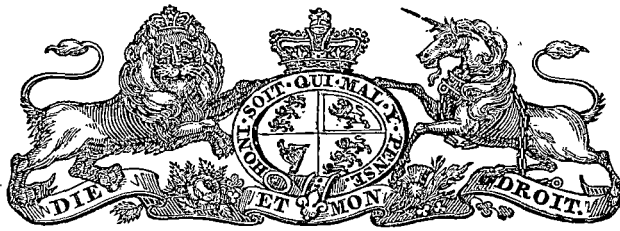


(No. 94.)



1865.

T A S M A N I A.

CROSS AND BYE ROADS BILL.

REPORT OF THE SELECT COMMITTEE.

Presented by Mr. Balfe, and ordered by the House to be printed, September 14,
1865.



THE SELECT COMMITTEE appointed to enquire into the working of the CROSS AND BYE ROADS ACT have the honor to bring up the following

R E P O R T.

1. YOUR Committee have carefully examined both the existing Law, and the Draft Bill submitted to the House this Session by the Honorable the Attorney-General.

2. In the latter they suggest as desirable certain alterations and additions which will be found embodied in the Amended Draft Bill they attach to this Report.

3. In the existing Law they recommend the adoption of the following modifications and amendments:—

First.—They propose to give owners of land the power of entering upon private lands for the purpose of defining Roads where Crown Lands have been sold at the back of other lands without any Roads having been previously defined; subject to the restriction, however, that not more than two such Roads shall be defined through any one property.

Secondly.—Whenever a claim for compensation is preferred for lands taken or set aside for this purpose, the Government shall be liable to render compensation under the Arbitration Clauses of “The Lands Clauses Act.”

Thirdly.—In all cases where there are no Road Trusts in existence the Governor shall appoint a Board, to have and exercise all the powers of Road Trusts with regard to defining such Roads.

Fourthly.—Where Lands necessary for defining such Roads are fenced in, the applicant for any Road or Roads to be defined shall erect and keep in repair all necessary swing-gates.

Fifthly.—It shall not be necessary to fence both sides of the Road where the Road passes through Pastoral Land only.

Sixthly.—Auditors to Road Trusts shall be elected by the Ratepayers; and the Accounts of the Road Trustees published once in the Government *Gazette*, and once in the Government Contracting Newspaper published nearest to the Road District.

Seventhly.—Whenever a Special Rate has been levied upon any Assessment Roll, it shall continue to be levied upon such Roll in all cases where the amount of the Roll of the day is less than the amount of the Roll when the Rate was first levied.

Eighthly.—Section 118 of “The Cross and Bye Roads Act” will require to be altered, so as to provide for all Elections under the Act taking place in future in the month of June of each year.

Your Committee further recommend that the Honorable the Attorney-General be instructed to introduce such Clauses as will give legal effect to these propositions, into either “The Cross and Bye Roads Act Amendment Bill, or into “The Waste Lands Act Amendment Bill.”

J. D. BALFE.

Committee Room, 14 September, 1865.

Amended Draft. (September, 1865.)

T A S M A N I A.



1865.

No. 13.

A BILL to amend *The Cross and Bye Roads Act, 1860.*

WHEREAS it is expedient to amend *The Cross and Bye Roads Act, 1860*: Be it therefore 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:—

<p>1 Whenever any portion of the Colony is hereafter proclaimed by the Governor in Council as and to be a Road District for the purposes of <i>The Cross and Bye Roads Act, 1860</i>, the Governor shall, in such proclamation, direct that, at a time and place therein named, there shall</p> <p>10 be held within the said District a Meeting of the Landholders of such District for the purpose of electing from amongst the Landholders of such District Five or Seven persons as and to be Trustees of such Road District for the purposes of the said Act; and every Landholder present at any such Meeting is hereby empowered to</p> <p>15 give, and shall if he votes give, the number of votes to which he is entitled to any number of persons not exceeding the number of Trustees then to be elected; and every such election of Trustees shall be finished in One day without any adjournment whatsoever; and the number of Trustees so elected at such election shall thence-</p> <p>20 forward be the number of Trustees for such District, and such Trustees shall go out of office by rotation as hereinafter provided.</p>	<p>PREAMBLE.</p> <p>24 Vict. No. 7.</p> <p>Proclamation of Road District to direct when first Meeting for election of Trustees to be held.</p> <p>Number of Trustees elected at first election to be the number of Trustees of such District thenceforth.</p>
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Trustees to retire.
Election of new
Trustees.

2 On the first *Thursday* in the month of *June*, 1866, the Trustees of every Road District shall retire from office, and on the day previously an election of Trustees shall be had in manner hereinbefore provided.

Annual election
of Trustees.

3 On the first *Thursday* in the month of *June* in every succeeding year certain of the Trustees of every Road District shall retire in 5 manner hereinbefore provided, Two out of the Trustees when the whole number is Five, and Three of the Trustees when the whole number is Seven, who have been longest in office without re-election; and in case more than Two, when the whole number is Five, and more than Three when the whole number is Seven, have been an 10 equal period of office without re-election, it shall be determined by lot amongst themselves which of such Trustees, being Two when the whole number is Five, and Three when the whole number is Seven, shall retire; and in case no election of Trustees is held in any year 15 at the time aforesaid, the Trustees in office for the preceding year shall continue in office until the first *Wednesday* in the month of *June* in the succeeding year, or until the election of new Trustees, and so from time to time.

Place of meeting
for election of
Trustees.

4 The Trustees of every Road District shall fix the place for the Annual Meeting of Landholders for the election of Trustees by notice 20 published in the *Gazette*, and at least Twice, with an interval of Seven days between each publication, in a public Newspaper published nearest to the place in which the Meeting is to be held; the first publication of such notice to be Twenty-one days at least before the day of holding 25 the Meeting.

