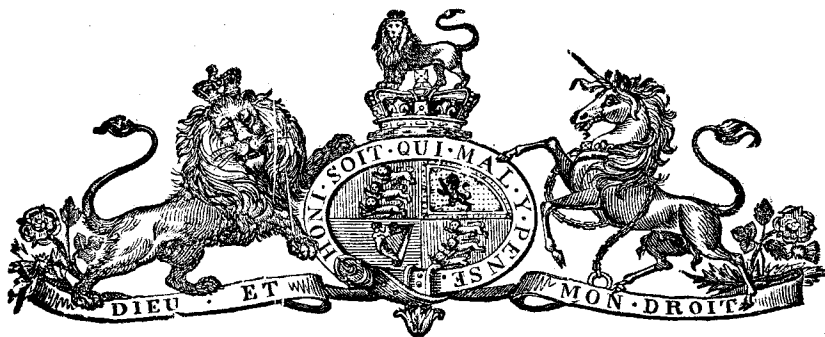


T A S M A N I A.

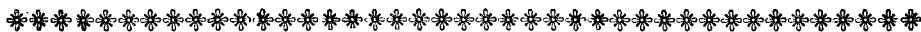


1867.

ANNO TRICESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 19.



AN ACT to explain and amend *The Cross and Bye Roads Act, 1860*, and *The Cross and Bye Roads Act, 1865*. [11 October, 1867.]

WHEREAS it is expedient to explain and amend *The Cross and Bye Roads Act, 1860*, and *The Cross and Bye Roads Act, 1865*: 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,  
29 Vict. No. 21.

**1** *The Cross and Bye Roads Act, 1865*, shall be deemed and taken to have provided that an Election of Trustees to supply the places of Trustees retiring in accordance with its provisions shall take place on the first *Wednesday in June, 1867*.

29 Vict. No. 21,  
to be deemed to  
have provided for  
Election of Trustees  
in 1867.

**2** All Elections held on the first *Wednesday* or *Thursday in June, 1867*, or subsequently thereto, shall be deemed and taken to have been held in accordance with the provisions of the said Act; and every Body now acting as Road Trustees shall be deemed to have been duly elected as such.

Elections in 1867  
to be deemed to  
have been duly  
held.

**3** From and after the passing of this Act, the day for holding the annual meeting for the election of Trustees shall be the second *Wednesday* in the month of *February* instead of the first *Wednesday in June* in every year, and the retirement of Trustees in every year shall take place on the second *Thursday* in the month of *February*

Time of election  
of Trustees.

*Cross and Bye Roads.*

instead of the first *Thursday* in the month of *June*, and the period to which the Governor may enlarge the time hereby fixed for the election of Trustees shall be the first day of *April* in any year instead of the first day of *August*; and the next election and retirement of Trustees shall respectively take place on the second *Wednesday* and *Thursday* in the month of *February*, 1868.

Election of  
Auditors.

**4** At the Annual Meeting of Landholders for the election of Trustees in every Road District, there shall be elected by the Landholders of such District two fit persons qualified to be, but not being, Road Trustees or Candidates at such election for the office of Road Trustee for such District, to be Auditors of such Road District, and the election of Auditors shall be conducted in the same manner, as nearly as may be, as the election of Road Trustees, and such Auditors shall continue in office until their successors are appointed.

Auditor to accept  
office.

**5** Every person elected Auditor shall accept such office, and shall perform the duties attached thereto under a penalty of Twenty Pounds payable to the Road Trustees.

Extraordinary  
vacancy in office  
of Auditor.

**6** In case any extraordinary vacancy takes place in the office of Auditor in any Road District, the Chairman of such Road District shall forthwith call a meeting of the Landholders to fill such vacancy: Provided that Fourteen days' previous notice of the time and place of holding such meeting shall be published in the *Gazette*, and in one or more of the public newspapers.

Statement of ac-  
counts to be an-  
nually prepared.

