

No. XII.

An Act for repealing so much of an Act intituled DUTIES TOLLS &c.
*“ An Act to continue until further provision shall
 “ be made certain Duties Tolls Rates Fees and
 “ other Sums of Money imposed by the Governors
 “ of New South Wales and for other purposes ”*
 as relates to the levying Tolls in New South
 Wales and for raising a Fund towards making
 repairing and upholding Public Roads Bridges
 and Ferries and for regulating the collection
 of Tolls thereon. [9th March, 1832.]

WHEREAS an Act of the Governor with the advice of the
 Legislative Council was passed in the sixth year of the reign
 of King George the Fourth intituled *“ An Act to continue until further
 “ provision shall be made certain Duties Tolls Rates Fees and other
 “ Sums of Money imposed by the Governors of New South Wales and
 “ for other purposes ”* and whereas it is expedient that so much of the
 said Act as relates to the levying tolls at turnpike-gates bridges and
 ferries in New South Wales should be repealed and that further pro-
 vision should be made for raising a fund towards making repairing
 and upholding public roads bridges and ferries and for regulating the
 collection of tolls thereon Be it therefore enacted by His Excellency
 the Governor of New South Wales with the advice of the Legislative
 Council of the same That from and after the thirty-first day of March
 next so much of the said recited Act as relates to the levying of such
 tolls as aforesaid shall be and the same is hereby repealed and that all
 the several rates of toll as aforesaid now levied at the several turnpike-
 gates bridges and ferries in the said Colony under and by virtue of
 the said Act shall from and after the said thirty-first day of March
 next cease to be taken levied or demanded accordingly.

After 31st March
 repealed so far as
 relates to tolls.

2. And be it further enacted That it shall and may be lawful
 for the Governor of the said Colony for the time-being by any Pro-
 clamations or Proclamations under his hand from time to time to
 appoint places at which tolls shall be collected and to cause the same
 to be collected upon any line of road which has been or shall be wholly
 or partly made and which is repaired at the public expense and to
 cause toll to be collected at any bridge built purchased or repaired at
 the public expense and at any ferry constructed or upheld at the
 same and to cause such toll-houses and ferry-houses gates bars
 chains rails and fences to be built and set up as shall be deemed
 necessary for preventing passengers beasts and carriages from passing
 unless there shall be there paid such toll as shall be due or demand-
 able under the authority of this Act.

Governor by pro-
 clamations to appoint
 places where toll-
 gates and ferries are
 to be established or
 continued.

3. And be it further enacted That from and after the said
 thirty-first day of March next the following tolls and no higher shall
 be demanded paid and taken at the several turnpike-gates so to be
 erected or continued as aforesaid that is to say for every sheep lamb
 pig or goat the sum of one farthing for every ox or head of neat
 cattle the sum of one penny for every horse mare gelding ass or mule
 the sum of two-pence for every cart dray or other such vehicle with
 two wheels drawn by one horse or other animal the sum of three-
 pence and if drawn by two horses or other animals the sum of four-
 pence

Scale of tolls to be
 taken at all turnpike-
 gates.

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pence and if drawn by three horses or other animals the sum of five-pence and if drawn by four horses or other animals the sum of six-pence and for every horse or other animal above four drawing a cart dray or other such vehicle with two wheels the sum of one penny for every wain waggon or other such carriage with four wheels drawn by two horses or other animals the sum of eight-pence and if drawn by three horses or other animals the sum of nine-pence and if drawn by four horses or other animals the sum of ten-pence and for every horse or other animal above four drawing a waggon or other such carriage with four wheels the sum of two-pence for every gig chaise or other such carriage with two wheels and drawn by one horse or other animal the sum of sixpence and if drawn by two horses or other animals the sum of nine-pence for every coach chariot or other such carriage with four wheels and drawn by one horse or other animal the sum of nine-pence and if drawn by two horses or other animals the sum of one shilling and if drawn by three horses or other animals the sum of one shilling and three-pence and if drawn by four or more horses or other animals the sum of one shilling and sixpence.

Tolls on carriages
attached to other
carriages.

