

TASMANIA.

THE ROADS AND JETTIES ACT 1935.

ANALYSIS.

PART I.—PRELIMINARY.

1. Short title.
2. Repeal.
3. Interpretation.

PART II.—STATE HIGHWAYS.

4. State Highways Trust Fund.
5. Application of Fund.
6. Accounts of Fund.
7. Power to Governor to proclaim State highways.
8. Preparation of list of State highways.
9. Vesting and maintenance of State highways.
10. Planting of trees along State highways.
11. Maintenance of footways in towns, &c.
12. Power of Minister to require removal of water-supply mains.
13. Excavations by certain authorities.
14. Regulation of electric wires.
15. Regulation of erection of poles, &c.
16. Appointments of officers.
17. Provisions in respect of plant and equipment.

PART III.—COUNTRY ROADS.

18. Maintenance of country roads.
19. Country road, if proclaimed State highway, to cease to be subject to this Part.
20. How cost of repairs to bridges to be borne.
21. Councils to maintain road work executed by Minister.
Notice to council making default.
Procedure by Minister on council making default after notice.
22. Buildings, &c., erected on country road to belong to the municipality.
23. Rabbit-proof fence and gate may be erected across country road.
Penalty for not shutting gate.
24. Gates across bye-roads.
Penalty for not shutting gate.
25. Where road diverted old line of road may be stopped up.

PART IV.—ROADS GENERALLY.

26. Powers of Minister with respect to construction of roads.
27. Councils may acquire land for road purposes.
28. Acquisition of land for quarry, &c.

29. Land may be given up if compensation excessive.
30. Lands not required may be sold.
31. Crown land may be taken by council.
32. Entry by council upon land.
33. Rental of land.
34. Use of uncultivated land for temporary road.
35. Timber may be taken from uncultivated land.
Materials may be taken from any land.
Compensation.
36. Quarries to be filled up or otherwise secured.
37. Fences to be restored.
38. Deviations to be fenced.
39. Entry upon adjoining lands for road maintenance.
40. Power to make drains on adjoining lands.
41. Timber growing near roads may be cut down.
42. Hedges obstructing view of traffic to be cut or trimmed.
43. Discharge of concentrated drainage from land adjacent to road.
44. Culverts to be constructed by owners at entrances to lands adjoining roads.
45. Minister may in certain cases erect gates across roads.
Councils to continue to maintain gates.
Penalty for not shutting gate.
46. Recovery of expenses of repairing damage caused to roads by excessive weights being carried thereon.
47. Road metal, &c., may be placed on side of road.
48. Road authority may permit tramway or railway along or across road.
49. Obstructing roads.
Notice to remove obstructions.
50. Injuring roads.
51. Laying down timber, &c., on roads.
52. Making fires on roads.

PART V.—JETTIES.

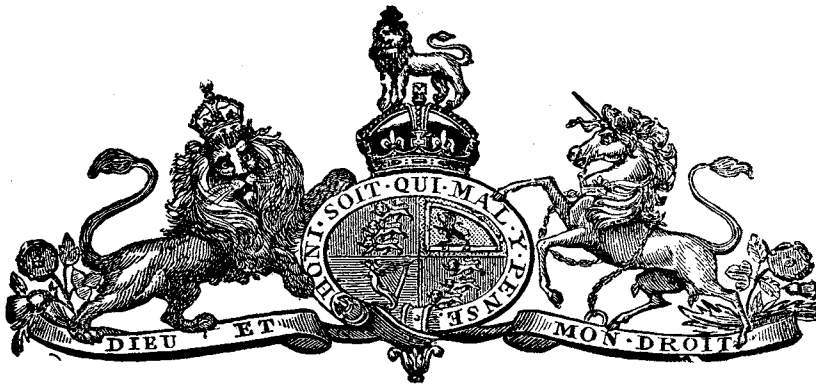
53. Control by councils of certain jetties.
Governor may vest control of jetty in council.
Proviso.
54. Repairs, &c.

PART VI.—REGULATIONS.

55. Regulations.

1357

TASMANIA.

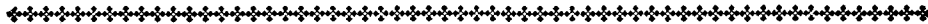


1935.

ANNO VICESIMO SEXTO

GEORGII V. REGIS.

No. 82.



AN ACT to consolidate and amend certain
Enactments relating to Roads and Jetties.
[16 January, 1936]

A.D.
1935.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PART I.

PRELIMINARY.

- 1 This Act may be cited as the *Roads and Jetties Act 1935*. Short title.
- 2 The Acts set forth in the schedule are hereby repealed. Repeal.
- 3—(1) In this Act, unless the contrary intention appears— Interpretation.
“ Bridge ” includes all approaches to any bridge and any causeways or works necessary, or used to give access thereto :

Roads and Jetties.

A.D. 1935.

