

No. XI.

An Act for making altering and improving the ROADS AND STREETS.
Roads throughout the Colony of New South
Wales and for opening and improving the
Streets in the Towns thereof. [28th August,
1833.]

WHEREAS it is expedient to provide for making altering and Preamble.
improving the roads and ways in the Colony of New South
Wales and for opening and improving streets in the towns and
villages thereof and for indemnifying the proprietors of such land
or ground as may be required for such purpose and which has been
granted from the Crown without any reservation of the power of
making

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The Governor may by notice in the *Government Gazette* declare it expedient that new roads may be made in any part of the Colony.

making any road or street in or through the same and to declare what roads shall be made and maintained at the public expense and what at the expense of the parishes through which they pass Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof That when and so often as the Governor of the said Colony with the advice of the Executive Council shall deem it expedient to open and make a road in any part of the said Colony notice thereof shall be given by advertisement in the *Government Gazette* which notice shall set forth generally the extent and direction of the said road and whether the same is to be maintained at the public expense or at the charge of the parishes through which it shall pass and shall refer to a survey and tracing thereof to be seen at the office of the Surveyor General in Sydney and shall call upon all persons interested in the said road to set forth in writing addressed to the Clerk of the Executive Council within one month from the first publication of such notice any well-grounded objection that may appear to them to exist to the adoption of any such line of road.

Governor and Executive Council may alter or confirm any line of road.

2. And be it further enacted That after due consideration of any objections to the proposed line of road which may or shall be made as aforesaid it shall and may be lawful for the Governor with the advice of the Executive Council to alter or confirm the said line of road as to the said Governor and Council shall seem meet and thereupon by public notice published in the *Government Gazette* to declare that it is expedient to open and make such road between certain places therein to be specified according to a map or plan to be seen in the office of the Surveyor General of the said Colony and it shall and may be lawful to open and make such road through any land soever in the said Colony whether such land be waste or cultivated unless the same shall at the time of such notice be enclosed by a stone or brick wall or in actual use as a garden church-yard or cemetery or as an avenue planted walk or lawn or as a yard garden or orchard or enclosed and planted as an ornament or shelter to a house or planted and set apart as a nursery for trees or situated within two hundred yards of any mansion-house being the principal house on such land or enclosed for the purpose of carrying on any manufactory.

Map of said road to be kept in the Surveyor General's Office.

3. And be it further enacted That the said map or plan shall be kept in the office of the Surveyor General and exhibited at all convenient times for public examination from the day of the date of the *Gazette* in which the said notice shall be first published for and during the full period of forty days and such map or plan shall contain and specify the line of road intended to be opened and shall describe and set forth particularly and exactly the precise course and bearings which such road is intended to take and the exact admeasurements required for the same and through what lands or premises and the names of the owners or proprietors or occupiers thereof so far as the same may be known and of each and every portion of the land through which the said intended line of road shall be proposed to pass.

A book of reference to be kept and exhibited in Surveyor General's Office.

4. And be it further enacted That there shall also be kept and exhibited in the said office of the Surveyor General for the like period as aforesaid a book of reference in which shall be entered the name or names of the owners and proprietors or occupiers of each and every portion of the said land through which the said intended line of road shall pass with a description of the said land setting forth the bearings of such roads the nature and quality the state of cultivation the inclosures (if any) and the quantity thereof respectively which shall or may be required for the purpose of making such road.

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5. And be it further enacted That copies of the said map or plan of the said intended road and of the said book of reference relating thereto shall be exhibited in the public office or offices of the respective Benches of Magistrates nearest to the place or places through which such line of road is intended to be made and all persons shall and may have free liberty and permission at all proper and convenient times to view and examine the said map and book of reference during the like period of forty days from the first publication of the said notice in the *Gazette* aforesaid *gratis* and at all subsequent periods on payment of one shilling as a fee.

Copies of map and book of reference to be exhibited in the office of Bench of Magistrates nearest to intended line of road.

Proprietors or occupiers at liberty to examine the same.

