

No. , 1923.

A BILL

To provide for the better construction, maintenance, and financing of main roads; to constitute a Main Roads Board; to amend the Local Government Act, 1919, and certain other Acts; and for purposes connected therewith.

[MR. J. C. L. FITZPATRICK;— *November, 1923.*]

204

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5

PART I.

PRELIMINARY.

Short title. 1. This Act may be cited as the "Main Roads Act, 1923," and shall commence and come into force on a date to be fixed by the Governor by proclamation. 10

Division into Parts. 2. This Act is divided into Parts as follows:—
PART I.—PRELIMINARY.

PART II.—MAIN ROADS BOARD.

PART III.—SELECTION OF MAIN ROADS.

PART IV.—COUNTY OF CUMBERLAND— 15

DIVISION 1.—Application of Part.

DIVISION 2.—County of Cumberland Main Roads Fund.

DIVISION 3.—Vehicles and traffic.

DIVISION 4.—Metropolitan main road work. 20

PART V.—COUNTRY DISTRICTS—

DIVISION 1.—Application of Part.

DIVISION 2.—Country Main Roads Fund.

DIVISION 3.—Country main road works and repayment. 25

PART VI.—WORKS GENERALLY.

PART VII.—MISCELLANEOUS.

Interpretation. 3. In this Act, unless inconsistent with the context or subject-matter,—

"Area" means municipality or shire, and includes the city of Sydney. 30

"Board" means the Main Roads Board of New South Wales established under this Act.

"Council"

Main Roads.

- “ Council ” includes the Municipal Council of Sydney.
 - “ Country main road ” means a main road outside the county of Cumberland.
 - 5 “ County of Cumberland ” includes, in addition to the land within that county, the lands outside that county as described in the Schedule to this Act.
 - 10 “ Construct ” includes “ reconstruct,” and means the carrying out of permanent improvements.
 - “ Main road ” includes a proposed main road or proposed deviation thereof.
 - 15 “ Maintenance ” shall include all works of every description which are, in the opinion of the board, calculated to keep the carriage-way of any main road, and any drain draining such carriage-way, in the same state of usefulness as it was in at the time it was declared to be a main road, or in the same state of usefulness as it was in as the result of any permanent improvements which have been effected to it under the provisions of this Act.
 - 20 “ Metropolitan area ” means the Sydney metropolitan area as described in Schedule Four of the Local Government Act, 1919.
 - 25 “ Metropolitan main road ” means a main road in the county of Cumberland.
 - “ Permanent improvement ” includes a new main road, a deviation or a widening of an existing main road, a work for the drainage of a main road, and all works of every description (exclusive of maintenance) which are in the opinion of the board calculated to increase the usefulness of or to embellish a main road.
 - 30 “ Public road ” includes proposed public road or a proposed deviation.
 - 35 “ Treasurer ” means the Colonial Treasurer.
4. (1) This Act shall be read with the Local Government Act, 1919, and words used in this Act which are defined in that Act shall, unless inconsistent with the context or subject-matter of this Act, have the meanings by that Act ascribed to them. (2)

cf. Country Roads Act, 1912 (Vic.), s. 3.

Ibid.

Adaptation of Acts— application to councils.

206

(2) In so far as this Act confers powers or imposes duties upon councils, such powers and duties shall apply in respect of each municipality or shire to the council thereof, and in respect of the city of Sydney shall apply to the municipal council of Sydney.

5

PART II.

MAIN ROADS BOARD.

Appointment of board. cf. Vic. C.R. Act, 1902.

5. (1) There shall be a Main Roads Board, which shall consist of a president and two other members appointed under the Public Service Act, 1902, or any Act amending the same.

(2) Two of the members of the board shall be engineers having special knowledge of road construction.

(3) The remuneration of the president shall be at the rate of one thousand five hundred pounds per annum, and that of each of the other members at the rate of one thousand two hundred and fifty pounds per annum.

(4) The President shall be the "permanent head" within the meaning of the Public Service Act, 1902, and any Act amending the same.

20

Body corporate.

6. (1) The board shall be a body corporate, with perpetual succession and a common seal, and may sue and be sued in its corporate name; and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of, or otherwise dealing with real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer. The corporate name of the board shall be "The Main Roads Board of New South Wales."

30

Quorum.

(2) Any two members of the board shall be a quorum, and, subject to the next following provision, shall have all the powers and authority by this Act conferred upon the board.

(3)

Main Roads.

(3) If at any meeting of the board, at which two members only are present, such members differ in opinion upon any matter, the determination of such matter shall be postponed until all the members are present.

(4) No action or suit shall be brought or maintained against any person who is, or at any time has been, a member of the board for anything done or omitted by him pursuant to the duties imposed upon him by this Act, nor shall any action, suit, or other proceeding lie, nor any costs be payable in respect of any proceeding before the board.

(5) The board shall cause minutes of its decisions to be kept upon the official papers, and cause minutes to be kept of the proceedings at formal meetings, and an annual report of its work and a statement of accounts to be prepared and presented to Parliament through the Minister.

(6) In case of the illness, suspension, or absence of any member of the board, a deputy may be appointed under the Public Service Act, 1902, to act for such member during his illness, suspension, or absence; and every such deputy shall, during the time he acts as deputy, have all the powers and authority of such member.

7. (1) For the purposes of carrying out the powers, duties, authorities, and obligations conferred or imposed upon the board by this or any other Act the board, with the approval of the Minister of the department concerned, may make use of the services of any of the officers and employees of the Public Service.

