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called upon so to do by the Resident Magistrate, and any person neglecting to keep clean the chimney of any house occupied by him, so that from the foulness thereof the same shall take fire, shall be liable to a fine of not more than two pounds.

Mode of procedure.
That this Ordinance
shall be construed
with No. 2, Session
VII.

31. Be it enacted, That all proceedings under this Ordinance shall be regulated and carried on according to the Ordinance, No. 5, Session II., for the regulation of summary proceedings before Justices of the Peace; and that this Ordinance shall be read and construed together with Ordinance No. 2, Session VII.

Commencement of
Ordinance.

32. Be it enacted, That this Ordinance shall take effect from the day of the passing of the same.

SCHEDULE A.

BEAT carpets, fly kites, drive a carriage for the purpose of breaking horses, ride a horse for the purpose of breaking, throw or permit to be thrown rubbish or anything annoying or offensive; slaughter or cut up any animal so near to the carriage or footway that the blood or offal shall cause a nuisance to passengers; place or cause to be placed any carriage for either persons or things; any wheelbarrow cask or barrel, except for necessary and temporary purposes; ride any horse mule or ass upon the footways; place any stall board chopping-block show-board (on hinges or otherwise); basketwares goods or merchandise of any kind whatsoever; wash or hoop any cask or vessel; place any timber stones bricks lime or other materials for buildings (except the same be enclosed); expose any meat or offal, so as to overhang the street.

No. X.

COUNTRY ROADS.

AN ORDINANCE to authorize the Levying and Collection of Tolls on Roads, and of Rates on Land in the Province of New Munster. [*2nd October, 1849.*]

Preamble.

WHEREAS it is expedient to raise funds, by means of tolls on roads and a rate upon land, for the repairs of certain roads in the Province of New Munster:

Lieutenant-Governor
to proclaim district.

1. Be it enacted, That whenever a majority of the Justices of the Peace residing within any district proclaimed as such for the purposes of the Registration Ordinance shall memorialise His Excellency the Lieutenant-Governor, stating their desire that this Ordinance or any part thereof should be brought into operation within such district or any portion thereof, the Lieutenant-Governor, by and with the advice and consent of the Executive Council, may proclaim the district or portion thereof so indicated by the said Justices to be within the operation of this Ordinance or such part thereof accordingly.

Commissioners to be
elected.

2. Be it enacted, That every person who shall have to his own use, either as freehold or as the occupier, any land or tenement within any district proclaimed to be within the provisions of this Ordinance, and any person duly appointed in writing as the proxy of any such person for the purposes of this Ordinance shall, being duly enrolled in manner hereinafter provided, be qualified to vote at the election of a Board of Commissioners to be elected for the purpose of levying tolls on any road and levying a rate on uncultivated land, or on cultivated, as the case may be, within the said district, to be expended in repairing the roads and making by-roads within the said district.

Claims of votes to be
sent in.

3. Be it enacted, That all claims to the right of voting shall be according to the form to this Ordinance annexed, and shall be sent in
to

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to the Resident Magistrate of the district proclaimed as aforesaid, or if there be no Resident Magistrate in the district then to the nearest Resident Magistrate, on or before the first day of November in each year, and all claims not so sent in shall be disallowed.

4. Be it enacted, That every Resident Magistrate shall, within seven days after the receipt of such claims as aforesaid, cause the names of the claimants to be posted in alphabetical order in some public place in the district, accompanied by a notice naming some day prior to the fifteenth day of November on which he will hear and determine all objections to the same, and the list so revised shall be deemed to be the list of electors for the ensuing twelve calendar months, and shall be published in the *Government Gazette*, with a notice from the Resident Magistrate to the electors to assemble at some given time and place before the twenty-fifth day of November, for the purpose of electing Commissioners (not less than five in number, of whom three shall be a quorum), and such Commissioners or a quorum of them shall form a Board for the district, with authority to carry into effect the provisions of this Ordinance: Provided always that no Resident Magistrate shall admit the claims of any one person to vote as proxy for more than ten owners or occupiers of land.

