



ROADS' ORDINANCE, 1856.

IN THE NINETEENTH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

No. 5.

ANALYSIS.

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 46. Penalty for taking away materials procured for roads.
 47. Trustees to make footpaths.
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 49. And to make ditches, &c. Rules as to cleansing ditches.
 50. Trustees may raise, lower, or widen any private road entering upon public road.
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Title.

ORDINANCE to amend the laws relating to Public Roads within the Province of Otago, and to regulate the management thereof.

Preamble.

WHEREAS an Ordinance passed by the Superintendent and Provincial Council of Otago, Session I. No. 10, entitled, "An Ordinance for forming, altering, and maintaining, Public Roads in the Province of Otago," is defective in various particulars; and the same, as also an Ordinance passed by the Lieutenant-Governor and Legislative Council of New Munster, in 1849, Session I. No. 10, entitled "An Ordinance to authorise the Levying and Collection of Tolls on Roads, and of Rates on Land in the Province of New Munster," should be repealed as aftermentioned, and other regulations made,

BE IT THEREFORE ENACTED by the Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof as follows:—

Two Ordinances repealed. Dunedin Roads' and Streets' Ordinance not to be affected by this Ordinance.

1. The first above-recited Ordinance, and also the second above-recited Ordinance in so far as it regards the Province of Otago, shall be and are hereby repealed. Provided always that this Ordinance shall not extend or apply to the Town of Dunedin, and the roads and streets thereof, nor affect or control the provisions of an Ordinance passed by the Provincial Legislature, Session II. No. 13, entitled "*An Ordinance to Regulate the Management and Control of Streets and other things in and about Dunedin.*"

The Province may be divided into Districts.

Nine constituted.

Power to alter them

2. For the purposes of this Ordinance the said Province, excepting the Town of Dunedin, may from time to time be divided into Districts; and until otherwise provided, in virtue of the powers hereinafter mentioned, there shall be nine districts which shall be named and bounded as in Schedule A to this Ordinance annexed. Provided always that it shall be lawful for the Superintendent, with advice and consent of the General Board of Road Trustees hereinafter constituted, from time to time, by Proclamation in the Government Gazette, to alter, vary, diminish, or enlarge the boundaries of any or all of such Districts, and to increase the number of Districts by forming and naming new Districts.

General Board of Road Trustees for whole Province.

3. For carrying into execution throughout the Province, excepting the Town of Dunedin, the several powers and provisions of this Ordinance,

there shall be a General Board of Trustees to be elected as hereinafter enacted: and on and from the day of the first meeting of such General Board, the said General Board of Trustees shall be, and they and their successors in office shall for ever continue to be a Corporation by the name of the "General Board of Road Trustees for the Province of Otago;" and as such Corporation it shall be lawful for them to accept, take, and hold for the several purposes of this Ordinance, within the Province generally, or any particular District or part thereof, any lands, buildings, goods, effects, or other property, and to have and to use a common seal, and they shall and may, in their corporate name, or in name of their clerk or collector of assessments, sue and be sued, and take and resist all proceedings at law and in equity; and in every action or other legal proceedings relating to any such property or to any assessment or other claim or demand, it shall be sufficient to state such property to belong, and such assessment, claim, or demand to be due to the General Board of Road Trustees for the Province of Otago, or to their clerk or collector of assessments.

Constituted a Corporation.

May hold property. And have a common Seal.

And sue and be sued.

4. The members of the said General Board of Trustees shall consist of the Superintendent of the Province for the time being, who shall be *ex officio* chairman of the said Board, of the members of his Executive Council for the time being, and if elected as hereinafter enacted, of two members of each of the District Boards of Trustees hereinafter constituted, to be yearly elected by every such District Board respectively, at a meeting to be held by every such District Board after the yearly election of the members thereof as hereinafter enacted, or an adjourned meeting; and so often as a vacancy shall occur by the resignation, death, or otherwise of the member so elected by any such District Board, such District Board shall elect another of their members to fill such vacancy; and the whole or any of the members of the said General Board of Trustees shall continue to hold and exercise full powers of office until the appointment of their successors in the office of members of the said General Board, even although in the case of any member elected by said District Board, such member may have ceased to be a member of the Board by which he was appointed; and an authenticated extract of the minute or deed of appointment, or intimation thereof in the Government Gazette, lodged with the Clerk to the said General Board shall be conclusive evidence of the appointment of any member of the said Board.

Members of the General Board, of whom to consist.

How to be elected.

Vacancies, how to be supplied.

5. Provided always that in the event of any of the Electoral Constituencies hereby or otherwise created, or any District Board, neglecting duly to exercise their electoral privileges or functions as hereby provided, the constitution, powers, and duties of the said General Board of Trustees shall not in any wise be thereby impaired or affected: but on the contrary, the General Board shall be held to have been duly constituted by the election of the other members thereof; and it shall be lawful for such other members fully to exercise the powers and duties of the said General Board, subject to the provisions herein contained.

Constitution of General Board not to be affected by non-elections. Members for the time being to act.

6. For the purpose of providing for the management and superintendence of roads by persons in every District immediately interested therein, there shall be in every District aforesaid a District or Local Board of Trustees to be elected in manner and to possess the powers hereinafter provided; and such Board shall bear the name of the District, and shall have the more immediate direction, management, and superintendence of the public roads, locally situated therein, subject to the supervision and control of the said General Board of Trustees, and to the provisions of this Ordinance.

District Board of Trustees.

Each Board to bear the name of its District, and to be subject to the supervision of General Board.

7. Every person of the male sex and twenty-one years of age and upwards, who is rated or liable to be rated for roads within any part of the Province, in virtue of this or any other Ordinance, shall be qualified to be elected a member of any District Board of Road Trustees: And no person duly appointed a Trustee for the execution of this Ordinance shall, by reason of such appointment, be disqualified from acting as Resident Magistrate or Justice of Peace. And no lender of money for the purposes of this Ordi-

Qualifications of Trustees.

A Trustee may act as Resident Magistrate or Justice of the Peace. Lenders of money not disqualified.

