An Act for the Making and Improving of Roads in South Australia.

[Assented to 25th November, 1852.]

WHEREAS an Ordinance was passed on the tenth day of October, one thousand eight hundred and forty-nine, "For the Making and Improving of Roads in South Australia," and many of the provisions of the said Ordinance have been found to be objectionable, and have not been enforced, and it is expedient to repeal the said Ordinance, and to enact other provisions in lieu thereof:

Be it therefore Enacted, by the Lieutenant-Governor of South Australia, by and with the advice and consent of the Legislative Council thereof, That the said Ordinance for the making and improving of roads in South Australia shall be, and the same is hereby repealed from and after the first day of July next.

2. And be it Enacted, That all the public roads in the said Province shall be divided into Main and District Roads, and that all public roads which, by any Act of the Governor and Legislative Council of the said Province in force for the time being, may be declared to be Main Roads, together with the bridges thereof, and all public works connected therewith, shall be, and be considered Main Roads for the purposes of this Act, and that all other public roads, with the bridges thereof, and all public works connected therewith, shall, for the purposes of this Act, be and be considered District Roads, and that all public roads shall be under the care, control, and management of Commissioners, and that the "Central Board of Main Roads" hereinafter appointed, shall be the Commissioners for the care, control, and management of Main Roads, and that the District Council for any District shall be the Commissioners for the care, control, and management of the District Roads within such District.

3. And
3. And be it Enacted, That the persons constituting the Central Board of Main Roads under the said Ordinance, at the time of the passing hereof, shall be the Central Board of Main Roads until the election and appointment of a Central Board of Main Roads, as hereinafter provided.

4. And be it Enacted, That the Central Board of Main Roads shall consist of six members, whereof two shall be appointed by the Governor with the advice of the Executive Council, and four shall be elected by the District Councils, in manner hereinafter provided.

5. And be it Enacted, That on or before the twenty-first day of January, in each year, every District Council shall transmit to the chairman for the time being of such Central Board of Main Roads, a list in writing containing the names of four persons as members of such Central Road Board, and that such chairman shall inspect such lists, and shall declare those four persons whose names shall be contained in the lists of the greater number of District Boards, to be duly elected members of such Central Board of Main Roads for the year following the first day of February then next, and shall publish such names, and the number of Lists in which such names were contained, in the South Australian Government Gazette published next after such twenty-first day of January, and that such lists shall be preserved by the said chairman, and shall be open at all reasonable hours for inspection by any member of a District Board during the period of three months next succeeding such first day of February, and that so often as any vacancy shall occur in such Central Board of Main Roads, if the same shall occur by death, resignation, or incapacity to act of a member, appointed by the Lieutenant-Governor, then the Lieutenant-Governor shall appoint a person to fill such vacancy; and if by the death, resignation, or incapacity to act of any elective member, then the District Boards shall elect another member by forwarding to such chairman the name of one person in manner aforesaid within fourteen days after notice of such vacancy shall have been published in the South Australian Government Gazette: Provided, that if any member of such Board, shall fail to attend a meeting of the Board for the period of three months, he shall be deemed to have resigned his seat.

6. And be it Enacted, That the Central Board of Main Roads shall, as soon as may be practicable, after the passing hereof, and so from time to time as often as any new or other roads may be declared to be Main Roads, cause to be deposited in the office of the Surveyor-General survey maps and plans of all Main Roads not heretofore deposited, describing the course and bearing and the admeasurement of the same, and when and so often as such survey maps and plans are deposited, shall cause notice thereof to be published by advertisement in the South Australian Government Gazette, setting forth such particulars as may be sufficient generally to describe such
such roads, and referring to the survey maps and plans deposited as aforesaid, and such maps and plans shall be open to public inspection, and the same or copies thereof certified under the hand of the Surveyor-General shall be evidence in all legal proceedings.

7. And be it Enacted, That at all meetings of the said Central Board, every Chairman of a District Council shall ex officio be entitled to attend and be heard, and take a part in all proceedings, except that they shall, as such, have no right of voting.

8. And be it Enacted, That no bankrupt or insolvent shall be capable of being or continuing a Commissioner of the "Central Board of Main Roads."

9. And be it Enacted, That any person, who, at any time after his appointment or election as such Commissioner, shall accept or continue to hold any office or place of profit under this Act, or be concerned or participate in any manner in any contract, or in the profit thereof, or of any work to be done under the authority of the same, shall thenceforth cease to be a Commissioner, and his office shall thereupon become vacant: Provided always, that no person being a shareholder, or a member of any Joint-Stock Company, incorporated by Royal Charter, or established by any Act of Parliament, or any Act or Ordinance of the Colonial Legislature, shall be prevented from acting as a Commissioner by reason of any contract entered into between such Company and the Commissioners; but no such Commissioner, being a member of such Company, shall vote on any question relating to the execution of this Act in which such Company is interested.

10. And be it Enacted, That a person shall not be incapable of acting as Justice of the Peace in the execution of this Act, with reference to the levying of any penalty thereunder, by reason of his being a Commissioner.

11. And be it Enacted, That no person shall be capable of acting as Commissioner of such Central Board, except in administering the declaration hereinafter mentioned, until he shall have made and signed, before one of the Commissioners, a declaration to the effect following:

"I, A. B., do hereby declare that I will faithfully and impartially, according to the best of my skill and judgment, execute all the powers and authorities reposed in me as a Commissioner of the Central Board of Main Roads, by virtue of the Act No. 17 of 1852: And, also, that I am not disqualified, as a Commissioner, in terms of the said Act."

12. And be it Enacted, That any person who shall falsely or corruptly make and subscribe the declaration aforesaid, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanor.

13. And
13. And be it Enacted, That all powers vested in the Central Board of Main Roads under this Act may be exercised by any three or more members of such Board present at any meeting held in pursuance of this Act, and no business shall be transacted at any meeting of such Board, unless the said number of members be present.

14. And be it Enacted, That, at the first meeting of such Central Board of Main Roads after every annual appointment or election, they shall, by the majority of the votes of the members present, elect one of their own body to be the chairman for the ensuing year; and annually thereafter at a meeting to be held for such purpose, the said Board shall, in like manner, elect a chairman for the ensuing year; and, in case the chairman dies, or resigns, or ceases to be a member of such Board, or otherwise becomes disqualified to act as such, the members present at the meeting next after the occurrence of such vacancy, shall choose some other of their body to fill such vacancy; and the chairman so elected shall continue in office so long only as the person in whose place he was elected would have been entitled to continue chairman; and if at any meeting of the said Board the chairman be not present, one of the members present shall be elected chairman of such meeting by the majority of the votes of the members present at such meeting.

15. And be it Enacted, That, at all meetings of the said Board the question there considered shall be decided by the votes of the majority present; and if there be an equal division of votes upon any question, the chairman of such meeting shall, in addition to his own vote as member, have a second or casting vote: Provided always, that if at any such meeting there be an equality of votes in the election of the chairman, it shall be decided by lot which of the members, having an equal number of votes, shall be the chairman: Provided also, that at the meeting for the election of chairman, the chairman going out of office shall, if present and willing to act, be the chairman of such meeting.

16. And be it Enacted, That the said Board shall, on the eighth day of January in each year, hold an annual meeting at a place to be by them appointed; and they shall also hold monthly meetings at least for the transaction of general business; and the said meetings shall be held at such places, and on such day or days in each month, as the said Board shall, from time to time, appoint; and when any such appointment is made, the clerk shall give notice thereof to each of the members; and they shall afterwards, until the time or place of such meeting is changed, and notice of such change duly given, attend such meeting without notice.

17. And be it Enacted, That it shall be lawful for the Lieutenant-Governor to authorise the payment from the Colonial Revenue of remuneration to the members of the Board, of One Guinea to each member, for the purpose of inducing a regular attendance:

Provided
Provided always, that such remuneration shall not extend to more than one meeting in each month, and provided also, that such remuneration shall only be payable to those members of the Board, not being salaried officers of the Government, who shall be present at the hour fixed for the commencement of the business, signing their names in a book to be kept for that purpose, and remain till the proceedings are terminated.

18. And be it Enacted, That the said Board may, at any meeting, from time to time appoint committees for any purposes which, in the opinion of such Board, would be better regulated and managed by means of such committee; and they may fix the quorum of any such committee, and may continue, alter, or discontinue such committee.

19. And be it Enacted, That no proceeding of the said Board, or of any Committee, shall be invalidated or be illegal, in consequence, of there being any vacancy in such Board at the time of such proceeding.

20. And be it Enacted, That all proceedings of the said Board or of a committee thereof, or of any person acting under the authority of the same, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or election of any such Board, or person acting as aforesaid, or some defect or irregularity of form merely, be valid and sufficient.