4. And be it further enacted That for every coach chariot chaise waggon or other carriage with four wheels usually drawn by two or more horses affixed tied or secured to waggons carts or other carriages there shall be paid the same rate of toll as would be paid for such coach chariot chaise waggon or other carriage if drawn by two horses or other animals and for every dray cart or other carriage with two wheels the same rate of toll as if drawn by one horse Provided always That if any coach chariot cart or other carriage so tied or affixed to any waggon dray or cart shall have any goods conveyed therein other than the harness thereto belonging and such articles of package as may be necessary for the protection of such carriages or any passenger the same shall be liable to double the toll hereby imposed.

Tolls at turnpike-
gates and ferries to
be doubled on Sun-
days.

5. And be it further enacted That the amount of all tolls due and demandable at any turnpike-gate or ferry under and by virtue of this Act shall be doubled on each and every Sunday and it shall and may be lawful for the lessee contractor or collector at each of the said toll-gates turnpike-gates or ferries to demand levy and receive double the amount of toll herein specified for each and every animal and cart dray wain waggon and other carriage above-mentioned which shall pass through such toll-gate or turnpike-gate or over such ferry on each and every Sunday.

No tolls to be
demanded at two
gates within ten
miles on the same
road.

6. And be it further enacted That in all cases wherein toll has been paid at any one turnpike-gate under the provisions of this Act no toll shall be demanded or payable on the same account and on the same day at any other turnpike-gate within the distance of ten miles from the former and that all such turnpike-gates may be repassed any number of times on the same day without payment of any fresh toll.

Scale of tolls at
ferries.

7. And be it further enacted That from and after the thirty-first day of March next the following tolls or ferry dues and no higher shall be demanded paid and taken at the several ferries established within this Colony under the authority of this Act that is to say for every foot passenger the sum of two-pence for every horse mare gelding ass or mule drawing or not drawing the sum of sixpence for every gig dray or cart with two wheels only the sum of one shilling for every waggon carriage or other vehicle with four wheels the sum of one shilling and sixpence for every ox or head of neat cattle drawing or not drawing being more than ten in number the sum of three-pence for every ox or head of neat cattle drawing or not drawing not exceeding ten in number the sum of four-pence for every sheep lamb pig or goat the sum of one half-penny.

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8. And be it further enacted That no toll or ferry-dues shall be demandable or taken by virtue of this Act for or in respect of any horses or carriages of or belonging to the Governor of the said Colony for the time-being or to any person in actual attendance upon him or for or in respect of the horses beasts carts carriages and other vehicles of and belonging to the Government and employed at the time of passing the gate or ferry in the Government service or for or in respect of any horse beast carriage or other vehicle conveying any clergyman in the discharge of his duty or any other person or persons going to or returning from the proper church chapel or other place of worship of the person or persons riding or driving the same on Sundays Christmas-day or Good Friday or for or in respect of any horse beast carriage or other vehicle attending funerals or for or in respect of any horse beast carriage or other vehicle carrying the post-office mails or for any carts drays or waggons carrying manure or for any horse beast carriage or other vehicle which shall only cross any such turnpike-road or shall not pass thereon above the distance of two hundred yards or for any horses or other beasts going or returning daily from the usual place of pasture or watering.

Exemption from tolls at turnpike-gates and ferries—

Governor and attendants

beasts and carriages belonging to Government or in its service

clergyman on duty or persons going to Divine Worship on Sundays Christmas-day or Good Friday

funerals

post-office mails carts carrying manure

beasts or carriages crossing or going only two hundred yards.

9. And be it enacted That all His Majesty's officers and soldiers being in proper staff or regimental or military uniform dress or undress and their horses and all carriages and horses belonging to His Majesty or employed in his service when conveying persons baggage arms or ammunition or returning therefrom shall be exempted on passing any turnpike-road bridge or ferry from the payment of any tolls otherwise demandable by virtue of this Act.

Officers and soldiers and carriages conveying baggage arms and ammunition also exempt.

