

## No. VIII.

MAIN ROADS.

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### An Act for managing and upholding the Main Roads of the Colony. [7th June, 1858.]

Preamble.

**W**HEREAS by an Act of Council second William the Fourth number twelve certain powers were vested in the Governor of New South Wales and the Collector of Internal Revenue and a fund was created for repairing the roads of this Colony And whereas by another Act of Council fourth William the Fourth number eleven certain roads were declared to be public roads and were directed to be repaired maintained and altered at the public cost and charge by payment from the Colonial Treasury and certain powers and duties were given to and imposed upon the Governor and the Surveyor General or any persons duly appointed in such behalf in respect to the said roads And whereas by an Act of Council thirteenth Victoria number forty-one certain road trusts were created charged with the management and upholding of certain roads as enumerated and specified in the Schedule to that Act annexed the same being portions of the  
aforementioned

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aforementioned public roads And whereas by an Act of Council seventeenth Victoria number sixteen certain other portions of the aforementioned public roads were placed in trust and certain Commissioners of the said trust were appointed and the powers and authorities which by the said recited Act of second William the Fourth number twelve were vested in the Governor and Collector of Internal Revenue were so far as they related to the said roads and thoroughfares in the Schedule to the said Act of seventeenth Victoria number sixteen mentioned transferred to and vested in the said Commissioners And whereas it is expedient that the three main roads enumerated and described in the Schedule to this Act appended should be under the control and management of the Governor and Executive Council or such officer or officers as the said Governor by and with the advice of the Executive Council shall from time to time appoint as hereafter mentioned and that the powers authorities and liabilities and trusts so given transferred and created by the said recited Acts of thirteenth Victoria number forty-one and seventeenth Victoria number sixteen respectively should cease and be determined so far as they relate to any portions of the said three main roads and that such portions thereof should be placed under the control and management of the Governor and Executive Council as aforesaid Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. So much of the Act of Council thirteenth Victoria number forty-one and of the Act of Council seventeenth Victoria number sixteen and also of the third section of the Act of Council fourteenth Victoria number five as relates to or affects any portion or portions of either of the three main roads enumerated and described in the Schedule to this Act appended shall from and after the passing of this Act be and the same are hereby repealed.

Parts of 13 Vic.  
No. 41—17 Vic. No.  
16—14 Vic. No. 5  
repealed.

*As to appointment of Commissioners.*

2. It shall be lawful for the Governor with the advice of the Executive Council to nominate and appoint by writing under his hand a fit and proper person or persons to be a Commissioner or Commissioners for the purposes of this Act which said Commissioner or Commissioners may be so nominated and appointed either collectively for all the said three main roads or for each or either of them as the Governor shall think fit with power to carry out the provisions of this Act And it shall be lawful for the said Governor with such advice as aforesaid from time to time as he may think fit to revoke any such appointment and upon such revocation or upon the resignation or death of any such Commissioner to nominate and appoint another Commissioner in his stead.

Appointment of  
Commissioners of  
main roads.

*Duties and Powers of Commissioners.*

3. As soon as such Commissioner or Commissioners shall have been so nominated and appointed as aforesaid he or they shall have and this Act gives him or them full power authority and direction to maintain uphold repair fence and manage the said three main roads or such of them or such portion thereof as he or they shall have been so appointed a Commissioner or Commissioners for Provided that the powers herein conferred upon such Commissioner or Commissioners shall be exercised subject to the control of the Governor and Executive Council.

Commissioners to  
have the manage-  
ment of the three  
main roads.

4. For the purpose of tracing marking opening altering repairing or improving any of the said roads in the Schedule to this Act annexed

Commissioners and  
their officers and  
workmen to enter

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upon all lands for  
purposes of making  
or altering roads.

annexed or for erecting forming or repairing any bridge dam punt or drain thereon or for performing any act matter or thing under the provisions of this Act it shall be lawful for the said Commissioner or Commissioners and all persons authorized by him or them at all times hereafter and with all necessary and proper carriages oxen horses or other means to enter upon any land adjacent to such roads such land not being a garden ornamental shrubbery vineyard orchard nursery yard park or planted walk nor an avenue leading to any dwelling-house nor land under cultivation of any kind and then and there severally to do and perform all such matters and things as are required by them to be done respecting the matters aforesaid Provided that the powers given by this section shall not be exercised unless twenty-four hours notice shall be first given of the intention to exercise the same to the owner or person actually occupying the land.

Commissioners or  
persons contracting  
with them may  
search for dig and  
carry away any ma-  
terials for roads.