21. And be it Enacted, That the said Board shall cause entries of all the proceedings thereof, and of every Committee appointed by them, with the names of the Members who shall attend such meeting, to be duly made from time to time in books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the said Board; and every such entry shall be signed by the chairman of the meeting at which the proceedings took place, and such entry so signed shall be received as evidence in all Courts, and before all Judges, Justices and others, without proof of such meeting having been duly convened or held, or of the persons attending such meeting having been, or being Members of such Board or Committee respectively, or of the signature of the chairman, or of the fact of his having been chairman, all of which last-mentioned matters shall be presumed until the contrary is proved; and such books shall at all reasonable times be open to the inspection of any of the Members.

22. Provided always, and be it Enacted, That whenever any day by this Act appointed for any purpose, shall in any year happen on a Sunday, Christmas Day, or Good Friday, in every such case, the business so appointed to be done, shall take place on the Monday following.

23. And be it Enacted, That the said Board shall and may, and they are hereby authorised, subject to the approval of the

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Governor, to appoint fit and proper persons to act as Surveyors on the roads under their care and management respectively; and also so many fit and proper persons as may be necessary to act as clerks, or other officers, at moderate salaries or remuneration payable out of the moneys received for the purposes of this Act, and from time to time to remove them, or any of them, and to appoint others in the room of such as shall be so removed, or as may die, resign, or discontinue their offices: Provided that every such appointment, being approved by the Governor, shall be notified in the South Australian Government Gazette.

24. And be it Enacted, That when any Main Road shall pass through any District, it shall be lawful for the said Board at their discretion, to entrust the maintenance and repair thereof, or the performance of any special work connected therewith, to the Commissioners for such District, and in such case, to repay to such Commissioners any sums which they may have expended in and about such maintenance and repair, in the performance of such special work as aforesaid.

25. And be it Enacted, That the said Board may, from time to time, make such by-laws and regulations as they may think fit, for the purpose of regulating the conduct of their officers and servants, and for the due management of their affairs, and otherwise carrying the purposes of this Act into execution, and may from time to time, alter or repeal any such by-laws and regulations, and make others, provided such by-laws and regulations be not repugnant to the laws of the Province, or to the provisions of this Act; and such by-laws and regulations, shall be reduced into writing, and shall be signed by the chairman of the said Board, and shall be published in the South Australian Government Gazette.

26. And be it Enacted, That the said Board may, by such by-laws, impose such reasonable penalties upon all persons whomsoever offending against such by-laws or regulations, as the said Board think fit, not exceeding Five Pounds for any one offence, and every such penalty shall be recoverable before any two or more Justices of the Peace in a summary way.

27. And be it Enacted, That it shall be lawful for the Justice before whom any penalty by any such by-law or regulation imposed may be sought to be recovered, to order a part only of such penalty to be paid if such Justices think fit.

28. And be it Enacted, That before any person, intrusted by the said Board with the custody or control of moneys by virtue of his office, shall enter upon such office, the said Board shall take sufficient security from him, to the satisfaction of the Governor, for the faithful execution of such office, and for the due accounting for, application, and payment of all such moneys, according to the provisions of this Act.

29. And
29. And be it Enacted, That every officer employed by the said Board, who shall exact, on account of anything done by virtue of his office, or in relation to the matter to be done under this Act, any fee or reward whatsoever, other than the salary or allowances allowed by the said Board, or who shall be in anywise concerned or interested in any bargain or contract made by the said Board, shall be incapable of being afterwards employed by the said Board, and shall forfeit a penalty not exceeding the sum of Fifty Pounds.

30. And be it Enacted, That every officer appointed or employed by the said Board under the authority hereof, shall from time to time, when and in such manner and form, and to such person as shall be required by such Board, or by any by-law thereof, make out and deliver a true and perfect account, in writing; under his hand, of all moneys received by him on behalf of such Board, and such account shall state how, and to whom, and for what purpose, such moneys shall have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for all payments, and every such officer shall pay to such Board or to any person authorised to receive the same, all moneys which appear to be owing from him upon the balance of such accounts.

31. And be it Enacted, That all claims, by or on the part of the said Board to any moneys due and owing from, or to any vouchers, receipts, papers, writings, property, and effects whatsoever, retained or not duly accounted for, by any such officer, may be heard and determined by any two or more Justices of the Peace in a summary way, and such Justices may order the delivery of any account, and the payment of any sum of money appearing due from, and the delivery of any vouchers, receipts, papers, property and effects retained or not accounted for by such officer, or the payment of any sum of money upon the non-delivery thereof, and such order shall be enforced in the same manner as a summary conviction by any two or more Justices, and any moneys, vouchers, receipts, property, and effects, mentioned in any order, shall, when received or recovered, be paid and delivered to such Board.

32. And be it Enacted, That if any such officer shall, when ordered by any Justice, as aforesaid, refuse to make out such account in writing, or to produce and deliver the several vouchers and receipts relating thereto, or to deliver up any books, papers or writings, property, effects, matters, or things in his possession or power, belonging to the said Board, it shall be lawful for such Justices, at their discretion, to commit such offender to gaol, there to remain until he shall have made out such account, and delivered up all the vouchers and receipts in his possession or power relating to such accounts, and the books, papers, writings, property, effects, matters, and things in his possession or power, belonging to the said Board.

33. And
33. And be it Enacted, That for the maintaining and improving of District Roads, it shall be lawful for the Commissioners for any District, from time to time, to cause such and so many toll-bars, toll-gates, and toll-houses, to be erected and built in and upon any District Roads, at such places as to the said Commissioners shall seem fit, and at their discretion to remove the same; and to direct tolls to be paid at such toll-bars, toll-gates, or toll-houses, for all animals and vehicles passing or repassing through such toll-bars or toll-gates, at a rate not exceeding the rates in the Schedule hereto annexed, marked A, for each animal and vehicle so passing and repassing as aforesaid; and such rates, from time to time, to reduce or raise to any amount not exceeding the rates specified in the said Schedule: Provided that no toll shall be taken at any such toll-bar, toll-gate, or toll-house, until the same shall have been publicly notified in the *South Australian Government Gazette* at least one month before the same shall be demanded; and that no toll shall be taken or demanded at any such toll-bar, toll-gate, or toll-house, until there shall be affixed to such toll-bar, toll-gate, or toll-house, a board, on which shall be painted or written in legible characters, the tolls payable at the same respectively, and the name of the toll-bar, toll-gate, or toll-house.

34. And be it Enacted, That no toll-bar, toll-gate, or toll-house, shall be erected upon any road, and no toll shall be demanded or paid at any toll-bar, toll-gate, or toll-house, upon any road, until it shall be certified to the Governor by two Justices of the Peace that such road is in a state of repair: Provided that, in case any such road shall become ruinous and out of repair, and the same shall be certified to the Governor by two Justices of the Peace, and it shall appear that the tolls collected upon such road shall be insufficient for the repair and maintenance thereof, the Commissioners shall, by order published in the *South Australian Government Gazette*, direct from time to time, as occasion may require, that the tolls theretofore taken upon the said road shall cease until the said road shall be put into repair, and thereupon the said road shall be repaired and maintained from the moneys otherwise applicable for that purpose.

35. And be it Enacted, That no toll shall be demanded or taken, by virtue of this Act, of or from the surveyor of any District when engaged in executing, or proceeding to execute, within the limits of his own District, the powers of this Act; or for any horse, beast, or cattle, or carriage, employed in carrying or conveying, having been employed only in carrying or conveying on the same day, any dung, soil, compost, or manure, or lime for improving lands, or any ploughs, harrows, or implements of husbandry, unless laden also with some other thing not hereby exempted from toll; or for any horse or other beast employed in husbandry, going to or returning from plough or harrow, or to or from pasture or watering-place, or going to be, or returning from being shoed or farried, such horses or other beasts not going or returning on those occasions more than two miles on the road on which the exemption shall be claimed.
claimed; or of or from any person in respect of any horse or other beast, or vehicle, in or on which he may be going to or returning from his usual place of religious worship on Sundays; or of or from any person in respect of any hearse, or of any horse or other beast or vehicle in or on which he may be going to or returning from the funeral of any person; or from any Minister of any stated and known religious congregation going to or returning from visiting any sick person; or for any horses or other beasts or carriages of whatever description, employed, or to be employed, solely in conveying the mails of letters and expresses, under the authority of the Postmaster-General of this Province, either when employed in conveying, fetching, or guarding such mails or expresses, or in returning from conveying or guarding the same; or for the horses of any officers, or soldiers, or police, on their march or on duty; or for any horse or other beast, or any cart, waggon, or carriage of any description employed in carrying or conveying, or returning empty from carrying or conveying, having been employed only in carrying or conveying the arms or baggage of any such officers or soldiers, or police; or employed in carrying or conveying, or returning empty from having been employed only in carrying or conveying any sick, wounded, or disabled officers or soldiers, or police; or for any horses, cattle, or other beasts, or carriages whatsoever, which shall only cross any road, or shall not pass above one hundred yards thereon.

