



WESTERN AUSTRALIA.

ANNO TRICESIMO QUARTO

VICTORIÆ REGINÆ.

No. XXVI.

AN ACT to establish Local Boards for the conservation, improvement, and making of Roads in the several Districts of the Colony.

[17th January, 1871.]

WHEREAS it is expedient that the inhabitants of the country districts should be empowered to construct and keep in repair the roads and bridges in their respective districts, and that all sums of money devoted to that purpose from the general revenue of the colony or otherwise should as far as practicable be expended under local authority and supervision; And whereas it may be necessary that such sums of money should be supplemented by local rates, and it is desirable that such rates should be raised and expended under the authority of district boards, by and with the consent of the inhabitants of such districts as expressed by their representatives elected to such boards: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof:—

Preamble.

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Local Road Boards.

- Short Title. **1** THIS Act may be cited for all purposes as “The District Roads Act, 1871.”
- Interpretation of terms. **2** IN the construction of this Act (if not inconsistent with the subject matter) the following terms shall have the respective meanings hereinafter assigned to them ; that is to say :—
- District. “District” shall mean any locality from time to time designated and defined as such for the purposes of this Act by notice in the *Government Gazette* under the authority of the Governor, and, in the absence of such specially defined locality, the term “District” shall mean any district generally known as a Resident Magistrate’s or Police Magistrate’s district.
- Rateable Property. “Rateable Property” shall extend to and comprise all buildings, lands, tenements, and hereditaments, but the following, namely: All such property situate in any city or town where there exists a City or Town Council, or Town Trust; waste lands of the Crown in the possession of the Crown; land the property of the Crown and used for any public purpose; Churches, Chapels, Cemeteries; places for the worship of Almighty God; public schools, or schools deriving aid from Government; public buildings and lands appropriated and held upon trust for any religious, charitable, or public purpose, or reserved or set apart for the benefit of the aborigines.
- Ratepayer. “Rate-payer” shall mean the occupier of rateable property, and the owner of unoccupied rateable property.
- Road. “Road” shall mean any main or minor road, notified as such in the *Government Gazette*.
- Public notices, how to be given. **3** WHENEVER public notice is by this Act required to be given, it shall, unless otherwise provided for, be so given by advertisement in the *Government Gazette*, and by posting the said notice on some conspicuous part of the Resident Magistrate’s and Police Offices of the district.
- Local boards consisting of seven to be elected. **4** THERE shall be a local board in each district, which board shall consist of seven persons to be elected as hereinafter provided, one of whom shall be chairman; and any three of such Board shall constitute a quorum for the transaction of business.
- Duties and powers of Boards. **5** THE conservation, improvement, and making of all roads, and the erection, preservation, and repairs of new or existing bridges within

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within the district shall be vested in the said board, and the said board is hereby expressly empowered from time to time to alter, extend, macadamize, or otherwise improve, repair, and keep in good order and condition all and every the existing roads and bridges, and to make new roads and bridges within the district by and with all such moneys, means, and other resources, as they may possess, or can lawfully command from time to time under or by virtue of this Act, and also to use and employ all such convict or other prisoners' labor, materials, implements, and things whatsoever as the Governor shall from time to time authorize or sanction. And the board is hereby further empowered to make or cause to be made, in manner aforesaid, all such proper drains and water courses along or under the roads and thoroughfares, and again to remove and alter the same as occasion shall and may require, and to place bars and other fences across or along the said roads, bridges, and thoroughfares when under or preparatory to their alteration or repair, and to erect posts or railings, and suspend chains, and generally to do and make, or cause to be done and made, all acts and things whatsoever that may be necessary and proper for accomplishing the several purposes aforesaid. Provided, nevertheless, that the Governor shall and may at any time interpose and prohibit any work which, in the opinion of the Governor in Council, is deemed injuriously to affect any main line of road. And provided, further, that nothing herein contained shall in any way be construed to prevent or preclude the action of the Government in matters relating to the main lines of road throughout the Colony.

6 ON a day to be fixed by the Governor in Council for each district, and to be published in the *Government Gazette*, an election of the Board shall be held, at which the rate-payers within the district shall elect seven persons as and to be members of such Board, who shall enter on office on election.

First election of members of Board.