6. And be it further enacted That in case any of the owners or proprietors or occupiers of any land through which any such road as aforesaid is to be made and for the making of which through such land no general or other power of making roads has been reserved in the original grant thereof shall deem himself herself or themselves aggrieved thereby it shall be lawful for any such owner proprietor or occupier or his or her agent lawfully authorized to serve a notice in writing upon the Colonial Secretary for the time-being within forty days from the date of the *Gazette* in which notice as aforesaid shall have been first published for the opening and making of the said intended road setting forth that no right of making roads has been reserved in the deed of grant made by the Crown of the said land and setting forth the date and full particulars of the grant by virtue whereof the same may be held and also specifying the exact portion of the said land by said notice referred to and that he she or they respectively claim compensation for damages for the portion or portions of the said land so required for making the said intended road and in default of such notice being served within the time and in the manner aforesaid then in every such case of default the owner or proprietor of such land and all persons claiming by through from or under him or her shall be for ever foreclosed and shut out from any benefit or claim whatsoever to any compensation for any such portion of land required for such road.

Proprietors or occupiers feeling aggrieved to serve notice within 40 days on Colonial Secretary claiming compensation.

7. And be it further enacted That as often as any such notice shall have been served upon the Colonial Secretary as aforesaid it shall be lawful for the Governor of the said Colony from time to time by writing under his hand to nominate and appoint any number of persons not exceeding five to be Commissioners for enquiring into and assessing the damages upon any claim for compensation as aforesaid in the manner hereinafter mentioned and thereupon the said Commissioners or any two or more of them shall and may by writing under their hands require the parties claiming such compensation to be and appear before them at a certain time and place appointed as hereinafter provided for the purpose of executing such enquiry and the said Commissioners or any two or more of them are hereby empowered and required to issue their warrant in writing to the chief constable or other constable where there shall be no chief constable of the district or place wherein the lands or grounds shall be in respect of which such compensation shall be claimed requiring and directing him to summon a jury to meet on a certain day to be named in such warrant at the Court-house or place used for holding the *General Quarter Sessions* or *Petty Sessions* which shall be nearest to the land or ground required for the line of road for which compensation shall be claimed and the said Commissioners or any two or more of them shall and they are hereby authorized and required to take from the person or persons claiming such compensation a bond to our Sovereign Lord the King in the sum of fifty pounds conditioned for reimbursing the Crown for the costs incurred in executing the enquiry as hereinafter mentioned if he she

Governor to appoint Commissioners to assess damages on claims for compensation.

or

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or they shall not be entitled to any compensation as aforesaid and such bond shall be by such Commissioners transmitted to and deposited in the office of the Supreme Court and shall be there kept as of record and the said chief constable or other constable shall and he is hereby required and empowered to summon and return not less than eighteen nor more than twenty-four respectable householders or landholders of the neighbourhood to serve as jurors to attend and appear before the said Commissioners at such time and place as shall be specified in such warrant and out of such persons so summoned and returned a jury of twelve men shall be drawn by ballot and all persons concerned shall and may challenge any of the said jurors for a cause certain to be assigned at the time and the truth thereof shall be immediately enquired into and determined by the said Commissioners or any two or more of them attending in Court and as soon as a sufficient number of indifferent jurors shall appear the said Commissioners or any two or more of them are hereby authorized and required to swear such jury truly to assess the damages if any which such person or persons claiming compensation as aforesaid shall sustain by reason of such intended road and the said Commissioners or any two or more of them are hereby further authorized empowered and directed from time to time as occasion shall require to summon before them at such enquiry as aforesaid and examine as a witness every person who shall be deemed necessary and who shall be competent in law on his or her corporal oath touching or concerning the premises and the said Commissioners or any two or more of them shall and may on the application of either party authorize the said jury or any number of them to view the place or places in question in such manner as they shall direct and the said Commissioners attending in Court shall have power to adjourn such enquiry from day to day as occasion shall require and to command such jury witnesses and the respective parties to attend the said adjournments until such enquiry shall be finished and the said jury shall enquire and assess and give their verdict for such sum or sums of money by way of damages as to them shall seem an equivalent for the loss or injury sustained or to be sustained by the owner or proprietor of any such land by reason of the same being required for such intended road and as shall seem reasonable and proper under all the circumstances of the case and the said verdict shall thereupon be entered and recorded by such Commissioners upon their proceedings and shall be binding and conclusive to all intents and purposes as to the amount of compensation or satisfaction to be paid in respect of any such land or ground required for such intended road and such Commissioners so attending shall proceed to enquire into and determine the amount of costs incurred for attendance of jurors and necessary expenses of witnesses in execution of such enquiry as aforesaid and shall enter the particulars and amount thereof in like manner upon their proceedings Provided always however that before any such enquiry shall be executed as aforesaid full fourteen days notice in writing shall be given thereof by the said Commissioners or any two or more of them to the party or parties claiming such compensation as aforesaid and such notice shall particularly set forth the time and place of executing such enquiry and shall be served either by delivering the same to such party or parties or by leaving the same at his her or their place of abode if resident within the said Colony or if not by serving the same in like manner upon his her or their agent in the said Colony or in case no such agent shall be known by public notice inserted in the said *Government Gazette*.