36. And be it Enacted, That any person who shall, by any fraudulent or collusive means whatsoever, claim or take the benefit of any exemption from toll under this Act, shall for every such offence, forfeit and pay any sum not exceeding Five Pounds, and in all cases the proof of exemption shall be upon the person claiming the same.

37. And be it Enacted, That in all carriages wherein oxen or neat cattle shall be used, two oxen or neat cattle shall be considered as one horse for all purposes mentioned in this Act.

38. And be it Enacted, That if any person subject or liable to the payment of any toll by virtue of this Act, shall, after demand thereof made, neglect or refuse to pay the same or any part thereof, it shall be lawful for the persons authorised or appointed to collect such tolls by themselves, or taking such assistance as they shall think necessary, to seize and distrain any horse, beast, cattle, carriage, or other thing upon or in respect of which any such toll is imposed, together with their respective bridles, saddles, gears, harness, or accoutrements, except the bridles or reins of any horse or other beast separate from the horse or beast, or any carriage in respect of the horses or cattle drawing the carriage on which such toll is imposed, or any of the goods or chattels of the person so neglecting or refusing to pay; and if the toll, or any part thereof, so neglected or refused to be paid, and the reasonable charges of such seizure and distress, shall not be paid within the space of four days.
days next after such seizure and distress made, the person so seizing and distraining, may sell the horse, beast, cattle, carriages, or things so seized and distrained, or a sufficient part thereof, returning the overplus of the money to arise by such sale (if any), and what shall remain unsold, upon demand to the owner thereof, after such tolls and the reasonable charges occasioned by such seizure, distress, and sale shall be deducted.

39. And be it Enacted, That if any dispute shall happen or arise about the amount of the tolls due, or the charges of making, keeping, or selling any distress made for non-payment of any tolls, it shall be lawful for the collector, or the person distraining, to retain such distress, or the money arising from the sale thereof, as the case may be, until the amount of the tolls due and the charges of the making, keeping, and selling the distress be ascertained by some Justice of the Peace, who, upon application made to him for that purpose, shall examine the matter on the oath of the parties or other witness or witnesses, which oath such Justice is hereby authorized and empowered to administer, and shall determine the amount of the tolls due, and shall award such costs and charges to either party as to the said Justice shall appear right and proper; all which costs and charges shall and may be levied and recovered, in case of non-payment thereof forthwith, by distress and sale of the goods and chattels of the person or persons so awarded or directed to pay the same, by warrant under the hand and seal of such Justice, rendering the overplus (if any), upon demand, after deducting the costs and charges of making such distress and sale, to the person or persons whose goods and chattels shall have been so distrained and sold: Provided that no person shall be required to attend before any Justice touching any of the matters aforesaid, which Justice shall reside beyond seven miles from the place where such distress shall be made.

40. And be it Enacted, That if any person shall with any horse, cattle, beast, or carriage, go off or pass from any road, through, or over, any land or ground near or adjoining thereto, not being a public road or highway, and such person not being the owner or occupier, or servant, or one of the family of the owner or occupier of such land or ground, with intent to evade the payment of the tolls granted by this Act; or if any owner or occupier of any such land or ground, shall knowingly and willingly permit or suffer any person, except as aforesaid, with any horse, cattle, beast, or carriage whatsoever, to go or pass through or over such land or ground, with intent to evade any such tolls; or if any person shall fraudulently or forcibly pass through any such toll-bar or toll-gate with any horse, cattle, beast, or carriage whatsoever, by reason whereof the payment of any tolls shall be avoided or lessened; or shall take off, or cause to be taken off, any horse or cattle from any carriage, either before or after having passed through any toll-bar or toll-gate, or having passed through any toll-bar, or toll-gate, shall afterwards add or put any horse or other beast to any such carriage, and draw therewith
thither with upon any part of any road so as to increase the number of horses or other beasts drawing the said carriage, after the same shall have passed through any toll-bar or toll-gate, whereby the payment of all or any of the tolls shall or may be evaded; or if any person shall do any other act whatsoever in order or with intent to evade the payment of all or any of the tolls, and whereby the same shall be evaded, every such person shall, for every such offence, forfeit and pay any sum not exceeding Five Pounds.

41. And be it Enacted, That every toll-collector shall place or cause to be placed on some conspicuous parts of the fronts of the several toll-houses or toll-bars at which they shall be respectively stationed, and so that the same shall appear to public view, their Christian and surnames, painted in black on a board with a white ground, each of the letters of such names to be at least two inches in length and of a breadth in proportion, and which board shall be and remain at such toll-house, toll-gate, or toll-bar, during the whole of the time that the person whose name shall be expressed thereon shall be on duty thereat, and every such collector shall place or cause to be placed on the front of the toll-house, toll-bar, or toll-gate at which such Collector shall be stationed, the board containing the list of tolls hereinbefore directed to be affixed to the same respectively, which board shall also contain the name of the gate, toll-bar, or toll-house, to which the same shall be affixed, as well as the list of the tolls payable at such gate where such collector shall be stationed as aforesaid; and if any collector of the said tolls shall not place such boards respectively as aforesaid, and keep the same there during the time he shall be such collector as aforesaid, or shall refuse to permit or suffer any person to read, or shall in anywise hinder any person from reading the inscriptions on such boards respectively; or shall refuse to tell his Christian and surname to any person who shall demand the same, on being paid the said tolls or any of them, or shall in answer to such demand give a false name, or, upon the legal toll being paid or tendered, shall unnecessarily detain or wilfully obstruct, hinder, or prevent any passenger from passing through any toll-bar or toll-gate, or shall make use of any scurrilous or abusive language to any traveller or passenger, then and in every such case every such toll-collector shall forfeit and pay any sum not exceeding Five Pounds for every such offence.

42. And be it Enacted, That if any collector or other person appointed to collect the tolls on any road, shall allow any coach, waggon, dray, cart, or other carriage of whatever description, or any horse, beast, or other cattle liable to pay toll, to pass through any toll-bar or toll-gate, without paying the toll payable thereat, or shall demand and take a greater or less toll from any person than he shall be authorized to do by virtue of this Act, or of any order or direction made in pursuance thereof, or shall demand and take a toll from any person who shall be exempt from the payment thereof, and who shall claim such exemption, or shall refuse to permit or suffer
suffer any person to read, or shall in anywise hinder any person from reading the inscriptions on such toll-boards as aforesaid, or shall refuse to tell his Christian and surname to any person who shall demand the same, on being paid the said tolls or any of them, or shall in answer to such demand give a false name, or upon the legal toll being paid or tendered shall unnecessarily detain or willfully obstruct, hinder, or prevent any passenger from passing through any toll-bar or toll-gate, or shall make use of any scurrilous or abusive language to any Commissioner or surveyor of the district in which such toll-bar, toll-gate, or toll-house is situate, or to any traveller or passenger, or shall be guilty of any other misconduct in his office, then and in every such case, every such collector or other person, on conviction, for every such offence, shall forfeit and pay a penalty not exceeding Five Pounds.

43. And be it Enacted, That if any collector of tolls upon any road shall neglect or refuse to account for and pay over to the person authorized to receive the same, upon demand, the money collected and paid at any toll-bar, toll-gate, or toll-house at which he shall be stationed as collector, every such collector shall, for every such offence, forfeit and pay a penalty not exceeding Fifty Pounds.

44. And be it Enacted, That if any toll-collector who shall be discharged from his office by such Commissioners, or other person in that behalf authorized by such Commissioners, shall refuse to deliver up the possession of the house, buildings, and appurtenances which he enjoyed in right of his appointment to that office, within two days after notice of his discharge shall be given to him or left at his house, or if the wife or family of any such toll-collector who shall die, as aforesaid, shall refuse to deliver up the possession of such house, building, and appurtenances, within four days after lawful demand for that purpose shall be made, then and in either of the said cases, it shall and may be lawful for any Justice of the Peace, upon proof of any such refusal as aforesaid, by warrant under his hand and seal, to order a constable, or other peace officer, with such assistance as shall be necessary, to enter such house and premises in the day time, and to remove the persons who shall be found therein, together with their goods, out of such house, and to give possession of such house and premises to the surveyor, or such person as by him, or by the Commissioners, shall be appointed to take possession thereof.