10. And be it further enacted That it shall and may be lawful to and for the Governor of the said Colony for the time-being from time to time to authorize and direct the tolls and dues demandable at any turnpike-gate or ferry under the authority of this Act to be demised and let to farm by public auction for any term not exceeding twelve calendar months and for that purpose to advertise and give such public notice in the newspapers or otherwise as he shall direct of the time of letting the same and the conditions thereof and the highest bidder at the time of letting the same (if such bidding be accepted and such bidder enter into and give the bond with sureties hereinafter in that behalf mentioned) shall be declared to be the lessee of the said tolls and dues respectively for the term specified in such notice and conditions of the auction and if the highest bidder at such auction shall neglect or refuse forthwith to enter into such bond with sureties in manner hereinafter mentioned the said tolls and dues shall be again immediately put up to auction and shall in like manner be put up again in case of any default until a bidder shall be found who will enter into the bond with the sureties required.

Governor authorized to let turnpike and ferry tolls by auction for term not exceeding twelve months.

Notice of letting and conditions

Highest bidder to enter into bond.

In case of default tolls to be put up again at the former purchaser's risk and in like manner again in case of default.

11. And be it further enacted That any loss which may arise in the amount between the bidding made by any person who shall make default in entering into the bond required as aforesaid and any subsequent bidding the same and all expenses that may have been incurred by reason of any such default shall and may be recoverable from the person making such default and for that purpose it shall and may be lawful for the Collector of Internal Revenue or such other person or persons as the Governor shall appoint to let such tolls and dues as aforesaid to summon such defaulter or defaulters before two or more Justices of the Peace to examine into hear and determine the matter of such alleged default and to ascertain assess and fix the amount of loss that may have been occasioned thereby and all expenses attending the same and to levy the amount thereof if any by warrant under their hands and seals upon the goods and chattels of such defaulter.

Deficiency and any loss or expenses to be paid by defaulter.

How recoverable.

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In case no bidders at auction Governor may authorize the acceptance of a private tender.

12. And be it further enacted That in case no bidder shall offer or in case the said tolls shall not be let at such auction it shall and may be lawful for the Governor of the said Colony for the time-being to authorize the acceptance of a private tender or offer for the same under such terms and conditions and in such manner as he may think proper to direct and upon the acceptance of any such private tender as aforesaid and upon the person or persons making the same duly entering into the like bond with sureties as hereinafter is directed it shall and may be lawful for the Governor of the said Colony for the time-being to direct the said tolls to be demised and let to farm to the person or persons whose tender in such case shall have been accepted in manner hereinafter mentioned.

After sale or acceptance of tender and the bond being entered into tolls to be leased by deed in form annexed.

13. And be it further enacted That upon the entering into the said bond with sureties as is hereinafter directed by any such person or persons being the highest bidder or bidders at any such auction or being the person or persons whose tender shall or may have been accepted in manner hereinbefore mentioned it shall and may be lawful for the Collector of Internal Revenue or other person or persons appointed by the Governor for the time-being to demise and lease to farm to such person or persons the tolls bid or tendered for by him or them respectively for the term specified in the notice or tender (as the case may be) by deed in the form or to the effect hereunto annexed.

As to the nature and form of the bond to be entered into by the lessee.

14. And be it further enacted That immediately after such turnpike-tolls and ferry-dues shall have been knocked down to the highest bidder at any such auction or immediately after the acceptance of any such tender for the same as hereinbefore mentioned the person or persons who shall be declared the highest bidder or bidders at such auction or the person or persons whose tender shall have been so accepted shall immediately or so soon after as may be enter into a bond with two sufficient sureties to be approved of by the Collector of Internal Revenue or other person or persons appointed by the Governor in a penal sum of double the amount of the rent which such highest bidder or tenderer shall have offered or bid for the same conditioned for the payment of the rent as the same shall become due and payable according to the terms and conditions of the sale or tender for the same and for the observance and performance of all laws ordinances rules and regulations which now are or shall or may during the term of such lease or demise be in force respecting the tolls which shall have been so bid or tendered for by him or them and for the like observance and performance of all such laws ordinances rules and regulations by and for the proper conduct and peaceable and quiet behaviour of any collector or collectors gate or ferry keeper or keepers to be appointed by such person or persons bidding or tendering for the said tolls respectively during the term he she or they shall have so bidden or tendered for the same which bond shall be in the form or to the effect hereunto annexed.

