may plead the general issue and give this Act and the special matter in evidence and if the plaintiff shall fail in any such action such Trustee Surveyor or Collector or other person shall be entitled to double costs.

No person interested in the tolls or other matter under this Act thereby disqualified as a witness.

XXXVII. AND BE IT ENACTED that in case any dispute difference action or suit shall arise in any wise relating to the tolls or monies to be received raised or levied under this Act or any other cause matter or thing arising out of the carrying into effect this Act no Collector of Toll Trustee or other person acting in the execution of this Act shall be incompetent to give evidence in any such dispute difference action or suit on account of his or their being interested in the toll monies or other cause matter or thing as aforesaid out of which such dispute difference action suit or litigation shall arise.

Offences not otherwise provided for to be heard and determined in a summary way and appropriate fines.

XXXVIII. AND BE IT ENACTED that any breach whatsoever of any or either of the provisions of this Act for which any pecuniary penalty is imposed shall be deemed and taken to be an offence against this Act and where no other mode or remedy is by this Act specifically provided all offences against this Act shall upon information in that behalf exhibited be heard and determined in a summary way by and before any Justice or Justices of the Peace in the mode prescribed by the Act of this Island intituled *An Act to regulate Summary Proceedings before Justices of the Peace* and all penalties imposed or forfeitures incurred by or under this Act shall except as aforesaid be levied and recovered in the manner prescribed by the said last recited Act and every person aggrieved by any conviction under this Act may appeal therefrom in the manner provided by the said last-recited Act and all fines penalties and forfeitures imposed or incurred by or under this Act shall go and be applied one moiety thereof to the use of the informer or person prosecuting and the other moiety to the Trustees elected or appointed under this Act to be applied in carrying out and effectuating the several purposes of this Act as the same are herein contained.

Interpretation clause

XXXIX. AND BE IT ENACTED that the terms "Householder" and "Landowner" as used by this Act shall mean and include every free person who shall by himself or his servants occupy any lands messuage tenement or dwelling-house situate within the said District the annual value of whose lands messuage tenement or dwelling-house shall be Fifteen Pounds and the term "District" as used by this Act shall mean and include the whole tract of land bounded as follows that is to say bounded on the north-eastern side by Interlaken River from Crescent Lake to Lake Sorell and by that lake to the south boundary of Lot 504 purchased from the crown by Anthony Fenn Kemp thence by that boundary and by a westerly line from thence to Wood's Lake and by

the northern shore of that lake thence in a westerly direction to the River Shannon thence by that River to the Great Lake and by the Great Lake to Lot 661 thence by the east and south boundaries of that lot and by Lot 667 westerly to the River Ouse thence on the south-western side by the River Ouse to the Shaun Ravine thence by the division boundaries of the Parishes of Abergavenny and Guilford to the River Clyde thence (crossing that river) by that river to the north boundary of a location to Dr. Samuel Hood on the north boundary of the Parish of Stradbroke and by that parish and the Parish of Henry extending easterly to the Parish of Beaufort thence on the western and south-western sides by the division boundaries of the Parishes of Beaufort Henry and Pelham to the River Jordan thence on the eastern side by that river to the Parish of Rutland thence on the northern side by that parish thence on the east by the Parishes of Rutland and Exmouth and thence extending northerly to Crescent Lake and by that lake to Interlaken River aforesaid and the word "Trustees" shall for the purposes of this Act be held to extend and apply as well to the whole body of such Trustees elected or appointed under the provisions of this Act as to any quorum of such Trustees or to any single Trustee who shall be deputed by such whole body or quorum to do any matter or thing authorised to be done by virtue or in furtherance of this Act so as such single Trustee shall do every such matter or thing in the name of such whole body or quorum and every word or term used in the singular number only and every word importing the masculine gender only shall be respectively construed to signify and include the plural number and feminine gender or *vice versa* unless such construction be in any wise repugnant to the spirit or context of the provisions of this Act.

W. T. DENISON.

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

ADAM TURNBULL, *Clerk of the Council.*

SCHEDULE A.

The maximum Rate of Tolls to be taken at any Toll-gate Toll-bar or Toll-house erected or established.

For each Horse Colt Foal Mule or Ass drawing any Cart Carriage or other Vehicle	s. d.
.....	0 4
For each Ox Bull Bullock or Steer drawing any Cart Carriage or other Vehicle.....	0 3
For each Horse Colt Foal Mule Ass Ox Bull Bullock Cow Steer Heifer or Calf	0 2
For each of any number of Pigs Sheep or Lambs under a score	0 0½
For each score of Pigs Sheep or Lambs not exceeding fifteen score ..	0 4
For each additional score or any number less than a score of Pigs Sheep or Lambs above fifteen score	0 1

Payment of any Toll above specified shall exempt the animal or vehicle in respect of which the same shall have been paid from any Toll for once returning through the same Toll-bar or Toll-gate during one and the same day.

SCHEDULE B

IN pursuance of the Act for making repairing and maintaining the Road leading from the Township of Bothwell to the Main Road and for making repairing and maintaining other Roads in the District of Bothwell we hereby give notice to you *A. B.* as the owner [or occupier as the case may be] of the land situate at [place] in the District of _____ by virtue of the above Act that we are desirous of [widening diverting or altering the road or making and constructing a new line of Road describing such widening diversion alteration or making and constructing as the case may be] and for the purpose of ascertaining the amount of damage that may thereby be occasioned to you the said *A. B.* we call upon you to nominate an Arbitrator on your behalf to ascertain pursuant to the said Act jointly with *C. D.* the Arbitrator named by us the sum of money to which you are entitled in respect of the injury which you may sustain by such Road being so [widened diverted or altered or new line of Road made and constructed as the case may be] Dated at [place] the day of _____

[*N. B.*—To be signed by the whole of the said Trustees any quorum thereof or any one of such Trustees deputed by and in the name of the whole body or quorum thereof.]

SCHEDULE C.

WE [insert the names of the Arbitrators] or I [insert the name of the Umpire chosen by such Arbitrators as the case may be] being duly nominated under the Act of Council “ for making repairing and maintaining the Road leading from the Township of Bothwell to the Main Road and for making repairing and maintaining other Roads in the District of Bothwell ” to act as Arbitrators [or Umpire as the case may be] between [here insert names] Trustees under and by virtue of the said Act and *A. B.* of [place] respecting the injury to accrue to the lands of the said *A. B.* by a certain Road or new line of road [describing the same] being [widened diverted or altered or made and constructed as the case may be] do make our award in the premises as follows that is to say—We [or I as the case may be] award that the injury that will be done to such lands by such Road being so [widened diverted or altered or made and constructed as the case may be] amounts to _____ Pounds and as he the said *A. B.* is the owner as well as occupier of the said land we [or I as the case may be] award that the said sum of _____ Pounds shall be paid to the said *A. B.* by the said Trustees and we [or I as the case may be] assess the Costs of the arbitration [and if any such be incurred the costs of the Umpirage] at _____ Pounds and award that the same shall be paid by [here insert the names of the Trustees or Owner or Occupier and the proportions in which the Costs are to be paid as the case may be.] Dated this _____ day of _____

[Signatures or Signature of Arbitrators or Umpire as the case may be.]

[Attested by two Witnesses.] *

[Where a portion of the money is awarded to a Tenant the above form will vary with the circumstances of the case and every Award must be signed in duplicate.]