45. And be it Enacted, That it shall be lawful for the said Commissioners, at a public meeting, to let to farm the tolls of the several gates that may be erected upon the roads under their superintendence respectively, after causing notice to be given of the time and place for letting the same, at least fourteen days before the day to be appointed for that purpose, by affixing such notice upon all the toll-gates on the said road, and by insertion at least once in the South Australian Government Gazette, and specifying
cifying that such tolls will be let by auction to the best bidder, on
his producing sufficient sureties for payment of the sum offered,
in terms of the condition of letting; and also specifying the proposed
upset price, and that at the time and place fixed in such notice the
said tolls shall accordingly be exposed to be let by auction during
the outrunning of a half-hour glass, and the last bidder at the out-
rning of the said glass shall be declared the farmer or renter of
the said tolls, and shall forthwith enter into a proper agreement for
the taking thereof, and paying the money at the time specified in
such notice, with such surety or sureties for payment thereof, and
under such conditions, and in such manner, as the said Commissioners
shall think fit, and if the person being the highest bidder shall not
forthwith enter into such agreement, it shall and may be lawful to
put up the said tolls again immediately for another bidder, and in
like manner to continue putting up the same until a bidder shall be
found who shall enter into such agreement; and in case no bidder
shall offer, or in case the same shall not be let at such auction, it
shall be lawful for the said Commissioners to accept a private tender
for the same, and to demise or let to farm, or agree to demise or to
let to farm, all or any of such tolls, at the highest rent that can be
obtained therefor, or the said Commissioners may fix some future
day for the letting thereof, as they shall judge most proper, upon
giving such notice thereof as aforesaid; and if the farmer or renter
of such tolls shall take a greater or less toll from any person than
such as is directed or authorized by this Act, he shall, on conviction,
for every such offence forfeit and pay a penalty of Five Pounds, and
the said agreements for renting the tolls shall, if the Commissioners
think fit to vacate the same, become null and void: Provided always,
that at all such lettings, the said Commissioners shall be entitled to
bid for the tolls so to be let, either by themselves or their clerk, or
any other person by them respectively authorized: Provided also,
that no such tolls shall be demised or leased for any longer term
than one year at one time.

46. And be it Enacted, That in case all or any of the said tolls
shall be demised or let to farm to any person, and the lessee or
farmer thereof shall neglect or refuse to perform the terms and
conditions on which the same shall be demised or let, or in case
the rent agreed to be paid by such lessee or farmer shall be in arrear
by the space of fourteen days next after any of the days on which
the same ought to be paid pursuant to the agreement for letting to
farm thereof, or in case any such lease or agreement shall in any
other manner become void, then and in any of those cases, it shall
and may be lawful for any Justice of the Peace, by warrant under
his hand and seal, to order a constable or other peace officer, with
such assistance as may be necessary, to enter upon and take pos-
session of such toll-house or toll-gate, toll-bar and the buildings
and appurtenances thereto belonging, and to remove and put out
such lessee or farmer of the tolls arising thereat respectively, or
other persons who shall be found therein, together with their goods,
out of and from the possession of the said toll-house or other
buildings
buildings and appurtenances, and from the collection of tolls, and to put the said Commissioners, or any one of them, or their officer or other persons authorized, acting by or under their authority, into the possession thereof, and thereupon it shall be lawful for the said Commissioners, if they shall think fit to vacate and determine the contract or agreement (if any) for demising or letting the said tolls to such former or lessee, and the same shall be from that time utterly void, to all intents and purposes (save as to the covenants or agreements for payment up to that time of the rents thereby reserved, or other covenants or agreements on the lessees' part which shall have been holden), as if such demise or agreements had never been made, and it shall be lawful for the said Commissioners, in every such case, to demise or let to farm the said tolls again to any other person, or cause them to be collected as if no former demise, contract, or agreement had been made relative thereto, any rule of law or right to the contrary notwithstanding.

47. And be it Enacted, That whencesover the said Commissioners respectively shall deem it necessary or expedient to open and make a new road, or to alter the line of any existing road, such Commissioners shall cause a survey map and plan, describing the exact course and bearings and admeasurements thereof, and through what lands the same is proposed to pass, and also a book of reference, in which shall be entered the names of the owners and occupiers of such land, so far as known, and the description of the land, and of the enclosures, if any, and the quantity of such land; and also an estimate of the expense of the work to be deposited in the office of the Surveyor-General, at Adelaide, and a notice to be published, by advertisement, in the South Australian Government Gazette, describing generally the same particulars, and referring to such maps, plans, book of reference, and estimates, to be seen in the said Surveyor-General's office, and calling upon all persons affected to set forth in writing, addressed to such Commissioners, or their clerk, within forty days from the first publication of such notice, any objections to such new road, or alteration, or new work; and such maps, plans, book of reference, and estimate shall be open to inspection at all convenient times, for public information from the publication of the said notice; and a copy of such Gazette shall within three days of publication thereof be forwarded to every person whose name shall be so entered as aforesaid as owner or occupier of any such land.

48. And be it Enacted, That at the next meeting of such Commissioners to be held after the expiration of such forty days as aforesaid, it shall be competent for any person who shall be affected by any such proposed new road, or alteration, and who shall have set forth in writing his objections as aforesaid, to appear before the said Commissioners, and be heard in support of such objections.

49. And
49. And be it Enacted, That if, after the expiration of such term, and the due consideration of all such objections set forth as aforesaid (if any), it shall nevertheless appear to the said Commissioners respectively necessary or expedient to proceed with the work, either in whole or in part, such Commissioners shall make an order thereupon, directing such new road, or alteration of road, or such part thereof as they may deem expedient, to be executed according to such plans and estimates as aforesaid, and shall cause such order to be transmitted along with such written objections (if any), for the consideration of the Governor; and it shall be lawful for the Governor, if he shall see fit, to confirm such order by notice published in the South Australian Government Gazette.

50. And be it Enacted, That if any proprietor or occupier of any land (not being waste lands of the Crown), in the original grant whereof no power of making roads has been reserved, through which any such road as aforesaid is to be made, shall deem himself aggrieved thereby, it shall be lawful for such proprietor or occupier, or his agent lawfully authorised to serve a notice, in writing, on the said Commissioners, within eighteen months from the date of the Gazette in which such notice of the confirmation of such order shall have been published, as aforesaid, setting forth that no right of making roads has been reserved in the deed of grant, with the date and particulars of such grant, and also specifying the exact portion of the said land referred to; and that he claims compensation for damages for the portion 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, the proprietor and occupier of such land, and all persons claiming by, through, from, or under them, shall be for ever foreclosed and shut out from any benefit or claim whatsoever to any compensation for any portion of land required for such road.

51. And be it Enacted, That for all purposes relative to the acquisition of lands required for works undertaken under the authority hereof, and to the compensation to be made for the same, the “Lands Clauses Consolidation Act” shall be deemed to be incorporated with this Act, and shall be construed together herewith as forming one Act.

52. And be it Enacted, That after such confirmation of any such order by the Governor, by notice published in the South Australian Government Gazette as aforesaid, and of which confirmation such notice shall be sufficient evidence, the said Commissioners respectively and all parties acting under the authority thereof, may enter upon any land specified in such plans and books of reference, and define and make the line of road, or alteration, of which notice shall have been so given as aforesaid; and such line of road, or alteration, when defined, shall be a road, or part of a road, for all the purposes of this Act: Provided, that in all cases where by the authority of such Commissioners, any fencing is removed for

Proprietors or occupiers aggrieved may claim compensation.

Lands Clauses Consolidation Act to be pursued.

After making and confirmation of order, Surveyor may enter and make road Line of road, when defined, to be part of a road.
for the purpose of executing any work, the land from which the fence has been so removed, shall be protected by a temporary fence, which such Commissioners shall cause to be made and continued during the progress of such work.

53. Provided always, and be it further Enacted, That nothing in this Act contained shall authorise or empower such Commissioners respectively to take or make use of, or to order or direct any road or highway to be made in or through any garden, yard, or any park, planted walk, or avenue to a house, or any enclosed ground planted as an ornament or shelter to a house, or planted and set apart as a nursery for trees, or any part thereof respectively, without the consent of the owner and occupier thereof in writing first had and obtained.

54. And be it Enacted, That whenever any road, or any part thereof, shall, by reason of the alteration thereof, or the making of any new road, or on any other account appear to the said Commissioners respectively to be no longer required for the purposes of a public highway or thoroughfare, it shall be lawful for such Commissioners after the like notice, and subject to the like proceedings as are hereinbefore required in the case of new works, to make an order that such old road shall be discontinued and cease to be a road, and that the land over which the same shall have passed, shall be sold, exchanged, or otherwise disposed of in such manner, and on such terms and conditions as shall be set forth in such notice, and upon such order being confirmed by the Governor, by notice published as aforesaid, such Commissioners shall sell, exchange, or otherwise dispose of the said land pursuant to such order; and it shall be lawful for the Governor to make and issue to the person acquiring such land, a deed of grant or conveyance of such land, which shall be valid and sufficient to vest in such person the said land for such estate or interest as by such conveyance shall be expressed or declared; and the purchase-money, after deducting the necessary expenses if any, shall be paid to such Commissioners for the purposes of this Act.