Proviso.

Verdicts to be
deemed records and
copies evidence.

8. And be it further enacted That the verdicts and all the proceedings of the said Commissioners and juries as aforesaid shall be
fairly

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fairly written on parchment and signed by the said Commissioners and shall be transmitted to the Registrar of the Supreme Court of the said Colony to be kept amongst the records of his office and the same or a true copy thereof signed and certified as such by the said Registrar for the time-being shall be allowed to be good evidence in all Courts whatsoever within the said Colony and all persons shall have liberty to inspect the same upon paying the sum of one shilling and to have copies thereof on paying the usual fees.

9. And be it further enacted That the Commissioner as aforesaid shall have power from time to time to impose any reasonable fine not exceeding the sum of five pounds on any of the persons who shall be summoned and returned on any such jury and shall not appear without sufficient excuse or appearing shall refuse to be sworn on the said jury or on being sworn shall not give his or their verdict and also on any person who shall be summoned to give evidence touching any of the matters aforesaid and shall not attend or attending shall refuse to be sworn or to affirm or to give evidence and on any person who shall in any manner wilfully neglect his or her duty in the premises contrary to the true meaning of this Act.

Fine on jury and witnesses for non-attendance.

10. And be it further enacted That every such jury as aforesaid shall be under and subject to the same regulations and penalties and shall be entitled to the same amount of payment for attendance and mileage as a common jury returned for the trial of any issue joined in the Supreme Court of the said Colony.

Jury under same regulations and allowances as in the Supreme Court.

11. And be it further enacted That every person who in any examination upon oath or affirmation to be taken by virtue of this Act shall commit wilful and corrupt perjury or falsely affirm in swearing or affirming before the said Commissioners or before any such jury as aforesaid shall and may be prosecuted for the same and upon conviction thereof shall be subject to such punishments and disqualifications as any person can be subject to convicted of perjury by the laws of the said Colony.

False swearing perjury.

12. And be it further enacted That in all cases where compensation by way of damages shall be assessed in pursuance of the provisions of this Act the amount thereof shall be paid to the party or parties lawfully entitled thereto or to his her or their agent or agents duly authorized in this behalf or into the Registry of the Supreme Court as hereinafter mentioned by warrant or warrants of the Governor upon the Treasury of the said Colony and thereupon all the right title property and interest of what nature or kind soever of all and every person or persons whomsoever in and to the said land and ground required for making such road and in respect of which such compensation shall be so paid as aforesaid shall become vested in the Governor of the said Colony for the use of the public as a highway as fully and effectually to all intents and purposes as if the same had been conveyed to the Governor by the person or persons legally or equitably entitled thereto by the best and most perfect form of conveyance or assurance in the law and such highway shall be liable to all such and the like laws and regulations as other highways in the said Colony Provided always however that nothing herein contained shall empower the Governor to issue any warrant for the payment of money as a compensation as aforesaid in any case unless with the advice and consent of the Legislative Council of the said Colony.

Compensation to be paid within twelve calendar months from the adjudication of same.

Proviso.