(2) The staff of the board shall be appointed under and be subject to the provisions of the Public Service Act, 1902.

(3) The board may appoint, employ, and dismiss such casual employees as it deems necessary for the purposes of this Act, and may fix wages and conditions of employment where these are not fixed in accordance with the provisions of other Statutes.

(4)

208

Division of administrative expenses. cf. cl. 10 (3), 19 (3) post.

(4) The board shall apportion the salaries and expenses of the board and its staff, and any additional administrative expenses, in an equitable manner between, and charge the amounts so apportioned upon, the County of Cumberland Main Roads Fund and the Country Main Roads Fund. 5

PART III.

SELECTION OF MAIN ROADS.

Proclamation of main roads.

8. (1) Subject to the provisions of this Act the Governor may, on the recommendation of the board, proclaim any public road to be a main road. 10

(2) In determining whether to recommend the proclamation of a metropolitan main road the board shall consider—

- (a) any representations made by the councils through whose areas the road passes (or will pass) or whose areas the road serves (or will serve); 15
- (b) the funds which are or will be available for the construction and for the regular maintenance of metropolitan main roads; 20
- (c) whether the road is or will be a main trunk route for radial traffic between the business centres of the metropolitan area and the other parts of the county of Cumberland; 25
- (d) whether the road is or will be a main trunk route for circumferential traffic between one part of the said county and another; and
- (e) whether the traffic along the road is mainly local, that is arising or terminating within the area in which the road is situated, or whether it is or will be mainly through traffic. 30

(3)

Main Roads.

(3) In considering whether to recommend the proclamation of a country main road the board shall consider—

- 5 (a) any representations made by the councils through whose areas the road passes (or will pass) or whose areas the road serves (or will serve);
- 10 (b) the funds which are or will be available for the construction and maintenance of country main roads;
- (c) whether the road is or will be the main trunk route connecting any producing district with its market or point of shipment by water or by rail;
- 15 (d) whether the road is or will be the main trunk route of intercommunication between two or more large producing districts, or between two or more large centres of population;
- 20 (e) whether the road is or will be the main trunk route between the capital of the State and any large producing district or any large centre of population; and
- 25 (f) whether the road is or will be the main trunk route between the capitals of this and any other State.

(4) The Governor may, on the recommendation of the board, repeal any proclamation of a main road whether made under this or any other Act.

30 (5) Roads within the city of Sydney shall not be proclaimed to be main roads.

210

PART IV.

COUNTY OF CUMBERLAND.

DIVISION 1.—Application of Part.

Application of this Part.

9. (1) This Part shall apply to the county of Cumberland as defined in this Act; and to the Municipal Council of the City of Sydney and to the councils of those municipalities and shires of which any portion lies within the county of Cumberland as so defined. 5

(2) An area shall not be considered to be partly within the county of Cumberland solely because a portion of the width of a boundary road may be within that county. 10

DIVISION 2.—County of Cumberland Main Roads Fund.

County of Cumberland Main Roads Fund.

Motor revenue.

Vide sub-sec. 5 of this section.

Public vehicle revenue.

Vide s. 12 post.

General vehicle revenue.

10. (1) There shall be a County of Cumberland Main Roads Fund, consisting of— 15

(a) a sum to be paid by the Treasurer as hereinafter provided from the amount collected after the thirtieth day of June, one thousand nine hundred and twenty-four, as taxes, fees, and fines under the Motor Traffic Act, 1909, and the Motor Vehicle (Taxation) Act, 1916; 20

(b) a sum to be paid by the Treasurer as hereinafter provided from the amount collected after the thirtieth day of June, one thousand nine hundred and twenty-four, under the Metropolitan Traffic Act, 1900; 25

(c) a sum to be paid by the Treasurer as hereinafter provided from the amount to be collected under any Act for the registration of vehicles; 30

(d) loans raised under any Loan Act and appropriated for metropolitan main roads; 30

(e) such other revenues (if any) as the law may direct to be paid into the County of Cumberland Main Roads Fund, or as may be voted by Parliament for the purpose; 35

(f) contributions by councils under this Part; (g)

Main Roads.

(g) any sums apportioned to metropolitan main roads from moneys granted by the Government of the Commonwealth of Australia for the development of main roads.

5 (2) Within one month after the appointment of the board the Treasurer shall pay into the County of Cumberland Main Roads Fund the sum of ten thousand pounds as an advance on account of moneys which may subsequently become payable to that fund from the Consolidated Revenue Fund hereunder.

First advance on inauguration of board.

10 (3) The County of Cumberland Main Roads Fund may be used by the board for the permanent improvement and maintenance of main roads in the county of Cumberland, for the payment of expenses, interest, and principal in connection with loans, for a proportion of the salaries and expenses of the board and its staff, and of any additional administrative expenses, and generally for the purposes of this Part: Provided that loan moneys in that fund shall be used only for the permanent improvement of metropolitan main roads.

Use of fund.

20 (4) The board shall each year pay to the Treasurer from the said fund—

Repayment of loans.

25 (a) for credit of the Consolidated Revenue Fund such sum as the Treasurer shall require to meet the interest payable on the amount of loan moneys debited or paid to the County of Cumberland main roads fund and not repaid; and

30 (b) for credit of the General Loan Account such sum as the Treasurer shall require to provide for the repayment within a term of fifteen years (or such longer term as the Treasurer may approve) of the principal amount of such moneys.

