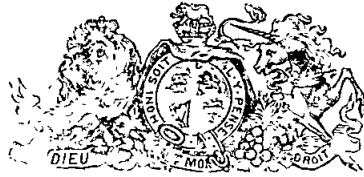


VICTORIA.



ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.

No. XL.

An Act for making and improving Roads in the Colony of Victoria. [Assented to 8th February, 1853.]

WHEREAS it is expedient to provide for the formation construction improvement management and maintenance of Roads and Bridges in the Colony of Victoria Be it therefore enacted by His Excellency the Lieutenant Governor of the said Colony of Victoria by and with the advice and consent of the Legislative Council thereof as follows:—

Preamble.

I. The several Acts of the Governor and Legislative Council of the Colony of New South Wales that is to say An Act passed in the second year of the Reign of His late Majesty King William the Fourth intituled "*An Act for repealing so much of an Act intituled an Act to continue until further provision shall be made certain duties tolls rates fees and other sums of money imposed by the Governors of New South Wales and for other purposes as relates to the levying tolls in New South Wales and for raising a fund towards making repairing and upholding public roads bridges and ferries and for regulating the collection of tolls thereon*" and An Act passed in the fourth year of the Reign of His late Majesty King William the Fourth intituled "*An Act for making altering and improving the Roads throughout the Colony of New South Wales and for opening and improving the Streets in the Towns thereof*" and also an Act passed in the fourth year of the Reign of Her Majesty Queen Victoria intituled "*An Act to provide for the making and repairing of Parish Roads in the Colony of New South Wales*" and also an Act passed in the fourteenth year of the Reign of Her Majesty Queen Victoria intituled "*An Act to authorize the leasing of Tolls and Dues demandable at turnpike gates and ferries and on parish roads for extended terms*" shall be and the same are hereby respectively repealed.

Repeal of
2 Will. 4, No. 12.

4 Will. 4, No. 11.

4 Vic. No. 12.

14 Vic. No. 5.

II. It shall be lawful for His Excellency the Lieutenant Governor to appoint a Board of Commissioners for the formation construction improvement management and maintenance of roads and bridges in the said Colony to be styled the Central Road Board and the said Board shall consist of three members nominated during pleasure by the said Lieutenant Governor one of whom shall be appointed President and shall with

Central Road Board
to be established.

with one other Member of the said Board form a quorum and in all cases in which there shall be only two members of the said Board present upon any difference of opinion the vote of such President shall be conclusive.

Central Board to appoint Secretary and Treasurer.

III. The said Board is hereby authorized subject to the approval of the Lieutenant Governor from time to time to appoint fit and proper persons to act as Secretary and Treasurer and to fix the amount of their salaries respectively.

Powers to make Rules for regulating the conduct of business, &c.

IV. The said Central Road Board and each District Road Board may from time to time subject to the approval of the Lieutenant Governor make such Rules as they may think fit for the conduct of business for providing for the due management of their affairs and otherwise carrying the purposes of this Act into execution and may from time to time subject to the like approval alter or repeal any such Rule Provided that every such Rule shall be signed by at least two of the Members of such Boards respectively and if approved by the Lieutenant Governor shall be published in the *Government Gazette*.

Main Roads to be proclaimed.

V. It shall be lawful for His Excellency the Lieutenant Governor from time to time to proclaim by notice in the *Government Gazette* the Roads in the said Colony which shall be and be deemed Main Roads under the provisions of this Act and any such Proclamation if necessary to revoke.

Central Road Board shall have power over Roads and Bridges, &c.

VI. The Central Road Board so soon as the members thereof shall have been appointed elected and qualified to act shall have exclusive power subject however to the approval of His Excellency the Lieutenant Governor to form construct improve manage and maintain any existing or new Main Road or any Bridge on the line thereof and shall also have exclusive power to form construct improve manage and maintain all District Parish and Cross Roads and Bridges on the lines thereof until District Road Boards shall have been appointed as hereinafter mentioned.

Inspector General and Officers, &c. to be appointed by Lieutenant Governor.

VII. It shall be lawful for His Excellency the Lieutenant Governor to appoint an Inspector General of Roads and a sufficient staff of Engineers Surveyors Clerks and other officers who shall act under the superintendence and control of the Central Road Board aforesaid and the said Inspector General of Roads shall be entitled to a seat at the said Central Road Board but shall have no right to vote thereat.

Security to be taken from all persons entrusted with money.

VIII. Any person entrusted with the custody or control of monies by virtue of his office under the provisions of this Act shall previous to his entering upon such office give sufficient security to the satisfaction of the Lieutenant Governor for the faithful execution of such office and for the due accounting for application and payment of all such monies according to the provisions of this Act.

Road Districts to be proclaimed.

IX. It shall be lawful for the Lieutenant Governor from time to time by Notice in the *Government Gazette* to proclaim and declare any such portion of the said Colony as to him shall seem meet as and to be a Road District for the purposes in this Act contained and also to define the boundaries of every Road District thereby proclaimed and declared and to give a specific name or designation to every such Road District and from time to time to revoke any such Proclamation and vary and alter the boundary of any such District as may be necessary and advisable.

On requisition of five Landholders and five Householders in any Road District Meeting to be convened for the Election of Trustees.

X. It shall be lawful for any number not less than five landholders and five householders in any such proclaimed Road District of the Colony as aforesaid to present to any Justice of the Peace resident within such Road District a requisition in writing thereby requesting such Justice to convene a meeting of the landholders and householders in such Road District to form a District Road Board for the purpose of superintending providing for and completing the construction repair and maintenance of the Roads in such Road District and for carrying out therein the provisions in this Act contained and upon such requisition being presented such Justice of the Peace shall convene such meeting accordingly and fix the time and place for the holding thereof Provided that such meeting shall

be

be holden within the said Road District and that no such meeting shall be holden unless notice of the objects and purposes thereof and of the time and place fixed for the holding of the same shall have been inserted in the *Government Gazette* and at least three consecutive times in some of the public Newspapers published nearest to the said Road District ten clear days before the day of holding such meeting nor unless a like notice shall have been affixed on the door of one or more Police Offices or Courts of Petty Sessions or other Public Buildings within such Road District.