“Country road” means a road—

- i. The care, control, or management of which was, at the commencement of this Act, vested in a council :
- ii. Not being, or forming portion of, a State highway, and which was constructed, or shall be hereafter constructed, out of, or partly out of, moneys provided by Parliament for that purpose—

and any public highway not being a State highway, but does not include a street in any town :

“Maintenance” in relation to a road means the reconstruction, improving, widening, diverting, altering, or repairing thereof :

“Motor taxes” means the taxation imposed in respect of motor vehicles by and collected under the *Motor Vehicles Tax Act 1917* :

“Road” means a public highway :

“Road authority,” used in relation to a State highway, means the Minister ; and, used in relation to any other road, means the council having the control of such road :

“State highway” means a road in respect of which a proclamation declaring the same to be a State highway for the purposes of Part II. is in force :

“The Committee” means the Transport Committee constituted under Part VI. of the *Traffic Act 1925* : and

“The Fund” means the State Highways Trust Fund referred to in section four.

(2) Every reference to a road in this Act shall be construed to include, where necessary or applicable—

- i. Every bridge :
- ii. All fences erected at the cost of the State or a council, as the case may be, for the protection of traffic : and
- iii. All culverts, mile-posts, and traffic signs—

upon or used in connection with such road.

(3) Where in any Act reference is made to a main road, it shall be construed as a reference to a road which is a State highway within the meaning of this Act.

16 Geo. V. No.
38.

State Highways
Trust Fund.
20 Geo. V. No.
86, s. 4.

 PART II.

STATE HIGHWAYS.

4—(1) The State Highways Trust Fund, established and kept in the Treasury under the *State Highways Maintenance Act 1929*, shall, under that name, be continued to be so kept for the purposes of this Part.

Roads and Jetties.

(2) There shall be paid and credited to the Fund, annually in each financial year for the purposes of this Act, a sum equal to the amount of all motor taxes collected in the immediately preceding financial year, and paid into the Treasury, less two pounds per centum of such amount, and the same shall be paid by the Treasurer to the Fund out of the Consolidated Revenue, which to the necessary extent is hereby appropriated accordingly. A.D. 1935.

5—(1) The moneys from time to time standing to the credit of the Fund shall be paid and applied for the purposes of, and as provided by, this Part, and it shall be lawful for the Treasurer to issue and apply the same on the authority of a warrant of the Governor for that purpose. Application of Fund.
Ib., s. 5.

(2) Upon the Council of any of the Municipalities of Bruny, Flinders, King Island, Strahan, or Zeehan respectively satisfying the Minister that such Council, within the immediately preceding financial year, has expended upon the roads of its Municipality a sum not less than the total amount of motor taxes collected in such Municipality in such year, the Minister shall pay to such Council out of the Fund an amount equal to ninety-eight pounds per centum of such total.

(3) At the commencement of each financial year the Registrar of Motor-vehicles shall forward to the Treasurer a certificate showing the respective amounts of motor taxes collected in the immediately preceding financial year in each of the municipalities aforesaid.

(4) Upon the proclamation of a State highway extending from Queenstown or Waratah to the town of—

i. Strahan : or

ii. Zeehan—

and connecting such town with the State highway system, the provisions of subsection (2) hereof shall cease to apply to the municipality in which such town is situate.

6—(1) The Minister shall cause to be kept in the books of his Department detailed accounts, in accordance with the directions of the Auditor-General, in respect of the expenditure upon, or in respect of, each State highway out of the moneys provided from the Consolidated Revenue for each financial year. Accounts of Fund.
Ib., s. 6.

(2) Such accounts as aforesaid shall be subject to the provisions of the *Audit Act* 1918. 9 Geo. V. No. 3.

(3) A statement of the expenditure out of the Fund shall be submitted annually to Parliament by the Treasurer.

7—(1) The Governor, by proclamation, may declare any road, or any specified portion thereof, to be a State highway for the purposes of this Part, and in like manner at any time may declare that any such road, or any specified portion thereof, shall cease to be a State highway. Power to Governor to proclaim State highways.
Ib., s. 7.

Roads and Jetties.

A.D. 1935.

(2) Every such proclamation shall take effect upon and from a date in that behalf specified therein or, if no such date is so specified, from the date of the gazettal of such proclamation, and thereupon the road or portion thereof therein specified shall become, or cease to be, a State highway, according to the tenor thereof.

(3) Subject as aforesaid, every road proclaimed as a State highway shall be a State highway for a period of three years from the date of its being so proclaimed.

(4) Every road or portion thereof which ceases as hereinbefore provided to be a State highway shall, from the date of such cessation, be a country road within the meaning of this Act, and all the provisions of this Act with respect to country roads shall apply to such road or such portion, as the case may be.

(5) Where a State highway has been diverted, elsewhere than within a town, the old line of road shall, subject to the provisions of section twenty-seven, become a country road.

Preparation of
list of State high-
ways.
Ib., s. 8.

8—(1) The Committee, when required by the Minister so to do, shall make such investigations and enquiries as may be necessary to enable the Committee to determine what roads, in the opinion of the Committee—

- i. Should be proclaimed by reason of their importance as:
- ii. Have ceased either wholly or in part to be of sufficient importance to be—

State highways.

(2) The Committee, as soon as practicable after any such requirement by the Minister as aforesaid, shall submit to the Minister a list of such roads in accordance with such requirement.