35 (c) for credit of the Consolidated Revenue Fund, interest at the rate of five per centum per annum, on the balance remaining unpaid of the sums debited under the provisions of this Act to the County of Cumberland Main Roads Fund in respect of the reconstruction of Parramatta road.

40

(d)

212

(d) for credit of the Public Works Fund, such sums as the Treasurer shall require to provide for the repayment within a term of fifteen years (or such longer term as the Treasurer may approve) of the principal amount of the sums referred to in the last preceding paragraph. 5

Motor taxation.

(5) After the thirtieth day of June, one thousand nine hundred and twenty-four, seventy-five per centum of the proceeds of the taxes and fees under the Motor Traffic Act, 1909, and the Motor Vehicle (Taxation) Act, 1916, on vehicles owned by and licenses issued to persons resident in the said county, and seventy-five per centum of the proceeds of penalties imposed in that county under those Acts, shall in the first place be paid into a special account in the Treasury: and after deducting a sum fixed by the Treasurer not exceeding ten per centum thereof for cost of collection (which shall be paid to Consolidated Revenue Fund), one-half of the remainder shall be paid by the Treasurer not less frequently than once in each three months into the County of Cumberland Main Roads Fund and the other half shall be paid into the Country Main Roads Fund hereafter provided for. 10 15 20

Vehicle revenue.

(6) After the commencement of any Act hereafter passed, which provides for the registration of vehicles and the payment to Consolidated Revenue of fees in connection therewith, seventy-five per centum of the proceeds of such fees on vehicles owned by and licenses issued to persons resident in the county of Cumberland, and seventy-five per centum of the proceeds of penalties imposed in that county under any such Act shall, in the first place, be paid into a special account in the Treasury; and after deducting a sum fixed by the Treasurer not exceeding ten per centum thereof for cost of collection (which shall be paid to Consolidated Revenue Fund) the remainder shall be paid by the Treasurer not less frequently than once in each three months into the county of Cumberland Main Roads Fund. 25 30 35

Vide s. 24, 1 (b).
Levy upon county—
contribution by councils.

11. (1) The board may in respect of each year, ending on the thirty-first day of December, serve 40

a

a requisition upon each council whose area (or any part thereof) is situated in the said county, requiring it to pay a contribution to the County of Cumberland Main Roads Fund.

5 (2) The board may require the first contribution to be paid in the year in which the requisition is served or in the next year, as may seem to the board to be reasonable taking into consideration the date of the commencement of this Act. The requisition of the
10 board for each succeeding year's contribution shall be served upon the councils towards the close of the year preceding that in which the contribution is to be paid.

(3) The first year's contribution shall be due and payable at the expiration of a period to be stated in
15 the requisition, and subsequent contributions shall be due and payable in the first half of the council's financial year: Provided that in either case the board may grant to any council an extension of time for payment.

(4) The contribution under this section by each
20 council whose area is wholly in the metropolitan area shall (subject to the proviso hereunder) be calculated at such a uniform rate in the pound upon the unimproved capital value of ratable land (or ratable property as the case may be) in their respective areas as the
25 board may fix, but not in any case exceeding one half-penny in the pound on the said value:

Limit of 1d. in £.

Provided that the rate in the pound of the contribution of the Municipal Council of Sydney shall be one-half of the rate in the pound of the contribution of the other
30 councils in the metropolitan area.

(5) The contribution under this section by each
council in the county of Cumberland whose area is not wholly within the metropolitan area shall be calculated at the same rate in the pound upon the unimproved
35 capital value of ratable land in their respective areas as for councils in the metropolitan area: Provided that in the case of lands whose principal use for the time being is for agriculture or grazing any such council may reduce its levy upon the person ratable by one-half of
40 such rate, and may make a corresponding reduction in the amount of the contribution payable to the board:

Farming land—lower rate.

Provided

214

Provided also that in any such case the onus of proof that the reduction is authorised by this section shall lie on the council in case of dispute.

(6) Each council shall pay the contribution accordingly; and the board shall pay it into the County of Cumberland Main Roads Fund 5

Previous loans for main roads.

(7) There shall be debited to the County of Cumberland Main Roads Fund—

(a) In respect of sums expended during the financial years 1920-21, 1921-22, 1922-23, and 1923-24, from the General Loan Account, on the improvement of any roads in the County of Cumberland which are proclaimed as main roads under this Act:—One half of the sums so expended less any sums already repaid by the council of any area. The sums so debited shall be deemed to be loan moneys expended under this Act upon metropolitan main roads; 15

(b) the sums remaining unpaid at the date of the commencement of this Act by the council of any area in respect of the reconstruction of Parramatta-road whether the council is liable to repay the sum under subsection five of section six hundred and fifty-five of the Local Government Act, 1919, or under any agreement other than any sums due and payable at the date of the said commencement. 25

Existing debts to Treasury.

(8) Where at the commencement of this Act any council owes to the Treasurer or Minister for Public Works or Minister for Local Government any sum of money in respect of the reconstruction of any main road in the said county, or in respect of any advance made for the reconstruction of any such road under section five hundred and thirty-nine of the Local Government Act, 1919, the Treasurer or such Minister shall, upon payment of the instalments of interest and principal which fell due before the said commencement, write off any remaining balance of the debt. 30 35

Subsidy towards existing loans of councils for main roads.