XI. At any such meeting convened as aforesaid it shall be lawful for the landholders and householders in such Road District as aforesaid who shall be present at such meeting to appoint a Chairman or person to preside thereat and immediately thereupon to elect from amongst the landholders and householders residing within such Road District any unequal number not being less than five nor more than nine as and to be Members of and form a District Road Board for the purposes of this Act and every such election shall be made by the votes of the majority of the landowners and householders so present as aforesaid and until the making of such assessment as hereinafter mentioned the votes of such majority shall be conclusive but after the making of such assessment every such landholder and householder whose name shall be inserted in the last assessment prior to the holding of any such meeting and who shall still be the holder or occupier of the land or house for which he was so assessed shall have a number of votes according to the scale following that is to say every such person whose annual assessment shall amount to five shillings and not amount to thirty shillings shall have one vote and every such person whose assessment shall amount to thirty shillings and upwards two votes and every such person so entitled to such vote or votes as aforesaid is hereby empowered to give the number of votes to which he is so entitled to any number of persons not exceeding the number of Members then to be elected and the majority of the votes 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 Member as aforesaid and to take upon himself the duties of his office. Provided that the Trustees of any Parish Road duly elected under the provisions of the said thirdly recited Act shall be and be deemed the District Road Board for the locality through which such Parish Road may pass extending three miles on either side thereof and shall continue in office and exercise all the powers of a District Road Board under the provisions of this Act until a Road District shall have been proclaimed and a District Road Board appointed under the provisions of this Act in or for the said locality or some part thereof.

Election of members of Road Board and manner in which such Election shall take place.

XII. Every such election of Members of any such District Road Board shall be finished in one day without any adjournment whatsoever and the Members so elected shall continue and remain in office for the period of one year thence next ensuing from the close thereof till the election of their successors and at and upon the expiration of the said term of one year an election of the same or new Members shall be had in the manner aforesaid for the period of one year and so from time to time upon the expiration of any year for which Members shall be so elected new elections of Members shall be had in manner aforesaid. Provided that if through any casualty no election of Members shall be had for any one year the Members holding or who shall have last held office for or during the current year shall continue and remain in office and may exercise all the duties thereof until the election of their successors in a subsequent year.

Election of Member to be annual.

XIII. Every such District Road Board as aforesaid shall have full power to form construct improve manage and maintain any new or existing Parish or Cross Road as hereinafter directed and any Bridge thereon subject nevertheless to be controlled therein by such general plan as it shall

Powers of Road Board

Election of Chairman of Meetings.	shall seem fit to the said Central Road Board with the approval of His Excellency the Lieutenant Governor to promulgate in such behalf.
	XIV. At the first meeting of each District Road Board the Members present shall by a majority of the votes elect one of their own body to be the Chairman for the ensuing year and annually thereafter at a meeting to be holden for such purpose the Members shall in like manner elect a Chairman for the ensuing year And in case the Chairman dies or resigns or ceases to be a Member or otherwise becomes disqualified to act as such the Members present at the meeting next after the occurrence of such vacancy shall elect a Chairman to fill the same and if at any meeting the Chairman be not present one of the Members present shall be elected Chairman of such meeting by a majority of votes and if at any meeting there be an equality of votes in the election of Chairman it shall be decided by lot which of the Members having an equal number of votes shall be the Chairman.
Manner of Voting.	XV. At all meetings of each District Road Board the questions there considered shall be decided by the votes of the majority present and if there be an equal division of votes upon any question the Chairman or Member acting as Chairman shall in addition to his own vote have a casting vote.
Chairman of district Board to attend Central Board.	XVI. At all meetings of the said Central Board the Chairmen of the said respective District Boards shall <i>ex officio</i> be entitled to attend and be heard but they shall have no right of voting.
Times of Meeting and mode of voting.	XVII. Every such District Road Board shall hold an Annual General Meeting and shall also hold Meetings for the despatch of business and such other Special Meetings as each District Board may deem advisable and every such Meeting shall be held at such times and places as the said Board may direct not less than three members being required to form a quorum and all landholders and householders within their respective Districts may be present and be heard at every Meeting of such Board.
Power to district Road Boards to appoint Officers.	XVIII. Every such District Road Board shall have power to appoint a Secretary and Treasurer and to determine the amount of their respective salaries.
Governor may appoint places where Ferries and Punts are to be established and pro-lim rates.	XIX. It shall be lawful for the Lieutenant Governor by Proclamation in the <i>Government Gazette</i> to declare that tolls shall be payable and collected at any Punt or Ferry which shall be constructed repaired or supported at the public expense and to cause such Toll-houses and Ferry-houses Gates Bars Chains Rails and Fences to be built and set up as shall be deemed necessary to prevent any person beast or carriage from passing by or over such Ferry or Punt unless there shall be paid the Tolls lawfully payable thereat under the authority of this Act And it shall be lawful for His Excellency the Lieutenant Governor with the advice of His Executive Council by Proclamation in the <i>Government Gazette</i> to declare the Tolls to be payable at such Punts and Ferries and the rates of Tolls to be collected by any District Road Board as hereinafter mentioned and such Rates and Tolls from time to time to vary and alter and any such Proclamation to revoke And it shall be lawful for the said Central Road Board or any person authorised by them to collect and receive any Tolls payable at such Punts and Ferries in manner hereinafter mentioned.
District Road Board may levy tolls.	XX. In case any District Road Board shall deem it advisable that money should be raised by Tolls it shall be lawful for such Board subject to the approval of His Excellency the Lieutenant Governor to cause from time to time such and so many Toll-bars Toll-gates and Toll-houses to be erected and built in and upon the Roads within their respective Road Districts at such places as to each Board shall seem fit and in like manner to cause such Toll-bars Toll-gates and Toll-houses to be removed or built or placed on other parts of the said Roads and to direct Tolls to be paid for all animals and vehicles passing or repassing through such Toll-bars Toll-gates

