



WESTERN AUSTRALIA.

ANNO PRIMO,

VICTORIÆ REGINÆ.

No. II.

An Act to provide for the Management of Roads, Streets, and other Internal Communications, within the Settlement of Western Australia.

WHEREAS it is expedient, for the public welfare, that a system of management should be established for the making, maintaining, preserving and regulating Roads, Bridges, Ferries, Streets, and other Internal Communications, which may from time to time be appropriated, and declared open by competent Authority, for public convenience and use, within this Settlement;—Be it therefore enacted by the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, that the general management, control, superintendence and charge of Roads, Bridges, and Ferries, not within the limits of any Township, and all affairs relating to their formation, extension, alteration, improvement, or repairs, shall be vested in all Justices of the Peace, and in Proprietors of Land held in fee-simple to the extent of 1,000 acres; and that the management, control, superintendence and charge of all Streets, Quays, Jetties, Wharfs, Bridges, and Ferries in each Township, as far as the same may be declared open for occupation, and all matters relating thereto, shall be vested in such

Preamble

Management and charge of Roads, &c., not within Townships: vested in Justices of the Peace and Proprietors of 1000 acres of Land in fee-simple.

Management and charge of Streets, &c., in Townships, vested in Justices residing in such Township and Proprietors of Allotments in fee-simple.

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Justices of the Peace as shall have their fixed residence within such Township, and in all Proprietors of Allotments held in fee-simple therein: and all such persons are hereby declared to be Trustees of the same, respectively, for the purposes of this Act.

Right of property in Roads, &c., not in Townships, vested in general body of Trustees.

II. AND be it further enacted, that the right of property in all Roads, Bridges, Ferries, and all lines and modes of Communication, not within the limits of any Township, and in all Funds arising therefrom or applicable thereto, shall be vested in the general body of such Trustees hereinbefore appointed for that purpose; and that the right of property in all Streets, Pathways, Thoroughfares, Bridges, Ferries, Jetties, Wharfs, Quays, and all other lines and modes of Communication, within the limits of any Township, and in all soil, timber, and other materials, within the limits of such Streets and lines of Communication, and also the right of property in the amount of all Funds in any way arising therefrom or applicable thereto, shall be vested in the Trustees of each several Township respectively.

Right of property in Streets, &c., in Townships, vested in Trustees of such Township.

Trustees to make and subscribe Declaration of Qualification.

III. AND be it further enacted, that, previous to any person acting as such Trustee as aforesaid, he shall make a Declaration to the following effect, (that is to say):—"I, A. B., do hereby declare, that I am duly qualified to act as a Trustee, under an Act made in the first year of the reign of Queen VICTORIA, intituled (here set forth the title of this Act), and that I will faithfully, impartially, and honestly execute the powers and trusts reposed in me as a Trustee appointed by virtue of the said Act, to the best of my knowledge and ability, for the purposes in the said Act mentioned." And a form of this Declaration shall be entered in the Journal hereinafter mentioned, and signed by each Trustee.

Trustees to hold four General Meetings; and Special Meetings, on requisition of three or more members.

IV. AND be it further enacted, that the Trustees in each separate Trust are, and are hereby required, to hold four General Meetings within each year,—namely, on the first Monday in January, the first Monday in April, first Monday in July, and first Monday in October; and also Special Meetings, upon the requisition of any three or more members of their body, provided that due notice shall previously have been given either by publication in two successive Gazettes, or by such other sufficient means as the circumstances of the case will admit of.

Trustees to divide Roads, &c., into districts, and to name Committees of Management.

V. AND be it further enacted, that each separate body of Trustees under this Act shall have power to divide the Roads, and other lines of Communication, into Districts, for the purposes of this Act, and to name Committees of their numbers for the more immediate direction and management thereof; and to give such Committees such powers and such instructions as they shall from time to time think fit and expedient.

Officers to be appointed.

VI. AND be it enacted, that at the General Meeting of each Trust which shall take place in January in each year, the following Officers shall be appointed by ballot,—namely, a Chairman and Directors of

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Districts from the body of Trustees; also Treasurers, Collectors, Clerks, Surveyors, or other requisite Officers. Provided that for the present year such Officers may be appointed at any Meeting of the Trustees held for the purpose.

VII. AND be it enacted, that the Directors of the several Districts shall, at least seven days previous to each General Meeting, deliver to the Chairman of their Trust Reports on the state of the several lines and modes of Communication in their respective Districts; also, Quarterly Accounts of Expenditure, and of any Warrants for the payment of money given by them on the Treasurer, under authority of the General Meeting; also, an account of the Works required to be executed in their several Districts, with distinct Plans, Specifications, and Estimates, drawn by the proper Surveyor, or otherwise made and prepared in a satisfactory manner; also, an Estimate of the Funds which may be expected to be realized within their respective Districts from any of the sources hereinafter-mentioned and described.