Governor may appoint persons to collect tolls in certain cases.

15. And be it further enacted That in case the bidding or tender for the said tolls as aforesaid by the person or persons bidding or tendering for the same shall be deemed insufficient or in case such bidding or tender shall not be accepted or completed as aforesaid or in case the Governor for the time-being shall deem it more advantageous to the Revenues of the Colony that the said tolls and ferry-dues at any turnpike-gate or ferry so to be continued or established under this Act should be collected and received by collectors or other persons to be appointed by the Government it shall and may be lawful for the Governor for the time-being to nominate and appoint a collector or collectors keeper or keepers receiver or receivers or other officer necessary to collect and receive the tolls and ferry-dues

at

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at any turnpike-gate or ferry aforesaid and all and every such collector keeper receiver or other officer so appointed and their servants shall have all the powers and remedies as to the collection of the said tolls and ferry-dues and for the preservation of the said roads toll-gates houses bridges punts and boats and other appurtenances thereto belonging and shall be under and subject to such rules and regulations and shall be subject and liable to all and every the penalties of this Act which the lessee of the said tolls and ferry-dues respectively would be under and subject to in case the same had been let or demised and which in each and every case might be applicable Provided however that such collector keeper or receiver or other officer so appointed shall before he or they shall enter into the receipt and collection of such tolls or ferry-dues enter into a bond or bonds with or without sureties for the due and faithful discharge of his or their duties and for the payment of the said tolls and the performance of such other terms and conditions as the Governor for the time-being may think necessary to require.

Persons so appointed to have the same powers and to be subject to the same liabilities and penalties as lessees.

and to execute bonds before they enter into the receipt of the tolls.

16. And be it further enacted That in case all or any of the turnpike-tolls or ferry-dues arising by virtue of this Act shall be demised or let to any person or persons in any manner whatsoever and the lessee or lessees shall neglect or refuse to perform the conditions on which the same shall be so let or in case the rent or rents agreed to be paid by such lessee or lessees shall be in arrear for the space of fourteen days next after the days on which the same ought to be paid or the term or terms for which such lessee or lessees held the same shall in any other manner become void it shall and may be lawful for any Justice of the Peace upon complaint made upon oath by or on behalf of the Collector of Internal Revenue or other person appointed by the Governor as aforesaid by warrant under his hand and seal to order a Constable or other Peace Officer with such assistance as shall be necessary to enter upon and take possession of any toll-house or ferry-house and all buildings and appurtenances and every boat punt or other vessel thereto belonging and to remove and put out such lessee or lessees and the collectors keepers servants or other person or persons who shall be found therein together with his her or their goods from the possession thereof and from the collection of the tolls and dues in respect thereof and the lease contract or agreement for the same shall thenceforth cease and be utterly void to all intents and purposes whatsoever save and except as to the conditions and agreements for payment up to that time of the rent or rents payable for the same and the other conditions or agreements contained therein on the lessee's part and behalf and which shall or may have been broken and the same tolls and ferry-dues may be again let or demised to any other person or persons and may in the meantime be collected and received under an authority from such Justice for the benefit of His Majesty as if no former lease contract or agreement had been made relative thereto any law usage or right to the contrary notwithstanding.

In case of non-payment of rent or breach of conditions or the lease becoming void and the lessee refuse to give up possession how the same to be recovered.

And the tolls may be re-let and in the meantime collected for the use of His Majesty.

17. And be it further enacted That in case the lessee or lessees of any of the turnpike-tolls or ferry-dues arising by virtue of this Act for any time or times shall on the expiration of the term or time for which the same shall have been so let or demised to him or them respectively neglect or refuse to deliver up possession to any new lessee or lessees or to any person or persons who shall be duly authorized and empowered by the Governor of the said Colony for the time-being to receive the same of all toll or turnpike-gates houses boats punts ferries and all chains rails posts fences buildings and other appurtenances belonging thereto it shall and may be lawful for any Justice of the Peace upon complaint made upon oath

In case lessee on the expiration of his term refuse to give up possession to succeeding lessee possession to be recovered.

by

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And to make compensation to succeeding lessee for any loss occasioned to him.