gates or Toll-houses at a rate not exceeding the rates to be declared as aforesaid and such rates from time to time to reduce or raise to any amount not exceeding the rates to be so declared. Provided that no Toll shall be taken at any such Toll-bar Toll-gate or Toll-house Punt or Ferry as aforesaid until a list of the Tolls payable thereat shall have been publicly notified in the *Government Gazette* at least one month previously. Provided that if it shall be certified to the Lieutenant Governor that the Road Bridge Punt or Crossing on or at which such Tolls are collected is out of repair it shall be lawful for him by order addressed to the said Board to direct that such Tolls shall cease and thereupon such Tolls shall cease and not be collected until the said Road Bridge Punt or Crossing has been effectually repaired. Provided also that Tolls may be collected at any Toll-gate erected at the time of the passing of this Act by any Trustees duly appointed under the said thirdly recited Act until a District Road Board shall have been duly appointed under the provisions of this Act for the locality in which such Toll-gate may be placed.

XXI. After publication in such Gazette as aforesaid the Tolls according to the rates therein specified 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 publication and if any person other than those exempted from Toll as herein provided shall refuse to pay any such Toll the Collector thereof may seize and distrain any horse beast cattle carriage or other vehicle in respect of which any such Toll is payable or the goods and chattels of the person refusing to pay and if such Toll with reasonable charges for such seizure and distress shall not be paid within four days the animals goods or chattels seized may be sold and the proceeds applied in payment of such Tolls and charges.

People using Road liable to tolls as published.

XXII. No Toll shall be demanded or taken by virtue of this Act at any Toll-bar Toll-gate or Toll-house Punt or Ferry of or from any person in Her Majesty's Service or in the employment and service of Government or of the said Central Road Board or any District Road Board or of or from any person going to or returning from any place of public worship or any funeral or of or from any Minister of Religion.

Exemption from toll.

XXIII. Any person who shall by any fraudulent or collusive means whatsoever claim or take the benefit of any exemption from Toll under this Act shall for every such offence forfeit and pay any sum not exceeding five pounds and in all cases the proof of exemption shall be upon the person claiming the same.

Penalty for fraudulently claiming exemption from Toll.

XXIV. Any person who shall in any manner evade or attempt to evade or aid assist or abet any person in evading or attempting to evade the payment of any Toll authorised by this Act or who shall fraudulently or forcibly pass through or by any Toll-bar Toll-gate or Toll-house Punt or Ferry erected or established under this Act or shall do any other act whatsoever in order or with intent to evade the payment of any such Toll or whereby the same shall or may be evaded shall upon conviction for every such offence forfeit and pay a penalty or sum not exceeding five pounds.

Penalty for evading Tolls, or forcing Toll-bars or Toll-gates.

XXV. Every Toll Collector shall cause to be placed and kept on some conspicuous parts of the several Toll-houses or Toll-bars Punts or Ferries at which they shall be respectively stationed and so that the same shall appear to public view their Christian and Surnames and a List of the Tolls payable painted in black letters at least two inches in length on a board with a white ground and every such Collector shall cause to be placed on the front of the Toll-house Toll-bar or Toll-gate or on or near the Punt or Ferry at which he shall be stationed the Board containing the list of Tolls payable and the name of the Gate Toll-bar or Toll-house Punt or Ferry And if any such Collector shall not place and keep such Board as aforesaid during the time he shall be such Collector or shall in anywise hinder

Collectors to have their names painted on front of Toll-house.

any

any person from reading the inscriptions on such Boards or shall refuse to tell his Christian and Surname to any person who shall demand the same or shall give a false name or shall demand more than the legal Toll or upon the legal Toll being paid or tendered shall detain any passenger or shall use any abusive language every such Toll Collector shall upon conviction for every such offence forfeit and pay any sum not exceeding ten pounds.

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

XXVI. It shall be lawful for the said Central Road Board subject to the approval of His Excellency the Lieutenant Governor from time to time to let and farm out for any term not exceeding twelve months all or any of the Tolls authorised to be collected at any Punt or Ferry under the provisions of this Act and for each District Road Board from time to time to let or farm out for any term not exceeding twelve months all or any of the Tolls authorised to be collected by such District Road Board 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 for in two consecutive numbers of the *Government Gazette* seven days at least before the day appointed for the opening of such tender or otherwise by public auction duly advertised in like manner and such security shall be taken by the said Central Road Board and each District Road Board as the case may be or 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 enforce the recovery thereof in the same mode and by the same ways and means to all intents and purposes as the said Boards or Collectors by them appointed might and could under and by virtue of this Act have demanded taken had received enforced or recovered such Tolls if the same had not been so let or farmed out Provided that previously to letting or farming out any such Tolls Toll-bars Toll-gates or Toll-houses Punts or Ferries as herein provided the said Central Road Board subject as aforesaid or each District Road Board as the case may be 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 Punt or Ferry during the continuance of such letting or farming out Provided also that such maximum rate so fixed by the said Central or any District Road Board shall in no case exceed the rate or rates to be specified and determined as aforesaid and that it shall not be competent to any such Board without the consent of such Lessee or Farmer of Tolls to increase or decrease such rate or rates during the continuance of any such letting or farming out.

Rate of assessment on lands and houses may be fixed at Meetings of Landholders and Householders.