(3) The Minister may make such alterations in the list so submitted as he may think fit, and may determine what roads shall be included therein, and thereupon he shall endorse on such list his approval thereof, subject to such alterations, if any, as he shall have made therein.

(4) Such list as aforesaid so approved shall be submitted to the Governor, and thereupon the Governor, by proclamation as hereinbefore provided, may give effect thereto.

Vesting and
maintenance of
State highways.
Ib., s. 9.

9—(1) All State highways shall be vested in His Majesty and shall be under the control and direction of the Minister.

(2) Except as otherwise provided, the Minister shall cause all State highways to be maintained as he may direct.

(3) The cost of all such maintenance shall be defrayed out of the moneys constituting the Fund.

Planting of trees
along State
highways.

10—(1) The Minister may, in any case in which he thinks it desirable so to do, cause trees to be planted, nurtured, and preserved on and along the side of any State highway, or, with the consent of the owner of any land bounded by such highway, on such land along the side of the highway.

Roads and Jetties.

(2) The planting, nurturing, and preservation of all such trees as aforesaid shall, for the purposes of this Part, be deemed to be part of the maintenance of the State highway. A.D. 1935.

11 Where, in any town or village, footways along any State highway are provided by the corporation of the municipality in which the same is situated, the Minister shall be required to maintain only a pavement width not exceeding twenty feet of such State highway within such town or village, and the remainder of such State highway within such town or village shall be maintained by such corporation. Maintenance of footways in towns, &c.

12—(1) The Minister may require any corporation, body, or person having the charge or control of any water-supply mains or service pipes, which are laid beneath the surface of any State highway in any town or village to— Power of Minister to require removal of water-supply mains.

- i. Remove and place the same beyond the limits of the pavement width of twenty feet mentioned in section eleven : or
- ii. Take such other measures, if any, as the Minister may direct to ensure the preservation of such pavement as aforesaid from damage by reason of any excavation for the purpose of repairing or replacing any such main or pipe.

(2) Every such corporation, body, or person as aforesaid, when so required by the Minister, shall comply with such requirement at its, or his, own expense. *Ib.*, s. 11.

13—(1) Except as otherwise expressly provided, no corporation, body, or person having the charge and control of any water-supply, sewerage, gas service, or electrical undertaking (hereinafter called "service authority") shall make any excavation in or under the pavement of any State highway without the consent of the Minister or of some officer, authorised by him in that behalf. Excavations by certain authorities. *Ib.*, s. 12.

(2) In any case of emergency where it is impracticable to obtain such consent as aforesaid to meet the exigency of such emergency, the service authority shall notify the Minister or such officer as aforesaid forthwith after proceeding with such excavation and shall furnish him with such particulars as will explain the necessity for anticipating such consent.

(3) Immediately upon completion of any such work as aforesaid, the service authority, at its own cost, shall reinstate the road where such excavation was made to a sufficient degree to render the same safe, and thereafter the permanent reinstatement thereof shall be executed by the Minister at the cost of the service authority.

(4) The service authority at all times when any such excavation is left open shall protect the same with sufficient barriers for ensuring the adequate protection of traffic, and shall display thereon red flags during daylight and adequate lights by night for the prevention of accident.

Roads and Jetties.

A.D. 1935.

(5) The service authority shall be responsible for the proper maintenance of such barriers, flags, and lights as aforesaid, and shall be answerable for any liability incurred through negligence in relation thereto.

Regulation of electric wires.

14—(1) The Minister at any time may require any service authority in charge of any electric-light or power mains, which cross any State highway, at its own cost, to take such measures as may be necessary to ensure a clear space of not less than eighteen feet from the surface of the road beneath such mains.

(2) Where the Minister proposes to widen, regrade, or alter the alignment of any State highway, he may require the service authority in charge of any pole or tower carrying overhead wires to remove the same to such position as will make it clear of such proposed work.

(3) The service authority shall comply with every such requirement of the Minister, and the reasonable cost of its so doing shall be repaid by the Minister to the service authority out of the Fund.

Regulation of erection of poles, &c.

Ib., s. 14.

15—(1) In any case where a service authority desires to erect any pole or tower for carrying electric mains or wires along any portion of a State highway, such authority shall apply in writing to the Minister for permission so to do, and shall submit a plan showing the proposed disposition of the poles or towers in relation to the pavement, shoulders, and structures of the road to be affected thereby.

(2) The Minister may grant such permission as aforesaid, either in accordance with the plan so submitted or subject to such alteration of the disposition of the poles or towers as the Minister may think fit.

(3) The Minister may require the service authority forthwith to remove, at its own expense, any pole or tower erected by it as aforesaid otherwise than in accordance with such permission, and the authority shall comply with every such requirement.

Appointments of officers.

Ib., s. 15.

16—(1) The Governor may appoint such officers as he may consider necessary for the purpose of carrying out the provisions of this Part.

(2) Such officers shall be paid respectively such salaries, remuneration, and allowances as the Governor may determine.

(3) All such payments as aforesaid shall be made out of the Fund.

Provisions in respect of plant and equipment.

Ib., s. 16.