(9) (a) Where at the commencement of this Act any council owes any money in respect of a loan which was expended upon the reconstruction of any main main 40

main road in the said county the council may ask the board to agree to subsidise the council each year (for such period as may be necessary) to the extent of part or the whole of the interest and instalments of repayment on the amount so owing. The board may grant to the council such subsidy as it deems fit, taking into account the character of work done upon the road, its suitability to the traffic, the manner in which it has been maintained, and thus estimating the extent to which the board considers the work done constitutes a saving of future expense to the board.

(b) Where at such commencement any council has not wholly spent moneys borrowed for such reconstruction as aforesaid it may confer with the Board, and with the board's approval, subject to such alteration of plans and specifications as the board may require, may complete the expenditure of the loan, and thereupon the provisions of the preceding paragraph of this subsection shall apply.

(c) The preceding provisions of this section shall not apply to the Botany-road nor to the Botany-road Trust, but each of the constituent councils under the Botany-road Trust Constitution Act, 1922, may deduct the amount of the contribution paid in any year to the trust from the amount of the contribution payable by such council to the board under this section, and may claim any excess from the board, who shall pay the amount of such excess from the County of Cumberland Main Roads Fund.

(d) Where the Government of the State of New South Wales has undertaken to provide a subsidy or contribution to the Botany-road Trust or to any council in connection with the reconstruction of any metropolitan main road, the liability for such subsidy or contribution shall be transferred from the said Government to the board.

(10) The contribution of a council under this Act may be paid in the first place from the General (or City) Fund, and if the council's area is wholly within the county of Cumberland may be added to any rate levied for general purposes or may be levied by the council

Botany-road Trust.

Certain Government liabilities for subsidy transferred to board.

Contribution added to rates.

216

council as a separate special rate, and if the council's area is only partly within the county of Cumberland, shall be levied by the council as a separate local rate upon all ratable lands or ratable property which are both within the area of the council and within the county of Cumberland. Where levied as a separate special or local rate it may be used to recoup the General (or City) Fund to the extent of any payments made from that fund under this Act. 5

Limit of rate extended.

(11) The contribution of any council under this Act, and the addition which it is necessary for the council to make to the rates levied by it in order to make such contribution shall not be taken into account in determining whether the rates levied by the council are within the limits fixed by any other Act. 10 15

DIVISION 3.—Vehicles and traffic.

Proceeds to go to Main Roads Fund.

12. After the thirtieth day of June, one thousand nine hundred and twenty-four, seventy-five per centum of the proceeds of the fees charged for licenses of drivers and of vehicles (including public vehicles) issued under the Metropolitan Traffic Act, 1900, and seventy-five per centum of the proceeds of penalties imposed under that Act, shall be paid into a special account in the Treasury, and after deducting a sum fixed by the Treasurer not exceeding ten per centum thereof for cost of collection (which shall be paid to Consolidated Revenue Fund) the remainder shall be paid by the Treasurer not less frequently than once in each three months into the County of Cumberland Main Roads Fund. 20 25

DIVISION 4.—Metropolitan main road work. 30

New roads—deviations. cf. Vic. C.R. Act, 1915, No. 2635, s. 19.

13. If it appears to the board desirable that a new main road or a deviation from any existing main road should be made the board may cause such road or deviation to be made under this Act.

Permanent improvements. cf. Ibid. s. 22. Ibid. s. 23.

14. (1) The board may cause permanent improvements to be made under this Act to any main road. 35

(2)

(2) The council shall carry out all permanent improvements to be made within its area: Provided that the Governor may, in any special case, direct that a permanent improvement be carried out by the board.

5 (3) All such permanent improvements carried out by any council shall be carried out to the satisfaction of the board.

10 **15.** (1) The council shall to the extent of the funds Maintenance. provided under this Part by the board maintain the cf. *Ibid.* s. 24. main roads within its area: Provided that the Governor may, in any special case, direct the board to carry out works of maintenance upon a main road.

(2) All maintenance carried out by any council shall be carried out to the satisfaction of the board.

15 **16.** (1) Before deciding upon any work upon a Negotiations road, the board shall consider the representations, if with councils. any, of the councils of the areas served or to be served by the road.

20 (2) Where the board has decided that any work of permanent improvement or of maintenance is necessary, the board shall (except where otherwise authorised by the Governor) offer to place the carrying out of the work in the hands of the council, and to make an agreement with the council accordingly.

25 (3) Where an agreement is made the board shall pay the cost (or instalments thereof) from the County of Cumberland Main Roads Fund to the council in trust, to be expended on the said works in accordance with the agreement: and the council shall account to the 30 board therefor.

17. (1) In any case where a main road lies within Boundary the county of Cumberland as defined by this Act, and is works. wholly within that county as so defined, the board may 35 allot moneys and works hereunder in respect of the whole of the road to one council, or may divide the moneys and works between the councils in such manner as the board may consider best for the effective carrying out of the works.

40 (2) In any case where a main road lies on the boundary of the county of Cumberland as defined by this

218

this Act such road shall, as between the board and the council of the outer area affected, and for the purpose of allocating the cost, be deemed to be a boundary work within the meaning of section five hundred and twenty-two of the Local Government Act, 1919, and for that purpose the word "council" shall include the board. 5

(3) In this section "outer area" means that area in which is situated the land which is not within the county of Cumberland as defined by this Act, but has frontage to a main road on the boundary of that county as so defined. 10

PART V.

COUNTRY DISTRICTS.

DIVISION 1.—Application of this Part.

Application of this Part.