7 SHOULD the ratepayers in any district refuse or neglect to elect a Board; or, having elected a Board, should such Board neglect to keep in repair any portion of a main line of road within the district, or in compliance with a petition from two thirds of the rate-payers, the Governor in any such event is hereby empowered, on the publication of an order in Council to such effect, to assume and to exercise all the powers and functions of a Board for such district.

On neglect of electors or of the Board or on petition of ratepayers Government to exercise powers of Board.

8 THE Governor shall appoint the returning officer at the first election of members of any Board; and at every subsequent election the chairman of the Board shall be the returning officer.

Returning Officer

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Three members to go out of office every year.

9 ON the last Friday in December in every year succeeding the first election of the members of a Board, three members shall go out of office by rotation, and on the preceding day an election shall be held to supply their places, and the persons elected shall assume office on their predecessors going out of office. Provided, that if the first election of members takes place after June in any year, the next election shall not take place till December in the year next after the year of such first election: and the members first elected shall continue in office till that period.

Rotation in which members to retire.

10 THE members of each board shall go out of office in the following order; that is to say, the three members who had the least number of votes at the first election shall be the first three to go out of office: the three members who had the next smallest number of votes at the first election shall be the next three to go out of office; and afterwards the members to go out of office shall always be the three who have been longest in office without re-election, and in cases where two or more members are elected on the same day, as between themselves, those having the smallest number of votes at such election shall be deemed the longest in office for the purpose of retiring by rotation.

On equality of votes, or election without Poll, rotation to be determined by lot.

11 IN case at any election of members two or more are elected by an equality of votes, or the election is had without a Poll, it shall be determined by lot in what rotation, as between themselves, such members having an equality of votes shall retire by threes as aforesaid, as the case may be; and in such case, the members shall retire according to the rotation so determined.

What electors entitled to vote.

12 ALL ratepayers shall be entitled to vote in the election of members of the Board if they have paid all rates payable to the Board up to the day of election, and not otherwise.

Number of votes to which each elector is entitled.

13 EVERY elector shall have a number of votes proportionate to the annual value, as ascertained by the valuation roll, of the property within the district owned or occupied by him, according to the following scale:—

Annual value of property—	Number of votes.
Five Pounds and under Ten Pounds	... One
Ten Pounds and under Twenty-five Pounds	Two
Twenty-five Pounds and under Fifty Pounds	... Three
Fifty Pounds and upwards	... Four

And

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And every elector entitled to such vote or votes as aforesaid is hereby empowered to give, and shall if he votes give, the number of votes to which he is so entitled to any number of persons not exceeding the number of members to be elected.

14 WHERE any property within the district is jointly owned or occupied by more persons than one, each of such joint owners or occupants, if the annual value of such property is of an amount which, when divided by the number of such joint owners or occupants, gives for each owner or occupant a sum not less than the sum which would entitle such person to be an elector if he owned or occupied separately, shall, subject to the conditions hereinbefore contained, be an elector, and entitled to vote as such, in respect of the property so jointly owned or occupied; and if the value of such property is not of such an amount as to be so divisible as aforesaid, then only such one of such joint owners or occupants shall be an elector, and entitled to vote as such in respect of the said property so jointly owned or occupied, as is for that purpose deputed in writing by the other or others of such joint owners or occupiers.

Joint proprietorship or occupation.

15 SO soon after the first and every annual election of members of such Board as conveniently may be, the members shall choose and appoint, in such manner as they may deem expedient, some one from among themselves to be chairman, who shall go out of office on the determination of the next annual election of members.

Members of board to choose chairman.

16 IF any extraordinary vacancy occurs in the office of member the electors shall, upon a day to be fixed by the chairman of such Board, and of which the chairman shall give due public notice, elect another member to supply such vacancy.

Extraordinary vacancy in office of member of Board.

17 IN case any extraordinary vacancy occurs in the office of chairman, the members of the Board shall choose and appoint, out of their own body, another person to be chairman for the remainder of the then current year.

Extraordinary vacancy in office of chairman.

18 AT all extraordinary elections of a member of the Board, the course of proceeding shall be the same, as near as may be, as is herein directed to be followed at an ordinary election.

Proceedings in cases of vacancy.

19 ANY chairman chosen or appointed or any member of the Board elected to supply a vacancy shall go out of office at the time when his predecessor would have gone out of office in case no such vacancy had occurred.

When chairman &c, elected to supply a vacancy, is to go out of office.