5. It shall be lawful for the said Commissioner or Commissioners or any persons contracting with him or them for the making or repairing of the said roads and for any person authorized by him or them at all reasonable times hereafter and with all necessary and proper carriages oxen horses and other means to search for dig and carry away any materials for making or repairing such main roads as aforesaid in through or from any land river or creek near to or adjoining thereto not being a garden ornamental shrubbery vineyard orchard nursery yard park or planted walk nor an avenue leading to any dwelling-house nor land under cultivation of any kind without paying for the same and to carry away the same through the ground of any person without being deemed a trespasser or trespassers the said Commissioner or Commissioners and other persons as aforesaid filling up the pits or quarries levelling the ground wherefrom such materials shall be taken and railing off the pits or quarries so that the same shall not be dangerous to any person beasts or cattle Provided always that any fences which it may be necessary to take down for any of the purposes aforesaid shall be kept open only during such time as shall be necessary for ingress and egress to or from any such land and shall at all other times during the progress of the works for the performance of which they may be taken down be kept closed in such manner as that cattle or other stock shall not be able to stray therefrom and on the completion of such works shall be immediately put up and left in as good order and condition as they were at the time of being so taken down as aforesaid.

Branches of trees &c.  
to be cut and lopped.

6. It shall be lawful for the said Commissioner or Commissioners and all persons authorized by him or them as aforesaid to enter into all such lands as aforesaid and to cut or cause to be cut all brushwood and to lop or cause to be lopped all branches of timber trees to the height of forty feet anywhere within twenty yards of the side of any such main road as aforesaid Provided always that no trees or shrubs kept for ornament or shelter to any house building field park or court yard shall be so cut down or lopped and that twenty-four hours notice shall in every case be given to the owner or person actually occupying the land of the intention to cut down or lop as aforesaid before such trees or shrubs shall be so lopped or cut down and if the owner or occupier of the land upon which such brushwood or timber trees may be cut or lopped shall neglect or refuse to remove the same within seven days it shall be lawful for the said Commissioner or Commissioners or other officer or person as aforesaid to remove or burn any such brushwood or loppings without being deemed a trespasser or trespassers.

Dams may be fenced  
off.

7. It shall be lawful for the said Commissioner or Commissioners to fence off any portion he or they may think necessary of the water saved

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saved by any dam now erected or hereafter to be erected at the public expense on any of the main roads specified in this Act in order that all persons and stock may have free and uninterrupted access to the same. Provided no encroachment shall be made under this section upon any land beyond ten feet from the line dividing such land from the high road.

8. It shall be lawful for the said Commissioner or Commissioners or for any persons contracting with him or them as aforesaid for the making altering or repairing of such roads to cause to be cut through all or any lands or grounds whether adjacent to such roads or otherwise such drains or ditches for and also to remove such obstructions to the free passage of waters off such roads and to erect such causeways dams bridges archways and sewers and generally to use such means as to them shall seem requisite for the purposes aforesaid. Provided that no such drain ditch causeway dam bridge archway or sewer shall be constructed so as to injure any garden ornamental shrubbery vineyard orchard nursery yard park or planted walk or any avenue leading to any dwelling-house or any land under cultivation of any kind.

Commissioners have power to cut drains or ditches through all or any lands.

9. In case any person or persons shall resist or in any manner forcibly oppose the said Commissioner or Commissioners his or their successors or any person employed by him or them in the due execution of this Act every person so offending therein shall on conviction for every such offence forfeit and pay any sum not exceeding twenty pounds.

Penalty for persons resisting or opposing Commissioners in the execution of their duties under this Act.

*As to expenses of the Roads.*

10. All necessary and reasonable expenses costs and charges incurred in and relating to the upholding maintaining repairing fencing and managing the said three main roads or any part thereof and in and relating to the collection of tolls thereon under and by virtue of this Act shall be defrayed by payments from the Colonial Treasury out of such moneys as shall be from time to time appropriated for that purpose from the Consolidated Revenue.

Expenses of roads to be paid out of Consolidated Revenue.

11. All contracts relative to the repair or maintenance of any public road bridge or ferry which shall have been made and entered into previously to the passing of this Act and which shall remain unfulfilled and in force at the time of passing of this Act by any Trustee or Commissioner of Roads or other person having by law the management of any roads bridges or ferries shall from and after the passing of this Act cease to have any force or application or to give any right or impose any liability with respect to such Trustee Commissioner or other person as aforesaid so far only as such contract relates to any of the said main roads and such contracts so far as aforesaid shall be deemed and taken to have been made and entered into by the Governor with the advice of the Executive Council and all rights and liabilities of such Trustee Commissioner or other person as aforesaid on such contracts so far as aforesaid shall from and after the passing of this Act be transferred to and vested in the said Governor and Executive Council and all debts due from such Trustee Commissioner or other person as aforesaid at the time of the commencement of this Act in respect of the repairs of any such main roads shall be paid by the Minister of Finance and Trade out of the Consolidated Revenue instead of by such Trustee Commissioner or other person as aforesaid who shall be thenceforth hereby released and discharged from the same.