13. And be it further enacted That every such payment shall be made as aforesaid before the Surveyor General or other person authorized by the Governor in that behalf shall enter upon or occupy the land in respect of which such compensation for damages shall have been assessed as aforesaid and if such payment shall not be made within twelve calendar months after the verdict of the jury shall

Payment to be made before the Surveyor General shall enter upon the land.

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have been given in the case every such verdict and all the proceedings had prior and subsequent thereto under the authority of this Act shall be void and of no effect.

Supreme Court may on the application of the Attorney General enquire into and determine &c.

14. And be it further enacted That as often as a right of road through any such lands in respect of which such claim for compensation shall have been made shall be claimed to be reserved to the Crown in the grant of such lands or the person entitled to receive such compensation shall refuse to accept thereof or shall be disabled by infancy mental incapacity or any other cause from receiving the same or such person shall not be known or discovered or any question shall arise as to the rights of parties to such compensation or any part thereof then and in every such case it shall be lawful for the Attorney General of the said Colony and he is hereby required to apply to the Supreme Court by petition briefly stating the facts and supported by affidavit and the said Court is hereby authorized and empowered in a summary way of proceeding to enquire into and determine the respective rights and claims of the Crown and the parties in respect of any compensation so assessed as aforesaid or any part thereof and to order such sum of money to be paid to such person or persons as shall be considered by such Court to be entitled thereto or to be paid into the Registry of the said Court for the use of the person or persons so entitled and to make such other order in respect thereof as shall seem just and reasonable and the order of such Court shall be final and conclusive to all intents and purposes Provided always that as often as any question shall arise touching the title of any person to any money so assessed as a compensation or any part thereof the person who shall have been in possession of the lands in respect of which such compensation shall have been assessed as aforesaid and all persons claiming under the possession of such person shall be deemed and taken to be lawfully entitled to such lands until the contrary shall be shewn to the satisfaction of the said Court and that some other person was lawfully entitled thereto.

Governor with advice of Council to alter roads already made without any compensation.

15. And be it further enacted That it shall be lawful for the Governor of the said Colony with the advice of the Executive Council as aforesaid to divert shorten vary alter and improve the course or path of any of the several public roads or ways already made within the said Colony or any part thereof upon in over or through any private lands or grounds whatsoever without making any compensation to the owners or proprietors of such lands or grounds or any of them and although no right or power of making or altering any such public road or way may have been reserved to the Crown in the original grant of such lands or grounds or any part thereof Provided always however that no such public road or way shall be altered diverted or turned on or through any land or ground under the provisions of this Act through which no such public road or way existed before And provided also that in altering diverting or turning the course or path of any such road as aforesaid it shall not be lawful to pull down any dwelling-house or other building or to take in or make use of any land enclosed by a stone or brick wall or any church-yard or cemetery or any avenue planted walk or lawn or any yard garden or orchard or any enclosed ground planted as an ornament or shelter to a house or planted and set apart as a nursery for trees or situated within two hundred yards of any mansion-house being the principal house on such land or any land enclosed for the purpose of carrying on any manufactory or any part thereof respectively without the consent of the owner or proprietor thereof being first had and obtained for such purpose.

Proviso as to lands over which no such public road existed before.

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16. And be it further enacted That when any such road as aforesaid shall be altered diverted or turned and the new road shall be made and completed such new road shall be in lieu of the old road and be deemed to be 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 or proprietors of the lands or grounds immediately adjoining thereto and may be stopped up unless such old road shall lead to any lands house 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 house or place shall remain as and be a private road or way to the same and shall be subject to the like laws and regulations as other private ways in the said Colony Provided always that in case any dispute or difference shall arise as to the propriety of stopping up any such road or any part thereof as aforesaid the same shall be heard and determined in a summary manner upon the application of any parties interested therein to the Justices assembled in the nearest Court of Quarter Sessions who are hereby authorized to hear and determine the same and the determination of such Justices shall be subject to an appeal to His Excellency the Governor and the Executive Council and the decision of such Justices or the Governor in Council therein (as the case may be) shall be final and conclusive between the parties and all claiming under them.

When new completed old road to be discontinued unless in certain cases.