- Disqualifications. nance, nor assignee of such lender, nor any person receiving interest for any such money lent shall on that account be disqualified to act as a Trustee or a Justice of Peace in the execution of this Ordinance: But no person so elected shall directly or indirectly derive any emolument or profit from any business or work of any description performed or to be performed by him under this Ordinance, nor be capable while he holds office as a Trustee of enjoying any office of profit to be created or established by virtue of this Ordinance.
- Electors and election of members of District Boards. First electoral meeting. Subsequent electoral meetings. Penalty for clerk not duly calling electoral meetings. 8. In every District aforesaid a meeting of the male persons rated or liable to be rated for roads therein shall be convened by the Superintendent of the Province upon not less than ten days' previous notice in the Government Gazette or otherwise as he shall see fit, at such place therein, and at such time, not being more than two months after the passing of this Ordinance, as he shall appoint, for the purpose of electing qualified persons to be the members of the District Board of Road Trustees: And yearly thereafter the clerk to the said General Board of Road Trustees shall convene a meeting of such electors within every such District at a convenient place within the District, upon not less than ten days' previous notice, to be given by him in such manner as the General Board of Trustees shall direct, for the purpose of electing Trustees for the year ensuing; and in default of at any time giving due notice of any of said meetings such clerk shall forfeit and pay to the General Board of Trustees a penalty not exceeding ten pounds.
- Mode of proceeding at electoral meetings. Chairman. His powers and duties. Penalty for failing to make a return of the persons elected. 9. The electors assembled at every such meeting shall, by a majority of their number, appoint a chairman and make their elections of not less than three persons qualified as aforesaid to form the District Board of Road Trustees; and the state of the votes shall be ascertained by a show of hands, or in such other manner as to the chairman shall seem expedient; and at the meeting of which he is chairman he shall be disqualified to be elected a Trustee, and shall have no vote except a casting vote in every case of equality of votes; and he shall declare the state of the votes to the meeting; which declaration shall be final; and shall forthwith make a true return in writing of the names and designations of the persons elected; such return to be made in the case of the first elections, to the Superintendent, and in the case of subsequent elections to the Clerk to the General Board of Trustees; and in default of so doing shall forfeit and pay to the said General Board of Trustees a penalty not exceeding five pounds.
- Number of members of each District Board. Procedure if electors fail to meet and elect. 10. It shall be lawful for the General Board of Trustees, from time to time as they shall think fit to regulate the number of members of each District Board of Trustees, having regard to the population of the District and the business of the Board. And failing the said electors in any such District, from whatsoever cause, duly meeting and electing the full number of Trustees for the District, it shall be lawful to the General Board of Trustees to remedy the neglect, so often as it shall happen, by authorising a meeting or meetings of the electors to be called for the purpose of completing the required elections; and if the electors in any such District shall neglect or refuse to meet, after being twice duly required, it shall be lawful to the General Board of Trustees to elect so many persons to be members of such District Board as with those elected by the District, if any, will not exceed the number of Trustees eligible for such District.
- Vacancies in District Boards, how to be supplied. Tenure of office of members. 11. Every vacancy in the office of member of a District Board of Trustees, whether by non-acceptance, resignation, death, or other cause, shall be filled up by the remanent members of the District Board of Trustees in which such vacancy shall occur electing a qualified person to supply the same; and all persons elected members of such District Boards shall hold office till the next annual or general election; but shall, at such annual or general election, if still qualified, be eligible for re-election.
- First meeting of General Board. 12. The first meeting of the said General Board of Trustees shall be held at such time and place, and after such notice in the Government Gazette and

otherwise, as the Superintendent shall direct; and the said General Board shall hold not less than two general meetings in the year at stated half-yearly periods to be fixed by such Board, for executing the several powers and duties confided to them; but it shall be lawful for the Superintendent or any two members of the said Board at any time to call, or to require the clerk of the said Board to call, a meeting thereof; and the said General Board having at any time, and from time to time, so met, may adjourn to meet at such time and place as the Board shall appoint; provided always that notice of all meetings shall be given to the members in such manner as the Board shall from time to time appoint; and at all their meetings the members shall defray their own expenses; and all their orders and determinations in the execution of such powers and authorities shall be exercised at meetings to be held in pursuance hereof, unless otherwise particularly provided for, by the major part of the members of said Board who shall be present, the number present being not less than four members of said Board for the time being; and the Superintendent shall, as *ex officio* chairman of the said General Board, when present, preside at all meetings of the said Board; and when absent some other member of the Board chosen by the Board shall preside as vice-chairman; and the chairman or vice-chairman presiding shall have a casting vote, in addition to his own vote; and no order or determination at any meeting of said General Board once made, agreed upon, or entered into, shall be revoked or altered at any subsequent meeting unless notice of the intention to propose such revocation or alteration shall have been given at a previous meeting and entered in the Minute Book or Book of Proceedings of the said Board, and shall have been transmitted to every member thereof not present at such previous meeting who shall have been present at the meeting whereat such order or determination was made.

Half-yearly Meetings.
 Superintendent or any two Members may call meetings.
 Notice of meetings, how to be given.
 Members to defray their own expenses.
 Majority.
 Quorum.
 Superintendent, when present, to preside. When absent a vice-chairman to be appointed.
 Casting vote.
 Orders once made not to be revoked without previous notice.

13. The first meeting of each of the said District Boards of Trustees after the first annual elections shall be held at such time and place within each District, and after such notice in the Government Gazette and otherwise as the Superintendent shall direct; and the first meeting of each of said District Boards after the second and subsequent yearly elections of the members thereof shall be held within one month after such yearly elections respectively, and shall be convened by the clerk to the General Board of Trustees after such notice as the said General Board of Trustees shall direct; and each District Board shall hold not less than four meetings in the year at stated quarterly periods to be fixed by such Board, for executing the several powers and duties committed to such Board; and a chairman shall in the first place be appointed at every meeting, who, in case of an equal number of votes, including his own vote, shall have the casting vote; and in all other respects the regulations hereinbefore enacted relative to the meetings, calling, and notices thereof, adjournments, quorum, majorities, orders, determinations, powers, and authorities of the said General Board of Trustees shall apply to and affect the meetings, adjournments, quorum, majorities, orders, and determinations of each of said District Boards of Trustees respectively.