55. And be it Enacted, That whenever the owner or owners of the lands adjoining upon a district road which shall not be required for the use of the public shall be desirous of stopping or diverting the same road, it shall be lawful for such owner or owners to give notice of his or their intention to apply to two Justices of the Peace, on a day and at a place to be therein named, and which day shall be not less than six weeks nor more than eight weeks from the giving of such notice, for an order for the stopping up or diverting of such road, and shall deliver a copy of the same notice to the Surveyor of Roads of the district within which such road shall be situate, or, if no district shall have been constituted, then to the Surveyor-General of the said Province, and shall, at the same time, cause a copy of such notice to be published for four successive weeks in the South Australian Government Gazette, and one newspaper at least published in the City of Adelaide; and every such notice
notice shall state the course, bearing, and boundaries, and also the termini, of every road so proposed to be stopped or diverted, and of the road, if any proposed, to be substituted in the place thereof; and such owner or owners shall, at the same time, cause a survey map or plan of the road so proposed to be stopped or diverted, and of any road proposed to be substituted for the same, to be deposited with such Surveyor of Roads or Surveyor-General, as the case may be, at the time of giving such notice as aforesaid, and such map or plan shall be open to public inspection at all times from the publication of such notice.

56. And be it Enacted, That after the giving and publishing of such notice as aforesaid, it shall be lawful for any two or more Justices of the Peace for the said Province, at a meeting to be held at the time and place mentioned in such notice, to hear and determine the matter of such notice, and upon proof duly made to them, that any such road proposed to be stopped is unnecessary for the use of the public, or that any new road proposed to be substituted is nearer and more commodious for the public, to make an order for the stopping of any road mentioned in such notice, or of any part thereof, and for the making of such substituted road, and from and after the making of such order, the road or part of road therein directed to be stopped, shall cease to be a road: Provided, that it shall be lawful for any person interested in the maintenance of such road to appeal against any order for the stopping thereof, in the like manner and upon the like terms and conditions as are provided in all cases where Justices are authorized to hear and determine any matter in a summary way: And provided also, that if any substituted road shall be by any such order directed to be made, the road so ordered to be stopped or diverted shall not be so stopped or diverted until such substituted road shall be certified to be in a fit state for public use by the Surveyor of Roads for the District, or Surveyor-General, as the case may be.

57. And be it Enacted, That in the event of any road being so ordered to be stopped as aforesaid, it shall be lawful for the owner or owners of the adjoining lands if they shall think fit, after the expiration of the time limited for appealing against any such order, to acquire the same road or such part thereof as may adjoin their lands respectively, either in exchange at such price as may be fixed by such Surveyor of Roads or Surveyor-General, or in the event of any difference by alteration as provided in the "Lands Clauses Consolidation Act," and it shall be lawful for the Lieutenant-Governor to make and issue to the person acquiring such land a deed of grant, or conveyance thereof, which shall be valid to vest in such person the said land for such estate or interest as by such conveyance shall be expressed or declared, and the purchase-money, after deducting the necessary expenses, if any, shall be paid to the District Council, if any, of the district, and if not, then to the said Board for the purposes of this Act.

58. And
58. And be it Enacted, That the main roads shall be in all places not less than sixty feet in width, including footpaths, and exclusive of any bank, ditch, or fence, on either side thereof; and that the district roads shall be (according to the direction of the Commissioners in each particular case) of the width of not less than thirty feet within the fences, including footpaths.

59. And be it Enacted, That the right, interest, and property of and in all the lamps, direction-boards, mile-stones, posts, rails, walls, fences, and other erections and buildings erected in pursuance of this Act, or of the said repealed Act, with the appurtenances respectively thereunto belonging on the several roads, and the materials of which the same shall consist, and all materials, tools, and implements which shall be provided for such roads, and the scrapings of such roads, and the timber growing thereupon, shall be vested in the Commissioners having the care and management thereof respectively, and until the appointment and election of such Commissioners, shall be vested in the Commissioners of Crown Lands for the time being.

60. And be it Enacted, That it shall be lawful for such Commissioners in and upon the Roads under their care and management, to erect, and cause to be erected, placed, and put up, such and so many lamps, lamp-posts, bars, direction-boards, mile-stones, posts, rails, walls, and fences, and other things as any such Commissioners may judge necessary or expedient.

61. And be it Enacted, That if any person shall knowingly and wilfully dig up, break, or pull down, spoil, destroy, injure, or damage any lamps, bars, direction-boards, mile-stones, posts, rails, walls, fences, or any culvert, covered drain, or other work for the sustentation of any road, made, erected, or put up by any such Commissioners, he shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment, at the discretion of the Court before which such person shall be tried.

62. And be it Enacted, That it shall be lawful for the said Commissioners respectively, and for every person acting under their orders to make use of any uncultivated land for the purpose of constructing a temporary road while any road is undergoing repair: Provided always, that such temporary road shall be fenced in, or otherwise so secured as to afford to the person through whose land the same may pass, an equal protection against trespass as was possessed by such person previously to the construction thereof.

63. And be it Enacted, That in all cases where an alteration in a road is made through lands previously fenced, such lands shall be, with a substantial fence, fenced on both sides of the road before such road is opened for public use.

64. And be it Enacted, That it shall and may be lawful for any person acting under the authority of any such Commissioners respectively,
rectively, with all necessary cattle and carriages, to enter upon land adjoining any road under the care and management of such Commissioners, for the purpose of constructing or repairing any drains, or culverts, or performing any repairs that may be required to the road, and for the purpose of tracing out or making any alteration of the line of a road.

65. And be it Enacted, That it shall and may be lawful for every person acting under any such authority as aforesaid, to enter in and upon any waste or unenclosed land, or any river, or creek whereon, or wherein stones, gravel, sand, or other materials are likely to be found, and there to search for, gather, dig, get, and carry away so much of the same as may be required for the repair of any road, so that such person doth not thereby divert or interrupt the course of any such river or creek, or prejudice, or damage any building, road, or ford, or the bank of any such river or creek, nor dig, nor get the same materials out of any river or creek within the distance of one hundred and fifty feet from any bridge, dam, or weir.

66. And be it Enacted, That it shall be lawful for any person acting under such authority as aforesaid, if sufficient materials cannot be had conveniently within any such waste or unenclosed lands, rivers, or creeks, and such materials can or may be procured in or upon any enclosed lands or grounds (such lands or grounds not being a garden, yard, avenue to a house, lawn, park, paddock, or enclosed plantation, or wood, not exceeding one hundred acres in extent) lying near to the road for which such materials shall be required, to give fourteen days' notice of the intention of such Commissioners to enter upon such enclosed land, in order to search for, dig, and carry away such materials, and to cause such notice to be left at the usual or last known place of abode of the owner of such land, or his agent if known, and also of the occupier of such land, which notice shall express the quantity and nature of the materials proposed to be taken, and the precise place from which it is proposed to take the same, and if within such period of fourteen days such owner, agent, or occupier shall give notice to such Commissioners, or to their Clerk of any objection to the entry upon such land, and taking such materials, then such objection shall be heard and decided before and by any two Justices of the Peace or Special Magistrate at a time and place to be appointed by such Justices or Magistrate, and whereof four days' notice at the least shall be given; and if no such objection shall be made, or if the same shall be overruled by such Justices or Special Magistrate, then it shall be lawful for any person so acting under the authority of the said Commissioners to enter upon such land and to take and carry away so much of the said materials as shall be necessary to be employed in the amendment of the said roads, or as may be authorized by such Justices or Special Magistrate: Provided, that it shall be lawful for such Justices, or Special Magistrate, if they or he shall overrule any objection as aforesaid, to direct that a compensation shall be paid to such owner or occupier for the materials where, and in what manner to be taken.

If sufficient materials cannot be found in waste lands, &c., may be taken from enclosed lands or grounds, making satisfaction to owners.
the value of any materials so to be taken and carried away, and for any damages to be occasioned to any lands to be entered as aforesaid, and to fix the amount of such compensation, and any money so ordered to be paid by way of compensation shall be payable and paid by such Commissioners out of any funds which may come to their hands applicable to the purposes of this Act.