Proviso.

17. Provided always and be it further enacted and declared That all public roads or ways heretofore made altered diverted or turned in lieu of any other roads or ways shall be deemed to be highways and such other old roads or ways shall no longer be deemed to be public roads or highways but may be stopped up in like manner subject to such and the like limitations and regulations as hereinbefore lastly provided with respect to old roads.

Proviso as to stopping up old roads when new roads made.

18. And be it further enacted That in every instance where under the provisions of this Act any public road shall be made or altered the land on either side thereof and through which the said road shall pass shall if required be fenced in on each side with a three-railed fence at the public expense Provided always however that the same shall not be upheld at such public expense and whenever any parish road shall be directed to be made under the provisions of this Act the same shall be marked and opened at the public expense but shall be made fenced and repaired at the expense of the parishes through which it shall pass.

Fences on public roads made at the expense of Government.

And whereas it is expedient to define what roads shall be maintained at the public expense and what at the expense of the parishes through which they pass as far as the said parishes can in the present state of the survey of the Colony be determined Be it therefore enacted That all the roads in their whole length as set forth in the Schedule hereunto annexed marked A shall be deemed to be and shall be called public roads and shall be maintained repaired or altered at the public cost and charge by payments from the Colonial Treasury whether there be toll collected on the said roads or otherwise and that all roads which shall hereafter be made and declared to be public roads under the provisions of this Act shall in like manner be maintained at the public expense.

What shall be deemed public roads and maintained at the public expense.

20. And be it further enacted That in the county or reputed county of Cumberland in the said Colony any road heretofore made at the public expense and not included in the Schedule A as aforesaid and any road in common and general use passing from a road now maintained or hereafter to be maintained at the public expense as aforesaid

What shall be deemed a parish road.

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aforesaid to another of the same description or connecting different parts of the same public road or any road leading from any township duly notified as such by the Governor and Executive Council to any road maintained at the public expense as aforesaid shall be deemed to be and shall be called a parish road.

Persons requiring a road through any other person's land.

21. And be it further enacted That in case the proprietor of any land alienated by grant from the Crown to no part of which grant any road shall have been traced or established as a thoroughfare by usage from the nearest highway shall be desirous to have a road from the said highway or other way communicating therewith to his or her said land through the lands of any other person every such proprietor shall and may be at liberty to make application in writing to the Court of Quarter Sessions for the district in which such road shall be required setting forth in a particular manner the situation of such land and the direction of the proposed road and through what other land the same may be required to pass in order to reach such nearest highway or other way as aforesaid first giving notice in writing one month at least previous to the holding such Quarter Sessions to all proprietors or occupiers of such other land and to the Surveyor General at Sydney of his or her intention to make such application and thereupon the said Court of Quarter Sessions shall hear the parties and the said Surveyor General or some person deputed by him and shall decide as to the propriety of such road being made and the direction in which the same shall be made with reference as well to the application of the party or parties then before the Court as to the general benefit and convenience of all other persons owning or occupying lands adjacent to those of the said parties and to the general advantage of the district in which such lands shall be situate and shall cause to be taken down in writing all such evidence as shall be produced in support of and against the said application and shall cause such evidence to be repeated to the several witnesses giving the same and shall swear such witnesses as to the truth thereof and shall subscribe such evidence and shall transmit the same to the office of the Surveyor General as aforesaid to be kept as a record of his office Provided always that in case any of the parties shall consider himself herself or themselves aggrieved by the decision of the said Court of Quarter Sessions it shall be lawful for him her or them within one calendar month after such decision to appeal unto the Governor and the Executive Council for the said Colony whose decision shall be final binding and conclusive upon all parties and persons whomsoever Provided however that no new further or other evidence shall be given or laid before the said Governor and Executive Council on such appeal save and except the evidence which had been examined and taken down before the Justices of the said Court of Quarter Sessions as aforesaid And provided further that nothing herein contained shall extend to authorize the several possessors or occupiers of land which originally forming one grant from the Crown shall have been subsequently divided to use or claim the right of more than one common road through the lands of any other person or persons for the purpose of communicating with the whole and every part of the land so divided as aforesaid.

