



ANNO DECIMO-TERTIO

## VICTORIÆ REGINÆ,

No. 6.

*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 repairing and maintaining a certain Road  
called the Westbury Road leading from the Main  
Road between Launceston and Hobart Town to the  
Township of Deloraine.***

**W**HEREAS 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 under and by virtue of a certain other Act or Ordinance of this Island intituled *An Act for making and maintaining a Bridge over the South Esk River at Reibey's Ford* a certain Bridge has been erected across the said South Esk River at Reibey's Ford commonly called Entally Bridge—AND WHEREAS it is expedient to exempt from the operation of the said firstly recited Act the said Cross Road leading from the Main Road between Launceston and Hobart Town to the Township of Deloraine as the same is next hereinafter defined and to make other provisions in lieu thereof for and in respect of such Road and it is also expedient to make suitable provisions for and in respect of the said Bridge called Entally Bridge and all other Bridges now or hereafter erected on the said line of Road—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 shall be wholly exempted

PREAMBLE.

10 Vict. No. 18.

6 Vict. No. 8.

The Westbury  
Road exempted

from the operation of 10 Vict. No. 18 and Entally Bridge exempted from operation of 6 Vict. No. 8.

from the operation of the said firstly recited Act and all and singular the provisions therein contained and the said Bridge called Entally Bridge shall be and the same is hereby so far as may be necessary for the purposes of this Act wholly exempted from the operation of the said secondly recited Act and all and singular the provisions therein contained any thing in the said recited Acts or either of them to the contrary in any wise notwithstanding.

Defines the Road and places it and Bridges thereon under the control of Trustees.

II. AND BE IT ENACTED that the Cross Road leading from the said Main Road to the Township of Deloraine and the said Bridge called Entally Bridge and all other Bridges which now are or hereafter may be erected on the said line of Road shall be under the control and management of Trustees to be elected in manner hereinafter provided and the road now known and used as and called the Westbury Road commencing on the western side of the said Main Road on the Sandhill near Launceston and extending from thence to the south-western boundary of the Township of Deloraine and passing through the Village of Hadsphen across the South Esk River over the said Bridge called Entally Bridge through the Township of Carrick across a stream called Pennyroyal Creek over a Bridge called Carrick Bridge through the Township of Westbury across a stream called Quamby's Brook over a Bridge called Westbury Bridge through the Township of Deloraine to the south-western boundary thereof passing over the River Meander across a certain Bridge called Deloraine Bridge shall be deemed and taken to be the Cross Road called the Westbury Road to be repaired maintained and improved under and to be in all respects subject to the several provisions in this Act contained.

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

III. AND BE IT ENACTED that at any time after this Act shall come into operation it shall be lawful for any three or more Household-ers or Landowners residing within the boundaries of the District hereinafter described to convene a Public Meeting of the Household-ers and Landowners of such District for the purpose of electing Trustees for carrying out the provisions of this Act such meeting to be convened by public advertisement to be inserted in two consecutive numbers of one newspaper published in Launceston such advertisement to name the day time and place of holding such meeting which day shall be at least seven clear days from the time of such last publication and such advertisement 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.

IV. AND BE IT ENACTED that at any such meeting so convened as last aforesaid it shall be lawful for the Household-ers 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 Household-ers and Landowners residing within such District as aforesaid any unequal number not being less than three or 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 House-

holders 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 of elected Trustees to be a quorum.

V. 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 new elections of Trustees shall and may be had and made in manner aforesaid—PROVIDED ALWAYS 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 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.

Trustees to be elected annually.

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

VI. 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 one Launceston 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

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.

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 be immediately published in one Launceston 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.

Trustees may appoint a Treasurer Solicitor Clerk or Surveyor.

VII. 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 appointed as aforesaid.

Money received by Treasurer to be paid into a Bank to account of Trustees.

VIII. AND BE IT ENACTED that all monies received by such Treasurer shall be paid by him into some one of the Public Banks at Launceston aforesaid to the account of "The Trustees of the Westbury Road" 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.

Trustees may erect toll-bars appoint Collectors and fix rate of toll to be taken not exceeding rates specified in Schedule A.

Rate of tolls and situation of toll-bars to be published in a newspaper before toll is demanded and boards specifying rates of toll chargeable thereat to be put up at toll-bars.