17—(1) The Minister may —

I. Purchase and acquire such road-making plant and equipment as he may consider necessary for the purposes of this Act :

II. At any time—

(a) Repair and maintain in good condition any such plant and equipment as aforesaid and all other plant and equipment at the disposal of the Minister for the purposes of this Act : and

Roads and Jetties.

(b) Purchase or hire from any person horses and vehicles and equipment therefor— A.D. 1935.

and all expenses incurred in so doing shall be paid out of the Fund.

(2) The Minister may let on hire or sell any such plant, horses, vehicles, or equipment as aforesaid to such persons and upon such conditions as he may think fit.

(3) All moneys received by the Minister under subsection (2) hereof shall be paid into, and form part of, the Fund.

PART III.

COUNTRY ROADS.

18—(1) Subject to the provisions of this section and section twenty the councils of the several municipalities shall have the care, control, and management of all country roads within their respective municipalities, and they shall be charged with the maintenance thereof. Maintenance of country roads.

(2) Where any part of a country road forms or follows the common boundary of two adjoining municipalities, the councils of those municipalities shall have the joint care, control, and management thereof, and shall be jointly charged with the maintenance thereof.

(3) A council may define, lay out, and construct such roads as in its opinion are required to supply the wants and necessities of its municipality, and may fence any road under its control.

(4) A council may widen, alter, divert, and improve any road under its control.

19 If any country road or any portion thereof shall, by virtue of any proclamation under Part II., become a State highway, such road or such portion thereof, as the case may be, shall, thereupon and while such proclamation shall have effect, cease to be subject to this Part. Country road, if proclaimed State highway, to cease to be subject to this Part.

20 Notwithstanding anything in this Act to the contrary, the cost of the repair or renewal of any bridge upon or used in connection with any country road shall be borne or provided for as follows:— How cost of repairs to bridges to be borne.

Roads and Jetties.

A.D. 1935.

- I. Where the cost of renewal of such bridge exceeds seventy pounds, the cost of repair or renewal thereof shall be wholly provided out of moneys to be voted by Parliament for the general purposes of renewals and repairs of bridge.
- II. Where such renewal cost does not exceed seventy pounds the cost of repair or renewal thereof shall be wholly borne by the council of the municipality concerned.

Councils to maintain road work executed by Minister.
45 Vict. No. 33,
s. 2.

21—(1) Without prejudice to the provisions of section eighteen whenever Parliament shall have authorised the Minister to—

- I. Lay out and clear :
- II. Form and drain : or
- III. Pave—

any country road, and the Minister has served by post on the council a notice signed by him declaring that any such work as aforesaid has been duly executed, the council shall be liable in respect of such road to the obligation set out in subsection (2) hereof and which is applicable to the particular work which has been so executed as aforesaid.

(2) From and after the receipt by the council of such notice as aforesaid, the council shall, at its own expense and cost—

- I. Keep clear of timber and scrub the road which has been so laid out and cleared :
- II. Maintain the formation of, and keep clear and in good order, all drains and culverts upon the road so formed :
- III. Maintain and keep in good repair the road which has been so paved—

as the case may be : Provided that the Minister before the commencement of any such work as is referred to in subsection (1) hereof shall have consulted the council upon such work.

Notice to council making default.
Ib., s. 3.

(3) If the council shall fail or neglect to maintain, or keep clear or in good order or repair, as the case may be, to the satisfaction of the Minister any of the works aforesaid which have been executed by him and which should be so maintained or kept by the council as aforesaid, the Minister may serve by post on the council a notice signed by him requiring the council to carry out, within a time to be specified therein, the maintenance or other work which it has so failed or neglected to do.

Procedure by Minister on council making default after notice.

(4) If the council shall fail to comply with such notice within the time specified therein, the Minister may carry out the maintenance or other work which the council has failed or neglected to do, and in such event the cost thereof, as certified by the Minister, shall be a debt due and payable by the council to His Majesty and be recoverable accordingly.

Roads and Jetties.

22 All buildings, fences, walls, gates, posts, mile-stones, direction boards, and other things erected by the Minister or the council of any municipality upon or in connection with a country road, and all the materials of which such road has been constructed, shall belong to the municipality.

A.D. 1935.

Buildings, &c., erected on country road to belong to the municipality.

23—(1) Any person may, with the consent of the council having the control or maintenance of any country road, erect a rabbit-proof fence and gate across the same where such road passes through a rabbit-proof fence, for the purpose of preventing the passage of rabbits along such road.

Rabbit-proof fence and gate may be erected across country road.

(2) Every such gate shall be of a substantial character and properly hung and latched and of such width, not being less than ten feet, as the council shall approve.

(3) The council may at any time, upon giving to such person as aforesaid not less than three months' notice, cause any such fence and gate to be removed from such road.

(4) Every such gate shall have distinctly painted thereon the words "Rabbit-proof gate," and also the words "Shut this Gate—Penalty Twenty Pounds"; and every person passing through any such gate shall shut and fasten the same; and any person who fails or neglects to shut and fasten such gate on passing through the same shall be liable to a penalty of twenty pounds; but no person shall be liable to any penalty under this section unless such gate is at the time of such failure or neglect in good and sufficient repair, and ordinarily capable of preventing the passage of rabbits.