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- Chairman &c., eligible for re-election. **20** ANY chairman or member of the Board going out of office shall be eligible for re-election.
- Chairman being a candidate for re-election **21** IN case at any election of members the chairman is one of the members going out of office and is nominated for re-election, the Board shall appoint one of their own body to hold such election, who for such purpose shall have the powers and duties by this Act conferred and imposed on the chairman.
- Retiring chairman &c., to hold office until successor enters on office. **22** NOTWITHSTANDING anything to the contrary contained in this Act, every chairman and every member of the Board shall continue in office until his successor enters on office.
- Acts of Board to be valid notwithstanding defect in election. **23** ALL acts and proceedings of the Board, or of any person in possession of the office of chairman or member, and acting as such, shall, notwithstanding it is afterwards discovered that there was some defect in the election of the said Board, or of any such person, be as valid and effectual as if the said board or such person had been duly elected.
- Irregularity in elections. **24** IN case no election is had of a chairman, or of any member of the Board, upon the day or within the time provided for such election, or if in case of any such election being had the same is or afterwards becomes void, the Board in the one case, and the electors in the other, shall not thereby be disabled from electing such chairman or member for the future; but in any such case the election shall be had as in case of an extraordinary vacancy; and every act necessary to be done in order to and for the completing such election shall and may be done, and shall be as valid and effectual for all purposes as if the election had been upon the day or within the time appointed for that purpose.
- Division of roads into classes. Main and Minor roads. **25** FOR the purposes of this Act the roads of this Colony shall be divided into classes, to be called Main and Minor Roads. The Local Boards shall, within three months after the first election, recommend for the approval of the Governor what lines of road in their respective districts shall be classed as Main and Minor Roads; And the Governor, after approval of such recommendation, shall cause the same to be publicly notified in the *Government Gazette*.
- Persons desiring to fence or place a gate across any main or minor road to apply to Local Board. **26** ANY person desiring to fence or place a gate across any Main or Minor Road shall apply to the Local Board of the district in which such road is situated for permission so to do, and shall also insert in three consecutive numbers of the *Government Gazette* that
that

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that he has done so, and shall in such application and notices give full particulars of the locality where he desires to place such fence or gate. And the Local Board to whom such application is made may, after the expiration of one month subsequent to the receipt of such application, recommend for the approval of the Governor such application; and the Governor may signify to the Local Board his approval or disapproval thereof. Provided, always, that any person who shall fence or place a gate across any Main or Minor Road without leave first obtained as above, shall, on conviction thereof before any one or more Justices of the Peace, be liable for each offence to a penalty not exceeding Five pounds; and any such person who refuses to remove such fence or gate when directed so to do by the Local Board, shall be liable to a further penalty of Five pounds, to be recovered as aforesaid. Provided, also, that the Local Board may cause any obstruction on any such roads to be removed, and to recover the costs and expenses of such removal from the person or persons causing such obstruction.

27 ANY gate to be placed across a Main or Minor Road shall be of such a description as shall meet the approval of the Local Board; And any gate so placed across such road or roads shall be kept in good repair by the person or persons to whom leave has been granted to place such gates as aforesaid; And in default thereof, such person or persons, on conviction before one or more Justices of the Peace, shall for each offence be liable to a penalty not exceeding Five pounds. And any person or persons leaving open any such gate or gates shall be liable, on conviction thereof, to a penalty not exceeding Ten pounds, to be recovered as above.

Description and repair of gates and leaving of gates open.

28 ANY person occupying land who may desire to block up or close any Main or Minor Road shall apply to the Local Board in his district for permission to do so, and shall give three months' notice of such application by publication in the *Government Gazette*, and shall further cause notice of the same to be affixed to the Court House door, police station, or other conspicuous place in such district; and the Local Board may, after the expiration of three months subsequent to the receipt of such application, take the same into consideration, and may recommend such application for the approval of the Governor.

Applications to block up or close any main or minor road to be made to Local Board.

29 IT shall be lawful for the Board of each district at yearly, half yearly, or such other periods as to the said Board may seem necessary, to make and levy rates upon the annual value of all rateable property within the district, to be paid for the several purposes
in

Board to rate property at yearly or other periods, and with sanction of the Government to erect tolls, &c.