IX. 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 road 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 and maintaining such road and bridges as aforesaid and for defraying the expenses of and incident to such toll-bars toll-gates and toll-houses and the collection of the tolls 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 road—PROVIDED ALWAYS that the toll or tolls to be collected at any one toll-bar toll-gate or toll-house to be erected as aforesaid 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 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 Launceston 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 or toll-gate shall be erected on the said road under the authority of this Act it shall be lawful for the said Trustees and they are hereby authorised and empowered to direct from time to time as to them shall seem meet that payment of toll at any one or more of such toll-bars or toll-gates shall exempt either wholly or in part the animal or vehicle in respect of which such toll shall have been paid from the payment of the toll to which it would but for the exemption so by the said Trustees directed have been liable at any other or others of such toll-bars or toll-gates.

X. 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 and 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.

XI. 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 any person going to or returning from any funeral or from any Police or Assistant Police Magistrate Constable or other Peace Officer when going on or returning from duty 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

Exemptions from toll.

Person fraud-  
ulently claiming  
exemption from  
toll liable to a  
penalty of £5.

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

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

Penalty on Col-  
lector taking more  
or less than pro-  
per toll or mis-  
conducting him-  
self.

animal going only to water or returning therefrom after such watering.

XII. 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.

XIII. AND BE IT ENACTED that if any person shall go off or pass from the said road 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 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.

XIV. 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.

XV. AND BE IT ENACTED that if any 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 require 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.

XVI. AND BE IT ENACTED that if any such Toll Collector shall neglect or refuse to account for and pay over to such Trustees upon 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 Farmer of Tolls or mortgagee of tolls as hereinafter provided 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 as the case may be.

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.

XVII. AND BE IT ENACTED that if any Toll Collector Lessee of Tolls or any other person who by virtue of his office lease appointment or otherwise may occupy any toll-house messuage tenement or hereditament under the said Trustees shall at the termination by any means whatsoever under this Act of such office lease or appointment wrongfully refuse to deliver up the possession of such toll-house messuage tenement or hereditament occupied by him as aforesaid within two days after notice demanding possession thereof shall be left at such toll-house messuage tenement or hereditament then and in any such case it shall be lawful for any Justice of the Peace upon proof to his satisfaction of any such demand and refusal as aforesaid by warrant under his hand and seal to order any Constable or other Peace Officer with all necessary assistance to enter such toll-house messuage tenement or hereditament in the day-time and to remove the persons who shall be found therein together with their goods out of such toll-house messuage tenement or hereditament and to give possession thereof to the said Trustees or such person as they may appoint.

Toll Collectors lessee of tolls or other person wrongfully refusing to deliver up toll-houses may be ejected upon warrant.

XVIII. AND BE IT ENACTED that if any person shall knowingly or wilfully pull down spoil destroy dig up break injure or damage any bridge or any toll-bar toll-gate or toll-house or other erection or building lamps bars toll-boards direction-boards mile-stones posts rails walls fences or any culvert or covered drain erected put up made cut repaired or maintained 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 the said Road or any bridge 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 any bridge toll-bar or other work for the sustentation of the road or bridges a misdemeanor.

XIX. AND BE IT ENACTED that the said Bridge called Entally Bridge and all other bridges now erected or hereafter erected under this Act and all right interest and property therein respectively shall

Bridges toll-gates and other road property vested in the Trustees.

for the several purposes of this Act be deemed and taken to be and shall be vested in the Trustees for the time being elected or appointed under this Act and 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 repaired maintained 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 repairing maintaining or improving the said road and bridges together with the scrapings of the said road shall in like manner be vested in the Trustees for the time being elected or appointed under this Act.

Dimensions of road and bridges and other particulars relating thereto to be ascertained and determined by the Trustees but road not to exceed fifty feet in width.

XX. AND BE IT ENACTED that the said Road shall be repaired maintained improved widened diverted or altered and the said Bridges made constructed repaired or maintained in manner directed by the said Trustees and the breadth width and dimensions of the said road and bridges 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 ALWAYS that the said road shall not exceed fifty feet in width nor shall it be lawful for the said Trustees in regulating the width of such road to remove or cause to be removed any existing fence or obstruction where such width left free from any such fence or obstruction shall be in the clear fifty feet.