Lessees of tolls authorized to appoint collectors and other necessary servants

who may exercise all such means for recovery of tolls as the lessees may.

But lessees to be answerable for their conduct.

Duty of lessees and collectors.

To fix up a board with name of gate and table of tolls.

Tickets to be provided denoting payment of toll &c.

by or on behalf of the Collector of Internal Revenue or other person appointed by the Governor as aforesaid by warrant under his hand and seal to order any Constable or Police Officer with all such assistance as shall be necessary to enter upon and take possession of the same and to remove and put out such lessee or lessees collectors keepers servants and other person or persons as shall be found therein together with his her or their goods and chattels from the possession thereof and such lessee or lessees shall be liable to all and every the penalties in that behalf mentioned in the bond which he or they shall have entered into previous to the demise made to him thereof as aforesaid and also to make such compensation to any new lessee or lessees for any loss which shall or may be occasioned or which he or they shall or may sustain by reason of his or their withholding possession thereof to be ascertained by any two or more Justices of the Peace and levied by distress in like manner as any damages occasioned by persons making default in entering into the bond required by this Act as hereinbefore is mentioned.

18. And be it further enacted That during such time as the said tolls and dues or any part or parts thereof shall be so leased as aforesaid to any person or persons whomsoever it shall and may be lawful for the lessee or lessees thereof to nominate and appoint such other person or persons as he she or they may think necessary in writing or writings under his her or their hands to collect demand and take such tolls and dues so demised leased and farmed and such person or persons so appointed as aforesaid shall and may use all means and methods for the recovery thereof in case of non-payment or evasion as such lessee or lessees might or could do under and by virtue of this Act and also to appoint such person or persons as he she or they may think necessary by writing under his her or their hand or hands as aforesaid as gate or toll-house keepers boatmen or ferrymen or other servants Provided however that such lessee or lessees shall be answerable for the conduct of such other person or persons as he she or they shall or may authorize or appoint to collect demand receive and take such tolls and dues or to be such gate or toll-house keepers boatmen or ferrymen as aforesaid and shall be subject and liable to the like actions and penalties for neglect or misconduct or for the breach of any law ordinance rule or regulation respecting the tolls or dues committed by any collector or collectors of such tolls or dues gate-keepers or toll or ferry-house keepers boatmen or ferrymen aforesaid as if the same had been done committed or wilfully neglected by such lessee or lessees.

19. And be it further enacted That the lessees farmers or collectors of all and every the turnpike-tolls and ferry-dues established under and by virtue of this Act shall and they are hereby required during the whole time that they shall respectively continue to be the lessees or collectors of any such tolls or ferry-dues to put up or cause to be put up and continued in some conspicuous place at or near to every turnpike-gate or at and upon every toll-house or ferry-house within their respective districts a table painted in distinct legible black letters on a board with a white ground containing at the top thereof the name of the gate or ferry at which the same shall be put up and also a list of all the tolls or dues payable thereat distinguishing severally the amount of tolls and the different sorts of cattle beasts carriages or other vehicles for which they are severally to be paid where there shall be any variation therein and also a list of the several toll-gates (if any) which shall be wholly or partially cleared by the payment of toll at the gate or bar where such table shall be fixed and the said lessees and collectors shall also provide tickets denoting the payment of toll and on every such ticket shall be specified