XXVII. It shall be lawful for the landholders and householders who shall be present at the meeting first holden under the authority of this Act for the election in manner aforesaid of the members of any District Road Board and at any and every annual meeting thereafter holden for the election of members for such District Road Board to fix the rate of assessment to be chargeable upon and paid as hereinafter provided by the several owners and occupiers of lands messuages tenements and dwelling houses within such Road District whether such lands shall belong to Her Majesty Her Heirs and Successors or to any person or persons whosoever for the purpose of raising the necessary funds to be expended by the Road Board of such District in carrying out in such Road District the several objects of this Act such rate however to be uniformly assessed on all such lands messuages tenements and dwelling-houses and in no case to exceed in one year the sum of one penny per acre on pasture lands 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 Board for such Road District) of such messuages tenements or dwelling-house and every such owner or occupier is hereby required to pay and shall pay to such District Road Board such rate so assessed

essed as aforesaid accordingly Provided that the relative rates of assessment on the different descriptions of property shall be in the proportions aforesaid Provided also that for the purpose of fixing or determining the rate of assessment hereinbefore authorised to be made the votes of the said landholders and householders shall from time to time be taken in the same manner as is hereinbefore directed for the election of members Provided also that no unoccupied lands in any such Road District belonging to Her Majesty Her Heirs and Successors shall be assessed Provided further that the payment of rate so assessed as aforesaid in respect of lands within any such Road 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 any such Road 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 for any such Road District until all rates previously assessed in such Road District shall have been expended and applied as by this Act is directed.

XXVIII. It shall be lawful for any such District Road Board 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 within such Road District such rate so assessed as aforesaid Provided 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 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 Board for such Road District to the office of the Surveyor-General of the said Colony and be published by the said Board by causing true copies thereof to be affixed on the door of the Police Office or Court of Petty Sessions in such Road District.

District Board may demand and receive rates.

XXIX. The payment of all such assessments as aforesaid shall be made to the Collector or other person thereto authorised by any District Road Board and the payment thereof may be enforced by the Collector appointed by the said Board by virtue of his appointment and without any warrant by distress and sale of any goods and chattels which may or can be found upon any part of the lands in respect of which such assessment is due or of the goods and chattels of the party liable to pay the same wheresoever the same may be found and the surplus if any of the monies raised by such distress or sale shall be paid on demand to the owner of the goods and chattels so sold after deducting all costs and expenses of such distress and sale Provided that no sale of such goods and chattels shall take place until after the expiration of five days from the seizure thereof Provided also that such assessment may be recovered by action of debt or other proceedings before any Court of competent jurisdiction at the suit of the Collector or other person in that behalf appointed by the said District Road Board to receive the same.

Recovery of assessment.

XXX. The person primarily liable to the payment of assessments made under the authority of this Act shall be the occupier or person in possession of the lands or building in respect of or upon which such assessment shall be made at the time when the same shall be due or in case of a change in such possession in the meantime the person occupying when the distress shall be executed and every tenant or occupier shall (unless otherwise stipulated in his lease or agreement) be entitled to deduct and set off from the rent to be paid by him in respect of such lands one-half of the amount of every assessment paid by him and in case of any vacant possession

Assessments to be paid by Occupier who, if a Tenant, (unless otherwise stipulated) may set off half the assessment against Rent.

possession of any land such assessment shall be paid by the owner of such land save as aforesaid.

Improvement and
regulation of Roads

XXXI. Whenever the Central or any District Road Board shall deem it necessary or expedient to open or make a new road or to increase the width or alter the line of any existing road or to proceed with the execution of any new work in connection therewith such Board shall cause a map and survey plan thereof describing the exact course and bearings and the admeasurements required for the same and through what lands the same is proposed to pass and the names of the owners or occupiers thereof so far as known together with an estimate of the expense of the work to be deposited in the office of the Surveyor General at Melbourne and a notice to be published by advertisement in the *Government Gazette* describing generally the same particulars and referring to such maps plans and estimates to be seen in the said Surveyor General's office and calling upon all persons affected to set forth in writing addressed to the Central or District Road Board as the case may be or their Clerk within forty days from the first publication of such notice any well-grounded objections they may have to the work.

Persons affected by
intended alterations
of Road to appear
and object at next
meeting after notice
expires.

XXXII. At the next meeting of the Board having the care and management of such road after the expiration of such notice as aforesaid it shall be competent for any person who shall be affected by any such proposed work and who shall have set forth in writing his objections as aforesaid to appear before the said Board and be heard in support of such objections.

Board may notwith-
standing order the
Road to be made
or altered subject
to the confirmation
of the Lieutenant
Governor.

XXXIII. If after the expiration of such term and the due consideration of all objections set forth as aforesaid (if any) it shall nevertheless appear to the said Board necessary or expedient to proceed with the work such Board shall make an order thereupon directing such work to be executed according to such plans and estimates as aforesaid and on making compensation (if any) to the person entitled thereto as hereinafter mentioned and shall cause such order to be transmitted along with such written objections (if any) for the consideration of the Lieutenant Governor and it shall be lawful for the Lieutenant Governor if he shall see fit to confirm such order by notice published in the *Government Gazette*.

Certain Clauses of
Land Clauses con-
solidation Act in-
corporated.

XXXIV. The following clauses of the statute of the Imperial Parliament being "*The Lands Clauses Consolidation Act 1845*" as applicable to England shall be adopted and incorporated in this Act (that is to say)

With respect to the purchases of lands by agreement clauses numbered respectively from VI. to IX. both inclusive and clauses numbered respectively from XII. to XIV. both inclusive.

With respect to the purchase and taking of lands otherwise than by agreement clauses numbered respectively from XVIII. to LXVIII. both inclusive.

With respect to the purchase-money or compensation coming to parties having limited interests or prevented from treating or making title clauses numbered respectively from LXIX. to LXXX. both inclusive.

With respect to the conveyances of lands clauses numbered LXXXI. LXXXII. and LXXXIII.

With respect to the entry upon lands by the promoters of the undertaking clauses numbered respectively from LXXXIV. to LXXXVII. both inclusive and LXXXIX. to XCII. both inclusive.

With respect to small portions of intersected land clauses XCIII. and XCIV.

With respect to lands subject to mortgage clauses numbered respectively from CVIII. to CXIV. both inclusive.

With respect to lands subject to leases clauses numbered respectively from CXIX. to CXXIII. both inclusive.

With

With respect to interests omitted to be purchased clauses numbered CXXIV. CXXV. and CXXVI.