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Annual rate not to exceed
1s. in the pound.

in this Act contained. And further, with the sanction of the Governor first obtained, to erect toll gates and levy tolls on any of the roads within the district. Provided that it shall be lawful for the Board to make and levy separate rates for any of such purposes as aforesaid, or one general rate for all or any of such purposes; Provided, also, that such rates so to be made and levied shall not in any case collectively or separately exceed the sum of one shilling in the pound in any one year upon the annual value of the property within the district.

Board to meet from time to
time and keep minutes of
proceedings books accounts
&c.

30 THE Board shall meet from time to time for the transaction of business on notice of each meeting being given to the several members of such Board, and shall cause minutes of their proceedings to be duly entered in books to be kept for such purpose. And shall further keep all proper books and accounts of their receipts and disbursements under the provisions of this Act; and in the absence of the Chairman at any such meeting for the transaction of business, the members present at such meeting shall, by plurality of voices, nominate one of the members present to preside at such meeting. Provided always that there shall be quarterly meetings in every year, at which the Board shall assemble for the transaction of general business, and no notice shall need to be given of the business to be transacted on such quarterly days; and the said quarterly meetings shall be held at noon on the first Monday in each of the months of March, June, September, and December. No member of the Board shall in any way be interested or concerned in any contract, otherwise than as a member of such Board.

Auditors of accounts.

31 ONCE at the least in every year the accounts of the Board shall be examined and the correctness of the balance sheet ascertained by two or more Auditors, one of whom shall be the Resident Magistrate of the District, and the other or others shall be appointed by the ratepayers in general meeting, subject, however, to the approval of the Governor. Should the ratepayers neglect or refuse to appoint an auditor or auditors, the appointment shall be made by the Board, subject as aforesaid to the approval of the Governor.

Valuation to be made and
open for inspection.

32 FOR the purposes of this Act the Board shall proceed to make an estimate of the net annual value of all Rateable property within the district, and shall compile a valuation roll, which roll, and all books and accounts of receipts and expenditure, shall be open for the inspection of all ratepayers in the district. And it shall be competent for and the Board is hereby required from time to time to make all necessary alterations and amendments in such valuation roll, giving due notice of all such corrections.

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33 UPON the making of any rate which the Board of any district is by law empowered to make, a public notice, signed by the chairman and not less than two other members of the Board, specifying the amount in the pound of the rate, the purpose and period for which the same is made, and at what times the same is made, and at what times the same is payable, shall be duly published; and upon any such notice being so published, the rate therein mentioned shall be payable and paid at the times specified in such notice by the persons liable to pay the same, according to the annual value of the property within the district, as shown by the valuation roll; and it shall not be necessary in any such notice to set forth the names of the persons liable to the payment of the rate, or the sums which, according to such rate, such persons are liable to pay, or any other particulars than hereinbefore in that behalf mentioned.

Upon making rate, notice to be given.

34 ALL such rates shall be payable in advance, at such periods as the Board of the district from time to time appoints.

Rate to be payable in advance.

35 ALL such rates shall be paid by the persons liable to pay the same to the Board; and in case any such person neglects or refuses to pay the amount of any such rate for which he is liable, for the space of twenty-one days after the same has been demanded, either personally or in writing, by any collector of rates appointed by the said Board, it shall be lawful for the chairman, and he is hereby authorized and empowered, by warrant under his hand, to distrain the goods and chattels of such person, whether the same are on the property in respect of which the rate is payable or elsewhere, and to cause such goods and chattels when distrained to be sold, and out of the moneys to arise by such sale to pay all costs, charges, and expenses attendant upon such distress and sale, and in the next place to pay over the amount of the rate for which such distress and sale are made, and to pay over the surplus, if any, to the person whose goods and chattels have been so distrained and sold as aforesaid on demand.

Rates leviable by distress.

36 ALL goods and chattels whatsoever found upon the property in respect of which any such rate is payable, to whomsoever the same may belong, shall be liable to be taken under the warrant of distress issued for the recovery of such rate.

All goods found on property liable for rates.

37 IN case sufficient goods and chattels of the occupier of any property cannot be found to satisfy such rate, the same, or any portion thereof left unremoved, shall be recoverable from the proprietor of the property in the same manner as the same was originally recoverable from such occupier; and such proprietor shall be entitled to

If occupier's goods insufficient, rate may be recovered from proprietor.

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to recover from the occupier any portion of any such rate to which such occupier is liable, as money paid to his use, or, if not paid on demand, by distress as for rent in arrear.