First meeting of each District Board.
 Quarterly and other meetings.
 Chairman. Regulations as to meetings, adjournments, quorum, majority, and determinations of District Boards.

14. The said General Board of Trustees, subject to the provisions herein contained, shall have the management, direction, and control of all public roads within the Province, except within the Town of Dunedin; and shall have the care and direction of all rates and funds to be raised, collected, or appropriated for the purposes of this Ordinance; and also shall have supervision and control over all the District Boards constituted in virtue of this Ordinance, and over the officers thereof.

Powers of General Board.

15. Subject to the provisions in this Ordinance contained, and to the authorities and powers of the General Board of Trustees, every District Board of Trustees respectively shall have the care, direction, and management of the several public roads, both main and branch roads, lying within their District, and of the repairing and maintaining of the same and of the public works connected therewith; and shall direct and superintend the expenditure of all monies entrusted and paid over to them for the purposes of such roads

Powers of District Boards.

or works or other purposes of this Ordinance, and also shall have and exercise all such other powers competent to the General Board of Trustees as the said General Board may from time to time specially delegate to such District Board.

The General Board and District Boards may respectively name committees.

16. The said General Board, and also every District Board of Trustees shall respectively have power, at any General meeting of such Board, to name Committees of their own number for the more immediate direction and management of all or any of the matters lawful to such Board, and to give such Committees (whereof three shall be a quorum), such instructions and such powers as they shall from time to time think fit and expedient; and the regulations hereinbefore enacted relative to the meetings and adjournments, majorities, orders, determinations, powers, and authorities of such Boards respectively shall in like manner apply to and affect all such Committees.

And appoint officers, from whom security to be taken.

17. It shall be lawful to the General Board of Trustees from time to time to appoint clerks, collectors, treasurers, surveyors, overseers, and other officers, with reasonable allowances for their trouble; and every District Board may from time to time appoint a fit person or persons to be their clerk and treasurer, and determine, with consent of the General Board, the amount of his or their salary which shall be paid out of the local or district funds hereinafter mentioned, or out of such other funds as the General Board shall determine. And the said General Board, and the said several District Boards respectively, are hereby authorised and required to take such security from any of the said officers for their intrusions, and for the faithful discharge of their duty, as may be deemed expedient.

Minute Books and Account Books to be kept.

18. The General Board, and the several District Boards of Trustees respectively, shall cause minute books to be kept, in which shall be entered the minutes of all their orders and proceedings; as also account books, in which shall be entered true and regular accounts of all monies received and expended on account of roads, bridges, and works under their charge, specifying the sums applied to ordinary repairs, and to improvements of each road, bridge, and work; and to management and expenses; and the sums due and not recovered; as also the amount of debt and interest thereof; and such accounts shall be annually made up, and shall be audited and signed by three members of the Board from time to time appointed by the Board to examine and audit the same; provided always that it shall be lawful to the General Board to order accounts to be so audited at any time.

Accounts to be audited.

Any person may take copies of Accounts. Fee. Abstract to be published. Penalty of neglect.

19. Any person having paid the rates due by him may see and take a copy of the said accounts or any part thereof on paying to the clerk or treasurer one shilling for each time of inspection; and an abstract of such accounts shall be printed and published in the Government Gazette, or a newspaper circulated within the Province, within one month after the accounts are audited and signed as aforesaid; and any clerk or treasurer neglecting to make up, or refusing or not permitting inspection of such accounts as aforesaid, or failing to print and publish the abstract thereof as aforesaid, shall, on complaint to the General Board, forfeit and pay such penalty, not exceeding five pounds, as the General Board shall see fit to inflict.

Officers to account.

20. All such officers as shall be appointed in virtue of this Ordinance shall, as often as required by the Board of Trustees who have appointed them, or by the General Board, render and give to such Board, or to such person as such Board shall for that purpose appoint, a true, exact, and perfect account in writing, under their respective hands, with the proper vouchers, of all monies which they shall respectively to the time of rendering such accounts have received, paid, and disbursed for, or on account, or by reason of their respective offices; and in case any money so received by any such officer shall remain in his hands, the same shall be paid to the General Board, or to the District Board whose officer he is, or to such person as either of such Boards shall authorise and empower to receive the same; and if any such officer

shall refuse or wilfully neglect to render and give up such account, or to produce and deliver up such vouchers, or shall for the space of fourteen days after being thereunto required by either of said Boards, so refuse or neglect to render and give up to such Board, or to such person as such Board shall direct or appoint, all books, papers, writings, tools, matters, and things in his hands, custody, or power, belonging or relating to his office or the matters thereof, then it shall be lawful for any two Justices of the Peace, upon complaint made by, or on behalf of, either of said Boards, to hear and determine such complaint in a summary way, and to cause such money as shall appear to be due and unpaid, to be levied by distress and sale of the goods and effects of such officer, rendering to him the surplus (if any) of the money remaining due, after deducting the costs of the proceedings; and if sufficient goods and effects cannot be found, or if it shall appear to such Justices that such officer shall have wilfully refused to give such account, or to deliver up any books, papers, writings, tools, matters, and things in his custody or power relating to the execution of his office, such Justices shall commit him to the common jail of the Province, there to remain until he shall make and give a true and perfect account, and verify the same in manner aforesaid, and shall deliver up the vouchers relating thereto, and shall have paid the money, if any, remaining in his hands, according to the direction of the General Board, or of the District Board whose officer he is, or shall have compounded for such money, and paid such composition, (which composition such Boards are hereby empowered to make and receive) or until he shall deliver up such books, papers, writings, tools, matters, and things, or have given satisfaction to such Boards concerning the same: but no such officer who shall be committed on account of his not having sufficient goods and effects as aforesaid, shall be detained in prison by virtue of this Ordinance, for any longer time than six calendar months.

Proceedings on officers misconducting themselves.