67. And be it Enacted, That it shall be lawful for any owner or occupier of such enclosed lands or grounds, who may have omitted to give such notice of any objection as hereinbefore lastly provided, and also for the owner of any waste and unenclosed ground, at any time within six calendar months from any such entry upon any enclosed lands or grounds, to claim compensation for any loss or damage occasioned thereby; and such claim shall be heard and determined by any two or more Justices in a summary way, and such Justices may award compensation for any damage occasioned to such owner or occupier by such entry and removal of materials, and such compensation, when so awarded, shall be paid by the said Commissioners out of any moneys which may come to their hands applicable to the purposes of this Act.

68. And be it Enacted, That if any person acting under such authority as aforesaid, shall, by reason of searching for, digging, or getting any materials for repairing any roads, make any pit or hole in any waste or unenclosed lands, rivers, or brooks, as aforesaid, wherein such materials shall be found, he shall forthwith cause the same to be sufficiently fenced off, and such fence to be supported and repaired during such time as the said pit or hole shall continue open; and where no materials shall be found, shall cause such pit or hole to be forthwith filled up, levelled, and covered with turf or clod, which was dug out of the same; and where any materials shall be found, shall, within fourteen days after having dug up sufficient materials in such pit or hole, cause the same to be filled up, or sloped down, and fenced off, if required, by the owner of the land or ground, and so continued; and in case such person shall neglect to fill up, slope down, or fence off such pit or hole in manner and within the time aforesaid, it shall be lawful for any two Justices of the Peace, upon due proof before them, to order that such pit or hole shall be filled up, fenced, or sloped down; and that the expenses thereby occasioned, and the costs of and attending any such order shall be paid by the said Commissioners respectively, under whose authority any such person shall be acting; and such Commissioners shall forthwith pay the same out of any moneys which may come to their hands applicable to the purposes of this Act.

69. And be it Enacted, That if any person acting under such authority, as aforesaid, shall knowingly dig, or cause to be dug, materials for the roads, whereby any bridge, mill, building, dam, road, ford, mine, or other works may be damaged or endangered, he shall forfeit, for every such offence on conviction, any sum not exceeding Five Pounds, at the discretion of the Justices before whom
whom the complaint thereof shall be made, notwithstanding his liability to any civil action to which he may make himself liable by such act.

70. And be it Enacted, That if any person acting under such authority as aforesaid, shall lay, or cause to be laid any heap of stones, or any other matter or thing whatsoever upon any road, and allow the same to remain there at night, to the danger or to the personal damage of any person passing thereon all due and reasonable precaution not having been taken to guard against the same, he shall forfeit, for every such offence, any sum not exceeding Five Pounds.

71. And be it Enacted, That if any person shall take away any materials which shall have been gotten, dug, or gathered for the repair or use of any road, or shall dig, get, or raise any materials out of any pit, hole, or quarry, which shall have been made, dug, or opened for the purpose of getting materials for the same before the person having the care and management of such road, and the workmen employed for getting such materials, shall have discontinued working therein for the space of one month; except, in the last mentioned case, the owner or occupier of the land upon which such quarry shall be made, and persons authorised by him to get materials for his own private use, and not for sale, every person so offending shall, for every such offence, forfeit and pay any sum not exceeding Five Pounds.

72. And be it Enacted, That it shall be lawful for any person authorized by the said Commissioners respectively in that behalf, to remove and prevent all annoyances on any part of the district roads of any district, by filth, dung, ashes, rubbish, or any other matter or thing whatsoever being laid or thrown upon any road, and to dispose of the same for the benefit of such Commissioners in case the owner thereof shall neglect to remove the same within twelve hours after notice, in writing, given to such owner, or, in case the owner is not known, then after a like notice, affixed for three days on some conspicuous place on the property, and to turn any watercourses, sinks, or drains running into, or along, or out of any road, or any part thereof, to the prejudice of the same, and to make, open, scour, and cleanse any watercourses or ditches adjoinging any road, and make the same as deep and large as such person shall think proper and necessary, in case the owner or occupier of the adjoining land shall neglect to make, open, scour, or cleanse such watercourses or ditches after seven days' notice, in writing, given to either of them for that purpose, and the charges thereof, and of removing any annoyances, and of making or turning any watercourse, sink, or drain, as aforesaid, shall and may be settled by any Justice of the Peace, and such charges shall be re-imburused to such Commissioners and may be recovered in a summary way in like manner as any penalties under this Act; and if, after the removal of any such annoyances, any person shall again offend in like manner every such person shall, for every such offence, forfeit and pay a penalty not exceeding Five Pounds.

73. And
73. And be it Enacted, That if any person shall make, or cause to be made, any dwelling-house or other buildings, or any hedge or other fence on, or at the sides of any road, now existing or hereafter to be constructed, in such manner as to reduce the breadth or confine the limits thereof; or shall fill up, or obstruct any ditch at the side thereof; or shall make any drain, gutter, sink, or watercourse across, or otherwise break up or injure any such road, or any part thereof; or shall, in any manner whatsoever, obstruct the free use of any such road, every such person so offending shall forfeit and pay, for every such offence, a sum not exceeding Twenty Pounds: And it shall be lawful for the said Commissioners respectively, to cause such dwelling-house or other building, hedge, ditch, or fence, drain, sink, watercourse, gutter, or other encroachment or obstruction to be taken down or filled up, and the expense of taking down, filling up, or clearing such dwelling-house or other building, hedges, ditches, drains, sinks, watercourses, gutters, or other encroachments or obstructions as aforesaid, may be recovered from the person making or causing such obstruction before any two Justices of the Peace in a summary way.

74. And be it Enacted, That if any road is in any manner prejudiced by any tree growing near the same, or if any obstruction is caused to such road, by anything growing or being on adjoining land, it shall be lawful for any two or more Justices to hear and determine, in a summary way, any complaint made on account thereof by, or by the authority of, such Commissioners respectively and if they see fit to make an order for the removal of such tree or other obstruction; and in default of compliance with such order within eight days after a copy thereof shall have been served on the owner or occupier of the land on which such tree or other obstruction may be, or his agent or servant, such owner or occupier shall, on conviction, forfeit and pay a penalty not exceeding Forty Shillings; and such Commissioners, if the order of the said Justices is not complied with, may remove such tree or other obstruction, at the cost of the person who may be so ordered to recover the same.

75. And be it Enacted, That if any person shall ride upon any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot-passengers, or shall lead or drive any horse, ass, mule, swine, or cattle, or carriages of any description, or any wheelbarrow, or truck, or any single wheel of any waggon, cart, or carriage apart therefrom, upon any such footpath or causeway, or shall cause any injury or damage to be done to the same, or shall haul, or draw, or cause to be hauled or drawn upon any part of any road, any timber, stone, or other thing otherwise than upon wheeled carriages, or shall suffer any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages to drag, or trail upon such road, or shall use any instrument whatsoever for the purpose of retarding the descent of any cart or other carriage down any such road
road in such manner as to destroy, injure, or disturb the surface thereof, otherwise than by shoeing, locking, or dragging the wheels, or if any person driving any horse or other beast on any such road, carrying any iron bar, or rod, basket or pannier, or any other matter or thing shall place such bar, rod, basket, or pannier, matter or thing so that the same or any of them shall project more than thirty inches from the side of such horse or other beast, or so as in any manner to impede or obstruct the passage of any person, or any horse, beast, or carriage travelling along such road, or if any person shall make, or assist in making any bonfire, or set fire to, or let off any firework whatsoever within thirty feet of the side of any such road, or shall make any fire upon any such road, or if any person shall leave any carriage upon any such road, or on the side thereof, without any proper person in the sole care or custody thereof, longer than may be necessary to load or unload the same, except in cases of accident, and in cases of accident for a longer time than may be necessary to remove the same, or shall not place such carriage during the time of loading or unloading the same, or of taking refreshment as near to one side of the road as conveniently may be with or without any horse or beast of draught, harnessed, or yoked thereto, or shall lay any timber, stone, hay, straw, dung, manure, lime, soil, ashes, rubbish, broken glass, or other matter or thing whatsoever, upon any such road, or on the side or sides thereof, or the foot-paths or causeways adjoining, to the prejudice of such road or footpaths, or to the prejudice, annoyance, interruption, or personal danger of any person travelling, or shall suffer any water, filth, dirt, or other offensive matter or thing whatsoever to run or flow into, or upon such road, or footpaths from any house, building, erection, lands, or premises adjacent thereto, or if any person shall, after having blocked, or stopped any cart, waggon, or other carriage in going up or going down a hill, or rising ground, cause, or suffer to be, or remain on such road, the stone or other thing with which such cart or other carriage shall have been blocked or stopped, or if any person shall wantonly extinguish the light of any lamp erected or placed in, or near the side of any road, by authority of this Act, every person offending in any of the cases aforesaid, shall for each and every such offence forfeit and pay a penalty not exceeding Five Pounds.