18. This Part shall apply to all municipalities and shires in respect of areas which are wholly or partly outside the county of Cumberland as defined by this Act, and shall so apply in respect of the whole area or of the part, as the case may be. 15

DIVISION 2.—Country Main Roads Fund.

Country Main Roads Fund. cf. Vic. O.R. Act 1915, s. 38. Motor revenue. Vide s. 11 (5) and 20 (5).

19. (1) There shall be a Country Main Roads Fund, consisting of— 20

General vehicle revenue.

- (a) a sum to be paid by the Treasurer, as elsewhere in this Act provided, from the amount collected after the thirtieth day of June, one thousand nine hundred and twenty-four, as taxes, fees, and fines under the Motor Traffic Act, 1909, and the Motor Vehicle (Taxation) Act, 1916; 25
- (b) a sum to be paid by the Treasurer as herein-after provided from the amount to be collected under any Act for the registration of vehicles; 30
- (c) loans raised under any Loan Act and appropriated for country main roads;
- (d) such other revenues (if any) as the law may direct to be paid into the Country Main Roads Fund or as may be voted by Parliament for the purpose; 35
- (e)

Main Roads.

- (e) contributions by councils under this Part ;
 - (f) any sums apportioned to country main roads from moneys granted by the Government of the Commonwealth of Australia for the development of main roads.
- 5 (2) Within one month after the appointment of the board the Treasurer shall pay into the Country Main Roads Fund the sum of ten thousand pounds as an advance on account of moneys which may subsequently become payable to that fund from Consolidated Revenue Fund hereunder.
- 10 (3) The Country Main Roads Fund may be used by the board for the permanent improvement, and in special cases for the maintenance, of country main roads, for the payment of expenses, interest and principal in connection with loans, for a proportion of the salaries and expenses of the board and its staff, and of any additional administrative expenses, and generally for the purposes of this Part : Provided that loan moneys in that fund shall be used only for the permanent improvement of country main roads.
- 15 (4) The board shall in each year pay to the Treasurer from the said fund—
- 20 (a) for credit of the Consolidated Revenue Fund such sum as the Treasurer shall require to meet the interest payable on the amount of loan moneys debited or paid to the said Country Main Roads Fund and not repaid ; and
- 25 (b) for credit of the General Loan Account such sum as the Treasurer shall require to provide for the repayment within a term of fifteen years (or such longer term as the Treasurer may approve) of the principal amount of such moneys.
- 30 (5) After the thirtieth day of June, one thousand nine hundred and twenty-four, seventy-five per centum of the proceeds of the taxes and fees under the Motor Traffic Act, 1909, and the Motor Vehicle (Taxation) Act, 1916, on vehicles owned by and licenses issued to persons not resident in the county of Cumberland, and seventy-five per centum of the proceeds of penalties imposed outside
- 35 Motor taxation. See also s. 10 (5) re share of metropolitan motor taxation payable to Country M.R. Fund.

220

outside that county under those Acts, shall in the first place be paid into a special account in the Treasury: and after deducting a sum fixed by the Treasurer not exceeding ten per centum thereof for cost of collection (which shall be paid to Consolidated Revenue Fund), the whole of the remainder shall be paid by the Treasurer not less frequently than once in each three months into the Country Main Roads Fund. 5

Vehicle
revenue.

(6) After the commencement of any Act hereafter passed which provides for the registration of vehicles and the payment to Consolidated Revenue of fees in connection therewith, seventy-five per centum of the proceeds of such fees on vehicles owned by and licenses issued to persons not resident in the county of Cumberland, and seventy-five per centum of the proceeds of penalties imposed outside that county, under any such Act shall in the first place be paid into a special account in the Treasury: and after deducting a sum fixed by the Treasurer, not exceeding ten per centum thereof, for cost of collection (which shall be paid to Consolidated Revenue Fund), the remainder shall be paid by the Treasurer not less frequently than once in each three months into the Country Main Roads Fund. 10 15 20

DIVISION 3.—Country main road works and repayment. 25

New roads—
Deviations.
cf. Vic. C.R. Act,
1915, No. 2635,
s. 19.

20. If it appears to the board desirable that a new main road or a deviation from any existing main road should be made, the board may cause such road or deviation to be made under this Act. 30

Permanent
improvements.
Ibid. s. 22.
Ibid. s. 23.

21. (1) The board may cause permanent improvements to be made under this Act to any main road.

(2) The council shall carry out all permanent improvements to be made within its area: Provided that the Governor may, in any special case, direct that a permanent improvement be carried out by the board. 35

(3) All such permanent improvements carried out by any council shall be carried out to the satisfaction of the board.

22. (1) As between the board and the council it shall be the function of the council to maintain the main roads within its area: Provided that the Governor may, in any special case, direct the board to carry out works of maintenance upon a main road.

Maintenance.
of. *Ibid.* s. 24.

(2) All maintenance carried out by any council shall, if paid for in whole or in part by the board, be carried out to the satisfaction of the board.

23. (1) Each council through whose area any country main road passes shall, at such time each year as the board may require, furnish to it—

Grants to
councils.

(a) a detailed report by the council's engineer (or other proper servant where there is no engineer) as to the condition of each main road, as to the works of permanent improvement and of maintenance which are necessary thereon, and the relative urgency of such works, together with any necessary plans and specifications, and an estimate of the cost of each such work;

(b) the views of the council on such report, particularly as to what works are needed, and their relative order of urgency; and

(c) a formal application for such assistance (if any) as the council deems necessary: and a statement of what amount (if any) the council will undertake to contribute toward the cost of each work.