21. The General Board of Trustees shall divide and classify all public roads within the Province into two divisions and classes;—the first class shall be called Main Roads, and shall include, subject to the discretion of the said General Board, all general Public Roads and leading communications between the larger divisions of the Province; and the second class shall be called Branch Roads, and shall comprise all other public roads in the Districts aforesaid, except any such roads as the said General Board shall, upon due enquiry and consideration, determine to be unnecessary and useless to the public, and to discontinue as public roads, and shut up as in manner hereinafter enacted: Provided always that the said General Board, after they have made such classification of roads, may from time to time, as they shall see occasion, alter the same, and declare by their order that any Main Road shall become a Branch Road, or that any Branch Road shall become a Main Road, and the same shall thereupon become so accordingly; and also may make such orders according to the powers vested in them by this Ordinance, as may be found necessary in consequence of such alteration.

General Board to classify Roads into —1, Main Roads —2, Branch Roads.

Classification may be altered.

22. The General Board of Trustees shall cause a map or plan of the Province to be made, on which the boundaries of the several districts aforesaid shall be plainly marked and set out, and all the public roads within every district shall be delineated and set down; the Main Roads and Branch Roads respectively being distinguished by different colours; and the said map or plan shall be kept in the custody of the clerk to the said General Board; and the same or a copy thereof, being stamped with the seal of the said Board, shall be received as evidence in all suits, controversies, and disputes touching the existence, limits, situation, or classification of any such roads: Provided always that such map or plan may be from time to time altered or amended as circumstances may render necessary by the authority of such Board.

Map or plan of Districts and Roads to be made, and to be evidence, and may be altered.

23. The sums of money which may from time to time be appropriated out of the General Revenue of the Province for roads, shall, by the General Board of Trustees, be applied, subject to the provisions herein contained, to the formation, repair, maintenance, management, and improvement of Main Roads, and to the execution of any work or improvement which the General Board may deem to be of general utility, and to the salaries of the officers of

Purposes for which money voted for Roads to be applied.

the General Board, and to such other necessary expenses as may be incurred in and about the management of such Main Roads.

Exemptions from Road assessment.

24. No assessment made in pursuance of this Ordinance shall be laid or levied on any Waste Lands of the Crown, or on any lands belonging to the Government, or on any land used solely as the site of a church or school, or of a manse or parsonage, or schoolmaster's house, or as a glebe for the use of any officiating clergyman or schoolmaster.

District Rates to be levied for Branch Roads; and there may be Special Rates for particular parts of a District.

25. There may be levied upon lands situated within each of the districts aforesaid one yearly District Rate, of such amount as, with money otherwise obtained, if any, shall defray the current expenses of maintaining and improving the roads within any such District, and keeping down the interest of money borrowed on security of such District Rate, and paying off the principal of such monies within the period or periods for which the same may have been borrowed: Provided always that instead of, or besides and over and above one District Rate for the whole of a district, there may be from time to time, as occasion shall require, Special Rates for separate and distinct parts of any district aforesaid, for the purpose of making any bridge, arch, embankment, ditch or drain, or any cutting or filling up any hollow, or otherwise improving any road within any such separate part of any district aforesaid; and separate and distinct accounts shall be kept of all monies to be collected and received from each district or distinct part of a district, and of all payments and disbursements in respect thereof, and the monies to be collected and received from each district or distinct part of a district, in payment of any such District Rate, or of any such Special Rate, shall be applied only for the several purposes for which such rates respectively have been levied; and each of such districts, or of such parts of a district, shall respectively bear the expenses incurred in laying on, collecting, and disbursing such respective rates; and in case any expenses so incurred shall apply to or be incurred in respect of two or more parts of a district, the same shall be apportioned and divided between or among such parts of the district in a fair and equitable manner.

Separate accounts of the Receipts and Expenditure of such Rates to be kept.

District and Special Rates to be approved by District Board.

26. Every such District Rate, and every such Special Rate, shall be recommended or approved of by the District Board of Trustees of the District within and for the use of which the same respectively is to be levied, and shall be levied by and under the authority of the General Board of Trustees, upon lands situated within such district, or distinct part of such district, except such lands situated therein as are hereinbefore exempted from assessment; and every such District Rate and Special Rate respectively shall not exceed in any one year one shilling per acre, any part or portion of an acre being reckoned an entire acre, and rated as such: Provided always that it shall be lawful, with the consent in writing of two-thirds of the rate-payers resident within any such district, or distinct part of such district, to be so assessed, to increase such District Rate or such Special Rate respectively to any amount beyond one shilling per acre; such consent to be ascertained in such manner as the District Board shall determine and the General Board approve.

Yearly maximum thereof.

Power to increase the same with consent of Rate-payers.

Procedure in laying on District and Special Rates.

27. In every case in which a District Board of Trustees shall recommend or approve of the levying of a District Rate in their District, or of a Special Rate in any part of their District, such District Board shall report to the General Board of Trustees what amount of money will be required to meet and supply the several purposes in view, and all incidental expenses, the yearly rate by which the same may be raised, and the persons from whom it falls to be levied, a description and the acreage of their several properties in respect of which they are assessed, and any other matters which may be calculated to facilitate and accomplish the object contemplated. And if the measure shall be approved of by the General Board, with or without modification or amendment, notice shall be given to the persons to be assessed of the amount of yearly rate intended to be levied from them respectively, and of the lands and acreage thereof in respect of which such rate is to be so levied; and opportunity shall be afforded to them to be heard in such other manner, and after such notice, as the General Board shall direct; and the General

Board having finally decided on all objections, if any, and on all other incidental matters, the said General Board shall cause Precepts to be issued in such form as the said Board shall approve, for the payment of such District Rate or Special Rate by the persons named or referred to therein, or others liable, to the person or persons thereby appointed to be collectors of the same, and at the place or places, and within the time or times to be specified therein; and thereupon it shall be incumbent on the persons and others aforesaid to pay, and on the said Collector or Collectors to collect and receive the monies stated in such precepts, and thereby authorised to be levied.