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specified the name of the gate at which the same shall be issued in manner hereinafter mentioned and also the names of the several gates (if any) freed by payment of toll thereat and that the lessees or collectors of the said several tolls or dues respectively shall place or cause to be placed by themselves or some or one of their collectors keepers or servants on some conspicuous place near to such board the christian and surname of the collector or keeper of the tolls or dues who shall be on duty for the time-being and shall continue the same during the whole time such collector or keeper shall be on duty and shall change the same on every change that may take place in such collector or keeper on duty to the names of the collector or keeper that may succeed as often as any such change may take place and if any lessee or collector of any such tolls or ferry-dues shall neglect or refuse to put up such table of tolls or ferry-dues as aforesaid or to provide such tickets to be delivered gratis on payment of any such toll or to cause the name or names of the collectors or keepers of such tolls for the time-being to be put up as aforesaid or if any collector or keeper of such tolls or boatman or ferryman shall not be in attendance at all times by day and by night at the place at which he is stationed or ought to be or shall demand and take a greater toll from any person than he shall be authorized to do or shall demand and take a toll from any person or persons who shall be exempt from payment thereof and who shall claim such exemption or shall under colour of his office as collector or keeper of tolls boatman or ferryman wilfully extort from any person or persons any sum of money or thing of any value whatsoever as and for or in lieu of payment of toll or shall refuse to permit and suffer any person or persons to read or shall in any manner hinder or prevent any person or persons from reading the inscription on such boards or the name or names so fixed up as aforesaid or shall refuse to tell his christian and surnames to any person or persons who shall demand to know the same on being paid the said tolls or any of them or shall in answer to such demand give a false name or names or shall refuse or omit to give gratis to the person or persons paying toll or on his or their demanding the same one or more ticket or tickets as the case may require to be furnished to him in manner hereinbefore mentioned denoting the payment of the said toll or tolls so paid or upon the legal toll being tendered or paid shall unnecessarily detain or wilfully obstruct hinder or delay any passenger or passengers from passing through any turnpike or toll-gate or bar or over any ferry or if any such collector keeper boat or ferry man shall make use of any scurrilous or abusive language to any traveller or passenger then and in each and every such case the said lessee or lessees collector or collectors of the said tolls and ferry-dues respectively shall forfeit and pay for every such offence any sum not exceeding five pounds to be recovered and applied as hereinafter mentioned.

20. And be it further enacted That if any person liable to the payment of any toll under this Act shall after demand neglect or refuse to pay the same or any part thereof it shall be lawful for any person authorized to collect the same to prevent such person or persons from passing through or over such turnpike-gate or over such ferry and to shut close and fasten the gates fences and chains of such turnpike-gate or ferry-boat and to keep and continue the same so shut closed and fastened against such person or persons until the tolls and dues demandable and payable by such person or persons so refusing to pay the same shall be paid and discharged.

21. And be it further enacted That if any person shall with any horse beast or carriage go off or pass from any turnpike-road through or over any land or ground near or adjoining thereto not being

To fix up the name of the collector or keeper on duty for the time-being.

If lessee refuse to put up table of tolls or provide tickets

or take too great toll

or exact tolls from persons exempted

or guilty of extortion

or prevent persons from reading table of tolls or names

or refusing to tell his name

or give a false one

or refuse to give a ticket on payment of toll

or detain or obstruct passengers

or if insolent to passengers lessee or collector to be fined.

If any person liable to pay toll refuse to pay collector may shut and fasten gates.

Persons quitting the road or leaving their beasts behind or otherwise evading payment of toll to be fined.

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being a public highway with intent to evade payment of any toll established by virtue of this Act or if any person shall give or receive from any person other than a collector of tolls or shall forge counterfeit or alter any note or ticket with intent to evade the payment of tolls or any part thereof or if any person shall fraudulently or forcibly pass through any such toll-gate with any beast or carriage or shall leave upon the said road any beast or carriage whatsoever by reason whereof the payment of any toll shall be avoided or lessened or shall take off or cause to be taken off any beast from any carriage either before or after having passed through any toll-gate or having passed through any toll-gate shall afterwards add or put any beast to any such carriage and draw therewith upon any part of any turnpike-road so as to increase the number of beasts drawing the said carriage after the same shall have passed through the said toll-gate whereby the payment of any toll shall or may be lessened or if any person shall do any other act whatsoever in order or with intent to evade the payment of any toll and whereby the same shall be evaded every such person shall for every such offence forfeit and pay any sum not exceeding five pounds.

No person to employ for hire any boats where ferry established within one mile of such ferry.