Proviso.

Appeal to Governor and Executive Council.

Proviso.

Surveyor General within two months after decision to mark out line of road.

22. And be it further enacted That in case the propriety of making such private road as last aforesaid shall have been determined in manner aforesaid either by the said Court of Quarter Sessions or upon appeal made to the Governor and Executive Council as aforesaid the said Surveyor General or other person deputed by him shall within three months next after such decision trace and mark out by such permanent marks as the nature of the country shall permit and as nearly as may be practicable and convenient in the direction

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direction approved by the Court of Quarter Sessions or by the Governor and Executive Council as aforesaid the said intended road such road to be not more than twenty feet wide in the clear and the said line of road so traced and laid out shall be from thenceforth a private road for the use of the party applying for and all other persons requiring to use the same and shall be subject to such and the like laws as other private roads.

23. And be it further enacted That for the purposes of tracing marking opening altering turning repairing or improving any roads or ways within the said Colony and for performing every act matter and thing under the provisions of this Act it shall be lawful for the Surveyor General or any person appointed by him in such behalf and for his and their servants workmen and laborers at all times hereafter and with all necessary and proper carriages oxen and horses and other means to enter upon all or any lands adjacent to the said line of roads and then and there severally to do and perform all acts matters and things hereby required by him or them to be done.

Power to enter land and get materials for making or repairing roads.

24. And be it further enacted That it shall and may be lawful for the said Surveyor General or other persons appointed as aforesaid or contracting for the making or repairing the said roads or ways and for his and their assistants servants workmen and laborers 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 and repairing such roads and ways as aforesaid in and from any land near or adjoining thereto (not being a garden yard park planted walk or avenue to any house or any piece of ground planted and set apart as a nursery for trees) 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 Surveyor General and other persons as aforesaid filling up the pits or quarries levelling the ground wherefrom such materials shall be taken and railing or fencing off the pits or quarries so that the same shall not be dangerous to any person or cattle and paying for or tendering the damage done by going through and over any enclosed or arable land for or with such materials such sum or sums of money as the said Surveyor General or other person appointed or contracting as aforesaid shall deem reasonable and in case of any difference between such Surveyor General or person appointed or contracting as aforesaid and the owners and occupiers of any such land or any of them concerning such payments and damages as aforesaid any two Justices of the Peace of the district wherein such enclosed or arable land through which such materials shall have been so carried shall be situate on ten days notice thereof being given in writing by either party to the other shall settle and determine the matter of such payments and damages and the costs attending the hearing and determining the same.

Powers and duties Surveyor General.

25. And be it further enacted That it shall and may be lawful for the said Surveyor General or other person appointed or contracting as aforesaid for the making altering repairing or turning of the said roads or ways to cause to be cut through all or any lands or grounds whether adjacent or otherwise to the said roads or ways such drains or ditches and also to remove such obstructions to the free passage of water off the said roads or ways and to erect such causeways bridges archways sewers and generally to use such means as to him shall seem requisite for the purposes aforesaid.

Powers of Surveyor General.

26. And be it further enacted That in case any person or persons shall resist or in any manner forcibly oppose the said Surveyor General or any person or persons employed in the due execution of this Act every such person so offending therein shall for every such offence

Penalty for resisting Surveyor General.

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offence forfeit any sum not exceeding five pounds at the discretion of the Justice or Justices of the Peace before whom he or she shall be convicted who is and are hereby authorized and empowered to hear and determine the matter in a summary manner.

Power to graze on adjoining lands for period not exceeding seven days and nights consecutively and to erect huts on roads for workmen.

27. And be it further enacted That it shall and may be lawful for the said Surveyor General or other officer or officers appointed by the said Government in surveying making or repairing any roads ways or bridges to graze all such oxen and horses as may be with or in attendance on him them or their party upon any uncultivated lands adjacent thereto and that they may continue to graze the said horses and oxen on such lands for any number of days and nights not exceeding seven consecutively and further that notwithstanding any provision existing to the contrary in the Turnpike Acts now in force in this Colony it shall and may be lawful for the said Surveyor General or other officer in charge of any road party or parties which shall or may be employed in the surveying making or repairing any roads paths highways byeways or bridges in pursuance of this Act to make and erect huts for their residence upon the said roads for their accommodation during the making or repairing of the said roads paths highways byeways or bridges as aforesaid.