28. Every rate by this Ordinance authorised to be levied shall be payable in one or more payments, and at such times and places as the General Board of Trustees shall direct, and may be levied indiscriminately from the owners and other persons having right to the rents of the properties assessed, or from the tenants and occupants thereof; but shall be borne one-half by the owners and other persons having right to the rents, and the other half by the tenants and occupants; and either paying the whole shall have relief against the other accordingly: Provided always that it shall be lawful for the General Board, to regulate otherwise the payment and burden of such rate.

Rates payable as General Board may direct. May be levied from owners or occupiers. Their relief the one against the other.

29. If any person shall refuse or neglect to pay any rate by this Ordinance authorised to be levied, for the space of thirty days after the same has become payable, and been demanded by the Collector thereof by public general notice in the Government Gazette or a newspaper, there shall be added to the sum due at the rate of ten per centum thereof every year during which, or any part of which the same remains unpaid; and the Collector shall not accept of payment of the original sum without payment also of said additional rate; and it shall be lawful for such Collector and his assistants, by virtue of a warrant under the hand of the Resident Magistrate or any two Justices of the Peace, which they are hereby empowered to grant, to enter into any part of the subjects assessed, and to levy the amount due, together with any reasonable expense incurred, by distress and sale of the goods and chattels therein or thereon; and in case of the same not being levied by reason of the property assessed being unoccupied, or any other cause, the arrears shall at any subsequent time be leviable in like manner by distress and sale of any goods and chattels which may be found in or upon the premises.

Mode of recovery of Rates.

30. It shall be lawful for the General Board of Trustees to accept, with consent of the District Board, Loans of such sums of money as may be requisite for the making, maintaining, and improving of any particular road or roads, or any part of said road or roads, within the District; and for securing the repayment thereof with interest to assign any assessment authorised to be levied for such road or roads, or any part of such road or roads; and the money so lent shall be laid out and applied for such express purpose; and no lender shall be liable upon any pretext beyond the amount of his loan.

Loans for any particular road may be accepted.

31. No member of said General Board of Trustees and of said District Boards of Trustees shall be held or adjudged to be personally liable upon any pretext for the repayment of any money borrowed for the purposes of this Ordinance or the interest thereof, or for payment of any sum or performance of any obligation for payment or performance of which he shall not have bound himself personally as an individual independent of his office as a trustee.

Trustees not to be personally liable.

32. It shall be lawful for said Road Trustees, and for their surveyor or surveyors and workmen employed by them from time to time, to enter not only upon the land through which, or whereupon any road laid down and delineated on the Government or Record Maps or Plans of the Province, passes or is intended to pass, but also for the purposes of this Ordinance upon any adjoining lands or grounds, and to stake out such road, and to cut and make any drains, ditches, or arches through or into such lands and adjoining or contiguous to any part thereof, and to make a temporary way or ways through

Trustees may enter upon lands for making roads, making satisfaction to owners, &c.

Penalty for injury
to works.

or over any such adjoining lands, not being a garden, orchard, or inclosed ground planted for ornament or shelter, as the said Trustees shall think fit, the said Trustees making satisfaction to the owners and occupiers of such lands and grounds for the damages that shall be thereby occasioned, such damages, in case of dispute concerning the same, to be ascertained and settled in the same manner that the value of land to be taken and acquired is hereinafter directed to be ascertained and settled; and if any person shall pull up or destroy any of the stakes or other marks used, or any part of the fences made in laying out any part of such roads, or injure any drain, ditch, or arch, or temporary way made as aforesaid, every person so offending shall forfeit and pay, for every such offence, any sum not exceeding five pounds.

Power to widen
roads.

33. The least legal breadth of public roads to be hereafter laid off shall be sixty-six feet, inclusive of the bank, ditch, and fence on either side thereof, and the General Board of Trustees shall have power, and they are hereby authorised, if they shall see fit, to extend the width of any Public Road or part thereof, to sixty-six feet, on making full satisfaction, in manner hereinafter directed, to the proprietors and occupiers of any ground, buildings, or fences taken or removed for the purpose of such widening.

Lands may be pur-
chased for improv-
ing roads.

34. It shall be lawful for the said General Board of Trustees to obtain and acquire, by purchase, lease, or otherwise, and it shall be lawful for all persons, companies, and bodies, corporate or unincorporate, as also all attornies, trustees, managers, or directors whatsoever not otherwise so empowered, and guardians, tutors, and curators of every person whatsoever, under any legal disability or incapacity, to sell, devise, and convey all such lands, buildings, and such real subjects as shall by such trustees be deemed necessary to be acquired by them for making, widening, diverting, altering, improving, or repairing such roads, or for storing materials, depositing mud, sand or other matter removed from any such roads, or for taking materials from, or otherwise appearing to them proper to be used in any way authorised by them, and to treat, contract, and agree for the value thereof, or the compensation for any loss or damage occasioned by any operation of any such trustees, or to submit and refer to arbitration the price or value thereof, and the compensation for loss or damage, and any other matter in dispute, as hereinafter enacted.

Disputes as to
price or compen-
sation to be referred
to arbitration.
Mode of proce-
dure.

35. If such persons, proprietors or others, shall be willing to treat, but shall be dissatisfied with the price or compensation offered, or in case of any other dispute arising with them, the matter in dispute shall be referred to four arbitrators, two to be chosen by the Superintendent, and two to be chosen by the other party or parties, with power to the said arbitrators to appoint one of their number to be their chairman, and also to appoint an umpire, who shall sit along with them in hearing and taking evidence and trial of the case, and also to appoint a clerk, whose duty it shall be to arrange for the trial, and to give intimation to the parties of the time and place fixed for the trial, and require them then and there to attend and adduce their witnesses, and to take notes of the evidence and minutes of the proceedings, and act otherwise as the arbitrators shall direct; and it shall be lawful for any Justice of the Peace, upon the application of either party, to grant warrant to summon any witness or witnesses whom such party intends to examine to appear before the arbitrators at the time and place fixed for trying the case under a penalty not exceeding five pounds, to be incurred by each witness as often as he fails to appear without a sufficient cause, and to be recovered at the suit of the party intending to adduce such witness if he choose to prosecute for the same; and the trial shall, if practicable, be proceeded with and concluded in one day; or if from any necessary cause one or more adjournments be made, such adjournments, as often as they occur, shall be to the next lawful day, unless from the indisposition of any of the said arbitrators, parties, or witnesses, or other sufficient cause, the said arbitrators shall order otherwise; and the said umpire shall have no vote in the final decision of the case if the four arbitrators, or the majority of them, shall agree in the final decision, but otherwise the vote of such umpire shall be given, and the case decided accordingly; and the decision

so given, whether by the arbitrators, or by arbitrators and umpire, as the case may be, shall be final and conclusive.