22. And be it further enacted That it shall not be lawful for any person or persons whomsoever save and except the several lessees and collectors duly appointed under the authority of this Act and their boat or ferry men and servants to use hire or employ on hire or for any fee pay or reward any boat punt or other vessel for the carrying transporting or conveying across or over any river or creek within the Colony whereon any ferry shall or may be established under this Act and within one mile of any such ferry any passengers beasts carts or carriages under the penalty for each and every offence as well upon each and every person so hiring as upon each and every person so using or employing any such boat punt or other vessel and for each and every person beast cart or carriage so transported carried or conveyed across any such river or creek within such distance as aforesaid of any sum not exceeding twenty shillings save and except the same shall be done at the time of any flood or fire or in the pursuit of felons or other urgent or unavoidable necessity Provided always that nothing in this Act shall be held to prevent any person horse cart or carriage from passing across any ford of any river at or near to which any such boat or punt shall be established.

Penalty.

Except in pursuit of felons or necessity.

Not to prevent persons passing fords.

Persons damaging or destroying turnpike-gates toll-houses bars chains fences &c.

23. And be it further enacted That if any person or persons whomsoever shall wilfully or maliciously pull or cut down pluck up throw down break level or otherwise damage demolish or destroy any toll or turnpike-gate or any chain post rail bar wall or other fence or fences of or belonging to any toll-gate or turnpike-gate or any other chain post bar or fence of any kind whatsoever used therewith or set up or erected or hereafter to be set up or erected to prevent passengers or travellers or their beasts or carriages from passing without paying any toll authorized by virtue of or in obedience to this Act or to be hereafter authorized or imposed by or under any other Act or any house or houses erected or to be erected for the use of any such toll-gate or turnpike-gate or any ferry-houses or boat-houses or shall wilfully or maliciously sink scuttle run or drive aground or otherwise damage demolish or destroy any punt boat or other vessel used or employed in any ferry or ferries or break sever cut or destroy any mooring-chain rope or other fastening or any rail post wall dam or fence of or belonging to any such boat punt or other vessel used and employed in any such ferry or ferries or shall forcibly rescue any person or persons being lawfully in custody of any officer or other person for any of the offences hereinbefore mentioned then and in each and every such case every person so offending shall be guilty of a misdemeanor and being convicted thereof shall be punished accordingly.

or sinking damaging or destroying any punt or vessel

or the moorings or dam belonging thereto

or rescuing any person in custody for such offences guilty of a misdemeanor.

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24. And be it further enacted That if any person or persons whosoever shall wilfully pull down break injure or damage any table of tolls or ferry-dues put up at any toll or ferry-house or turnpike-gate as aforesaid or shall wilfully or designedly deface or obliterate any of the inscriptions letters figures or marks thereon or if any person or persons shall wilfully pull up throw down cut break injure damage or destroy any post rail or fence placed or to be placed or put up either by the side or sides of any road or at or near to any pit or quarry which shall be used opened or made for the getting of stone gravel or other materials for the making or repairing of roads or bridges or if any person or persons shall wilfully cause any damage or injury to be done to any bridge or to any arch wall abutment prop or fence belonging thereto which already have been or which shall or may hereafter be erected and built upon any public highway or by the side or sides thereof or if any person or persons shall wilfully damage or injure or cut break or otherwise destroy any post or stone set up or erected by the side or sides of any public highway to exhibit or shew the number of miles or distance from or to any place or places whatsoever or if any person or persons shall cast or throw any earth or rubbish or other matter or thing into any drain ditch culvert trench or other watercourse under or by the side or sides of any public highway so as to obstruct the clear running off and draining of any water or moisture from any such public highway or if any person or persons shall without being thereunto authorized by one of the Government Surveyors or other proper authority shovel rake gather or heap up or take or carry away any stones gravel sand or other material slutch dirt mire drift or soil from off any public highway or any part thereof or the side or sides thereof or any footpath or causeway belonging thereto or if any person shall put up any erection building or fence on or at the sides of any highway or turnpike-road in such manner as to reduce the breadth thereof or shall make or cause to be made any dwelling-house or other building or any hedge or fence on the side or sides of any highway or turnpike-road within the distance of forty-five feet if within the distance of three miles of any town or if beyond that distance within forty feet from the middle or centre thereof or shall make or cause to be made any ditch gutter drain or watercourse upon or across or shall otherwise break up or injure the surface of any highway or turnpike-road or any part thereof or if any person or persons shall make any fire or fires called bonfires or shall wantonly let off or throw any lighted squib rocket or other fire-work within one hundred yards of any public road or shall race any horse ass mule or other beast or bait any bull or other beast or play at any game or exercise that may cause any riot mob or tumultuous meeting upon such road or the side thereof or shall by fighting or otherwise collect or cause to be collected together any such mob to the annoyance of any traveller or passenger upon such road or if any person or persons shall in any manner wilfully prevent any other person or persons from passing him her or them or any carriage under his her or their care upon any such road or if any such person or persons shall make dig or use any pit or pits for the sawing of timber or wood or for any other purpose within forty-five feet from the centre of any such public highway unless the same shall be enclosed by a safe and secure fence from such road every person so offending in every case aforesaid shall forfeit and pay for every such offence a sum not exceeding forty shillings over and above the damages occasioned thereby to be recovered as hereinafter mentioned one moiety of which penalty or penalties when recovered shall go to and be paid to the informer and the other moiety thereof shall be to the use of His Majesty to be applied to the purposes hereinafter mentioned.