Penalty for not shutting gate.

(5) Where any rabbit-proof fence and gate was, at the commencement of this Act, being lawfully maintained across any country road, the provisions of subsections (2), (3), and (4) hereof shall apply to and in respect of such fence and gate as if the same had been erected under the authority of subsection (1) hereof.

24—(1) Where any gate was, at the commencement of this Act, being lawfully maintained across any road which was then a bye-road, such gate may continue to be so maintained for a period of ten years from the commencement of this Act, but no longer.

Gates across bye-roads.

(2) Where any gate was, at the commencement of this Act, lawfully maintained across any country road, not being then a bye-road, such gate may continue to be so maintained unless and until the road authority shall have given to the person maintaining the same not less than three months' notice in writing to remove the same, and no longer.

(3) Where any new country road is constructed, the road authority may determine whether any, and if so what, gates may be maintained across such road, and for what period, and upon what conditions, the same shall be allowed.

(4) If any such gate is lawfully maintained and—

- i. Is maintained in good and sufficient repair, is properly hung, and provided with a latch or other suitable fastening: and

Penalty for not shutting gate.

Roads and Jetties.

A.D. 1935.

ii. Has distinctly painted thereon the words "Shut this Gate: Penalty, Five Pounds"—

every person passing through such gate shall shut and fasten the same.

Penalty: Five pounds.

Where road
diverted old line
of road may be
stopped up.

25—(1) Where a road is diverted or a new line of road constructed, the road authority may, after giving not less than sixty days' notice in the Gazette and in a newspaper of its intention so to do, stop up any old line of road, or any part thereof, which appears to it to be thereby rendered useless or unnecessary for road purposes, unless such old line of road or such part thereof leads to any land, house, or place which cannot be conveniently approached by the new line of road or any other then existing road, in which case such old line of road, or so much thereof as may be necessary for the access or approach to such land, house, or place, shall remain and be a road to the same.

(2) If any person claiming to be affected by the stopping-up of such old line of road or any part thereof shall, at any time before the expiration of such notice, give notice in writing to the road authority of his objection to such stopping-up, the matter shall be referred by the road authority to a police magistrate, who shall have power to determine the objection and the propriety of such stopping-up, and to make such order in the matter as he shall deem just, and such order shall be final and conclusive upon the road authority and all persons interested in such old line of road or any part thereof.

 PART IV.

ROADS GENERALLY.

*Division I.—Purchase and Taking of Land and Materials
for Roads.*

Powers of Minister with respect to construction of roads.

1 Geo. V. No. 11.

26 Whenever the Minister is authorised by Parliament to lay out, form, construct, reconstruct, widen, divert, alter, repair, or improve any road, the Minister shall, in addition to the powers and obligations conferred and imposed upon him by the *Lands Resumption Act* 1910 in the case of the undertaking, construction, or provision by him of any public work, have the powers and be subject to the obligations conferred and imposed upon him by this Act.

Councils may acquire land for road purposes.

21 Vict. No. 11.

27—(1) Any council may purchase or take in the manner prescribed by the *Lands Clauses Act* 1857 (hereinafter in this Part referred to as "the said Act") any land which it may require for the purpose of widening, diverting, altering, or improving any country road, or of constructing, widening, diverting, altering, or improving any street in a town or village in its municipality or of obtaining any materials for any of such purposes.

Roads and Jetties.

(2) Subject to the provisions of this Part, the said Act, except sections eight and nine thereof, shall be incorporated with this Part, and for the purposes of such incorporation the council shall be deemed to be the promoters of the undertaking, and this Part shall be deemed to be the Special Act. A.D. 1935.

(3) In estimating the compensation to be paid in respect of any such land as aforesaid the arbitrators or umpires shall—

- i. Take into consideration the benefit that is likely to accrue to the person whose land it is proposed to take for the purposes aforesaid :
- ii. In awarding the compensation, if any, to be paid in respect of such land, make such deduction in respect of such benefit as shall be deemed just : and
- iii. If such benefit is equal to, or exceeds, any loss likely to be sustained by such person by reason of the taking of such land, may award that no compensation shall be paid to such person.

(4) An award as provided by paragraph iii. of subsection (3) hereof shall have the like consequences as would ensue from the payment of any sum awarded as compensation.

28 Any road authority may purchase or take land required by it for the purposes of a quarry or gravel-pit in the same manner and subject to the like conditions as it may acquire land for constructing, widening, or altering a road. Acquisition of land for quarry, &c.

29 Where a road authority has given notice of its intention to take land for any of the purposes hereinbefore set forth, and the compensation in respect thereof is determined, if the road authority deems it inexpedient to pay the amount thereof, it may, within twenty-one days after receiving notice of the amount of compensation so determined, withdraw the notice of intention to take the land on payment of the costs of the reference and determination. Land may be given up if compensation excessive. *Ib.*, s. 18.