36. In case any of such persons, proprietors, occupiers, or others as aforesaid shall refuse or delay to treat, or shall not be satisfied with the price or compensation offered, and shall refuse to refer the matter in dispute to arbitration as aforesaid, it shall be lawful for the Superintendent, after fifteen days' previous notice in writing to such of said persons, proprietors, occupiers, or others aforesaid, as have a known residence within the Province, or to the known agent resident within the Province of such persons personally, or by leaving such notice at their respective dwelling places, or if said persons have no known residence or known agent within the Province, by thirty days' previous notice in the Provincial Government Gazette, and their continuing to refuse or delay to treat, or refer the matter in dispute to arbitrators as aforesaid, to appoint by writing under his hand three qualified and impartial men to value the lands, buildings, and other subjects, to be taken for the purpose of making the alteration or diversion and improvement aforesaid, and to estimate the loss and damage to the proprietors and occupiers thereby occasioned; and the said valuers are hereby required, in making the said valuation and estimate, to take under consideration all the circumstances of the case, and to report the amount of such valuation and estimate, and the ground thereof, to the Superintendent, if the same can be done before the operations contemplated are completed, and if the same cannot be done satisfactorily until afterward, they shall lodge an interim report so stating, and intimating what they have reserved for consideration; and upon completion of the operations, or sooner if practicable, they shall resume consideration of the whole matter, and finally report thereon.

Proceedings if parties refuse to enter into arbitration.

37. If such arbitrators shall award a greater compensation than the Trustees shall have offered, but less than the proprietor or occupier shall have required, the costs of the proceeding shall be borne by said Trustees, and the said proprietor or occupier equally; and if the said arbitrators shall award to such proprietor or occupier the sum so required or any greater sum, the whole of the said costs shall be paid by said Trustees; and on the other hand if the said arbitrators shall award the sum offered by such Trustees, or a less sum, the whole of the said costs shall be paid by the said proprietor or occupier.

Rule as to costs in arbitration.

38. Each of the persons appointed as an arbitrator, umpire, or valuator, shall be summoned to act in said capacity by authority of the Superintendent, and every such person so summoned to act in any matter arising out of this Ordinance, attending and officiating as such arbitrator, umpire, or valuator, shall be allowed twenty shillings per diem for his expenses and loss of time; and any such person so summoned by authority of the Superintendent, who shall have accepted either of the offices aforesaid, neglecting or failing to appear, or without lawful excuse refusing to act as an arbitrator, umpire, or valuator, may be fined by the Superintendent for every such offence in any sum not exceeding five pounds.

Allowance to arbitrators, &c. Penalty for refusing to act.

39. Where any new road shall be made in lieu of another road, or where any road shall have become, or be useless or of no importance to the public, it shall be lawful for the General Board of Trustees to give orders for shutting up such road after the expiration of two months from the date of the publication of such order or resolution in the Provincial Government Gazette, or a newspaper published within the province, unless such order or resolution be appealed from as hereinafter enacted: Provided always that thirty days' notice of the intention to propose a resolution or order to that effect shall be given by advertisement in the Provincial Government Gazette, and such newspaper, if any; and any person interested may complain of the determination of the Trustees in any such matter within two months after the date of the publication of such order or resolution as aforesaid, but not afterwards, to the said General Board of Trustees, who are hereby authorised to determine all such complaints, and to order the map or plan of roads hereinbefore mentioned to be

Useless roads may be shut. Procedure in such cases.

altered or amended in conformity to their decision; and all such determinations of the said General Board not complained of, or complained of and determined, shall be final and conclusive, and shall not be subject to challenge or review in any court by any process or proceeding whatsoever.

And may be exchanged or sold, the first offer being made to adjoining owner.

40. It shall be lawful for said General Board of Trustees to exchange any road or part thereof so shut up, or any piece of ground or building no longer wanted by the trustees, with the owner of any immediately adjoining land for any other land or building they may require for the purposes of this Ordinance; as also to sell and dispose of by public auction any road, piece of ground, or building acquired by them, which shall by them be adjudged to have become useless or of no importance to the public; and all such exchanges or sales are hereby declared to be valid to all intents without any conveyance whatsoever: Provided always that before so selling and disposing of any such road, piece of ground, or building, the Trustees shall first offer the same to any person whose lands shall immediately adjoin thereto; and if such person shall refuse (except on account of the price thereof) to purchase the same on solemn declaration being made by the clerk to the Trustees before a Justice of the Peace stating that such offer was made and was refused, such declaration shall be sufficient proof that such offer was made and refused; but in case such person shall agree to purchase the same, but shall not agree with respect to the price, it shall be determined by arbitrators in manner hereinbefore directed as to lands acquired by the Trustees; and the money to arise from such sale shall be applied to the purposes of the roads within the district, but the purchaser shall not be answerable or accountable for any misapplication of such money.

Application of compensation money in certain cases when more than £20.

41. If any money agreed or awarded to be paid for any lands, buildings, or real subjects, purchased, taken, or used for the purposes aforesaid, and belonging to any public body, or to any Trustees, or to any person under any legal disability or incapacity, shall be more than twenty pounds, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the subjects so purchased, taken, or used, or of his, her, or their guardians in case of infancy or lunacy, to be signified in writing under their hands, and if needful, under the direction and authority of a competent court of law, be paid into any bank, and be placed in his, her, or their account, in order that the same and the interest arising therefrom may be applied to the use and behoof of the person or persons entitled thereto respectively, or otherwise the same shall be paid at the like option to two trustees, to be nominated by the person or persons making such option and approved of by the General Board of Trustees, such nomination and approbation to be signified in writing under the hands of the nominating or approving parties, in order that such principal sum and the interest arising therefrom may be applied as aforesaid.