With respect to lands acquired by the promoters of the undertaking under the provisions of the said statute which shall not be required for the purposes thereof clauses numbered respectively from CXXVII. to CXXXII. both inclusive and clauses CXXXIV. and CXXXV.

XXXV. The Supreme Court of the said Colony shall have and exercise the same jurisdiction as the Court of Chancery in England is empowered or directed to have or exercise in any Clause of the Statute herewith incorporated and the words "United Kingdom" and the word "England" whensoever either may occur in any such clause shall be taken to mean and apply to the said Colony of Victoria.

Jurisdiction of Supreme Court.

XXXVI. Whenever any sum of money shall be payable as any purchase or compensation money under the provisions hereof and the same is directed by any statute herewith incorporated to be paid into the Bank of England with the privity or consent of the Accountant General of the Court of Chancery it shall be lawful in every such case with the privity and consent of the Master in Equity of the Supreme Court of the said Colony to pay such sum of money into such Bank in the City of Melbourne as the Lieutenant Governor of the said Colony shall appoint.

Mode of paying money in certain cases.

XXXVII. In all cases in which any compensation shall have been assessed in pursuance of this Act or of any Act incorporated herewith the amount thereof shall be paid to the person lawfully entitled thereto or to his agent lawfully authorised in that behalf or into such bank as is hereby appointed as the case may be by warrant under the hand of the said Lieutenant Governor directed to the Treasurer of the said Colony.

Compensation how to be paid.

XXXVIII. After the confirmation of any such order by the Lieutenant Governor by notice published in the *Government Gazette* as aforesaid the said Central Road Board and the District Road Board of the district in which the road is to be made or work executed and the said Inspector General and all persons acting under any of their orders shall have authority to enter upon the said land and to define and make the line of road or execute the work of which notice shall have been so given as aforesaid and such line of road when defined or work when executed shall be taken to be part of the road and shall be under the care and management of the said Inspector subject to the order and control of the said Central Road Board or District Road Board as the case may be Provided that in all cases where by the authority of any such Board or Inspector General any fencing is removed for the purpose of altering any part the land from which the fence hath been so removed shall be protected by a temporary fence which shall be made and continued during the progress of such alteration in the road as aforesaid.

After making and confirmation of order, Surveyor may enter and make Road.

XXXIX. Nothing in this Act contained shall be construed to authorise or empower the Inspector General to take or make use of or to order or direct any Road or Highway to be made in or through 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.

Certain Land not to be taken for Road.

XL. It shall be lawful for the said Inspector General with the approval of the Lieutenant Governor of the said Colony on giving such notice as aforesaid to divert vary and alter the course of any public roads already made within the said Colony without making any compensation to any of the owners of the lands through which such road may pass Provided no such road shall be diverted or turned through any land or ground under the provisions of this Act through which no public road or way existed before or through which a public road might not have been formed and made under the provisions of this Act Provided that no road used as

Inspector General with approval of Lieutenant Governor to alter Roads, &c.

a public road at the time of the passing of this Act shall be stopped diverted or varied by the said Inspector General or any other person until a road instead or in lieu thereof shall have been opened or proclaimed under the provisions thereof.

When new completed old Road to be discontinued.

XLII. When any such road as aforesaid shall be diverted varied or altered and the new road shall be made and completed such new road shall be in lieu of the old road and be deemed a public road or highway and be subject to the like laws as other public roads or ways in the said Colony and the old road shall cease to be a public road and the property in the ground and soil thereof shall vest in and be held by the owners of the land or ground immediately adjoining thereto and may be stopped up unless such old road shall lead to any lands or place which cannot be conveniently approached by such new road in which case such old road or so much thereof as may be necessary for the accommodation of a passage to such lands or place shall remain as and be a private road to the same and shall be subject to the like laws and regulations as the other private ways in the said Colony.

Width of Roads.

XLII. The Main Roads shall be in all places not less than three chains in width including footpaths and exclusive of any bank ditch or fence on either side thereof and the District Roads shall be (according to the direction of the District Road Board in each particular case) of the width of not less than one chain within the fences including footpaths.

Road property vested in District Road Board or Inspector.

XLIII. The right interest and property of and in all the toll-gates toll-bars toll-houses posts fences and other erections and buildings which shall be placed erected or built in pursuance of this Act within the limits of any Road District on the several District Roads in such Road District and the materials of which such roads shall consist shall be vested in the District Road Board of any such Road District And the right interest and property of and in all other posts fences erections and buildings piers and floating bridges placed erected or built in pursuance of the provisions of this Act on any other road whatsoever and the materials of such roads with all the appurtenances thereunto belonging shall be vested in the Inspector General of Roads to be appointed as aforesaid.

Uncultivated Land may be made use of as temporary Road during repair of road.

XLIV. It shall be lawful for the Inspector General and for every person appointed by him or acting under his orders to stop all traffic on any road whilst being repaired or formed and to make use of any uncultivated land for the purpose of constructing a temporary Road whilst the Road is undergoing repair or being made or formed. Provided that the temporary Road shall be fenced in or otherwise so secured as to afford to the person through whose land such temporary Road may pass an equal protection against trespass as was possessed by such person previously to the construction of such temporary Road.

Altered lines of Road to be fenced in certain cases.

XLV. In all cases where an alteration in a Road is made through lands previously enclosed such lands shall be fenced with a substantial fence on both sides before such Road is open for public use.

Power of entry upon adjoining Land to construct culverts and drains and execute repairs and alterations.

XLVI. It shall be lawful for the Inspector General and for any other person appointed by him or acting under his orders and for the said Central or any District Road Board or person acting under the authority of any of them with all necessary cattle and carriages to enter upon any land and whether adjoining or not any Road being formed or repaired under the provisions of this Act for the purpose of surveying or opening any new Road or making any alteration in the line of any existing Road and for the purpose of constructing or repairing any drains sewers or culverts causeways or bridges or performing any repairs that may be required to the Road without being deemed a trespasser.