Branches of trees to be cut and lopped.

28. And whereas it is expedient to prevent the growth of brush-wood or branches of timber-trees along the line of any public road in the said Colony Be it further enacted That it shall and may be lawful for the said Surveyor General or any officer or other person to be appointed as aforesaid to cut or cause to be cut all such brush-wood and to lop or cause to be lopped such timber-trees to the height of forty feet any where within twenty yards of the side of any public road as aforesaid as to the said Surveyor General or other officer or other person shall seem requisite Provided that no such trees be kept for ornament or shelter to any house building or court-yard and if the owner or occupier of the land upon which such brush-wood 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 Surveyor General or other officer or person as aforesaid to remove or burn any such brush-wood or loppings.

Power to enter lands and take down fences for making bridges.

29. And whereas it is expedient that every accommodation and convenience should be supplied and afforded for the making and repairing of the public bridges throughout the said Colony Be it further enacted That whenever it shall be deemed expedient to construct or repair any public bridge or causeway in the said Colony it shall and may be lawful for the said Surveyor General or other officer as aforesaid and their assistants to enter upon any lands adjacent to such bridge or intended bridge and if necessary to take down and remove any fence or fences enclosing the same and then and there to make and enclose a temporary passage during the repairing or construction of such bridge or intended bridge Provided always and it is hereby enacted That all fences taken down in the making and enclosing of such temporary passage shall be well sufficiently and immediately repaired and restored by and at the expense of the party constructing or repairing the bridge as aforesaid.

Fences to be restored at the expense of the party constructing or repairing.

No action shall be brought or damages recovered for alleged losses where bridges are erected by Government over any navigable river or arms of the sea.

30. And be it further enacted That whenever it shall appear expedient to the Governor of the said Colony to erect any bridge over or across any river or water or arm or branch of the sea either navigable or not it shall not be lawful for any person or persons to sustain or to commence any suit or any proceedings at law grounded upon any damages loss or expenses occasioned or alleged to be occasioned by reason of the erection of any such bridge as aforesaid.

Overseers of roads or bridges may throw rubbish on any adjoining land.

31. And be it further enacted That in the making or repairing of any such roads or bridges as are by this Act hereinbefore provided

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provided for it shall and may be lawful for the Surveyor General or other officer or person overseeing the same to throw or cause to be thrown upon any adjoining lands such earth rubbish or materials as it shall or may be necessary to remove from the said road or from the place where any such bridge shall or may be making or repairing as aforesaid and any person who shall remove back the same or any part thereof to the said road or bridge shall for every such offence forfeit and pay any sum not exceeding forty shillings over and above the damages occasioned thereby to be assessed by the Justice or Justices before whom such offender shall be convicted who is and are hereby authorized and empowered to hear and determine the matter in a summary manner.

32. And be it further enacted That it shall and may be lawful for the Governor of the said Colony to appoint from time to time Commissioners of the several public roads therein who shall serve without fee or reward and it shall be the duty of every such Commissioner to report to the Surveyor General as often as it shall seem needful the state of repair and condition of the several roads and bridges within his personal cognizance Provided always That nothing herein contained shall be construed to impose upon any person the obligation to become or act as a Commissioner of Roads unless he shall be disposed so to do.

The Governor to appoint Commissioners of Roads.

33. And be it further enacted and declared That nothing herein contained shall be deemed or construed to limit alter or diminish or in any manner soever to interrupt or interfere with the right of the Crown to make or to repair public or private roads ways passages or streets in or through any lands whatsoever within the said Colony or any of the towns or villages thereof where such right shall have been duly reserved to the Crown in the granting of such lands or shall otherwise belong to or be vested in the Crown.

This Act not to interfere with the present right of the Crown as to roads &c. &c.