Trustees may enter upon road and bridges to repair improve or erect same and upon lands for necessary purposes of Act.

XXI. 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 the said Road and Bridges or any part or parcel thereof 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 making constructing repairing or maintaining any Bridge on the said Road or for the purpose of widening diverting altering improving or maintaining the said Road or any part or parcel thereof as aforesaid or for any other purpose necessary for the carrying out the objects of this Act and the said Trustees may and they are hereby authorised and empowered so to make construct repair or maintain any such Bridge as aforesaid or to repair improve maintain widen divert or alter the said Road or any part or parcel thereof as aforesaid or to repair improve or maintain the same when so widened diverted or altered as aforesaid—PROVIDED ALWAYS that no such widening diversion or alteration of the said Road or any part or parcel thereof as aforesaid 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 con-



sent of the owner or proprietor thereof in writing first had and obtained.

XXII. 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 the said Road for the purpose of constructing or repairing any drains or culverts or performing any other repairs or works that may be necessary for the said road—AND it shall also be lawful for any 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 as may be required for repairing improving maintaining widening diverting or altering the said road or any part or parcel thereof as aforesaid or for constructing repairing improving or maintaining any bridge 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 a trespasser or 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 expence of such Trustees.

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

XXIII. AND BE IT ENACTED that it shall be lawful for the said Trustees so elected or appointed as aforesaid and for every other person acting under their orders and they and he are hereby respectively authorised and empowered to cut down and remove all indigenous timber growing or standing within seventy-five feet of the centre of the said road such timber not being within any garden lawn avenue leading to any house or nursery for trees doing nevertheless no unnecessary damage or injury to the fences hedges ditches walls or any other thing upon the land of the person on which such timber shall be growing and such Trustees and all other persons employed by them as aforesaid shall not by reason of any entry by him or them upon any lands for the purposes aforesaid be deemed a trespasser or trespassers.

Indigenous timber growing within 75 feet of centre of road may be cut down.

XXIV. AND BE IT ENACTED that if any person shall ride upon any footpath or causeway by the side of the said road or bridges 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 the said road or bridges 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

Penalty for injuring footpaths or damaging or leaving obstructions on road or bridges.

wheeled carriages to drag or trail upon such road or bridges 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 the said road or bridges 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 such road or bridges 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 or bridges 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 such footpath causeway road or bridges or the use or enjoyment thereof shall for each and every such offence forfeit and pay a penalty not exceeding Five Pounds.

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

XXV. 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 the said road or for making constructing repairing improving or maintaining any such bridge as aforesaid 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 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 the said roads and bridges 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.

Trustees may take lands for purposes of the Act and compensation to be made for lands so taken.

XXVI. AND BE IT ENACTED that where any land shall be so deemed necessary or be required for the purpose of erecting toll-bars toll-gates or toll-houses or for the purpose of widening diverting altering or improving the said Road or for the purpose of making constructing repairing or maintaining any Bridge as aforesaid or for otherwise effectuating any of the purposes of this Act it shall be lawful for the said Trustees and they are hereby expressly authorised and empowered to enter upon and take possession of any such land save and except such land as in the proviso to the twenty-first section of this Act is mentioned such entry and taking possession by the said Trustees to be nevertheless subject to such provision for compensation to be ascertained by arbitration as next hereinafter enacted—PROVIDED ALWAYS that no land belonging to Her Majesty Her Heirs and

Successors or used for any public purpose shall be so entered upon and taken possession of without the consent of the Surveyor-General of this Island first had and obtained and upon such consent being signified such lands may be taken possession of without any compensation made or paid or to be made or paid in respect of such crown lands.

XXVII. AND BE IT ENACTED that before any such land except as aforesaid shall be entered upon and taken possession of for any such purpose as 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 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-mentioned 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.

Compensation where payable to be ascertained and determined by arbitration in manner set forth.

XXVIII. AND BE IT ENACTED that in all cases in which such notice as hereinbefore is mentioned 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 the intention of the said Trustees to enter upon and take possession of such land for such purpose as aforesaid and if such occupier or tenant

Occupier or tenant to apprise landlord of intended arbitration.

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.

Award may determine the manner in which compensation to be paid.