If occupier or proprietor unknown, Collector may distrain on any goods on the property.

38 IN case the occupier and proprietor of any property in respect of which any such rate is due is not known, or cannot be found, it shall be lawful for any Collector of rates, without previous demand or written warrant, to distrain any goods and chattels he may find on such property, and to cause the same to be sold, and out of the moneys arising from such sale to pay all costs and expenses attendant on such distress and sale, and the amount of the rate due, and to pay the surplus, if any, to the person whose goods are distrained and sold, on demand.

Form of distress warrant. Aid constables to aid.

39 THE warrant of distress for the recovery of any such rate may be in the form contained in the Schedule; and in all cases where a distress is by this Ordinance authorized to be made, all constables shall, upon being required by a Collector of rates, aid in making a distress or sale; and any constable who refuses so to do, shall be liable to a penalty not exceeding Five pounds.

Further distress in case first insufficient.

40 IN the event of any distress so made as aforesaid not realizing sufficient to pay such rate, costs, charges, and expenses as aforesaid, it shall be lawful from time to time to make further and other distress, in manner aforesaid, until the whole amount of such rate, costs, charges, and expenses has been fully paid.

Unpaid rate a charge upon the property.

41 ANY unpaid rate shall be and remain a charge upon the property in respect of which such rate is payable, and may be recovered at any future time as if the then occupier had himself been liable to the payment of the rate so remaining unpaid; and the production of the receipt for such overdue rate, paid by or recovered from any tenant for any rate due before the commencement of his tenancy, shall be a discharge for the amount so paid or recovered in payment of rent to the landlord; and such landlord shall be entitled to recover from the person who was tenant when the rate became payable, the proportion of the rate to which such tenant was liable, as money paid to his use.

Rates may be remitted on account of poverty.

42 IT shall be lawful for the Board of any district, upon the application of any person liable to the payment of any amount of rate, to remit or excuse the payment thereof, or any part thereof, on account of the poverty of such person.

No track in general use to public

43 THAT no track which has been in general use by the public

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public shall be fenced across or otherwise blocked up unless the Committee shall have recommended such a course to the Governor, and that it shall have received his approval, which shall be published in the *Government Gazette*.

be fenced across or blocked up without permission.

44 THAT Sections A and C of "The Shortening Ordinance, 1853," shall be incorporated herewith, and read as part of this Act.

SCHEDULE.

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SCHEDULE.

DISTRESS WARRANT FOR RATES.

To E. F.,

Western Australia, }
to wit.

WHEREAS complaint has been made before me, C. D., Chairman of the Roads Board for the district of _____ that A. B. of _____ has not paid the sum of _____ payable by him in respect of certain property situate [*describe property fully,*] by virtue of the general rate for the said district [*or* of the special rate for the said district called the (*name the rate*) Rate] made on or about the _____ day of _____ 18____, although the same has been duly demanded of him: And whereas the said A. B. having appeared before me in pursuance of my summons for that purpose, has not shown sufficient cause why the said sum of _____ should not be paid, [*or*, And whereas it has been duly proved to me that the said A. B. has been summoned to appear before me to show cause why the said sum of _____ should not be paid, and that the said A. B. has neglected to appear according to such summons, and has not shown any sufficient cause why the said sum of _____ should not be paid]: These are therefore to command you forthwith to make distress of the goods and chattels of the said A. B., wheresoever the same may be found, and also of all goods and chattels found by you upon the said property, to whomsoever the same may belong; and (unless at any time before the sale of the goods and chattels so by you distrained the said sum of _____, together with all costs, charges, and expenses attendant upon such distress, be paid to you) that you cause the said goods and chattels so by you distrained to be sold, and out of the money so arising by such sale that you detain the said sum of _____, and also all costs, charges, and expenses attendant upon such distress and sale, rendering to the said A. B. or other person whose goods and chattels are so distrained by you, as the case may be, the overplus (if any) on demand; and the said sum of _____ you are hereby commanded to pay to me the said Chairman of the said Board; and if no sufficient distress can be made of the goods and chattels of the said A. B. or otherwise as aforesaid, that then you certify the same to me, together with this Warrant.

Given under my hand, this

day of _____ 18

C. D.,

Chairman of the Roads Board

of

PERTH:

By Authority: RICHARD PETHER, Government Printer.