Directors of Districts to deliver Reports to Chairman, and Quarterly Accounts as herein.

VIII. AND be it enacted, that the Chairman of each separate Trust shall (and he is hereby required so to do) lay correct Abstracts of all such Reports, Accounts, and Estimates, before each General Meeting. Immediately after these have been duly read and considered, and in whole or in part approved of by the Meeting, Estimates of the probable Ways and Means for the ensuing Quarter are to be drawn up, together with Statements of the Works, whether general or local, which the Meeting or its majority, may think fit to undertake,—having a due regard to the total amount of the Funds available for such purposes, and to such a just, wise and equitable apportionment of those Funds as the general interests of the Settlement and the wants of each particular District may be deemed to require.

Chairman to lay before the Meeting Abstracts of all Reports, &c.

Estimates to be made of Ways and Means, and Statements of Works to be undertaken.

IX. AND be it enacted, that the Chairman, as aforesaid, shall, and he is hereby required to preserve order at the several Meetings, and to take the sense thereof, and to superintend and be responsible for the proper regulation of business before the Meetings, and to regulate the proceedings of the Clerk in the care, custody, and preparation of Books, Papers, and Accounts.

Chairman to preserve order and take the sense of the Meeting.

X. AND be it further enacted, that such Trustees shall direct their Clerk or Clerks to keep a Book or Books, in which shall be entered minutes of all their proceedings and transactions, and an account of Receipts and Disbursements, and the Chairman at each Meeting shall see the entry of the proceedings thereat duly made, and shall subscribe the same with his own hand, and the names of the Trustees present at every Meeting shall be entered; and every Book containing such Entries or Accounts shall at all reasonable times be open to the inspection of the public, and it shall be lawful for any person to peruse and make extracts from the same without fee or reward.

Clerk to enter in a book Minutes of Proceedings, and Account of Receipts and Disbursements.

Book to be open to inspection.

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Nature of available Funds.

XI. AND be it further enacted, and it is hereby declared, that the Funds available for the purposes of this Act shall be such as may accrue from any of the following sources, viz.:—

1.—Tolls payable at any Ferries already established, which the Trustees are hereby empowered to let in the manner provided for by the Act 4th Wm. IV., No. 1, intituled “An Act to regulate the Establishment and Management of Ferries, and the Collection of Tolls thereat.”

2.—All Leases of Tolls or Compositions to be paid in lieu thereof.

3.—All Tolls, Rates, Dues, or Charges, which may hereafter be made payable at or by reason of the use of any of the aforesaid lines or modes of communication, upon the recommendation of the majority at any such General Meeting of the Trustees as aforesaid, which Tolls, Rates, Dues, or Charges, the Governor, or other Officer administering the Government, is hereby empowered to establish by proclamation; provided that the Amount so established shall not, in any case, exceed the Amount so recommended by the Trustees at the General Meeting.

4.—Voluntary Subscriptions of Money or Labour for local or general objects.

5.—The Amount of any Sums conceded, or to be conceded, by the Government, for local or general purposes, under this Act.

6.—Loans raised on the credit of Tolls, Leases, or other property connected with the aforesaid lines and modes of Communication.

7.—Assessments which may hereafter become leviable. Provided, nevertheless, that no such Loans shall be raised without the previous consent of the Governor in Executive Council; and provided, also, that no such Assessments shall be made except under the authority of some Legislative Enactment to be passed for that purpose.

Reports and Statements to be laid by Chairman before Governor in Executive Council.

XII. AND be it further enacted, that, previous to the expiration of the month of May in each year, Reports and Statements of the Proceedings and Accounts of the Trustees for the preceding year shall be laid by each Chairman before the Governor in Executive Council.

Trustees may borrow Money at interest on Credit of Tolls, &c., and assign Tolls as a security for repayment.

XIII. AND be it further enacted, that it shall be lawful for the Trustees under this Act, by and with the consent of the Governor in Council, as herein-before provided for, to borrow and take up at interest on the credit of the Tolls, Dues, or Charges arising or to arise from any Road, Bridge, Ferry, or other work of the like nature, any such sum of Money as they shall think proper from time to time respectively, and to assign the Tolls on such Road or any part thereof, or on such Bridge, Ferry, or other work of the like nature, as a security to any person or persons who shall advance such sum of Money (for such a period of time as may be sufficient) for the repayment of the principal sum borrowed, together with the usual rate of Colonial Interest, not exceeding Ten per Centum.