30 It shall be lawful for a council to sell and dispose of, in the manner prescribed by the said Act, any land purchased or taken by the council for the purposes of this Act which is not required for any such purpose ; and, in the application of the provisions of the said Act to the purposes of this Part, this section shall be substituted for section seventy-eight of that Act. Lands not required may be sold.

31 A council may take and use for any of the purposes of this Act which are applicable to the council any Crown land which the Governor may authorise to be so taken and used by it. Crown land may be taken by council.

32 Whenever a road authority intends to take any land for the purposes of this Act, it shall be lawful for the road authority, after having given seven days' notice in writing to the occupier thereof, to enter upon such land and to stake out the same in such manner as it Entry by council upon land. 45 Vict. No. 31, s. 8.

Roads and Jetties.

A.D. 1935.

thinks necessary or expedient ; and, if any person shall wilfully pull up, remove, or destroy any stake used for the purpose aforesaid, he shall be liable to a penalty of twenty pounds.

Rental of land.
Ib., s. 9.

33 A road authority may contract and agree with the owner of any land for the rental from him of such land for the purpose of obtaining materials therefrom for the construction or maintenance of any road or street or for any other of the purposes of this Act which are applicable to such road authority.

Use of uncultivated land for temporary road.

34—(1) Any road authority may make use of any uncultivated land for the purpose of constructing a temporary road whilst any road is being reconstructed, widened, diverted, altered, improved, or repaired without making compensation for the same.

(2) Any such temporary road shall, if necessary, be fenced in or otherwise so secured by the road authority as to afford to the person through whose land such temporary road shall pass an equal protection against trespass as was possessed by such person previously to the construction of such temporary road.

(3) On the completion of the works or repairs aforesaid any damage done to the lands through which such temporary road shall pass shall in all respects, as far as practicable, be made good by the road authority.

Timber may be taken from uncultivated land.
Ib., s. 10.

35—(1) Any road authority may, after giving seven days' notice in writing to the owner or occupier thereof, enter upon any uncultivated land and cut down and carry away all such indigenous timber as the road authority may require for making, repairing, or fencing any road, or for any other of the purposes of this Act, and in any such case the road authority shall make full compensation for such timber to the owner of the land.

(2) It shall not be lawful for the road authority in the exercise of its powers under this section to cut down any such indigenous timber where it is made to appear to the satisfaction of the road authority that the same has been, and is intended to be, reserved and used by the owner or occupier of the land for the purpose of ornament or shelter.

Materials may be taken from any land.
Ib., s. 11.

(3) The road authority may, after having given such notice as aforesaid, enter upon any land and dig, quarry, and carry away all such materials as it may require for the construction or maintenance of any road, and in any such case the road authority shall make full compensation to all parties interested for the damage thereby sustained.

Compensation.

(4) The compensation to be paid in respect of the exercise of any of the powers conferred by this section shall be determined, in the case of—

1 Geo. V. No. 11.

i. The Minister, as provided by the *Lands Resumption Act* 1911 : and

56 Vict. No. 8.

ii. A council, by arbitration under the *Arbitration Act* 1892— and this section shall be deemed to be a submission under that Act.

Roads and Jetties.

(5) Where any land to be entered under the provisions of this section is fenced, the road authority upon making such entry shall cause a substantial gate to be erected where required to prevent the escape of any stock from such land. A.D. 1935.

36 The road authority shall cause all quarries and pits which have been opened up or used upon any land by it to be fenced or otherwise secured and kept so fenced or secured so long as the same shall continue open and in use; and upon ceasing to use the same shall, if required by the owner or occupier of such land, cause the same to be filled up, sloped down, or otherwise secured. Quarries to be filled up or otherwise secured.

37 Where in the exercise of any of the powers conferred upon a road authority by this Part any fence has been temporarily taken down, the same shall, upon completion of the work necessitating such taking down, be well and sufficiently restored by the road authority. Fences to be restored.

38 Where any road has been diverted, the road authority shall, if required by the owner or occupier of any land through which such road passes, cause such road to be well and sufficiently fenced where it so passes. Deviations to be fenced.

Division II.—Miscellaneous Provisions.

39—(1) Any road authority may enter upon any land adjoining any road of which it has the care, control, or management, for the purpose of maintaining such road. Entry upon adjoining lands for road maintenance.

(2) Any land entered upon under this section shall be fenced in or otherwise so secured by the road authority as to afford to the owner or occupier of such land an equal protection against trespass as was possessed by such owner or occupier previously to the entering upon such land.

40 The road authority may make, cleanse, and keep open all drains or watercourses which it may deem necessary in and through any land adjoining or near to any road of which it has the construction or maintenance. Power to make drains on adjoining lands.
45 Vict. No. 31,
s. 13.

41—(1) The road authority may cut down and remove any indigentous timber growing or standing within seventy-five feet of the centre of any road of which it has the care, control or management, making good all damage or injury to the fences, hedges, ditches, walls, or any other thing upon the land on which such timber may be growing or standing. Timber growing near roads may be cut down.
48 Vict. No. 28,
s. 117.

(2) The road authority shall not, without the consent of the owner of such land, cut down any timber reserved or planted thereon for the purpose of ornament or shelter.