Time prescribed
for election may
be extended.

5 In case the Trustees of any Road District neglect or omit to fix the place of Meeting of Landholders for the election of Trustees, or in case any such Meeting is not held in any District on the day hereinbefore fixed for that purpose, the Governor in Council may, if he thinks fit, extend the time for the election of Trustees in such Road District to 30 any day before the First day of _____ in any year.

Mode of election
of Trustees at
annual Meeting.

6 It shall be lawful for the Landholders present at the Annual Meeting of Landholders for the election of Trustees to elect from amongst the Landholders of the Road District some number to be orally nominated for election, not being more than the number 35 of Trustees then to be elected, as and to be Trustees of such Road District for the purposes of *The Cross and Bye Roads Act*, 1860; and every Landholder present at any such Meeting is hereby empowered to give, and shall if he votes give, the number of votes to which he is entitled to any number of persons not exceeding the num- 40 ber of Trustees then to be elected; and every such Election of Trustees shall be finished in One day without any adjournment whatsoever.

Existing Trustees
continued in
office.

7 All Trustees elected or appointed under *The Cross and Bye Roads Act*, 1860, and in office when this Act comes into operation, shall continue in office until the first *Thursday* in *June*, 1866. 45

Notice of election
to be given to
persons elected.

8 The Chairman presiding at the Meeting for the Election of Trustees shall fix a reasonable time for receiving Nominations for Trustees and closing the Poll, if any, for the Election, and shall forthwith, after the election of Trustees, cause a notice in writing of his election to be served personally on each Trustee elected, or sent 50 to him by Post.

9 Trustees appointed under the provisions of Section 26 of *The Cross and Bye Roads Act, 1860*, shall be subject to the same liabilities and penalties as Trustees elected under the provisions of the said Act or this Act. Liability of Trustees appointed under 24 Vict. No. 7, Sect. 26.

10 The Trustees of every Road District shall, at their first Meeting held after the first election held under this Act, and at their first Meeting held after each annual election, by the majority of the votes of the Trustees present elect one of their body to be Chairman for the ensuing year, and such Chairman shall preside at all Meetings of the Trustees at which he is present; and if such Chairman cease, for any cause other than the retirement of Trustees in rotation, to be a Trustee, he shall be incapable of being or continuing Chairman; and in case the Chairman die, or by writing under his hand delivered to the Trustees at any Meeting of Trustees resign his office, or as aforesaid cease to be a Trustee, the Trustees present at the Meeting next after the occurrence of such vacancy, or at any Meeting before there shall as yet have been a Chairman, shall choose some one of their body to be Chairman, and the Chairman so elected shall continue in office until the next Annual Meeting for the election of Trustees; and if at any Meeting of Trustees the Chairman be not present, one of the Trustees present shall be elected Chairman of such Meeting by the majority of the votes of the Trustees present thereat. Election of Chairman of Trustees.

11 At all Meetings of Trustees all the Trustees present shall vote save where it is herein otherwise provided, and the questions there considered shall be decided by open voting and by the majority present; and if there be an equal division of votes upon any question the Chairman at such Meeting shall, in addition to his own vote as Trustee, 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 Trustees having an equal number of votes shall be the Chairman. When Chairman to give a casting vote.
When election of Chairman to be by lot.

12 No Trustee shall vote upon or take part in the discussion of any matter in which such Trustee directly or indirectly, by himself or his partners, has any pecuniary interest; and any Trustee who knowingly offends against this Section shall, on conviction, forfeit and pay for every such offence a sum not exceeding Fifty Pounds. Trustee not to vote where he is pecuniarily interested.

13 When any Road is separated from the adjoining land by any furze, gorse, or other hedge, the occupier of such land shall prevent such hedge, or any suckers, seedlings, or growth therefrom, from encroaching upon such Road in such manner as to reduce the breadth or confine the limits thereof. Hedges to be cut by occupiers of adjoining lands.

14 In case the Occupier of any such land, after notice served upon him or left at his usual place of abode requiring him so to do, fails or neglects to remove within a reasonable time any such hedge, seedlings, suckers, and growth, so far as the same encroach or grow upon any Road, then it shall be lawful for the Trustees to cause such hedge, seedlings, suckers, and growth, so far as the same encroach or grow upon any Road, to be cut and removed; and it shall be lawful for any Two Justices, upon proof thereof upon oath to them made, to levy the expenses of cutting or removing such hedge, seedlings, suckers, and growth as aforesaid by distress and sale of the offender's goods and chattels, rendering the overplus, if any, to such offender on demand. Trustees may cause hedge to be cut.

Materials may be taken upon 7 days' notice.

15 The period of Twenty-one days notice, required by Section 35 of the *Cross and Bye Roads Act*, 1860, to be given to the owner or occupier of land before materials can be removed from such land for any of the purposes in the said Section mentioned, is hereby reduced to a period of Seven days.

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Notice to be given to persons before being awarded to pay for Bye Road.

16 The Arbitrators or Umpire, acting under the provisions of Section 102 of the said Act, shall not include in their or his award the name of any person, Attorney or Agent, as being interested in the construction of any Bye Road unless such person, Attorney or Agent, has had notice to appear, and the opportunity afforded him of being heard 10 before such Arbitrators or Umpire before their or his award has been made.

Repeal.

17 Sections 8, 16, and 18 of *The Cross and Bye Roads Act*, 1860, are hereby repealed: Provided that such repeal shall not affect any thing duly done before this Act commences and takes effect.

15

Acts to be read together.

18 This Act and the said recited Act, except in so far as the same is altered by this Act, shall be read and construed together as one and the same Act.

Short title.

19 In referring to this Act it shall be sufficient to use the expression *The Cross and Bye Roads Act*, 1865.

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