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

XXIX. 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 proportions 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.

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

XXX. 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 from time to time to let or farm out for any term not exceeding twelve months the tolls authorised to be collected at all or any of the toll-gates or toll-bars to be erected 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 Launceston 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 or toll-bar 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 during the continuance of any such letting or farming out to increase or decrease such rate or rates of toll or to direct that payment of toll at any other toll-bar toll-gate or toll-house shall exempt any animal vehicle or thing from toll either wholly or in part at such toll-bar toll-gate or toll-house so let or farmed out as aforesaid.

XXXI. AND BE IT ENACTED that it shall be lawful for the Trustees under this Act and they are hereby empowered to borrow and take up at interest on the credit of the Tolls payable under this Act such sum or sums of money as they shall from time to time deem necessary for the purposes of this Act and to demise and mortgage such tolls and the toll-bars toll-gates and toll-houses at which such tolls shall be payable as a security to any person or persons who shall advance such sum or sums of money and any such mortgage shall be valid and sufficient in the words or to the purport or effect following (that is to say)—

Trustees may mortgage tolls and mortgagee thereof assign same.

“ BY virtue of an Act passed in the thirteenth year of the reign of Her Majesty Queen Victoria intituled *An Act for repairing and maintaining a certain Road called the Westbury Road leading from the Main Road between Launceston and Hobart Town to the Township of Deloraine* we whose hands and seals are hereunto subscribed and set being of the Trustees for the Westbury Road in consideration of the sum of

Pounds sterling advanced and paid by of to the Treasurer of us the said Trustees do hereby grant and assign unto the said and his executors administrators and assigns such proportion of the tolls arising and to arise on the said road together with the toll-bars toll-gates and toll-houses erected or to be erected thereon where the same shall be collected as the said sum of Pounds hereby borrowed doth or shall bear to the whole sum now or hereafter to become due and owing on the security thereof to have hold receive and take the said proportion of the said tolls toll-gates toll-houses and premises with the appurtenances unto the said and his executors administrators and assigns for and during the term of one thousand years next ensuing the date hereof unless the said sum of Pounds with interest after the rate of shall be sooner repaid and satisfied.

Given under our hands this day of  
One thousand eight hundred and ”

and copies of all such mortgages shall be entered in a book or books to be kept for that purpose by the Clerk of such Trustees which said book or books shall at all seasonable times be open to inspection and perusal on payment of a fee of One Shilling and it shall be lawful for any person to whom any mortgage shall be made as aforesaid or who shall from time to time be entitled to the money thereby secured to

assign or transfer his or her right title and interest in and to such mortgage and the principal money and interest thereby secured to any other person or persons whomsoever and any such assignment or transfer endorsed on such mortgage security or thereunder written or thereunto annexed and signed in the presence of and attested by one or more credible witness or witnesses shall be valid and sufficient to all intents if in the words or to the purport or effect next following that is to say—

“ I do hereby assign and transfer this mortgage security with all my right title and interest to and in the principal money thereby secured and all interest now due and hereafter to grow due upon the same unto his or her executors administrators and assigns.

Dated this                      day of                      One thousand  
eight hundred and

Witness—                      (Signed)                      ”

and any such mortgagee or assignee in possession of such tolls and toll-bar toll-gates and toll-houses or any of them or any Collector or person by him appointed is hereby authorised and empowered to demand take have and receive such tolls so mortgaged or assigned 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 and recovered such tolls if the same had not been so mortgaged as aforesaid.

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 Trustees or any three of such householders or landowners by advertisement to be inserted in any newspaper published in Launceston 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 and that it shall not be lawful for such Trustees to mortgage the tolls under the power hereinbefore in that behalf contained unless they shall be authorised to do so by a majority of the householders and landholders present at such a meeting.

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 expiration of each and every year publish in two consecutive numbers of one Launceston newspaper a true and faithful account signed by such Trustees of all tolls and other monies received by such Trustees

under the authority of this Act during such year together with the mode in which and purposes to which such tolls and other monies shall have been appropriated.