Resident Magistrate
to decide upon
claims.

Limitation of proxy.

5. Be it enacted, That the Commissioners so elected as aforesaid shall continue in office for one year, or until the next election of Commissioners, and that any Commissioner going out of office shall be eligible for re-election; and that in case of the insolvency absence from the Province mental incapacity or death of any Commissioner, the vacancy so created shall be filled up within a month by the election of another Commissioner.

Commissioners to
continue in office
for one year.

6. Be it enacted, That the Board of Commissioners shall have the power within the limits of the district to erect toll-gates or bars on any road within the same, and to assess and levy a rate on all uncultivated land within the same, such rate to be assessed on the estimated value to sell of the said uncultivated land (provided that no rate so to be assessed shall exceed the amount of twopence in the pound), and to keep in repair all roads causeways and bridges, and to make by-roads within the same: Provided always that in case the said Commissioners shall not cause the erection of any toll-bars or gates in any such district, any rate or assessment to be levied under this Ordinance shall be levied indiscriminately upon cultivated and uncultivated lands.

Commissioners to
erect toll-bars and
levy rates.

7. Be it enacted, That no tolls to be imposed by the said Commissioners shall be levied more than once in ten miles nor shall exceed the scale contained in a Schedule annexed to this Ordinance, a copy of which scale, showing the exact amount of tolls payable as aforesaid, shall be fixed up at every toll-gate or bar, signed by the said Commissioners: Provided always that all carts drays or other such carriages licensed under Ordinance No. 7, called "*An Ordinance to authorize the Levying and Collecting of Rates for the Repairing of Roads and Streets in any Town in New Munster*," shall be exempt from toll within the limits of the said Ordinance.

Tolls to be levied ac-
cording to scale in
Schedule.

8. Be it enacted, That the said Commissioners are hereby authorized to make such by-laws for the regulation of all matters and things within their control as to them may seem meet.

Commissioners au-
thorized to make by-
laws.

9. Be it enacted, That previously to levying any such rate the Commissioners shall cause a written or printed statement to be posted up in some conspicuous place or places within the district, setting forth the amount of rate to be levied, with a list of the names of the persons liable for the payment thereof, with the sum payable by each of such persons, and the number of acres in respect whereof the same shall be payable: Provided always that if any person who shall have paid the

Commissioners to
cause a statement of
rate to be posted.

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Proviso for appeal
against assessment.

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amount of rate charged upon him by the assessment made by any Assessor under this Ordinance shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not rateable under this Ordinance, or that it assesses his rateable property beyond its full and fair value, or that any person is omitted out of such assessment, or that the property of any person is assessed below its full and fair value, the person so considering himself aggrieved may appeal to a Bench of not less than five Magistrates, within twenty-one days after such payment; and in case the said Bench of Magistrates shall think the appellant entitled to relief, it shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him in excess to be returned to him by the said Commissioners; and in case he shall have appealed on the ground that any person is omitted out of the assessment, the said Court of Appeal may order the name of such person to be inserted in the assessment, and to be therein rated at such amount as it shall deem just; and in case the appellant shall have appealed on the ground that the property of any person is assessed below its full and fair value, the said Court of Appeal may order the amount at which such person is rated in the assessment to be altered in such manner as it shall deem just; and the proper officer of the Court shall in each of the cases aforesaid forthwith amend the assessment accordingly; but the assessment shall not be questioned or altered with respect to any other persons named therein, and the determination of the said Court of Appeal shall be final and conclusive.

Appointment of Collector having power to sue by summary proceedings.

10. Be it enacted, That at the expiration of the time appointed for the hearing of such objections, the Commissioners shall appoint fit persons to collect the rate due, which shall on non-payment thereof be recoverable at the suit of any such Collector by summary proceedings before any Justice of the Peace having jurisdiction within the district, and shall be leviable by distress and sale.

