



WESTERN AUSTRALIA.

ANNO QUADRAGESIMO

VICTORIÆ REGINÆ.

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No. XII.

AN ACT to amend "The District Roads Act, 1871."

[Assented to, 12th September, 1876.]

WHEREAS it is expedient to amend "The District Roads Act, 1871;" Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Preamble.

1 THIS Act may be cited as "The District Roads Act, 1871, Amendment Act, 1876."

Short Title.

2 WHENEVER complaint shall be made to the Resident or Police Magistrate of any district by any person who was a candidate at any election held under the said Act of 1871, or by any six persons entitled to vote at any such election, that any such election for any road district within such Resident or Police Magistrate's district was invalid, or that any other person ought to have been returned thereat as a member of the local board for such road

Complaint may be made to any Resident Magistrate touching any election.

# 40° VICTORIÆ, No. 12.

## *District Roads Act, 1871—Amendment.*

district in preference to the person actually returned as elected, it shall be lawful for such Resident or Police Magistrate to issue a summons, summoning the returning officer at such election, and also the person or persons returned at such election, in preference to the party or parties complaining as aforesaid, to appear before himself and such other Justice or Justices as may then be present on a day to be named in such summons.

Resident Magistrate and Justice may adjudicate on any such case.

**3** ON the said parties appearing, or, in default of their appearance, on its being shown that such summons was duly served, it shall be lawful for such Resident or Police Magistrate, and at least one other Justice resident within the district, to investigate the matter of such complaint. And if on such investigation it shall appear to them that such election was invalid, or that any other person ought to have been returned thereat in preference to the person returned as elected, it shall be lawful for the said Justices to declare accordingly. And thereupon, if the said Justices shall declare the said election to have been invalid, the same shall be deemed to have been null and void, and a fresh election shall be held as upon an extraordinary vacancy; and if the said Justices shall declare that any person ought to have been returned in preference to any other person, the latter person shall at once cease to be a member of the said board, and the person so declared as aforesaid to have been duly elected shall be deemed to all intents and purposes to have been duly elected.

Limitation of proceedings.

**4** NO proceedings shall be taken under this Act, except within three weeks of the day of the election out of which the complaint arises.

Power to award costs.

**5** IT shall be lawful for the said Justices to make such order as to costs as may seem to them right. Such order shall be enforced according to the provisions of the Ordinance passed in the fourteenth year of Her present Majesty, number five.

After 27th December no person to vote merely by reason of provisions of District Roads Act 1871.

**6** IN any election to be held in pursuance of the said Act after the twenty-seventh day of December next, no person shall be entitled to vote merely by reason of anything contained in the said Act of 1871.

Qualification of electors after 27th December.

**7** EVERY person, being of full age and not subject to any legal incapacity, shall be entitled to be registered as a voter as hereinafter mentioned, and, when registered, to vote at any election to be

# 40° VICTORIÆ, No. 12.

## *District Roads Act, 1871—Amendment.*

held in any district under the said Act after the said twenty-seventh day of December, who is qualified as follows; (that is to say):—

1. Is on the first day of October in any year and has been, since the first day of January next preceding, seised of or in occupation of, as owner or tenant, any rateable property within the district of the rateable value of Five pounds or upwards; and
2. Has paid any rates and assessments assessed upon him by the board of the said district up to the thirtieth day of June in such year; and
3. Has not been during such year in receipt of any public relief or alms.

**8** EVERY person registered as aforesaid shall be entitled at any such election to give to each of any number of persons, not exceeding the number of members to be elected, the number of votes set against his name on the register of voters; and there shall be set against the name of every person on the said register a number of votes proportionate to the net annual value of the rateable property within the district owned or occupied by him as aforesaid, according to the following scale:—

Number of votes to which each elector entitled.

ANNUAL VALUE OF PROPERTY.	NUMBER OF VOTES.
Five pounds and under ten pounds ...	One
Ten pounds and under twenty-five pounds ...	Two
Twenty-five pounds and under fifty pounds ...	Three
Fifty pounds and upwards ...	Four

Provided always, that when any rateable property within the district is jointly owned or occupied by more persons than one, each of such joint owners or occupiers, if the net annual value of such rateable property is of an amount which, when divided by the number of such joint owners or occupiers, gives for each owner or occupant a sum sufficient to entitle one person to one or more votes, shall be entitled to be registered as a voter with as many votes as the said value divided as aforesaid would give to a sole owner or occupier; and if the value of such property is not of such an amount as to be so divisible as aforesaid, then only such number of such joint owners or occupiers (not exceeding the number produced by dividing the number of pounds sterling of rateable value of the joint property by five) shall be entitled to be registered as aforesaid as voters entitled to one vote each, as may be deputed for that purpose in writing by the other or others of such joint owners or occupiers.