XXXIV. AND BE IT ENACTED that all tolls collected at any such toll-bar toll-gate or toll-house as also any rent or sums received for or on account of such tolls as herein provided 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 and altering the said Road the making repairing improving and maintaining any Bridge as aforesaid 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 tolls rent or other 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 the surplus in payment of the interest on any sum or sums of money that may be raised or borrowed in manner herein provided on security of the tolls levied under this Act and after payment of such interest then in discharge of the principal monies so secured on such tolls in such proportions and manner as to such Trustees shall seem meet and for otherwise effectuating the several purposes of this Act.

Tolls and proceeds thereof and other moneys received to be at the disposal of Trustees for repairing road &c.

XXXV. 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 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 Collector or any other person whatsoever for any thing done under the authority or in pursuance of this Act such Trustee Surveyor 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 Collector or other person shall be entitled to double costs.

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 this Act may plead general issue and give special matter in evidence.

XXXVI. AND BE IT ENACTED that in case any dispute difference action or suit shall arise in any wise relating to the tolls rent 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 tolls

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

rent 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 appropriates fines.

XXXVII. 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 thereof to the Trustees elected or appointed under this Act to be applied in the repair maintenance and improvement of the Road and Bridges under their care and management as aforesaid and for otherwise effectuating the several purposes of this Act as the same are herein provided for.

Interpretation clause.

XXXVIII. 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 house or land situate within the said District of the annual value of Ten Pounds and the term "District" as used by this Act shall mean and include the whole tract of land bounded on the north-eastern side by the main Hobart Town and Launceston Road extending from the southern extremity of a location to the late William Effingham Lawrence to the eastern angle of a location to Roderick M'Donald on that road thence on the south-eastern side by a line crossing the South Esk River and extending to the north-east angle of a location to Richard Lawson and westernmost boundary of the land located to the Van Diemen's Land Establishment on a bend of the Liffey River thence (crossing that river) by the Liffey to its source and by a continued line to Dry's Bluff thence on the southern side by a line along the top of the Western Mountains passing Dry's and Projection Bluffs to the Meander River thence by that river and a continued westerly line to the River Mersey thence on the western side by that river to the crossing of the old road leading to the Van Diemen's Land Company's lands thence (crossing that river and road) on the southern side by that road westerly to the Dasher River on the north-western side by that river to its junction with the River Mersey thence (after crossing the same) by that river to Lot 141 leased to William Kimberley thence by that lot and a north-easterly line crossing the Rubicon River to the south angle of the Parish of Philips Norton thence on the north-eastern side by the Parishes of Wells and St. Michael's extending south-easterly to the northern angle of the Parish of Ecclestone thence on the eastern side by that parish



southerly to the Meander River thence on the northern side by that river (after crossing the same) to its junction with the South Esk River thence by that river (after crossing the same) to the external boundary of the Suburbs of Launceston and thence by the said suburb boundary to the main Hobart Town and Launceston Road 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, the third  
day of November 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 under this Act.*

	s.	d.
For each Horse Colt Foal Mule or Ass drawing any Cart Carriage or other Vehicle .....	0	4
For each Ox Bull Bullock or Steer drawing any Cart Carriage or other Vehicle .....	0	2
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	6
For each additional score or any number less than a score of Pigs Sheep or Lambs above fifteen score .....	0	2

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 repairing and maintaining a certain Road called the Westbury Road leading from the Main Road between Launceston and Hobart Town to the Township of Deloraine we hereby give notice to you A.B. as the owner [or occupier as the case may be] of certain land [describing it] situate at in the District of by virtue of the above Act that we intend to enter upon and take possession of such land for the purpose of widening diverting or altering the said road or erecting a bridge &c. 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 thereby sustain. Dated at [place] the day of

[N.B.—To be signed by the whole of the said Trustees any quorum thereof or any two of such Trustees.]

## SCHEDULE C.

WE [insert the names of the arbitrators, &c.] 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 repairing and maintaining the Westbury Road 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 which the said A.B. will sustain by certain land [describing it] being entered upon and taken possession of by the said Trustees for the purpose of [widening diverting or altering the said road or erecting a bridge &c. 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 the said A.B. will thereby sustain amounts to Pounds and as he the said is the owner as well as occupier of the said land we award that the said sum of Pounds shall be paid to the said and we assess the cost of the arbitration at Pounds and award that the same shall be paid by

Dated this day of One thousand eight hundred and

[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.]