Materials where and in what manner to be taken by Inspector General, &c.

XLVII. It shall be lawful for the Inspector General and his assistants and any person appointed by him or acting under his orders and for the said Central or any District Road Board or person acting under the authority of any of them to enter upon and to search for dig take and carry

carry away any gravel sand or other materials on any land or in any river or creek but so nevertheless as not thereby to divert or interrupt the course of such river or creek or prejudice or damage any building road or ford nor dig nor get the same out of any river or brook within the distance of one hundred and fifty feet above or below any bridge nor within the like distance of any dam or weir and likewise to raise and quarry stone and other materials and to take and carry away so much of the said stone and materials as in the discretion of the said Inspector General shall be thought necessary to be employed in the formation construction and amendment of the said Roads and Bridges without making any satisfaction for the said stone or materials but satisfaction shall be made for all damages done to the lands or grounds of any person by carrying away the same in the manner hereinafter mentioned with reference to compensation.

XLVIII. It shall be lawful for the said Inspector General or the said Central or any District Road Board or any person authorized by any of them to cause to be cut through all or any lands whether adjacent or otherwise to any public road or any road or way made under the provisions hereof such drains or ditches and also to remove such obstructions to the free passage of water off the said roads or ways and to drain and turn water off the said roads or ways on or to any lands and to erect such causeways bridges archways sewers and generally to use such means as to any of them shall seem requisite for the carrying this Act into execution without being deemed a trespasser or making any compensation for so doing.

Powers of Surveyor General, &c.

XLIX. If any person shall make or cause to be made any dwelling house or other building or any hedge or other fence on or at the sides of any road already duly laid off and used as a public road or hereafter to be laid off under this or any Act of Council in such manner as to reduce the breadth or confine the limits thereof or in any way encroach on any such road or shall fill up or obstruct any ditch at the side thereof or shall make any drain gutter sink or water course across or otherwise break up or injure any road or any part thereof or shall in any manner whatsoever obstruct the free use of any road every person so offending shall forfeit and pay for every such offence a sum not exceeding one hundred pounds And it shall be lawful for the said Inspector General or the said Central or any District Road Board or any person authorized by any of them to cause such dwelling house or other building hedge ditch or fence drain sink watercourse gutter or other encroachment or obstruction to be taken down or filled up And it shall be lawful for any two Justices of the Peace upon proof thereof to them made upon oath to levy as well the expenses of taking down filling up or clearing such dwelling house or other building hedges ditches drains or other encroachment or obstructions as aforesaid as the respective penalties hereby imposed by distress and sale of the offender's goods and chattels rendering the surplus if any to the owner on demand.

Power to remove all buildings and fences &c., which obstruct breadth of Road and penalties for injuries to Road.

L. If previously to the passing of this Act any erection or building or any hedge or other fence drain or watercourse on or at the sides of any road marked out and used as a public road shall have been built constructed or made in such manner as to reduce the breadth or confine the limits of or in any way encroach on any such road or the free use thereof shall have been in any wise obstructed it shall be lawful for the said Inspector General in every such case if he shall see fit to cause notice to be placed upon the land forming such encroachment or obstruction and also to cause such notice to be published in two consecutive numbers of the Government Gazette requiring that such encroachment or obstruction be removed within ninety days after the date of such notice and if such encroachment or obstruction shall not have been effectually removed within the time limited by such notice it shall be lawful for the said Inspector General to cause such encroachment or obstruction to be removed

Encroachments or obstructions already made how removed.

removed and to do or cause to be done the acts required by such notice and in every case in which such encroachment or obstruction shall have been removed whether by the person having occasioned such encroachment or obstruction or any one on his behalf or by the said Inspector General on the default of such person it shall be lawful for the said Inspector General to tender to the person who may prove himself to have been injured by such removal such compensation if any as the nature of the case may seem to require and if such person shall consider the compensation so tendered insufficient it shall be lawful for him to apply to any two Justices of the Peace (not interested in the subject matter) acting in the District in which the act shall have occurred in respect whereof such claim is made to have the proper compensation due in respect of the same assessed and such Justices shall by writing under their hands nominate and appoint three competent Surveyors for determining the just amount of such compensation who or any two of whom shall accordingly assess the same and shall annex to such assessment a declaration subscribed by them of the correctness thereof and such assessment shall be binding and conclusive upon all parties and the amount of any such compensation or tender of compensation shall be paid to the party lawfully entitled thereto or to his agent duly authorized in that behalf by warrant under the hand of the Lieutenant Governor of the said Colony directed to the public Treasurer thereof and such sum or the tender thereof shall effectually bar such person from all further claims for or on account of the removal of such encroachment or obstruction Provided that the amount of such compensation shall not in any one case exceed the sum of one thousand pounds.

As to the removal of trees and other obstructions from land adjoining the Roads

LI. If the Inspector General or the said Central or any District Road Board shall think that any Road is in any manner prejudiced by any tree growing near the same or if any obstruction be caused to such Road by anything growing or being on adjoining land it shall be lawful for any two Justices on the application of such Inspector or any such Road Board or any person authorized by any of them and after summons duly served on the owner or occupier of the land on which such tree or other obstruction may be whether such owner or occupier shall attend or not to hear and determine the matter and if they see fit to make an order for the removal of such tree or other obstruction and in default of compliance with such order within eight days after a copy thereof shall have been served on such proper owner or occupier or his agent or servant such owner or occupier shall on conviction forfeit a penalty not exceeding Ten Pounds And the said Inspector General or any such Road Board or any person authorized by any of them if the order of the said Justices is not complied with shall remove such tree or other obstruction to the best of his skill and judgment for the benefit and improvement of the Road.

Obstruction of Members of Road Boards, Officers, &c.

LII. Any person who shall obstruct or attempt to obstruct any member of any Road Board or any Inspector Surveyor or other Officer acting in the performance of any act or thing whatever which such member Inspector Surveyor or Officer is authorized to do or perform under or by virtue of this Act shall upon conviction forfeit and pay for every such offence a penalty not exceeding fifty pounds.