(2) The board may, having regard to the funds available, decide whether any and how much assistance shall be granted to each council, the works to which it shall be allotted, and the conditions to be attached to such assistance. The board may grant assistance accordingly.

(3) Every council receiving assistance under this Part shall carry out the conditions attached thereto.

(4) Where the board considers that any main road is of purely national, not local, importance and benefit, it may provide the whole of the money for construction and maintenance.

Vide *Vio.*
C.R. Act,
1915,
No. 2635,
ss. 27, 34, 35,
36, providing
for repayment
of half cost.

(5) In the case of any main road which is or will be principally developmental in character the board may

222

may provide the whole of the money for construction in the first place and for maintenance for such period as it decides.

(6) In all other cases the board may provide such proportion of the money for construction and maintenance as it sees fit, having regard to the circumstances of each case.

Recovery of portion of cost from councils. cf. Vic. C.R. Act, 1915, s. 27.

24. (1) Where the board has provided the money for the construction or maintenance of any road, and where there is no prior agreement between the board and the councils as to their respective shares of the cost, the board may, when such money has been expended, determine—

- (a) what areas have benefited by such expenditure ;
- (b) what portion of such expenditure (not exceeding one-half in the case of expenditure on construction, and not exceeding two-thirds in the case of expenditure on maintenance) shall be repaid by the councils of such areas ;
- (c) what share of such portion each council shall contribute ;
- (d) what period of time shall be allowed for the councils to make payment of their contributions ;
- (e) the interest (if any) payable (in the case of expenditure from loan moneys) ; and
- (f) the amount and due date of each instalment of contribution.

(2) The contributions of the councils need not be fixed at uniform rates, but may be varied according to the benefits each council's area has derived or may be expected to derive from the expenditure, and according to the council's ability to pay.

(3) The councils shall pay the amounts of the contributions in accordance with any determination hereunder (subject to any decision given on appeal as hereinafter provided).

(4) An area may be held to be benefited within the meaning of this section by expenditure on construction or maintenance, although the portion of the road upon which the expenditure takes place is not situated within

within its boundaries, if substantial traffic to and from that area passes over, or in the case of a new road will in the opinion of the board pass over, the road on which such expenditure has been made.

5 **25.** (1) In any case where a main road is the boundary works. boundary between two areas the board may allot moneys and works hereunder in respect of the whole of the road to one council, or may divide the moneys and works between the councils in such manner as it may consider
10 best for the effective carrying out of the works, and without regard to the subsequent apportionment of the cost.

(2) In any such case the joint share of the councils in the cost of the works shall be apportioned
15 between them in such manner as the councils may agree or, in default of agreement within three months after request made by the board, in such manner as the board, after affording both councils an opportunity to be heard, may decide.

20

PART VI.

WORKS GENERALLY.

26. (1) Where agreement cannot be made between the board and any council, or in any special case (of which the Governor shall be the judge), the Governor
25 may authorise and direct the board to carry out works in connection with main roads; and thereupon the board shall for that purpose have all the powers of a council under the Local Government Act, 1919, and any other Acts conferring powers on a council.

30 (2) In any such case the board shall give notice to the council of its intention to carry out the work.

(3) The board shall give notice to the council of the completion of the work, and thereupon the work shall be under the care and control of the council.

27.

224

What works may be carried out.

27. Works of permanent improvement or of maintenance under this Act, in respect of main roads, may include any works which it would be within the power of a council to construct or maintain; but shall, as a general rule, be limited to works for the improvement of the carriage-way of the road, or works (whether on or off the road) to provide for its drainage. 5

Plans and specifications.

28. (1) The board may cause standard plans and specifications to be prepared for main road construction and maintenance, and may require that works under this Act be designed and executed in accordance therewith, or in accordance with special plans and specifications prepared for a particular work. 10

(2) The board may adopt, or amend and adopt, any plans, sections, and specifications submitted by a council or prepared under the board's directions in respect of any proposed works. 15

"Permanent improvement" or "maintenance"—decision as to.

29. The board's decision whether any proposed work is a permanent improvement or maintenance work shall be final. 20

Borrowing procedure.

30. An arrangement or debt of a council under this Act in respect of the expenditure of loan money shall not be subject to the provisions of the Local Government Act, 1919, relating to the procedure required to be observed by a council in connection with borrowing: and it shall not be compulsory upon the council to levy a loan rate in respect thereof. 25

General powers of board.

Board given powers of council.

31. (1) Subject to this Act the board may, in respect of a main road, exercise the powers given by any Act to a council in respect of public roads. 30

Council's powers not limited.

(2) The exercise of the powers conferred upon the board by this Act in respect of any public road shall not, except in so far as may be necessary for the exercise of those powers, limit or affect the powers of the council in respect of the road. 35

Sign-posts.

(3) The board shall, as soon as may be practicable, cause each main road to be marked by the erection of sign-posts at convenient places along its length and at the boundary of each area. (4) 40

(4) Section two hundred and fifty-four of the Local Government Act, 1919, is hereby repealed. Repeal of s. 254 of L.G. Act, 1919.

(5) Where the board proposes to open a new main road or to widen or construct other permanent improvements on a main road it may purchase or resume land in the neighbourhood of the road, and hold, replan, subdivide, and lease or resell, any or all of the land, and may open new public roads therein for the purposes of such replanning or subdivision; and may use the appropriate main roads fund therefor. Land near main roads. Vide s. 42 (re-surreptions).