76. And be it Enacted, That if any horse, ass, sheep, swine, or other cattle of any kind shall be found wandering, straying, or lying upon any district road, or by the sides thereof, except on such parts of the said road as pass through any unenclosed ground, it shall be lawful for any person appointed under the authority of such Commissioners respectively to seize and impound every such horse, ass, sheep, swine, or other cattle, and to detain the same until the owner shall pay the sum of Five Shillings to the person impounding the same, for the use of such Commissioners, together with the charges of impounding and keeping the same; and in case the said penalty, charges, and expenses shall not be paid within the time by any Animals suffered to wander about road to be impounded.
any law now or hereafter to be in force, allowed for payment of the costs and charges of impounding such animals, it shall be lawful for the Poundkeeper, in whose Pound such animals, or any of them, shall be impounded, to sell the same, after giving such notice of sale as by any such law as aforesaid is or shall be required, and out of the money arising from such sale, after deducting the said penalty, charges, and expenses of impounding, keeping, and selling any such animals as aforesaid, to pay to the person impounding the same the sum of Five Shillings; and the overplus, if any, to the owner thereof: Provided, that no greater sum than Five Shillings shall be paid to any person so impounding any number of animals under this Act by each owner of such animals.

77. And be it Enacted, That it shall not be lawful for any person to erect, or cause to be erected, after the passing of this Act, within fifty yards of any road, any windmill or steam-engine, unless such windmill or steam-engine shall be within some house or other building, or behind some wall or fence sufficient to secure the same from the road, so that the same may not be dangerous to passengers, horses, or cattle; nor shall it be lawful for any person to make any fire for burning or calcining lime-stone, bricks, clay, or the making of coke or charcoal within the distance of twenty-five yards of any such road, unless the same shall be within some building, or behind some wall or fence, sufficient to screen the same from such road; and in case any person shall offend in any of the cases aforesaid, every such person so offending shall forfeit and pay, for every such offence, a sum not exceeding Five Pounds.

78. And whereas carts, wains, drays, and waggons, are frequently entrusted to the care of children who are unable to guide the animals drawing the same, to the great inconvenience and danger of the public, be it therefore Enacted, That no cart, wain, or waggon, travelling on any road, shall be driven by any person who shall not be of the full age of Thirteen years, under a penalty not exceeding Ten Shillings, to be paid by the owner of such cart, wain, dray, or waggon.

79. And whereas accidents frequently happen by the negligence or wilful misbehaviour of persons driving carriages on the public roads, be it therefore Enacted, That if the driver of any waggon, dray, or cart of any kind, shall ride upon any such carriage on any road, not having some other person on foot or on horseback to guide the same (such light carts as are usually driven with reins, and are conducted by some person holding the reins of the horse, or horses, drawing the same, excepted), or if the driver of any carriage whatsoever upon any road, shall not keep his carriage or other vehicle on the left or near side of the road, or shall, by negligence or wilful misbehaviour, cause any hurt or damage to any person or carriage passing or being on any such road, or wilfully be at such distance
distance from such carriage, or in such a situation whilst it
shall be upon such road that he cannot have the direction and
government of the horses and cattle drawing the same; or if any
person shall wilfully prevent any other person from passing him, or
any carriage under his care, upon such road, or by negligence or
misbehaviour prevent, hinder, or intercept the free passage of any
carriage of Her Majesty's subjects on any road, every such driver
so offending in any of the cases aforesaid, and being convicted of
any such offence, either by his own confession, the view of a
Justice of the Peace, or by the oath of one or more credible
witness or witnesses, shall, for every such offence, forfeit and pay
a penalty not exceeding Forty Shillings, in case such driver shall not
be the owner of such carriage; and in case the offender be the
owner of such carriage, then any sum not exceeding Five Pounds;
and every such driver offending in either of the said cases, and
refusing to discover his name and dwelling-place, or giving a false
description thereof, may, by the authority of this Act, with or
without any warrant, be apprehended by any constable who shall
see such offence committed, and be conveyed before some Justice of
the Peace, to be dealt with according to law; and if any such
driver, in any of the cases aforesaid, shall refuse to discover his
name and dwelling-place, it shall and may be lawful for the Justice,
before whom he shall be taken, or to whom any such complaint shall
be made, to commit him, by warrant under his hand and seal, to any
Gaol or House of Correction, to be kept to hard labour for any
period not exceeding three months, by a description of his person
and the offence only, without adding any name or designation, but
expressing in the proceeding that he refused to discover his name
and dwelling-place.

80. And be it Enacted, That if any person shall obstruct, or
attempt to obstruct, the said Commissioners respectively or any of
them, or any person authorized by them acting in the performance
of any act or thing whatever which such Commissioner or person
is authorized to do or perform under or by virtue of this Act, such
person shall, upon conviction, forfeit and pay, for every such
offence, a penalty not exceeding Fifty Pounds.

81. And be it Enacted, That the Commissioners respectively,
may enter into contracts with any persons for the execution of any
works directed or authorized by this Act, or for furnishing ma-
terials, or for any other things necessary for the purposes hereof,
and every such contract shall be in writing, and shall specify the
work to be done, and the materials to be furnished, and the price to
be paid for the same, and the time or times within which the work
is to be completed, and the penalties to be suffered in case of non-
performance thereof; and every such contract may be executed by the
chairman, in the name, and on behalf, and by direction of such Com-
missioners, and being duly executed by the persons contracting to per-
form the works therein comprised respectively, shall be effectual in
law, and shall be binding on the Commissioners and all other parties
thereeto.
82. Provided always, and be it Enacted, That it shall not be lawful for the said Board to enter into any contracts or agreements for the purposes of this Act, or for any other purpose whatever, exceeding the funds actually at the time at their disposal, or under their control; and that the said Board shall not, by way of mortgage, debentures, or otherwise, borrow, or, from any source anticipate funds in any manner whatever.

83. And be it Enacted, That, before any contract, for the purposes of this Act, to the amount of One Hundred Pounds or upwards, shall be entered into by the Commissioners, ten days' notice, at the least, shall be given in the South Australian Government Gazette, expressing the purpose of such contract, and inviting any person, willing to undertake the same, to make proposals for that purpose to the Commissioners, and the Commissioners shall accept the proposal which, upon a view of all the circumstances, shall appear to them to be most advantageous, and shall take security for the due and faithful performance of every such contract.

84. And be it Enacted, That the Commissioners respectively may compound with any party who has entered into any such contract, or against whom any action or suit has been brought for any penalty contained in any such contract, or in any bond or other security for the performance thereof, or on account of any breach or non-performance of any such contract, bond, or security, for such sums of money or other recompense as the Commissioners may think proper.

85. And be it Enacted, That the said Board shall and may, previously to the usual period when the annual public Estimates are submitted by the Governor to the Local Legislature, make application, for such amounts as the said Board may deem to be requisite, in furtherance of the purposes of this Act, setting forth the manner, extent, and locality of the proposed expenditure.

86. And be it Enacted, That the said Board shall cause to be kept true and regular accounts of all sums of money received and paid for and on account of this Act, and of the several purposes for which such sums of money shall have been received and paid, which accounts shall, at all reasonable times, be open to the inspection of every member of the said Board, and also to the Governor, and any person authorized by him; which accounts shall be balanced once at least in every year, and such accounts, when so balanced, shall be audited by the Auditor-General of the said Province, and being so audited, shall be produced at the annual meeting of the said Board, or at some adjournment thereof.
87. And be it Enacted, That the said Board shall, every year, cause an annual account in abstract to be prepared, showing the total receipt and expenditure of all funds received by virtue of this Act, for the year ending on the day down to which their accounts shall have been made up as aforesaid, under the several district heads of Receipt and Expenditure, with a statement of the balance of such account, duly audited and certified by the chairman of the said Board, and also by the Auditor-General and shall send a copy of the said account to the Colonial Secretary, within one month after the same has been duly audited, which account shall be open to the inspection of the public, at all reasonable hours.

88. And be it Enacted, That if any person entrusted with the receipt or disposal of money under this Act, shall fraudulently dispose of, or retain in his own possession, or apply to his own use any money with the receipt or disposal of which he shall have been so entrusted as aforesaid, such person shall be deemed and taken to have stolen the same, and shall be guilty of larceny.