Proviso as to joint owners or occupiers.

## 40° VICTORIÆ, No. 12.

### *District Roads Act, 1871—Amendment.*

Register of voters, how made up.

**9** THE said register of voters (which shall also be the valuation roll for the purpose of fixing the rateable value of all rateable property within the district upon which rates may be made and levied under the said recited Act) shall be thus made up: on or before the first day of November in each year, the local board of each district shall cause alphabetical lists to be prepared of all persons entitled to have their names inserted in the register of voters for the district, and shall against the name of every such person specify the net annual value, clear of all outgoings, of the rateable property within the district, of which such person is seised or possessed as owner or tenant. The said lists, which shall be in the form contained in the First Schedule to this Act, shall be signed by the chairman, and a copy thereof shall be affixed on the outer door of every court-house and police station throughout the district; and the chairman of the board shall deliver one or more copies of the same to any person resident within the district applying for the same, on the payment of a reasonable price for each copy.

Persons aggrieved may complain.

**10** ANY person whose name shall have been omitted from any such list, may, on or before the twentieth day of November in any year, apply by letter sent through the post addressed to the chairman, to have his name inserted thereon, and in such letter shall give particulars of his claim; and any person whose name has been inserted on the district electoral list as a voter at the election of members, who is dissatisfied with such list as not specifying the proper rateable value of the rateable property of which he may be seised or possessed within the district may likewise, on or before the said day, apply in the same manner to the chairman to have the amount of such rateable value altered, and shall give particulars of such claim. Any such claim shall be in the form given in the Second Schedule hereto, or to the like effect. Any person whose name appears on any such electoral list, may on or before the said day object to any other person as not being entitled to have his name retained thereon, or may object to the rateable value placed against the name of any person on the district electoral list by sending notice through the post addressed to such person, signed by him, of his intention to object, and of the grounds of such objection, and by sending a copy of such notice in the same way to the chairman.

Lists to be published of persons claiming and of persons objected to.

**11** THE chairman shall cause lists to be made showing the several persons claiming to have their names inserted on the list of voters for any district or to have the amount of rateable value set against their names on the district electoral list altered, and the

## 40° VICTORIÆ, No. 12.

### *District Roads Act, 1871—Amendment.*

particulars of such claims, and also of the persons whose names have been objected to as aforesaid, and shall cause such list to be affixed on the outer door of some one or more conspicuous buildings within the district on or before the first day of December in each year.

**12** THE chairman and members of every board shall hold an open court within the district for the purpose of settling the register of voters for the same; and such court shall be held on such day or days between the seventh and fifteenth day of December (both inclusive) in each year as may be appointed by the chairman; and the chairman shall give six clear days' notice of the holding of such court, and of the time and place thereof, by placing such notice on the outer door of some public or conspicuous building or buildings within the said district, and by advertisement in some newspaper generally circulating in the neighborhood. The court shall consist of the chairman of the board (or, in his absence, of a chairman appointed by the members) and of not fewer than one-third of the members; and every such court may be adjourned; and if at any time for half an hour after the time appointed for holding such court a sufficient number of members to form a court is not present, the chairman, or in his absence, any member may adjourn the court.

District Board to hold a court for settling register.

**13** THE said court shall have power to hear, receive, and examine evidence, and for that purpose to administer an oath or affirmation, and by summons under the hand of the chairman of such court to require all such persons as the court may think fit to appear personally before such court, at a time and place to be named in such summons; and the said court shall have the like powers for compelling the attendance of witnesses summoned, and their examination upon and taking of oaths and affirmations, and their answering questions touching the premises, as by any law in force for the time being is vested in Justices exercising summary jurisdiction; and the said court shall, upon hearing in open court, by the decision of a majority, determine as hereinafter mentioned, upon the validity of all claims and objections.

Powers of such court.

**14** THE said court shall insert in the register of voters under revision the name of every person who has claimed as aforesaid, and is proved to the satisfaction of the court to be entitled to be inserted in the voter's list, and shall retain on the said list the names of all persons to whom no objection has been duly made, and the rateable value set against the same unaltered, and shall also retain on the said list the name of every person who has been objected to by any person, and the rateable value set against the same unaltered, unless

Hearing of claims and objections and correction of register.

