

T A S M A N I A.



1865.

ANNO VICESIMO-NONO

VICTORIÆ REGINÆ,

No. 21.



AN ACT to amend *The Cross and Bye Roads Act, 1860.* [29 September, 1865.]

WHEREAS it is expedient to amend *The Cross and Bye Roads Act, 1860*: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.
24 Vict. No. 7.

1 Whenever any portion of the Colony is hereafter proclaimed by the Governor in Council as and to be a Road District for the purposes of *The Cross and Bye Roads Act, 1860*, the Governor shall, in such proclamation, direct that, at a time and place therein named, there shall be held within the said District a Meeting of the Landholders of such District for the purpose of electing from amongst the Landholders of such District Five or Seven persons as and to be Trustees of such Road District for the purposes of the said Act; and every Landholder present at any such Meeting is hereby empowered to give, and shall if he votes give, the number of votes to which he is entitled to any number of persons not exceeding the number of Trustees then to be elected; and every such election of Trustees shall be finished in One day without any adjournment whatsoever; and the number of Trustees so elected at such election shall thenceforward be the number of Trustees for such District, and such Trustees shall go out of office by rotation as hereinafter provided.

Proclamation of Road District to direct when first Meeting for election of Trustees to be held.

Number of Trustees elected at first election to be the number of Trustees of such District thenceforth.

2 All Trustees elected or appointed under *The Cross and Bye Roads Act, 1860*, and in office when this Act comes into operation, shall continue in office until the first *Thursday in June, 1866*.

Existing Trustees continued in office.

Cross and Bye Roads.

Trustees to retire.
Election of new
Trustees.

3 On the first *Thursday* in the month of *June*, 1866, the Trustees of every Road District shall retire from office, and on the day previous an election of Trustees shall be had in manner hereinafter provided; and such Trustees shall, within One month after such election, determine by lot which of such Trustees, being Two when the whole number is Five, and Three when the whole number is Seven, shall retire in *June* 1867; and the names of the Trustees determined to retire in manner aforesaid shall thereupon be notified by the Chairman in the *Gazette*, and in one Newspaper published in the division of the Island within which such District is situated.

Number of
Trustees to be
fixed by Land-
holders at first
Annual Meeting
under this Act.

4 Where, at the time of this Act coming into operation, the number of Trustees in any existing Road District is Three, the Landholders shall on the first Election held under this Act, in addition to electing Trustees to supply the place of outgoing Trustees, elect such number of new Trustees as shall bring the total number of Trustees up to either Five or Seven as to the Landholders at such meeting shall seem best; and thenceforward the total number of Trustees for such District shall be the number in office after such Election.

Annual election
of Trustees.

5 On the first *Thursday* in the month of *June* in 1868, and in every succeeding year, Two of the Trustees of every Road District shall retire when the whole number is Five, and Three of the Trustees when the whole number is Seven, who have been longest in office without re-election; and in case more than Two, when the whole number is Five, and more than Three when the whole number is Seven, have been an equal period in office without re-election, it shall be determined by lot amongst themselves, and notified by the Chairman in the *Gazette* and in One Newspaper published in the division of the Island within which such District is situated, within One month before the Election, which of such Trustees, being Two when the whole number is Five, and Three when the whole number is Seven, shall retire; and in case no election of Trustees is held in any year at the time aforesaid, the Trustees in office for the preceding year shall continue in office until the first *Wednesday* in the month of *June* in the succeeding year, or until the election of new Trustees, and so from time to time.

Place of meeting
for election of
Trustees.

6 The Trustees of every Road District shall fix the place for the Annual Meeting of Landholders for the election of Trustees by notice published in the *Gazette*, and at least Twice, with an interval of Seven days between each publication, in a public Newspaper published in the division of the Island within which such District is situated; the first publication of such notice to be Twenty-one days at least before the day of holding the Meeting.

Time prescribed
for election may
be extended.

7 In case the Trustees of any Road District neglect or omit to fix the place of Meeting of Landholders for the election of Trustees, or in case any such Meeting is not held in any District on the day hereinbefore fixed for that purpose, the Governor in Council may, if he thinks fit, extend the time for the election of Trustees in such Road District to any day before the First day of *August* in any year.

Mode of election
of Trustees at
Annual Meeting.

8 It shall be lawful for the Landholders present at the First and every Annual Meeting of Landholders for the election of Trustees after the passing of this Act to elect from amongst the Landholders of the Road District some number to be orally nominated for election, not being more than the number of Trustees then to be elected, as and to be Trustees of such Road District for the purposes of *The*

Cross and Bye Roads.

Cross and Bye Roads Act, 1860; and every Landholder present at any such Meeting is hereby empowered to give, and shall if he votes give, the number of votes to which he is entitled to any number of persons not exceeding the number of Trustees then to be elected; and every such Election of Trustees shall be finished in One day without any adjournment whatsoever.