Application of it when less than £20.

42. Where any such money agreed or awarded to be paid as before mentioned shall be less than twenty pounds sterling then and in all such cases the same shall be applied to the use of the person who would for the time being have been entitled to the rents and profits of the subjects so purchased, taken, or used for the purposes of this Ordinance in such manner as the General Board of Trustees shall think fit, or in case of infancy or lunacy, then to his, her, or their guardians to and for the use and benefit of such person or persons so entitled respectively.

Without a good title, and in other cases, purchase money of land to be consigned.

43. In case any person or persons to whom any sums of money are awarded as aforesaid shall refuse to accept the same, or shall not be able to make a good title to the premises to the satisfaction of the said General Board of Trustees, or cannot be found, or in case the person or persons entitled to the premises be not known or discovered, then and in every such case it shall be lawful for the said General Board to order the sum or sums of money so awarded to be paid into the Provincial Treasury or into a bank in New Zealand, to the credit of the parties interested, and subject to the order, control, and disposition of the Supreme Court of New Zealand.

44. All lands, buildings, and other real subjects which may be acquired by the General Board of Trustees shall become the property of the said Trustees by the simple discharge of the agreed price or appraised value thereof, or by consignment of the said price or value in the hands of the Provincial Treasurer, or by all claims of damage for the same being renounced or abandoned, whereupon such Trustees may take and use the said lands, buildings, and other subjects, and shall hold the same as validly as if the respective proprietors thereof had executed in their favour regular conveyances of the same: Provided always that it shall nevertheless be lawful for the General Board in every case to require a valid title.

But subjects required by the Trustees may become their property without title.

45. It shall be lawful for the said Trustees to search for, dig, and carry away materials for making and repairing any roads and all footpaths thereof, or building, making, or repairing any bridge or other works connected with said roads, from any land where the same may be found; and to convey or land the same through or on the ground of any person, the said Trustees making or tendering such payment and satisfaction for such materials, and for the surface damage done to the lands from whence such materials shall be dug or carried away, or over or on which the same shall be carried or landed, as the said Trustees shall consider reasonable; and in case the said Trustees and the proprietor or occupier of such lands shall differ as to the amount of such payment and satisfaction for damages, any competent court may, on the application of either party, hear and determine all questions as to the amount of such payment and damages, and any other questions respecting the said materials: Provided always that such materials shall not be required for the private use of the owner or occupier of such land, and that such land or ground is not an orchard, garden, or enclosed ground planted for ornament or shelter; and provided also that before taking such materials from any enclosed land fourteen days' previous notice in writing, signed by two Trustees, shall be given to or left at the usual residence of the proprietor and occupier of the land or quarry from which it is intended to take the same, or his or her known agent, to appear before the General Board of Trustees to shew cause why such materials shall not be so taken; and in case such proprietor, occupier, or agent shall attend pursuant to such notice, or shall neglect or refuse to appear, the said General Board shall authorise or prohibit the taking of such materials, or make such order as they shall think fit.

Power to get materials, satisfaction being made. Exceptions.

46. It shall not be lawful for any person to take away any materials which shall have been procured or provided, or used for the repair or use of any road, or to take materials out of any quarry which shall have been opened by the said Trustees for the purpose of getting materials for any road, so as to interrupt or interfere with their operations; and every person so offending shall for every such offence forfeit and pay any sum not exceeding five pounds.

Penalty for taking away materials procured for roads.

47. It shall be lawful for the said Trustees to make and keep in repair footpaths on any road; and they are hereby required, at as early a period as they shall find it to be suitable, to make and maintain a footpath on all public roads.

Trustees to make footpaths.

48. It shall be lawful for the said Trustees to make sufficient side-drains on any road, with power to conduct the water therefrom into any adjoining land, ditch, or watercourse in such manner as shall be least injurious to the proprietor or occupier of such land; the said side-drains to be maintained at the expense of the said Trustees.

And to make side drains.

49. It shall be lawful for the said Trustees to make sufficient ditches along the side of any such road; provided that if the land is enclosed on the side of such road, such ditch may be made on either side of the fence;

And to make ditches, &c.

Rules as to cleansing ditches.

and also to make proper ditches and outlets from said ditches through any lands adjoining to any such road in such manner as shall be least injurious to the proprietor and occupier of said land; and the proprietor and occupier of such land shall be obliged in all time thereafter, to keep clear such side ditches and other ditches and outlets, as well as all such ditches already made, along the sides of any road when so required by said Trustees or their surveyor; and in case the proprietor or occupier shall neglect or refuse to clear such side ditches or other outlets when duly required, such Trustees or surveyor are hereby empowered to cleanse the same and levy the expense thereof from the proprietor or occupier in the same manner as other penalties by this Ordinance empowered: Provided always that nothing herein contained shall prohibit any proprietor or occupier from substituting to the satisfaction of the Trustees any other equally effectual ditch or outlet in place of that constructed by the Trustees.

Trustees may raise, lower, or widen any private road entering upon public road.

50. The said Trustees, in making, widening, altering, or improving any public road, are hereby empowered to raise, or lower, or widen, as shall seem to them expedient, any private road or passage entering upon such public road in order to render the junction thereof easy and commodious; and the proprietor or occupier of any private road or passage entering upon any public road shall build sufficient conduits or bridges over the side-drains and ditches of such public roads so entered upon opposite to such private road or passage, and thereafter maintain and uphold the same all to the satisfaction of the said Trustees; and in case such proprietor or occupier shall neglect or refuse to build or maintain the said conduits or bridges, it shall be lawful for the said Trustees to build or repair the same, and to charge such persons respectively with the expense thereof; and it shall not be lawful for any such proprietor or occupier to make or keep any mound, sloping bank, or projection into or upon the sides of any public road, or to cut and slope away any part of the sides of any such road, or keep or use any such slopes; and if any proprietor or occupier shall neglect or refuse to remove any such mound, bank, or projection, or to make up such cutting or sloping, it shall be lawful for the said Trustees to remove such obstruction, and repair such defect at the expense of such proprietor or occupier.