## 40° VICTORIÆ, No. 12.

### *District Roads Act, 1871—Amendment.*

the person so objecting appears by himself or some one on his behalf in support of such objection and prove the sending of the requisite notices; and when the name of any person inserted in any list or the rateable value set against the same has been duly objected to, and the person objecting appears by himself or by some one on his behalf in support of such objection, the court shall require proof of so much of the qualification of the person so objected to as is embraced in the grounds of objection so to be stated as aforesaid and no more, and if such qualification of such person is not proved to the satisfaction of the court, the said court shall expunge the name of every such person from the said list, or shall alter and correct the rateable value set against the same (as the case may require); and the said court shall also expunge therefrom the name of every person who is proved to be dead; and shall by means of inspection of the voter's list and rate book, and valuation and return, correct any mistake, or supply any omission which may appear to such court to have been made in any of the said lists in respect of the name, place of abode, or trade or occupation of any person who is included therein, or in respect of the local description of the rateable property, or the situation thereof. Provided always that no person's name shall be inserted by the said court in any such list, or shall, except in the case of death, be expunged therefrom, unless notice has been given as is hereinbefore required in each of the said cases.

Costs in cases of frivolous,  
&c., claims or directions.

**15** IN case it appears to the court that any person has made or attempted to sustain any frivolous or vexatious claim or objection, it shall be lawful for the court to award such costs, not exceeding three pounds, as to them may seem meet, to be paid by such person to the person resisting such claim or objection; and the same may in default of payment be recovered in a summary manner before any Justice.

Certificate, &c., of revision.

**16** THE chairman of such court shall in open court write his initials against the names struck out or inserted as aforesaid, and against any part of the list in which any mistake has been corrected or omission supplied, and shall sign his name to every page of the list so settled, and shall then cause to be written at the foot or end of the list a certificate that the same has been revised and is correct, with the date thereof; and the chairman and not fewer than two other members of the court shall severally sign such certificate.

Lists to be made out and  
delivered to chairman.

**17** THE lists so signed and certified shall be forthwith delivered to an officer appointed by the board for that purpose, and such

## 40° VICTORIÆ, No. 12.

### *District Roads Act, 1871—Amendment.*

officer shall forthwith cause the names thereon to be copied or printed in alphabetical order of the surnames on the form contained in and with the several particulars required by the Third Schedule, and shall prefix to every name in such list a number, beginning such numbers at the first name on the said list with the number one and continuing them on in regular arithmetical series to the last name thereon, and shall before or on the twentieth day of December sign and deliver the said lists to the chairman of the board, or other person entitled to act as returning officer at the board elections within the same.

**18** THE printed list so signed as aforesaid by the said officer or clerk, and delivered to the chairman of the board or other person as aforesaid, shall be the register of voters and the valuation roll for the said district, within the meaning of the Thirty-second Section of the said Act, and shall continue in force and shall not be added to or otherwise altered from the last Thursday in December (taken inclusively) in the year in which it is completed as aforesaid, until the last Wednesday (also taken inclusively) in the succeeding year, or until a new register has been duly made for the district under the provisions of this Act, whether the same has been duly made at the time hereby appointed or afterwards.

Lists signed and delivered as aforesaid to be register of voters and valuation roll.

**19** THE clerk of every board or other officer appointed by the board shall from time to time furnish a copy or copies of any such register or valuation roll to any person requiring them, on the payment of a reasonable price for the same not exceeding five shillings for every such copy.

Clerk to furnish copies of register or valuation roll.

**20** ANY copy purporting to be a copy of the said register for any district, and signed by the chairman of such board, shall be *prima facie* evidence of such register and of the contents thereof.

Copies to be evidence.

**21** IF from any cause the revision of any list awaiting revision under this Act has not been made or completed within the time herein appointed or allowed for that purpose, the Resident Magistrate of the district in which the election for the road district is usually held shall appoint a day, not more than twenty days from the last day upon which such revision should have been made, to be the day for holding a revision court for revising the said list; and such day shall, as to all such acts and proceedings as yet remain to be done or had with respect to such list, be deemed to be to all intents and purposes the day appointed for such revision, and the time herein appointed for the delivery of

Omission to publish, &c., not to invalidate proceedings.

the said list to the chairman or other returning officer of the district shall be extended in the same proportion. If from any cause the preparation or revision of the voters' list has been omitted or not completed, the Resident Magistrate of the district as aforesaid may, at the request of the board of the district, direct the same to be done, and the order of such Resident Magistrate authorising it shall be forthwith published as such Resident Magistrate may direct, and upon such publication such omission or non-compliance shall be rectified, and such list validated according to the terms of such order.