32. Where, at the commencement of this Act, any council has received a grant of Government moneys for use upon main roads and has not expended such moneys in accordance with the terms of the grant, the council shall duly account to the board for the expenditure of such moneys and the carrying out of the terms and conditions of the grants; and the board may vary such terms and conditions; or in case of default or non-compliance may require the council to refund the whole or portion of the grant, and any money so refunded shall be paid to the appropriate main roads fund according to whether the work for which it was granted is within or outside the county of Cumberland. Any sum so required to be refunded may be recovered by the board as a debt. Main road grants.

33. The board may at the request of a council carry out works on any public road other than a main road, subject to the council paying the cost thereof. Power to build minor roads.

Control of main roads.

34. (1) The council shall not, except in accordance with a particular or general approval of the board, and with the conditions which the board may attach to such approval, grant to any person permission to place, construct, excavate, lay, or erect any room, cellar, light well, passage, tunnel, pipe, wire, rails, bridge, or other thing whatsoever in any main road, or anything whatsoever to connect buildings on opposite sides of the road. Digging up roads. cf. s. 233 (6) of L.G. Act, 1919.

(2) Where any person desires to connect premises with water, sewerage, electricity, or any works the board may

226

may refuse approval to make such connection across or in a main road if it be reasonably practicable to secure a serviceable connection otherwise.

(3) Any council and any statutory body and any person acting under the authority of any statute and any department of the Government shall not construct, excavate, lay, or erect any room, cellar, light well, passage, tunnel, pipe, wire, rails, bridge, or other thing whatsoever in any main road without first obtaining the consent of the board. The board may, if circumstances render it necessary, withhold such approval for such period as the Board may see fit.

(4) Any person who causes damage or injury to a main road other than the fair wear and tear due to ordinary and reasonable user of the road, whether such person be acting under permission or not, shall pay the cost incurred by the board in making good such damage or injury, or, if the board so require, himself make good such damage or injury to the satisfaction of the board.

Trees on roads.

(5) Without the approval of the board the council shall not grant to any person permission or authorise any of its servants to remove or interfere with any tree, or to remove or interfere with any works or structures existing on main roads.

Deviations of main roads by statutory bodies.

35. A deviation or alteration of a main road shall not be made by any statutory body or any person acting under the authority of any statute or any department of the Government unless and until the location plans and specifications of such deviation or alteration have been approved by the board.

PART VII.

MISCELLANEOUS.

36. (1) The board may use both or either of the main roads funds for the lease, hire, or purchase of plant and materials, that is to say, road-making machinery, tools, implements, and materials needed for the purposes of this Act.

Purchase of plant.
cf. Vic. C R. Act, 1915, s. 15 (3).

(2) The board may lease, hire, or sell plant and materials, or may use them for the purposes of this Act.

10 (3) Moneys received for the lease, hire, or sale of plant and materials shall be paid into the fund from which the purchase money of the plant was paid or, if the board find it more convenient, may be apportioned between the funds on the basis of the respective amounts
15 provided from each fund for purchase of plant.

(4) The board may take over from the Minister for Public Works, and such Minister shall on reasonable notice transfer to the board, any or all lorries, road rollers, traction engines and other road-making and testing
20 machinery plant and appliances paid for from funds provided by or through the Local Government Department.

37. (1) Whenever the board proposes—

25 (a) to recommend the proclamation of a road as a main road, or the cancellation of the proclamation of a main road; or

Council's right to be heard.
Ibid. s. 28 (4).

(b) to demand under Part V of this Act any contribution over one hundred pounds from a council; or

30 (c) to carry out itself any work in respect of which the council will be required under Part V of the Act to contribute a sum greater than one hundred pounds,

the board shall before finally deciding the matter give reasonable notice of its intention to the council
35 concerned.

(2) Such council may within a reasonable period to be fixed in such notice appear before the board to be heard and to call evidence in respect of the matter.

(3) The board shall give notice to the council
40 of its decision.

228

Right of appeal to Minister,

(4) Any council affected may within fourteen days from the pronouncement of any such decision serve a notice, in writing, on the other councils proposed to be charged, and on the board, signifying its intention to appeal therefrom to the Minister. Such notice shall state concisely the grounds of the appeal. 5

(5) The Minister shall hear and determine the appeal, and the board and all councils affected shall give effect to his decision.

Duty of councils to supply information.

cf. Vic. C.R. Act, 1915, s. 16.

38. (1) The board may call upon any council for any information needed for the purpose of carrying out the provisions of this Act. 10

(2) Any council so called upon shall supply the information within one month from the receipt of the request. 15

Enforcement of Act—Penalty.

39. In default of due compliance with the provisions of this Act a council shall be liable to a penalty not exceeding fifty pounds, and to a continuing penalty not exceeding two pounds for each day on which such default continues, and such penalty may be recovered by the board, and when recovered shall be paid into the appropriate main roads fund. 20

Recovery of debts.

40. Any moneys due by a council under this Act may be recovered by the board as a debt.

Surveys and investigations.

cf. Vic. C.R. Act, 1915, s. 15.