Rate uncollected to remain chargeable on land.

11. Be it enacted, That in case it shall be impossible to levy the rate due, by reason of the property rateable being unoccupied or otherwise, the arrears shall at any subsequent time within seven years from the date of such rate becoming due be leviable upon any goods which may be found on such property.

Commissioners to publish accounts.

12. Be it enacted, That the Commissioners shall once in every year publish and cause to be posted up in some conspicuous place or places within the district a statement of every sum so in arrear and of the land in respect of which the same shall be due.

Penalty for evading tolls.

13. Be it enacted, That any one forcing his way through any toll-gate or bar, or evading the payment of any toll payable for passing through the same, shall be liable to a penalty of not more than forty shillings.

Penalties for injuries to roads bridges drains &c., for causing obstructions, for riding on carts &c. without proper drivers, for not driving on the proper side of the road, for furious driving, for cattle &c. trespassing.

14. Be it enacted, That any person who himself or by means of any one under his control shall convey haul or trail timber, either with a carriage or without one, along any road in any district proclaimed as aforesaid, so as to injure the road or the sides or the banks thereof, shall for each offence be liable to a penalty of not more than two pounds nor less than ten shillings; and any person causing injury to any bridge drain fence or roadway, by placing any building within thirty-three feet of the centre of any road, or by lighting fires within fifty yards of the centre of any road, or placing timber or any other thing in any road so as to cause any obstruction, shall for each offence be liable to a penalty of not more than forty shillings; and any person riding on any cart dray or other such vehicle drawn by one or more horses, or by any bulls or steers, without some person to guide or control the same by means of reins or otherwise, or shall obstruct the passage of
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any vehicle by not keeping on the proper side of the road, or who shall drive along any such road furiously, shall for each offence be liable to a penalty not exceeding five pounds; and the owners of any cattle sheep horse pig goat or other animal found trespassing on the road or the sides thereof, and causing or being likely to cause any damage or obstruction by so trespassing, shall be liable to a fine for each animal so trespassing for each offence of not more than ten shillings, and shall make good any damage caused to the road by such trespass or trespasses, such damage to be assessed by any two Justices of the Peace or by any person whom they may appoint; and in case of any cattle sheep horse pig goat or other animal found trespassing as aforesaid, and causing damage or being likely to cause damage as aforesaid, and whose owner cannot be found, the same may, by any person seeing the damage done or having reason to believe that such damage will be done, be driven or be caused to be driven to the nearest pound, and be subject to the enactments of Ordinance No. 6, Session VIII., in respect of cattle trespassing on private property.

15. Be it enacted, That all moneys whether arising from the payment of tolls rates or penalties leviable under this Ordinance shall be paid to the Colonial Treasurer on behalf of Her Majesty, her heirs and successors, to be appropriated by the said Commissioners in defraying the costs and expenses necessarily incurred in the exercise of the powers hereinbefore given to the Board of Commissioners, and no other expenses whatsoever.

Moneys arising from tolls rates or penalties paid to Treasurer to be appropriated by the Commissioners.

16. Be it enacted, That the Lieutenant-Governor shall issue his warrant for any sum or sums of money required by the Commissioners elected as aforesaid, not exceeding the whole sum collected in any one district as aforesaid, in order to carry out the provisions of this Ordinance.

Lieutenant-Governor to issue warrant for money required to carry out the provisions of this Ordinance.

17. Be it enacted, That all moneys levied or received under this Ordinance shall be paid to the Colonial Treasurer on behalf of Her Majesty, her heirs and successors, to be appropriated by the said Commissioners in defraying the expense of carrying this Ordinance into execution, and of making repairing improving maintaining and cleansing the streets quays roads and public thoroughfares within the limits of the town assessed.

Appropriation clause.

18. Be it enacted, That the Lieutenant-Governor shall issue his warrant for any sum or sums of money required by the Commissioners elected as aforesaid, not exceeding the whole sum collected in any one town as aforesaid, in order to carry out the provisions of this Ordinance; and the accounts of the said Commissioners shall be audited in the same way as any other of the ordinary accounts of the Province.