If no materials for first voters' register yet provided, or in case of failure to make first list, Resident Magistrate may extend time, &c.

**22** IF at the time at which the board is hereby required first to make out a voters' list for any district, no valuation roll has been made for such district, or if from any cause a voters' list has not been made out at such time, or if made has not been revised and completed within the period, it shall be lawful for the Resident Magistrate as aforesaid to appoint for that occasion the several times and intervals of time, or, as the case may require, the several remaining times, and intervals of time, at or within which the act hereinbefore required or permitted to be done with regard to the making and revision of the voters' list and completion of the voters' list shall or may be had or done; provided always, that in all cases such times shall be of the same distance from each other, and such intervals shall be of the same length, as hereinbefore prescribed or provided in that behalf respectively.

Where no board, Governor may appoint person to make lists, &c.

**23** IN the case of any district where there is no board, the acts and things by this Act required to be done in and about the settling of the said electoral list, shall be done by such person or persons, at such time or times, and at such place or places as the Governor may appoint in that behalf.

Manner of taking poll.

**24** THE members of the Road Board in any district shall be elected by ballot by a majority in number of the votes of the persons entitled to vote in such district, such voters being present and voting in person unless resident upwards of fifteen miles from the place of election or resident out of the district, in which case such votes may be given by a proxy or agent duly authorised in writing; provided always that no votes be accepted or taken from any person professing to be a proxy or agent, unless such proxy or agent has satisfied a Justice of the Peace or the returning officer that the signature of the voter thereon is his own proper signature, and that he, the proxy or agent, has been duly authorised by the voter to deliver in the voting paper on his behalf, and such Justice of the Peace or returning officer has endorsed the voting paper to that effect. No



## 40° VICTORIÆ, No. 12.

### *District Roads Act, 1871—Amendment.*

voting paper shall be received from any proxy or agent unless it be signed by such proxy or agent, and contain his address. No inquiry shall be permitted at any election as to the right of any person to vote, except only as follows: that is to say, that the returning officer or his deputy shall, if he think fit, or if required by any two persons entitled to vote at the election, put to any person tendering a voting paper, at the time of his delivering in his voting paper and not afterwards, the following questions, and no other:—

Are you the person whose name appears as (*here specify the name contained in the electors' list*) in the electors' list now in force for this district, being registered therein for property described to be situated in (*here specify the property described in the electors' list*)?

Have you already voted at the présent election for this district?

or, in case of any voting paper being tendered by a person being or professing to be a proxy or agent, the following questions and no other:—

Is the person who signed this voting paper the person whose name appears as (*here specify the name contained in the electors' list*) in the electors' list now in force in this district, being registered therein for property described to be situated in (*here specify the property described in the electors' list*)?

Is the said person now, to the best of your knowledge and belief, resident more than fifteen miles from this place, or resident out of the district?

Is the name signed on the paper as the name of the proxy or agent delivering the same, your name, and signed by you, and is the address of such person your address?

Has the person, whose name is signed to this paper as the voter, ever revoked the authority given to you to deliver it, or has he already voted at this election?

**25** NO person so required to answer the said questions shall be qualified or permitted to vote, until he shall have answered such question or questions in such manner as shall show that he is entitled to have the voting paper tendered by him accepted by the returning officer or his deputy.

What votes may be rejected.

**26** IF any person shall wilfully and corruptly make a false answer to any of the questions aforesaid, or shall knowingly tender

Penalty for misrepresentation.

## 40° VICTORIÆ, No. 12.

### *District Roads Act, 1871—Amendment.*

to the returning officer or his deputy, a false, untrue, or fictitious voting paper, such person shall be guilty of a misdemeanour, and on conviction thereof shall suffer the like penalties as persons convicted of wilful and corrupt perjury.

Voting papers not to be rejected for want of form.

**27** NO voting paper shall be rejected by any returning officer or his deputy for mere want of form, provided that the name or names of the candidates for whom the voter votes be intelligibly expressed, and in a manner to be commonly understood; and no candidate at any election shall be the returning officer at such election.

Rateable property may be sold for arrears of assessments remaining unpaid for eighteen months.

Schedule Four.