89. And be it Enacted, That no Commissioner being a party to, or executing in his capacity of Commissioner, any contract or other instrument on behalf of the Commissioners, or otherwise lawfully executing any of the powers given to the Commissioners, shall be subject to be sued or prosecuted, by any person whomsoever; and the bodies, or goods, or lands of the several Commissioners, shall not be liable to execution of any legal process by reason of any contract or other instrument entered into, signed, or executed by them, or by reason of any other lawful act done by them in the execution of any of their powers as Commissioners; and the Commissioners respectively, their Heirs, Executors, and Administrators, shall be indemnified out of the rates and other moneys coming to the hands of the Commissioners applicable to the purposes of this Act, for all payments made, or liability incurred, in respect of any acts done by them, and of all losses, costs, and damages which they may incur in the execution of the powers granted to them.

90. And be it Enacted, That in all actions and suits in respect of any matter or thing relating to the execution of this Act, to be brought by or against the said Board it shall be sufficient to state the name of the chairman, or clerk of such Board respectively, as the party, plaintiff, or defendant representing the Board in any such action or suit; and no such action or suit shall abate or be discontinued, or require to be transferred, by reason of the death of any such chairman, or by his ceasing to be chairman or Commissioner, or by the death, suspension, or removal of such clerk.

91. And be it Enacted, That execution upon every judgment or decree against the said Board in any such action or suit, shall be
be levied on the goods, chattels, or personal effects belonging to
the Commissioners by virtue of their office, and shall not in any
manner extend to charge or make liable the person or private lands
or goods of any of the Commissioners, or the heirs, executors, or
administrators of any of them.

92. And be it Enacted, That every Chairman, or clerk, in
whose name any such legal proceeding shall be carried on, either as
plaintiff or defendant, on behalf of the said Board, shall be
reimbursed out of the moneys which shall be payable under this
Act, all damages, costs, charges, and expenses, to which any such
Chairman or clerk may be put, or with which he may become
chargeable by reason of being so made plaintiff or defendant.

93. And be it Enacted, That the said Board may prefer a
bill of indictment against any person who shall steal or wilfully
injure any property or thing belonging to such Board, or
under their management, or institute any other proceeding which
may appear to them necessary for the protection of such property,
and in every such case, it shall be sufficient to state generally the
property or thing in respect of which such proceeding shall have
been taken, to be the property of the said Board.

94. And be it Enacted, That any summons or notice, or any
writ or other proceeding at law or in equity, requiring to be served
upon the Commissioners, may be served by the same being left at
or sent through the Post Office, directed to the Commissioners, at
their principal office, or usual place of meeting, or by being given
personally to the clerk, or in case there be no clerk, then by being
given to any one Commissioner.

95. And be it Enacted, That every order, summons, notice, or
other such document requiring authentication by the Commissioners,
shall be sufficiently authenticated if signed by the Chairman, or
by the clerk of the Commissioners, and the same may be in writing
or in print, or partly in writing and partly in print.

96. And be it Enacted, That with respect to the proof of debts
in bankruptcy or insolvency, if any person against whom the
Commissioners have any claim or demand become bankrupt, or
insolvent, according to the provisions of any Ordinance relating
to insolvents, the clerk or other officer in that behalf appointed by
the Commissioners, in all proceedings against the estates of such
bankrupt or insolvent, or under any fiat or act of insolvency
against such bankrupt or insolvent, may represent the Commis-
ioners, and act in their behalf, in all respects as if such claim or
demand had been the claim or demand of such clerk or officer, and
not of the Commissioners.

97. And be it Enacted, That no conviction, order, warrant, or
other proceeding, which shall be made, or shall purport to be
made,
made, by virtue, or in pursuance, or in execution of this Act, shall be quashed, or deemed to be void, or voidable for want of form, or be impeached or affected by reason of any mistake, defect, or omission therein, provided the person or property charged or intended to be charged or affected by any such proceeding, be designated therein to common intent and understanding, and such proceeding be in substance and effect in conformity with, or according to the intent and meaning of the said Act.

98. And be it Enacted, That nothing in this Act shall be deemed to extend to or affect any law relative to the revenue of the Crown, or any claim of Her Majesty in right of her Crown, or otherwise howsoever, or any proceedings at law or in equity by or on behalf of Her Majesty.

99. And be it Enacted, That all proceedings under this Act, in so far as not otherwise expressly provided, may be had and taken, and all summonses to parties and witnesses, and warrants (where necessary) for enforcing the same, may be issued and served or executed respectively, and all fines imposed, and all sums of money ordered to be paid, may be recovered before any one Justice; and every person feeling aggrieved by the imposition of any such fine or by any conviction under this Act, shall be entitled to appeal therefrom in manner and form, and on the terms respectively which are prescribed by the laws of the Province in force for the time being, for regulating summary proceedings before Justices of the Peace.

100. And be it Enacted, That when information or complaint shall be made before any Justice of the Peace, against the driver of any carriage, for any offence committed by him against the provisions of this Act, such Justice may forthwith summon the proprietor of such carriage personally to appear, and to produce the driver of such carriage, to answer such information or complaint; and if such proprietor, being duly summoned, shall neglect or refuse personally to appear, or to produce such driver according to such summons, such proprietor shall forfeit Forty Shillings, until such driver be produced: Provided always, that if such proprietor shall neglect or refuse to appear and produce such driver, on the second or any subsequent summons requiring him so to do, without reasonable excuse to be allowed as aforesaid, it shall be lawful for such Justices to proceed to hear and determine the said information or complaint, in the absence of the said proprietor and driver, or either of them, and upon proof of such offence, by the oath of one or more credible witness or witnesses, to give judgment against the proprietor for the penalty incurred by reason of such offence.

101. And be it Enacted, That all pecuniary penalties and costs incurred by reason of any offence committed by the driver of any carriage against the provisions of this Act, shall, unless such driver shall pay the same, be recovered from the proprietor of such
such carriage in a summary way, before any one or more Justices of the Peace, according to the laws for regulating proceedings before Justices.

102. And be it Enacted, That every such proprietor who shall pay any penalty or costs incurred by reason of any such offence as aforesaid, committed by such driver, shall be entitled to deduct the amount of such penalty and costs from any wages then due to such driver; or if no such wages be due, recover the same from such driver in a summary manner, and upon complaint made in the premises before any Justice of the Peace, by the said proprietor against the said driver, such Justice shall inquire into the same, and shall cause the sum which shall appear to have been so paid as aforesaid by the said proprietor, to be levied by distress and sale of the goods of the said driver; and for want of sufficient distress, such Justice shall commit the said driver to the common Gaol or House of Correction, there to remain for any time not exceeding two calendar months, unless the owner shall be sooner paid; and every such imprisonment shall be with or without hard labor, as such Justice shall direct: Provided always, that if the said driver shall have been previously convicted of the offence for which the said penalty or costs shall be as aforesaid paid by the said proprietor, then such proceedings shall be had and taken against the said driver, upon such conviction for recovery of the penalty and costs in which he shall have been convicted, as might have been had and taken thereon, in case the said penalty or costs had not been paid by the said proprietor, and upon recovery thereof, the sum so paid by such proprietor shall be repaid to him.

103. And be it Enacted, That in case of any dispute between the proprietor of any carriage and the driver thereof, then, upon complaint made before any Justice of the Peace by such proprietor against such driver, or by such driver against such proprietor, such Justice shall inquire into and determine the same, and shall award and order such compensation to be made to either party, as to such Justice shall seem proper; to be recovered in a summary way according to the laws for regulating proceedings before Justices.

104. And be it Enacted, That all fines, penalties, and sums of money had and received under this Act, shall be paid, one half to the informant or complainant, and one half to the Colonial Treasurer, on behalf of Her Majesty, her heirs, and successors, for the public uses of the said Province, unless such information or complaint shall be laid at the instance, or by the direction of, any District Council, when the whole amount of such fines, penalties, and moneys received, shall be paid to such District Council, in aid of the funds thereof.

105. And for the protection of persons acting in the execution of this Act, be it Enacted, That all actions and prosecutions to be
be commenced against any person for anything done in pursuance of this Act, shall be commenced within two calendar months after the fact was committed, and not otherwise, and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of such action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, together with the costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited, or discontinue any such action on issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same, as any defendant hath by law in other cases.

106. And be it Enacted, That in the construction of this Act, unless there be something repugnant, the words “Roads” and “Road” respectively shall be taken to mean and include “Main Roads” and “District Roads,” and the word “Board” shall be taken to mean the “Central Board of Main Roads,” and the word “Commissioners” shall be taken to mean and include the “Central Board of Main Roads,” and all District Councils according to the subject, matter, and context, respectively.

107. And be it Enacted, That this Act shall commence and take effect from and after the first day of February next.

JOHN MORPHETT, Speaker.

Passed the Legislative Council this eighteenth day of November, one thousand eight hundred and fifty-two.

F. C. SINGLETON,
Clerk of Legislative Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,
Lieutenant-Governor.

Government House, Adelaide,
25th November, 1852.