Accounts of Commissioners to be audited.

19. Be it enacted, That the Commissioners elected as aforesaid, in concert with the Lieutenant-Governor, shall have the power, and they are hereby authorized, to make all such by-laws as may appear to them necessary to the protection and proper maintenance in repair of the streets roads quays thoroughfares, &c., &c., within any town: Provided always that such by-laws shall not be repugnant to any of the provisions of this Ordinance, and shall be submitted to the Lieutenant-Governor in Council, and, upon being approved, shall have the same force and effect as if they had been inserted herein.

Commissioners empowered to make by-laws.

20. Be it enacted, That no meeting of Commissioners for the purposes of this Ordinance shall be holden unless such meeting shall have been called by two Commissioners at least; notice of the time and place of every such intended meeting, specifying the business proposed to be transacted thereat, and signed by the Commissioners calling the same, to be left at the usual place of abode of every other Commissioner three clear days at least before such meeting.

Meetings of Commissioners to be called by at least two Commissioners.

21. Be

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Questions to be
decided by the
majority.

Minutes of resolu-
tions to be entered
in a book.

Accounts of all
moneys to be kept.

Assessor, with his
necessary assistants,
to enter lands &c.

Owners of carts &c.
to take out licenses.

No Judge &c. to be
disqualified.

Proceedings for
penalties &c.

Not to extend to
certain lands and
buildings.

Commencement of
Ordinance.

21. Be it enacted, That all questions which shall come before such meeting shall be decided by the majority of the Commissioners who shall be present thereat.

22. Be it enacted, That a minute of every resolution agreed to at any such meeting shall be entered in a book to be kept for that purpose, and shall be signed by the said Commissioners who shall have agreed thereto.

23. Be it enacted, That the said Commissioners shall keep, or cause to be kept, accounts of all moneys received as well as all moneys expended by them in the execution of their trust, and shall within one month after the expiration of each half-year render such accounts for such half-year to the Auditor-General of the Province of New Munster, who, after examination of the same, shall cause them to be forthwith delivered to the Colonial Secretary, to be laid before the Legislative Council, and published each half-year in the Government *Gazette*.

24. Be it enacted, That for the execution of the purposes of this Ordinance it shall and may be lawful for any Commissioner and for any Assessor appointed under this Ordinance, with his necessary assistants, from time to time to enter upon and to go through and over any lands or ground of any person whomsoever, for the purpose of making and carrying on any valuation or assessment authorized by this Ordinance.

25. Be it enacted, That any person residing in or within four miles by the nearest line of road of the Town of Wellington, who himself or by means of any one under his control shall drive or cause to pass along any road within the operations of this Ordinance any cart waggon dray or other carriage without a license duly had and obtained from the said Commissioners (which they are hereby authorized to give), on the terms specified in one of the Schedules to this Ordinance annexed, shall be liable to a fine of not more than two pounds, and such person not having his name legibly painted in letters one inch long on the right or off side above the wheel of his cart waggon dray or other carriage, shall be liable to a penalty of not more than one pound.

26. Be it enacted, That no Judge, Resident Magistrate, or Justice of the Peace shall be disqualified from acting in pursuance of any of the provisions of this Ordinance by reason of his being assessed as a ratepayer under this Ordinance.

27. Be it enacted, That all proceedings under this Ordinance, in so far as not otherwise expressly provided, may be had and taken according to Ordinance No. 5, Session II., for the regulation of summary proceedings before Justices of the Peace.

28. Be it enacted, That nothing in this Ordinance shall extend to any Gaol Hospital Custom House Police Office Station House other Government buildings or buildings hired by the Honorable the Board of Ordinance, or to any Native lands or reserves which have been set apart for their sole use and benefit or are in their actual possession or occupation.

29. Be it enacted, That this Ordinance shall commence and take effect from the day of the passing thereof.