Penalty for injuring roads and foot paths.

51. If any person shall ride upon or lead or drive any horse, beast, or cattle, or carriage of any description, or any wheelbarrow, sledge, or cart, or roll any wheel, upon any footpath, drain or ditch, on or by the side of any public road, or shall wilfully obstruct or injure or damage the same, or the hedges, posts, rails, and fences thereof, or shall wilfully pull down or damage any bridge, fence, or erection made by the Trustees, or repaired or repairable by them, every person offending in each of the cases aforesaid shall, for each and every such offence, forfeit and pay any sum not exceeding fifty shillings over and above the damages occasioned thereby.

Power to make Bye-laws.

52. The General Board of Trustees shall have power and are hereby authorised to make all such bye-laws as may appear to the Board to be necessary for fully carrying out the purposes of this Ordinance: Provided always that such bye-laws shall not be repugnant to the provisions of this Ordinance.

Proceedings for penalties, &c.

53. All proceedings under this Ordinance, in so far as not otherwise expressly provided, may be laid and taken in the form prescribed by the Summary Proceedings' Ordinance of the Legislative Council of New Zealand, Session 2, No. 5, 1842.

Meaning of the word proprietor in this Ordinance.

54. The word "proprietor" and the word "owner" occurring in the foregoing enactments shall be held to include all persons having right to the rents of lands.

55. This Ordinance shall be termed and may be cited and referred to as Short title. the "Roads' Ordinance, 1856."

Passed the Provincial Council this 14th day of March, 1856.

JAMES MACANDREW,
Speaker.

ROBERT CHAPMAN,
Clerk of Council.

Assented to on behalf of the Governor, at Dunedin, the
Eighteenth day of March, One Thousand Eight Hundred and
Fifty-six.

W. CARGILL,

Superintendent.

SCHEDULE.

No. 1.—NORTH-EAST VALLEY DISTRICT.

This District comprises the District of the same name, as delineated on the public map.

No. 2.—WAKARI DISTRICT.

This District comprises the District of the same name, as delineated on the Suburban selection maps of the Settlement—the Upper Kaikorai District; Sections Nos. 1 to 17 inclusive of the Lower Kaikorai District, and from thence in a straight line, being the north-eastern boundary of Section No. 50, Block VI., Town District, until it joins the road line at Section No. 75, Block VI., Town District; and from thence along the south-western boundary line of Nos. 76, 77, 78, and 79 to No. 80; and from thence again to the Town Belt of Dunedin, so as to include the Sections numbered 80 to 90 inclusive, Block VI., Town District. From No. 21, Lower Kaikorai District in a straight line running through the Trigonometrical Station on the Kaikorai hill until it joins Abbot's Creek, then following that stream to its source; and from thence again in a straight line to the south-western corner of Section No. 155, Wakari District.

No. 3.—TOWN DISTRICT.

This District comprises that part of the District of the same name not included in the Wakari District No. 2, to a road line running south-east, in a right line from the Town Belt of Dunedin to the Ocean Beach, together with sections numbered 18 to 33 inclusive of the Lower Kaikorai District, and the sections numbered 1 to 32 of the Ocean Beach District.

No. 4.—ANDERSON'S BAY DISTRICT.

This District comprises the District of the same name; also that part of the original Town District lying to the east and north-east of the road line running south-east in a right line from the Town Belt of Dunedin to the Ocean Beach, together with the Tomahawk Valley District, to the Ocean.

No. 5.—GREEN ISLAND DISTRICT.

This District comprises the south-western part of the Lower Kaikorai District, from Section No. 33 to Abbot's Creek, together with the unsurveyed lands to the west and north-west to Abbot's Creek, not included in the Wakari District No. 2; the Green Island Bush District to the Kaikorai River, and the remainder of the Ocean Beach District not included in the Town District No. 3.

No. 6.—EAST TAIERI DISTRICT.

This District comprises the entire tract of country to the west and south-west of the Green Island Bush and Wakaari Districts, commencing at the south-western extremity of Section No. 66, Wakaari District, and taking from thence in a straight line running through the Trigonometrical Station on Flagstaff (Wakari Hills) to the boundary of the Otago Block, then along the boundary of the Block to the Taieri River; from thence, making that river the boundary, to the Ocean, excluding the Taieri Native Reserve; from thence again, taking the Ocean as the boundary, to the Kaikorai River, and from this point, keeping the boundaries of the Green Island and Wakari Districts to No. 66, Wakari.

No. 7.—WEST TAIERI DISTRICT.

This District comprises the tract of country to the eastward of the Maunga-atua Mountains and Otago Block boundary, and extending to the Taieri, Waihola, and Waipori Rivers.

No. 8.—TOKOMAIRO DISTRICT.

This District comprises the tract of country within the Otago Block, south and west of the boundaries of the East and West Taieri Districts, No 6 and 7, and extending as far as a road line (and a continuation of the same right line to the boundary of the Block) running north-west, and forming the south-western boundary of the original Tokomairo District, and of Sections No. 6 and 7, Block XLV, Nos. 6 and 7, Block XLIV, and No. 6, Block XXXIX of that District. The above road line, with its continuation, will therefore form the south-western boundary of the present district to a point at Section No. 6, Block XXXIX, aforesaid, where a road line running south, and nearly direct, from the Tuakitoto Lake, converges into it. From this point the latter road line will form the boundary to the Tuakitoto Lake—thence the Tuakitoto and Kaitangata Lakes, with their main streams or outlets, to the Clutha River—and thence the Clutha River to the Ocean.

No. 9.—CLUTHA DISTRICT.

This District comprises the tract of country from the boundaries of the Tokomairo District, No. 8, to the boundary of the Otago Block.