9 Whenever before the passing of this Act the Public Roads within any Municipality have been placed under the care and management of such Municipality, such Municipality shall be deemed to be a Road District, and the Municipal Council of such Municipality shall be deemed to be the Trustees thereof, and the Councillors of such Municipality shall hold office as Trustees during the tenure of their office as Councillors, anything to the contrary in this Act contained notwithstanding: Provided, however, that the Governor in Council may by proclamation in the *Gazette*, upon the Petition of such Municipal Council, or upon the Petition of a majority in number and value of the Landholders of such Municipality, divest the Municipality of such care and management as aforesaid, and thereupon the Municipality as such shall cease to be a Road District, and the Councillors thereof shall cease to be the Trustees thereof.

When before passing of Act Roads under control of Municipalities, Municipalities to continue Road Districts.

10 The Chairman presiding at the Meeting for the Election of Trustees shall fix a reasonable time for receiving Nominations for Trustees and closing the Poll, if any, for the Election, and shall forthwith, after the election of Trustees, cause a notice in writing of his election to be served personally on each Trustee elected, or sent to him by Post.

Notice of election to be given to persons elected.

11 Trustees appointed under the provisions of Section 26 of *The Cross and Bye Roads Act*, 1860, shall be subject to the same liabilities and penalties as Trustees elected under the provisions of the said Act or this Act.

Liability of Trustees appointed under 24 Vict. No. 7, Sect. 26.

12 The Trustees of every Road District shall, at their first Meeting held after the first election held under this Act, and at their first Meeting held after each annual election, by the majority of the votes of the Trustees present elect one of their body to be Chairman for the ensuing year, and such Chairman shall preside at all Meetings of the Trustees at which he is present; and if such Chairman cease, for any cause other than the retirement of Trustees in rotation, to be a Trustee, he shall be incapable of being or continuing Chairman; and in case the Chairman die, or by writing under his hand delivered to the Trustees at any Meeting of Trustees resign his office, or as aforesaid cease to be a Trustee, the Trustees present at the Meeting next after the occurrence of such vacancy, or at any Meeting before there shall as yet have been a Chairman, shall choose some one of their body to be Chairman, and the Chairman so elected shall continue in office until the next Annual Meeting for the election of Trustees; and if at any Meeting of Trustees the Chairman be not present, one of the Trustees present shall be elected Chairman of such Meeting by the majority of votes of the Trustees present thereat.

Election of Chairman of Trustees.

13 At all Meetings of Trustees all the Trustees present shall vote save where it is herein otherwise provided, and the questions there considered shall be decided by open voting and by the majority present; and if there be an equal division of votes upon any question the Chairman at such Meeting shall, in addition to his own vote as

When Chairman to give a casting vote.

Cross and Bye Roads.

When election of Chairman to be by lot.

Trustee, have a second or casting vote: Provided always, that if at any such Meeting there be an equality of votes in the election of the Chairman, it shall be decided by lot which of the Trustees having an equal number of votes shall be the Chairman.

Trustee not to vote where he is pecuniarily interested.

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

Materials may be taken upon Seven days' notice.

15 The period of Twenty-one days notice, required by Section 35 of the *Cross and Bye Roads Act*, 1860, to be given to the owner or occupier of land before materials can be removed from such land for any of the purposes in the said Section mentioned, is hereby reduced to a period of Seven days.

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

16 The Arbitrators or Umpire, acting under the provisions of Section 102 of the *Cross and Bye Roads Act*, 1860, shall not include in their or his award the name of any person, Attorney or Agent, as being interested in the construction of any Bye Road unless such person, Attorney or Agent, has had notice to appear, and the opportunity afforded him of being heard before such Arbitrators or Umpire before their or his award has been made.

Definition of Bye Roads where no Road Districts.

17 All powers and authorities contained in *The Cross and Bye Roads Act*, 1860, in relation to Bye Roads may, where no Road Districts exist, or where there are no Trustees in any Road District, be exercised by such person or Boards as the Governor in Council may appoint for that purpose, as fully and effectually to all intents and purposes as if a Road District existed, and as fully and effectually as if there were Trustees of such Road District.

Repeal.

18 Sections 16, 17, and 18 of *The Cross and Bye Roads Act*, 1860, are hereby repealed: Provided that such repeal shall not affect any thing duly done before this Act commences and takes effect.

Acts to be read together.

19 This Act and the said recited Act, except in so far as the same is altered by this Act, shall be read and construed together as one and the same Act.

Short title.

20 In referring to this Act it shall be sufficient to use the expression *The Cross and Bye Roads Act*, 1865.