42—(1) Where the road authority is of opinion that it is necessary, for the prevention of danger arising from obstruction to the view of persons using such road, that any fence, construction, or hedge growing Hedges obstructing view of traffic to be cut or trimmed.

Roads and Jetties.

A.D. 1935.

or planted on land adjoining such road, or any road intersecting or junctioning with such road, should be reduced in height or otherwise cut or trimmed, the road authority may give to the owner or occupier of such land twenty-one days' notice in writing to reduce the height of or cut or trim such fence, construction, or hedge to such an extent or in such a manner as the road authority shall think necessary for the purpose aforesaid and shall specify in such notice.

(2) If such owner or occupier shall fail to comply with such notice within the time aforesaid, the road authority may cause such fence, construction, or hedge to be reduced in height or otherwise cut or trimmed to such an extent or in such manner as shall have been specified in such notice, and may recover in any court of competent jurisdiction from the person to whom such notice was given the expenses incurred in so doing.

Discharge of concentrated drainage from land adjacent to road.

43 The occupier of any land which is bounded by or adjacent to any road, and upon which has been executed any work for the purpose of concentrating the drainage flowing thereon, and of causing the same when so concentrated to be discharged into any drain or culvert on or under such road, shall obey all reasonable directions in writing of the Director of Public Works, or, in the case of a road under the care, control, or management of any council, of the council, as to the place at which such drainage shall be so discharged.

Penalty : Ten pounds.

Culverts to be constructed by owners at entrances to lands adjoining roads.

44—(1) The road authority may give to the owner of any land adjoining any road a notice in writing requiring such owner, within a time to be specified in the notice, to construct to the satisfaction of the road authority across the table-drain or gutter of such road, at or opposite to any entrance to such land which is used or intended to be used for vehicular traffic to or from such land, a culvert of such a nature and of such dimensions as shall be specified in the notice, and as will allow the free passage through such culvert of any water which may reasonably be expected to flow along such table-drain or gutter and into such culvert when so constructed.

(2) If such owner shall fail to comply with such notice within the time specified therein, the road authority may cause such culvert to be constructed, and may recover from such owner in any court of competent jurisdiction the expenses incurred in such construction.

Minister may in certain cases erect gates across roads.

45—(1) If any road which is being constructed by the Minister passes through a fence which is erected on the common boundary of two adjoining properties, or which subdivides a property through which the road passes, the Minister may cause a gate of not less than ten feet in width, with or without a cattle-guard of a similar width at one side of such gate, to be erected or constructed and maintained across such road where the same passes through such fence.

(2) If and when such road shall thereafter come under the care, control, or management of a council, the council shall continue to maintain such gate, or such gate and cattle-guard, as the case may be ; and, in

Councils to continue to maintain gates.

Roads and Jetties.

any case in which a gate has been erected by the Minister without a cattle-guard at one side thereof, the council may, if it thinks fit, on such road coming under its care, control, or management, or at any time thereafter, construct and maintain a cattle-guard at one side of such gate. A.D. 1935.

(3) If such gate is maintained in good and sufficient repair, is properly hung, and provided with a latch or other suitable fastening, and has distinctly painted thereon the words "Shut this Gate: Penalty Five Pounds," every person passing through such gate shall shut and fasten the same. Penalty for no shutting gate.

Penalty : Five pounds.

46—(1) Where any extraordinary expenses have been incurred by a road authority in repairing any road under its care, control, or management by any excessive weight passing along such road, or extraordinary traffic thereon, the road authority may recover, in any court of competent jurisdiction from any person causing such weight or traffic to so pass along the same, the amount of such expenses as may be proved to the satisfaction of such court to have been incurred by the road authority by reason of the damage arising from such excessive weight or extraordinary traffic so passing as aforesaid. Recovery of expenses of repairing damage caused to roads by excessive weights being carried thereon.

(2) Any person from whom such expenses are or may be recoverable under this section may enter into an agreement with the road authority for the payment to it of compensation in respect of such expenses, and, upon such person paying such compensation, he shall not be liable to any proceedings under this section.

47—(1) The road authority may cause road metal or other materials, or any vehicle or plant used for the purpose of or in connection with the construction or maintenance of any road, to be stacked, deposited, or left upon such road at a distance from the centre thereof of not less than ten feet in the case of a State highway, and not less than eight feet in the case of a country road. Road metal, &c., may be placed on side of road.

(2) No such road metal, materials, vehicle, or plant shall be stacked, deposited, or left upon the pavement of any road, or in such manner as to obstruct any other road intersecting or junctioning with the same, or the table drain of any road, or the entrance to any private land.

48—(1) The road authority may, with the consent of the Governor, grant authority to any person to lay down, construct, and maintain a tramway or railway along or across any road under its control subject to such terms and conditions as may be recommended by the council and approved by the Governor. Road authority may permit tramway or railway along or across road.

(2) The granting of such authority shall be notified, and the terms and conditions of such grant shall be published, in the Gazette and in a newspaper within one month after such approval as aforesaid.

Roads and Jetties.

A.D. 1935.