**28** IF any rate or rates imposed under any Act now in force giving to local boards power to make and levy rates for the purposes of the said District Roads Act, 1871, shall remain due and unpaid for the term of eighteen months after the time that such rate has become due and payable in respect of any rateable property whatsoever, whether the owner thereof be resident in the Colony or not, and if no distress can be found on such rateable property sufficient to satisfy the same, it shall be lawful for and incumbent upon the local board to cause a notice, according to the form contained in the Fourth Schedule to this Act, to be signed by the chairman, and a copy thereof to be published in two successive numbers of the *Government Gazette* and two local newspapers, stating the amount of rates due and unpaid as aforesaid in respect of such rateable property (describing the said rateable property by the name, if any, by which the same is most usually known, and by the name of the owner or last known owner of the same) and warning the owner of the said rateable property and all other persons interested therein, that in default of the payment of the said amount due and all expenses caused by non-payment of the same, within two months after the first publication of the said notice, a petition will be presented to the Supreme Court as hereinafter mentioned; and if the amount and the said expenses be not paid at or before the expiration of the time specified in such notice for payment, it shall be lawful for the local board, and the said board is hereby required, to present a petition to the Supreme Court, stating the imposition of the rate on the said premises, the non-payment of the same, the fact that no distress can be found on the said rateable property sufficient to satisfy the same, and the publication of the notices aforesaid; and any Judge of the Supreme Court, on being satisfied of the proof of such circumstances, shall order the said rateable property, or such part thereof as may be deemed sufficient to satisfy the said rate and all expenses caused by the non-payment thereof as aforesaid, to be sold by some person (to

## 40° VICTORIÆ, No. 12.

### *District Roads Act, 1871—Amendment.*

be named in such order) by public auction, and the proceeds of such sale (after deducting the expenses thereof) to be paid to the Registrar of the Supreme Court. And the Registrar, on receiving the same, shall out of such monies pay to the local board, on demand, the amount of such rates as aforesaid, and of all rates imposed on such rateable property and due in respect thereof up to the day of such sale, and all costs and expenses incurred by such local board in the premises, and shall hold the overplus (if any) in trust for such person or persons as may prove himself or themselves entitled to the same. Provided always, that it shall be lawful for the said Judge at the time of making any such order to give any directions that he may deem proper touching the time and place of such sale, and the notice to be given thereof. Provided further, that no neglect of any of such directions shall in anywise invalidate any such sale, but the person or persons neglecting the same shall be deemed guilty of contempt of court, and may be ordered by the said court to make compensation to any person injured or damnified by such neglect.

Proviso.

**29** A CERTIFICATE of the sale of any such rateable property as aforesaid, according to the form contained in the Fifth Schedule to this Act, shall be given by the person named in the order of the court as the person to sell the said rateable property; and the Registrar of Titles shall, on production by the purchaser thereof of the said certificate, and of an office copy of the said order, forthwith bring the said rateable property mentioned in the said order and certificate under the operation of "The Transfer of Land Act, 1874," by registering the name of the person named in the said certificate as the purchaser as the proprietor of the said rateable property.

Certificate of sale to entitle purchaser to have the land brought under operation of "Transfer of Land Act, 1874."

**30** IT shall be lawful for any person ordered to sell any such property as aforesaid to act as an auctioneer in respect of any such sale without any license authorising him so to act.

Person ordered to sell need not have an auctioneer's license.

In the name and on behalf of the Queen I hereby assent to this Act.

WILLIAM C. F. ROBINSON, Governor.



# 40° VICTORIÆ, No. 12.

*District Roads Act, 1871—Amendment.*

## Fourth Schedule.

### *Form of Notice.*

By virtue of the provisions of "The District Roads Act, 1871, amendment Act, 1876," notice is hereby given, to all parties interested therein, that the sum of £                      has now been due and unpaid for the term of eighteen months in respect of rates made and assessed by the local board of the road district of                      upon (*here describe the rateable property*) in the said district, and payment of the said sum is now required; and the owner of the said property, and all other persons interested therein, are hereby warned that in default of payment of the said sum of £                      , together with all expenses caused by the non-payment of the same, on or before the                      day of                      18                      , to (*the person appointed by the board to receive the same*) a petition will be presented by the said board to the Supreme Court, praying the said Court to order the said property, or a competent part thereof, to be sold, pursuant to the provisions of the said Act.

Dated this                      day of                      A. D. 187                      .

A. B.,

Chairman of the Road Board of the                      District.

## Fifth Schedule.

### *Form of Certificate of Sale.*

Whereas, by an order of the Supreme Court, dated the                      day of                      18                      , it was ordered that (*here describe the property ordered to be sold*) should be sold by public auction by me, the undersigned, and the proceeds of such sale be dealt with as in the said order mentioned; Now I, the undersigned, do hereby certify that the said property was put up to sale by public auction on the                      day of                      , and that                      of                      became the purchaser thereof for the sum of £                      .

In witness whereof I have hereto set my hand this                      day of                      A. D. 18                      .

(Signed)

A. B.