How Contracts of Boards may be made.

LIII. Subject to the provisions of this Act any District Road Board may enter into vary or discharge any contracts with any persons for the execution of any works directed or authorised by or in pursuance of this Act to be done by any of the said Boards or for furnishing materials or for any other things necessary for the purposes hereof and every such contract being duly executed by any two members acting by direction or on behalf of any such Board and by the other contracting parties shall be effectual in law and shall be binding on the said Boards and all other parties thereto their successors heirs executors and administrators as the case may be and such actions and suits may be maintained thereon and damages and costs recovered by or against the said Boards or the other parties

parties failing in the execution thereof their successors executors and administrators as might have been maintained and recovered had the same contracts been made between private persons only.

LV. It shall not be lawful for any District Road Board to enter into any contracts or agreements exceeding the funds actually at the time at their disposal or under their control and none of the said Boards shall by way of mortgage debenture or otherwise borrow or from any source anticipate funds in any manner whatever.

Boards not to have power to borrow or anticipate funds.

LVI. All moneys that shall be raised by tolls assessments or otherwise under or by virtue of this Act shall be accounted for and paid by the several persons authorised to receive the same into the hands of the Colonial Treasurer at such times and in such manner as the Lieutenant Governor shall appoint and shall form separate funds to be at the disposal of and applied in furtherance of the purposes of this Act by the Board under whose superintendence respectively the same shall have been so assessed and levied or to whom the same shall be made payable according to the provisions hereof and the said Treasurer shall and he is hereby required to pay all such moneys in such sums and to such persons as shall be mentioned in any warrant in writing signed by at least two of the members of the said Board respectively of whom one shall be Chairman.

Moneys raised to form funds in the hands of the Colonial Treasurer at the disposal of the Board.

LVII. In all actions and suits in respect of any matter or thing relating to the execution of this Act to be brought by or against any District Road Board it shall be sufficient to state the names of any two of the members of such Board or the name of their clerk as the party plaintiff or defendant representing the Board in any such action or suit and no such action or suit shall abate or be discontinued by reason of the death of any such member or by his ceasing to be a member or by the death suspension or removal of such clerk.

Actions or Suits to be brought in the names of any two Members or their Clerk.

LVIII. Execution upon every judgment or decree against the Board in any such action or suit shall be levied on the goods chattels or personal effects belonging to the Board by virtue of their office and shall not in any manner extend to charge or make liable the person or private lands or goods of any of the Members or the heirs executors or administrators of any of them.

Execution to be levied on the goods belonging to the Members by virtue of their office only.

LIX. Every Member or Clerk in whose name any such legal proceeding shall be carried on either as Plaintiff or Defendant on behalf of the Board shall be reimbursed out of the moneys which shall be payable under this Act all damages costs charges and expenses to which any such Member or Clerk may be put or with which he may become chargeable by reason of being so made Plaintiff or Defendant.

Member and Clerk to be re-imbursed all damages, &c.

LX. It shall be sufficient to state generally the property or thing in respect of which any information or other proceeding shall have been laid or taken to be the property of the respective Boards as they are severally named and described in this Act without naming the individual Member.

How information to be laid.

LXI. Each District Road Board shall cause books to be provided and kept and true and regular accounts to be entered therein of all Sums of Money received and paid for and on account of this Act and of the several purposes for which such Sums of Money shall have been received and paid which books shall at all reasonable times be open to the inspection of any of the Members of the said Boards and every person having an interest therein without fee or reward and the Members of the said Boards and persons aforesaid or any of them may take copies of or extracts from the said books without paying anything for the same and the said books and all vouchers relating to the accounts of the said Boards shall be duly preserved and any Clerk or other person having the custody of the said books who shall not on any reasonable demand of any Member or other person as aforesaid permit him to inspect the said books or to take such copies or extracts as aforesaid shall be liable to a penalty not exceeding ten pounds for every such offence.

Accounts to be kept of receipts and disbursements which shall be open for inspection.

LXII. Each

Statement of accounts
to be prepared and
be open for inspection.

LXII. Each District Road Board shall cause their accounts to be balanced in each year to a period not less than one month before the Annual General Meeting at which they are to be produced and fourteen days at least before such meeting the said Board shall cause a full and true statement and account to be drawn out of the amount of all rates or assessments made and of all contracts entered into and of all monies received and expended by virtue of this Act during the preceding year and also all debts then owing by the said Board and allow the same to remain for inspection at the Office of the said Board and every person paying any rate or assessment under this Act or any person acting on behalf of any such ratepayer or any other party interested may at all reasonable times inspect such statement and account and compare the same with the books and documents relating thereto in the possession of each District Road Board respectively and the Clerk of such Board shall on demand furnish a printed copy of the said statement and account to every such ratepayer without fee and fourteen days at the least before the meeting for examining and settling such account the Members shall give Public Notice of such intended meeting stating in such notice that the said statement and account are printed and lie at their Office ready for the inspection of the ratepayers or other parties interested.

Accounts to be examined and settled
at the annual Meeting.

LXIII. The accounts of the said Boards so balanced as aforesaid together with the said statement and account shall be produced at the annual meeting of the said Board or at some adjournment thereof at which meeting all ratepayers and other persons interested may be present and the accounts shall be finally examined and settled by the said Boards respectively and if the same be found just and true they shall be allowed by the said Boards respectively and being certified accordingly under the hand of the Chairman and also by the Auditors as hereinafter provided the same shall be final in regard to all such persons as aforesaid subject always to the examination and audit of the Government and the said accounts so balanced as aforesaid together with the said statement and account shall after such audit be forthwith published in the *Government Gazette*.

Auditors to be appointed.