34. And be it further enacted That in all cases when it shall be deemed necessary or expedient to open lengthen or enlarge any streets passages squares markets market-places quays or wharfs in any town or towns within the said Colony it shall and may be lawful for the Governor of the said Colony for the time-being with the consent of the Executive Council as aforesaid by notice published as aforesaid to declare the same and thereupon the like proceedings shall be adopted applicable thereto as are hereinbefore provided for the making or repairing or erection of roads and bridges as aforesaid and for allowing compensation for any damages or losses claimed by any individual in respect thereof as hereinbefore particularly contained and in such case it shall and may be lawful for the Surveyor General or other officer or person appointed by the Governor for that purpose to enter into and examine all such houses tenements or buildings as may be necessary and after the decision of the Commissioners as aforesaid as to any compensation claimed by any person in respect thereof to take down and remove such buildings walls and tenements as shall or may be requisite for the purposes aforesaid Provided always That whenever provision shall have been made in the grant or lease from the Crown of any town allotment for the valuation by arbitration or otherwise of any buildings erected upon the whole or any part of the allotment which the Crown shall have reserved a right by such grant to resume recourse shall be had to the mode of valuation therein expressed and such sums of money become due and payable as shall be assessed according thereto.

Governor to declare by Proclamation the expediency of lengthening or enlarging streets &c. &c.

Proviso as to compensation for buildings.

35. And be it further enacted That no conviction under this Act shall be quashed for want of form or be removed by writ of *certiorari* or otherwise into the Supreme Court and no warrant or commitment

Proceedings not to be quashed for informality and no *certiorari* to be allowed.

Roads and Streets.

commitment shall be held void by reason of any defect therein provided it be alleged that the party has been convicted and that there be good and valid conviction to sustain the same.

Limitation of actions.

36. And be it further enacted That if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act then and in every such case such action or suit shall be commenced or prosecuted within three months after the fact committed and not afterwards and the defendant in such action or suit shall and may plead the general issue and at the trial thereof give this Act and the special matter in evidence and if the matter or thing complained of shall appear to have been done under the authority and in the execution of this Act or if any such action or suit shall be brought after the time limited for bringing the same then the jury shall find for the defendant and if the plaintiff shall become nonsuit or discontinue his or her action after the defendant shall have appeared or have a verdict against him or her or if upon demurrer judgment shall be given against the plaintiff the defendant shall and may recover treble costs and have the like remedy for recovery thereof as any defendant hath in any cases by law.

Appropriation of penalties &c. &c.

37. And be it further enacted That all penalties and fines levied and collected under and by virtue of this Act shall be applied to the public uses of the said Colony and the support of the Government thereof.

SCHEDULE REFERRED TO.

A.

SCHEDULE OF ROADS TO BE KEPT IN REPAIR AT THE PUBLIC EXPENSE.

The present Road from Sydney to the South Head of Port Jackson by Belle Vue &c.
 The Western Road from Sydney by Parramatta Emu Mount Vittoria and Honeysuckle Hill to Bathurst.
 The Road from the Plough Inn five and one quarter miles from Sydney through Liverpool and across the Cowpasture Bridge and Razorback to Lupton's Inn.
 The Great Southern Road from Lupton's Inn through Berrima to where it forms two branches at Marulan.
 The South Road from Marulan to Bungonia Township.
 The South Western Road from Marulan to Goulburn Township.
 The Road from Liverpool through Campbelltown and Menangle to Stonequarry Creek.
 The Road from Parramatta to Bowler's Bridge commonly called the Dogtrap Road.
 The Road from Parramatta to Windsor and Richmond.
 The Northern Road from the turn-off at Iron Bark Bridge on the Western Road six and one third miles from Sydney to the Punt at Bedlam Point and thence by Kissing Point and Pennant Hills to Wiseman's Ferry.
 The Northern Road from Wiseman's Ferry to the Wollombi by Broke and Lemington to Muscle Brook.
 The Branch from the Northern Road at Wollombi to Maitland and the Green Hills Wharf.
 The Branch from the Northern Road at Broke leading thence to Patrick's Plains.
 The Road from Newcastle through Maitland and Patrick's Plains to the Junction with the Great North Road at Warkworth.