Obstructing
roads.*Division III.—Offences.***49**—(1) No person shall—

- i. Make or erect any building or fence on or at the side of any road in such a manner as to reduce the width or confine the limits thereof :
- ii. Fill up or obstruct any table drain at the side of any road, or any drain or watercourse made by the Minister or any council in or through any land adjoining or near to such road for the purpose of draining the same :
- iii. Make any drain, sink, or watercourse upon or across any road :
- iv. Pull down, deface, damage, or destroy any lamp, lamp-post, milestone, direction-sign, wall, fence, post, or rail on any road :
- v. Extinguish any light maintained on or beside any road for the lighting of such road or for the protection of traffic thereon : or
- vi. In any manner whatsoever wilfully obstruct the use or enjoyment of any road.

Penalty : Twenty pounds.

(2) No person being the owner or occupier of any land adjoining any road shall—

- i. Permit or suffer any hedge planted or growing on such land to encroach on such road so as to reduce the width or confine the limits thereof, or permit or suffer any such hedge in any manner whatever to obstruct such road :
- ii. Permit or suffer the seedlings, suckers, or other off-sets of such hedge to encroach on such road :
- iii. Permit or suffer the branches of any tree growing or standing on such land to overhang such road in such a manner as to obstruct or interfere with the use of such road : or
- iv. Permit or suffer any briar, blackberry, gorse, Californian thistle, Bathurst burr (*Xanthium spinosum*), or any noxious weed proclaimed by the Governor as such under the *Local Government Act 1906*, to spread from such land to, or encroach on, such road.

Penalty : Twenty pounds.

6 Ed. VII. No.
No. 31.Notice to remove
obstructions.

(3) The road authority may give to any person making or erecting any building or fence, or causing or permitting any obstruction or encroachment, or making any drain, sink, or watercourse in contravention of any of the provisions of subsections (1) or (2) hereof in respect of any road under its care, control, or management, twenty-one days' notice in writing to take down such building or fence, remove or abate such obstruction or encroachment, or fill up such drain, sink, or watercourse ; and, in default of such person complying with such notice within the time aforesaid, the road authority may take down such

Roads and Jetties.

building or fence, remove or abate such obstruction or encroachment, or fill up such drain or water-course, and may recover in any court of competent jurisdiction from the person making such default the expenses incurred by the road authority in so doing. **A.D. 1935.**

50 Upon the conviction of any person for having wilfully or maliciously injured any road, bridge, or jetty, he shall be liable to a penalty of twenty pounds, and, in addition, such person may be ordered to pay the amount of the damage occasioned by his offence, and such amount shall be determined by the court by which he is so convicted. **Injuring roads.**

51 No person shall—

- I. Lay down or cause to be laid down or deposited any timber, stone, hay, straw, dung, lime, soil, ashes, or other like matter or thing, or any rubbish upon any road :
 - II. Fell, cut, bark, or remove any tree on or at the side of any road : or
 - III. Remove any soil from any road—
- unless he be authorised by the road authority having the care, control, or management of such road so to do.
Penalty : Five pounds. **Laying down timber, &c., on roads.**

52 No person shall make a fire upon the paved or constructed portion of any road or within six feet of any fence on or at the side of any road. **Making fires on roads.**

Penalty : Five pounds.

**PART V.
JETTIES.**

53—(1) Where the control and management of any jetty was, at the commencement of this Act, vested in the council of any municipality, such control and management shall continue to be so vested. **Control by councils of certain jetties.**

(2) The Governor may, on the application of the council of any municipality, by proclamation, vest in such council the control and management of any jetty situate in, or on the water frontage of, such municipality. **Governor may vest control of jetty in council.**

(3) No such proclamation shall be made unless the consent of the marine board or harbour trust having jurisdiction over the waters in which such jetty is situate has been first obtained to such vesting. **Proviso.**

54 The council of any municipality may repair, maintain, or extend any jetty under its control or management. **Repairs, &c.**

**PART VI.
REGULATIONS.**

55 The Governor may make regulations for the purposes of this Act. **Regulations.**

*Roads and Jetties.*A.D. 1935.**THE SCHEDULE.****ACTS HEREBY REPEALED.**

Regnal Year and Number.	Title of Act.
45 Vict. No. 31	<i>The Branch Roads Construction Act 1881</i>
45 Vict. No. 33	<i>The Roads Maintenance Act 1881</i>
48 Vict. No. 28	<i>The Roads Act 1884</i>
49 Vict. No. 38	<i>The Roads Act 1885</i>
53 Vict. No. 48	<i>An Act to amend the Roads Act 1884</i>
54 Vict. No. 3	<i>The Roads Act 1890</i>
58 Vict. No. 14	<i>An Act to amend the Roads Act 1884</i>
63 Vict. No. 37	<i>The Roads Act 1899</i>
64 Vict. No. 57	<i>The Roads Act 1900</i>
20 Geo. V. No. 86	<i>The State Highways Maintenance Act 1929</i>
21 Geo. V. No. 42	<i>The State Highways Maintenance Act 1930</i>
24 Geo. V. No. 9	<i>The State Highways Maintenance Act 1933</i>