**7** The Trustees of every Road District shall, in the first week in the month of *January* in each year, cause the accounts of the Trustees up to and including the Thirty-first day of *December* next preceding to be balanced, and also cause a full and true statement and account to be drawn out of the amount of all Rates made and levied, and of all contracts entered into, and of all monies received and expended during the preceding year, and also of all debts then owing by and to the Trustees, and such statement and account, signed by the Chairman and not less than two Trustees, shall be submitted by such Chairman to the Auditors.

Auditors to in-  
spect accounts.

**8** The Auditors of every Road District shall, during the month of *January*, and as soon as conveniently may be after each annual balancing of the accounts of the Trustees, proceed to audit the accounts of the Trustees for the preceding year; and the Trustees shall, by the Treasurer, produce and lay before such Auditors the accounts so balanced as aforesaid, together with the statement and account hereinbefore mentioned, accompanied with proper vouchers in support of the same, and all books, papers, and writings in the custody or power of the Trustees relating thereto; and the Auditors shall either make a special report upon such accounts, or if the said accounts are found correct such Auditors shall simply confirm and sign the same in token of their allowance thereof.

Publication of  
accounts.

**9** The Treasurer shall make out and cause to be printed a full abstract of the accounts for the year as audited; and a copy of the said abstract shall be published in the *Gazette* before the second week in *February*.

Repeal.

**10** Section 118 of *The Cross and Bye Roads Act*, 1860, is hereby repealed.

*Cross and Bye Roads.*

**11** Where any Town within any Rural Municipality which is not a Road District is also within a Road District, the Trustees thereof may expend such part as they see fit of the Road Rate collected in such District in or towards the repair of the streets within such Town, anything contained in *The Police Act, 1865*, to the contrary notwithstanding.

Trustees to have control of streets in Towns in Rural Municipalities not being Road Districts.

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

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

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

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

**14** The arbitrators or umpire appointed to decide the amount of compensation to be allowed for land taken for a Bye Road shall take into consideration the probable traffic along such Road, and the desirability or otherwise of the same being fenced in on both sides; and the arbitrators or umpire may by the award or by a separate document declare that the Road shall only be fenced in on one side, or that it shall remain unfenced, and the Road on being fenced in on one side or remaining unfenced, as the case may be, in accordance with such declaration as aforesaid, may be used without being first fenced in on both sides, anything in *The Cross and Bye Roads Act, 1860*, to the contrary notwithstanding: Provided that in case any Bye Road is directed to be fenced in on one side only, or to remain unfenced, then before the said road is used, wherever the same passes through any fence, a substantial gate properly hung and latched shall be erected by the party on whose application the Bye Road is granted, of not less than Ten feet in width, to be approved of by the Trustees.

Arbitrators may decide whether Road is to be fenced.

**15** Every such gate shall have distinctly painted thereon the words "Bye Road Gate," and also the words "Shut the Gate under Penalty of Five Pounds;" and every person passing through any such gate shall shut and fasten the same, and any person who fails or neglects to shut any such gate on passing through the same, or to fasten the same.

Penalty for not shutting gates.

*Cross and Bye Roads.*

shall forfeit and pay a penalty not exceeding Five Pounds: Provided, that no person shall be liable to any penalty under this Section unless such gate is, at the time of such failure or neglect, in good and sufficient repair.

Road Rates may be applied to Bye Roads.

**16** If, in the opinion of the Trustees, a Bye Road or Ferry is of public advantage, they may apply such portion of the Road Rates as they see fit toward the repair or maintenance of such Bye Road or Ferry.

Road Rates made in accordance with Assessment Rolls in lieu of Valuation Rolls to be valid.

**17** Where any Road District is in whole or in part comprised in any Rural Municipality, all Rates heretofore made, levied, or paid according to the annual value of the property within such Road District, so far as such property is situated within such Rural Municipality, as shown by the Assessment Roll for such Rural Municipality, shall be deemed and taken to have been validly made, levied, and paid.

Acts to be read together.

**18** *The Cross and Bye Roads Act, 1860*, and *The Cross and Bye Roads Act, 1865*, and this Act shall be read and construed together as one and the same Act.

Short Title.

**19** This Act may be cited as "The Cross and Bye Roads Act, 1867."