41. For the purposes of this Act the board may— 25

(1) carry out all such surveys and investigations as may be necessary or expedient to ascertain—

- (a) what roads shall be main roads;
- (b) the nature and extent of the resources of New South Wales in materials suitable for the purposes of road making and maintenance, and the most effective and economical methods for dealing with them, and for supplying or utilising them on main roads; 35

(c) the most effective methods of road construction and maintenance for main roads;

(d) the methods of road finance, construction, maintenance, and control of other countries; and 40

(e)

- (e) what deviations (if any) in existing main roads or what new main roads should in its opinion be made so as to facilitate communication and improve the conditions of traffic ;
- 5 (2) publish for general information the results of such surveys and investigations ; and
- (3) co-operate with and assist councils in or carry out works which though not upon main roads
- 10 are directly or indirectly for the benefit of main roads.

42. (1) The Governor may on the application of the board resume land under the Public Works Act, 1912, for the purposes of this Act, and may vest the whole or

15 part of such land in the board or proclaim the whole or part to be a public road or public reserve, and place it under the control of the council, as the board may recommend.

Various powers.

(2) The board may lease, cause to be resumed, or purchase land, provide buildings, appliances, quarries, gravel pits, and works for the manufacture, storage, and treatment of materials and appliances for the purposes of this Act, and may sell materials and appliances which may be produced in excess of the board's requirements or which the board may deem it advisable to sell.

43. The board may enter into contracts and do all other acts which may be necessary or advisable for the purposes of this Act.

Contracts, and other acts.

44. (1) Upon the recommendation of the board ordinances may be made under the Local Government Act, 1919, but subject to the Metropolitan Traffic Act, 1900, for carrying this Act into effect, and in particular for and with respect to—

Ordinances.

- 35 (a) the preservation of trees and vegetation on main roads ;
- (b) the prevention of damage to main roads ;
- (c) the prevention of the doing of things likely to injure main roads ;
- (d) the regulation of the weight of vehicles using main roads and the loads on such vehicles ;
- 40 (e) the regulation of the use of vehicles likely to injure main roads ;
- (f)

230

Main Roads.

- (f) the regulation of the width of tyres of vehicles using main roads ;
- (g) the weighing of vehicles and loads, the estimation of weight according to a prescribed scale for various classes of goods, the requiring of vehicles and loads to be taken to a public weighbridge for weighing ; and the marking of weight on the vehicles ; and **5**
- (h) the restriction of traffic or of certain classes of traffic when necessary to protect main roads from injury. **10**

(2) The provisions of sections five hundred and seventy-five to five hundred and seventy-nine of the Local Government Act, 1919, both inclusive, shall *mutatis mutandis* apply to ordinances made as aforesaid. **15**

SCHEDULE.

LANDS DEEMED TO BE INCLUDED IN THE COUNTY OF CUMBERLAND FOR THE PURPOSES OF THIS ACT.

A.—Lands in Bulli Shire.

ALL that piece or parcel of land within Bulli shire, being parts of **20**
 portion 20, parish of Wonona, and portion 39, parish of Southend,
 counties of Cumberland and Camden, and the whole of portion 23,
 parish of Wonona, county of Camden, and State of New South Wales :
 Commencing on the south-western boundary of the county of Cumber-
 land at its intersection with the eastern boundary of portion 20, parish **25**
 of Wonona, and bounded thence by that boundary and part of the
 southern boundary of that portion southerly and westerly to the north-
 eastern corner of portion 23 ; thence by the eastern, southern, and
 western boundaries of that portion southerly, westerly, and northerly **30**
 to the south-western corner of portion 20 aforesaid ; thence by the
 north-western boundary of that portion and its prolongation north-
 easterly to the south-western boundary of the county of Cumberland
 aforesaid ; and thence by that boundary of that county south-easterly
 to the point of commencement, and having an area of 302 acres or **35**
 thereabouts.

B.—Lands in Municipality of Camden.

All that area or tract of land being the whole of that part of the
 municipality of Camden, within the parish of Camden, county of
 Camden, and State of New South Wales, and having an area of 9½
 square miles or thereabouts. **40**

C.—

Main Roads.

29

C.—Lands in Wollondilly Shire.

All that area or tract of land being part of the Wollondilly shire in the parishes of Camden and Picton, county of Camden, and State of New South Wales: Commencing on the left bank of the Nepean River at its junction with the right bank of Mount Hunter Rivulet and bounded thence by that bank of that rivulet and Mount Hunter Creek upwards to the western boundary of portion 11, parish of Camden; thence by the western boundaries of that portion, portion 10 in the same parish, and portion 100, parish of Picton, and their prolongation southerly to the north-eastern boundary of portion 98; thence by that boundary and the north-western, western, and south-western boundaries of that portion north-westerly, south-westerly, southerly, and south-easterly to Crawford's Creek; thence by that creek upwards to the western boundary of portion 137, parish of Picton; thence by that boundary of that portion southerly to Racecourse Creek; thence by that creek upwards to the north-eastern corner of portion 146; thence by part of the eastern boundary of that portion southerly to the north-western corner of portion 134; thence by the northern boundaries of that portion and portions 14 and 15 easterly to the western boundary of portion 9, parish of Camden; thence by part of that boundary of that portion and the western boundary of portion 5 northerly to the south-western corner of portion 4; thence by the southern and part of the eastern boundary of that portion easterly and northerly to the southern boundary of the municipality of Camden; thence by southern and western boundaries of that municipality generally westerly and northerly to the left bank of the Nepean River aforesaid; thence by that bank of that river downwards to the point of commencement, and having an area of $28\frac{1}{2}$ square miles or thereabouts.