Contracts relative to main roads to be taken up by Government and debts paid by them.

*Main Roads.**As to Tolls and Leases thereof.*

Powers &c. given by  
2 Wm. IV. No. 12 to  
be vested in the  
Governor and Execu-  
tive Council.

12. All the powers and authorities which by the Act of Council second William the Fourth number twelve were vested in the Governor and Collector of Internal Revenues and all provisions of the said Act including such portions thereof as were transferred or altered by the aforementioned Acts of Council thirteenth Victoria number forty-one and seventeenth Victoria number sixteen or either of them and also the provisions of the Act of Council fourteenth Victoria number five so far as it relates to the said three main roads and also the provisions of the Act of Council twentieth Victoria number thirty-eight shall be and the same are hereby transferred revived and vested in the said Governor and Executive Council and extended so far as may be applicable or requisite to or for the purposes of this Act Provided always that nothing in this Act contained shall be construed to revive so much of the said Act of Council second William the Fourth number twelve as was and is repealed by the first section of the said Act of Council twentieth Victoria number thirty-eight Provided that it shall be lawful for the said Governor with such advice by proclamation to be published in the *Government Gazette* thirty days before such proclamation shall take effect to impose and direct to be demanded paid and taken at all toll-gates or ferries established or to be established on either of the said main roads such tolls as the said Governor with the advice aforesaid shall think fit and necessary in lieu of the tolls mentioned in the third section of the Act of Council second William the Fourth number twelve and from time to time by proclamation as aforesaid again to alter such tolls as the said Governor with the advice aforesaid shall think proper anything in the said last-mentioned Act of Council to the contrary thereof notwithstanding.

Moneys in hand at  
time of passing this  
Act to be paid to the  
Treasury.

13. All moneys derived from any tolls or ferries or rents of tolls and ferries on any of the said main roads which at the time of the passing of this Act shall be in the hands or control of any Trustee or Commissioner of Roads or any other persons who shall have collected or received the same and also all moneys which such Trustee Commissioner or other person shall have received from the Colonial Treasury for any purposes connected with the said main roads shall within two months after the passing of this Act be paid over by such Trustee Commissioner or other person to the Commissioner or Commissioners of Main Roads for the purpose of being place to the credit and made part of the Consolidated Revenue.

Existing tolls and  
ferries to continue  
till altered by  
Government.

14. All tolls and ferries already established on any of the said three main roads shall be continued until the Governor with the advice of the Executive Council shall otherwise direct and all tolls rents of tolls and ferry dues received and collected thereat after the passing of this Act shall be paid into the hands of the said Commissioner or Commissioners for the purpose of being carried to the credit and made part of the Consolidated Revenue.

Tolls &c. collected  
to be paid into the  
Treasury.

15. All tolls and all rents of tolls toll-bars bridges or ferries received and collected under and by virtue of this Act shall be paid into the hands of the said Commissioner or Commissioners at such times and under such regulations as the Governor and Executive Council may direct and appoint to be by such Commissioner or Commissioners paid into the Treasury to the credit and as part of the Consolidated Revenue.

General issue

16. If any Commissioner or any person acting under their authority or directions shall be sued for any matter or thing which may be done or commanded to be done by them in the execution of this

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this Act he or they may plead the general issue and give the special matter in evidence.

17. It shall be lawful for the Governor with the advice of the Executive Council by proclamation published in the *Government Gazette* to except from the operation of this Act any portion of any of the main roads mentioned in the Schedule thereto which shall be included within the limits of any municipal city or town. Provided that the Governor with the advice aforesaid shall be authorized to attach any conditions which may be deemed advisable to the transfer of the control of such portions of the main roads. Municipalities may be excepted.

18. This Act may be cited as "The Main Roads Management Act." Short title.

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SCHEDULE REFERRED TO.

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1. THE GREAT WESTERN ROAD—From Sydney *viâ* Parramatta Penrith Hartley and Bathurst to Wellington.
2. THE GREAT SOUTHERN ROAD—From the Great Western Road at the fifth mile-stone from Sydney *viâ* Liverpool Camden Berrima Goulburn Yass and Gundagai to Albury.
3. THE GREAT NORTHERN ROAD—From a point in Swan-street in the Town of Morpeth one hundred yards easterly from the junction of George-street *viâ* Maitland Singleton Muswellbrook Scone Murrumbidgee and Tamworth to Armidale.