Assignments of Tolls, &c. how to be made.

XIV. AND be it further enacted, that Assignments of Tolls or

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Charges shall be in the words, or to the effect, following, viz.:—“ By
“ virtue of an Act passed in the first year of the reign of Queen Victoria,
“ intituled (here set forth the title of this Act), we, a Quorum of the
“ Trustees for executing the said Act, in consideration of the sum of
“ advanced and paid to the Treasurer of the said Trustees,
“ do hereby grant and assign unto A. B., his Executors and Assigns (here
“ specify the matter assigned), to be held from this day of , in
“ the year of our Lord , until the said sum of , with inte-
“ rest at the rate of per centum per annum, shall be paid and dis-
“ charged.” And copies of such Assignments shall be entered by the
Clerk in the book of Proceedings; and such Assignments shall be trans-
ferrable by indorsation to any other person whatsoever, which indorsation
shall be in the words, or to the effect, following, viz.:—“ I, A. B., do
“ hereby transfer all my right to the within written Assignment of ,
“ thereby secured to and his (or my) Heirs and Assigns.”
And all persons to whom any such Assignments or indorsation shall be
made, as aforesaid, shall, in proportion to the sum of money thereby se-
cured, be creditors on the tolls or charges so assigned, in equal degree
one with another in respect to payment of the interest on such sum, or in
such order or manner, and at such time with respect to payment of the
principal sum, as shall be agreed upon and stipulated by the said Trustees
at the time of the advance of their respective shares.

Assignments to be
transferrable by In-
dorsation.

Holders of such As-
signments to be Cre-
ditors on the Tolls,
&c., in equal degree.

XV. AND be it further enacted, that if any person shall wilfully
injure, damage, or destroy any Road, Street, Pathway, Ferry, Bridge,
Ferry-Boat, Jetty, Quay, Well, Spring, Gate, Fence, Post, Rail, or Paling,
or any Article or material, Matter or thing, employed for the purposes of
this Act, or in charge of the Trustees under this Act,—or shall upon any
Way used, or appointed to be used, as a footway only, drive any cart or
carriage, except directly across on necessary occasions,—or shall lead,
ride, or drive any Horse or other Beast on any such footway, except di-
rectly across the same, as aforesaid,—or shall suffer to stand or shall tie
or fasten any Horse or other Beast on or across the same,—or shall do or
commit any act, or shall leave or place or set up any material or thing
whatsoever which shall cause or create any impediment, obstruction,
nuisance, damage or annoyance in or to the free passage of any such lines
of communication as aforesaid; every such person so offending, and being
convicted thereof before any Justice of the Peace, shall, for each and
every such Offence, forfeit and pay any sum not exceeding Five Pounds,
at the discretion of the Justice, according to the nature of the Offence,
over and above the amount of any Damages occasioned thereby; and the
Amount of such Penalty and Damages shall be handed over to the
Treasurer appointed by such Trustees. Provided that if the property
damaged be that of a private Individual, the Amount of such Damage
shall be paid to such Individual.

Penalties for damage
to Property in charge
of Trustees.

XVI. AND be it further enacted, that all the Trusts, Powers

Powers of Trustees to
cease on passing of

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any Act for that purpose. and Privileges conferred upon Trustees by this Act, shall cease and be of no effect from and after the passing of any future Legislative Enactment to that effect, and all right of Property hereby vested in such Trustees shall, in such case, revert to the Crown for public purposes.

Trustees to sue and be sued in name of Public Officer. XVII. AND be it further enacted, that the Trustees under this Act may sue and be sued in the name of their Clerk or Treasurer, or other Public Officer for the time being; and no proceedings by or against the said Trustees shall abate by reason of the death or removal of such Clerk, Treasurer, or other Officer; and that in any proceedings, Civil, Criminal, or otherwise, by or against any of the Trustees under this Act, he or they shall be sufficiently described as a Trustee or Trustees appointed by virtue of this Act.

Trustees not personally liable, &c. XVIII. AND be it further enacted, that the said Trustees shall not be held to have rendered themselves personally liable for the repayment of any money borrowed, or interest thereof, by reason of having signed any securities in pursuance of this Act, but which securities shall be held and considered as granted upon the sole credit and security of the Crown; nor shall any Trustee be held personally liable for the payment of any sum, or performance of any contract, for which he shall not have bound himself personally, independent of his office as Trustee under this Act.

“JAMES STIRLING,”
GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Legislative Council
this 15th day of June,
1838.

ANDREW STIRLING,
Clerk to the Council.