LXIV. The Ratepayers or other persons interested present at the said Annual General Meeting of the said Boards respectively may appoint two or more persons not being Members to be Auditors of the accounts of the said Boards and if no other person present at such meeting propose the names of two persons to be appointed Auditors by such Meeting it shall be the duty of the Chairman of the Meeting to propose the names of two persons to be so appointed and the person so to be appointed before entering on their office shall make and sign before a Justice a solemn declaration that they will well and faithfully discharge the duties of their office and the Auditors so appointed shall receive such reasonable remuneration for their time and trouble as the said Board may allow and all such expences as they shall be put unto attending the auditing of the said accounts.

Auditors to inspect
accounts, &c.

LXV. The Auditors so nominated shall attend as soon as conveniently may be after the said Annual Meeting at the office or some other convenient place to be appointed by the said Boards and from time to time shall in the presence of the Clerk of the said Boards if he desires to be present proceed to audit the accounts of the year preceding the said Annual Meeting and the said Boards shall by their Clerk produce and lay before such Auditors the accounts so allowed and certified 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 their custody or power relating thereto and any person interested in the said account as a ratepayer or otherwise may be present at the audit of the said accounts by himself or his agent and may make any objection to any part of such account and if the said accounts be found correct such Auditors shall sign the same in token of their allowance

ance thereof but if such Auditors think there is just cause to disapprove of any part of the said accounts they or any other person interested in the said accounts as aforesaid may appeal against any such parts of the said accounts as shall be so disapproved of to the Lieutenant Governor who may on such appeal or without any such appeal if he deem fit cause such accounts to be examined by the Auditor General of public accounts of the said Colony.

LXVI. The said District Road Boards shall every year cause an Annual Account in abstract to be prepared showing the total receipt and expenditure of all funds levied or received by virtue of this Act for the year ending on the day down to which their accounts shall have been made up for the said Annual Meeting or some other convenient day in each year under the several distinct heads of Receipt and Expenditure with a statement of the balance of such account duly audited and certified by the Chairman of the said Board and also by the Auditors thereof and shall send a copy of the said account free of charge to the Colonial Secretary within one month after the same has been duly audited which account shall be open to the inspection of the public at all reasonable hours And if the said Board shall omit to prepare and transmit such accounts as aforesaid they shall be liable for every such omission to a penalty of Twenty pounds.

Annual Accounts to be made up, &c.

LXVII. If any person entrusted with the receipt or disposal of money under this Act shall fraudulently dispose of or retain in his own possession or apply to his use or shall not duly account for any money with the receipt or disposal of which he shall have been so entrusted as aforesaid such person shall be deemed and taken to have stolen the same and shall be guilty of larceny.

Punishment for embezzlement of money received under this Act.

LXVIII. Every proceeding under this Act shall be had and taken in a summary way before any two Justices of the Peace and no such proceeding shall be quashed for want of form or removed by writ of *certiorari* or otherwise into the Supreme Court of the said Colony.

Summary jurisdiction No *certiorari*.

LXIX. Whenever any penalty or forfeiture shall have been imposed under the provisions of this Act and the person convicted shall not forthwith pay the same it shall be lawful for the convicting Justices to cause the amount thereof to be levied by distress and sale of the goods and chattels of such person and in default of sufficient distress to direct that such person be imprisoned in any Gaol or House of Correction in the said Colony for a period not exceeding two calendar months if the penalty shall not exceed ten pounds and for a period not exceeding four calendar months if the penalty be above ten pounds and not exceeding twenty pounds and for a period not exceeding six calendar months if the penalty be above twenty pounds and such person shall be detained and kept to hard labor accordingly unless such respective penalties and costs shall be sooner paid.

Imprisonment in default of payment of penalties.

LXX. Any person sentenced to pay any fine penalty or forfeiture exceeding twenty pounds who shall feel himself aggrieved by the judgment of any Justices adjudicating or before whom he was convicted may appeal from any such judgment or conviction to the next Court of General Sessions of the Peace which shall be held next or nearest to the place where such judgment or conviction shall have been given or made and the execution of every such judgment or conviction so appealed from shall be suspended in case such person shall with two or more sufficient sureties immediately before such Justices enter into a bond or recognizance to Her Majesty Her Heirs and Successors in double the amount of such fine penalty or forfeiture which bond or recognizance respectively such Justices are hereby authorized and required to take and such bond or recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the determination of the said Court of General Sessions and to pay such costs as the said Court shall award on such occasion and such Court of General Sessions is hereby authorised

Appeal to General Sessions.

authorized and required to hear and determine the matter of the said appeal and the decision of such Court shall be final to all intents and purposes.

Nothing in this Act
to affect the rights
of the Crown.

LXXI. Nothing in this Act shall be deemed to extend to or affect any law relating to the Revenue of the Crown or any claim of Her Majesty in right of her Crown or otherwise howsoever or any proceedings at law or in equity by or on behalf of Her Majesty.

Interpretation Clause.

LXXII. In the construction of the terms of this Act the terms "landholder" or "householder" shall mean and include every person who shall by himself or his servants occupy any lands messuage tenement or dwelling-house situate within any such Road District as aforesaid the annual value of whose land messuage tenement or dwelling-house shall be ten pounds and the word "Members" shall for the purposes of this Act be held to extend and apply as well to the whole body of such Members elected or appointed under the provisions of this Act for any such Road District as to any quorum of such Members or to any single Member who shall be deputed by such whole body or quorum to do any matter or thing authorized to be done by virtue or in furtherance of this Act so as such single Member shall do every such matter or thing in the name of such whole body or quorum and in the construction of the clauses and sections herewith incorporated the expression "promoters of the undertaking" shall mean include and apply to the said Central Road Board and any District Road Board to be appointed under the provisions hereof. The expression "Special Act" shall mean this Act. The expression "The Works" or "The Undertaking" shall mean any work or undertaking by this Act authorised to be executed and the word "prescribed" shall be construed to refer to any matter prescribed or provided for in this Act.

Appropriation of Mo-
nies.

LXXIII. All fines penalties and sums of money levied or recovered under this Act shall so far as not otherwise expressly mentioned be paid to Her Majesty Her Heirs and Successors for the Public uses of the said Colony and in support of the Government thereof.