Persons damaging
or obliterating table
of tolls

or injuring posts or
fences by road sides
set up near quarries
for security

or causing any injury
to any bridge

or the mile stones

or persons casting
rubbish in drains

or taking materials
off the road

or reducing the
breadth

or erecting buildings
within certain
distances

or breaking the
surface

or lighting fires or
fireworks

or racing horses
or baiting bulls

or collecting mobs

or preventing per-
sons or carriages
passing

or digging sawpits
within certain dis-
tances

shall forfeit not
exceeding forty
shillings.

Duties Tolls &c.

Coachmen injuring persons by furious driving guilty of a misdemeanor.

25. And be it further enacted That if any person whatever shall be maimed or otherwise injured by reason of the wanton and furious driving or racing or by the wilful misconduct of any coachman or other person having the charge of any stage-coach or public carriage such wanton and furious driving or racing or wilful misconduct of such coachman or other person shall be and the same is hereby declared to be a misdemeanor and punishable as such by fine and imprisonment.

For discovery of offenders names of owners to be painted on waggons or other carriages in manner herein mentioned.

26. And for the better discovery of offenders be it further enacted That the owner or principal proprietor of every coach post-chaise or other carriage let to hire and also of every waggon wain or cart shall paint or cause to be painted upon the pannels of the doors of all such coaches post-chaises or other carriages and upon some conspicuous part on the right or off side of every such waggon wain or cart or upon the off shaft thereof before the same shall be used upon any turnpike-road on or after the first day of May next his or her christian and surname and the place of his or her abode or of the house or farm where the same is generally used and kept in legible letters not less than one inch in height and continue the same thereupon so long as such coach post-chaise or other carriage waggon or cart shall be used upon any such turnpike-road and the owner of every common stage-waggon or cart employed in travelling stages from town to town shall over and above his or her christian and surname paint or cause to be painted on the part and in the manner aforesaid the following words—"Common stage-waggon" (or "cart" as the case may be) and every owner or proprietor of any such coach post-chaise or other carriage waggon cart or wain as aforesaid using or allowing the same to be used upon any turnpike-road without the names and descriptions painted thereon respectively as aforesaid or who shall paint or cause to be painted any false or fictitious name or place of abode or house or farm as aforesaid on such coach post-chaise or other carriage waggon cart or wain shall forfeit and pay for every such offence a sum not exceeding forty shillings.

Penalty for neglect not exceeding 40s.

Penalty for persons committing nuisances by drawing timber &c.

27. And be it further enacted That if any person or persons shall haul or draw or cause to be hauled or drawn upon any part of such highway or turnpike-road any timber stone or other thing otherwise than upon wheeled carriages or shall suffer any timber stone or other thing which shall be carried principally or in part upon wheeled carriages to drag or trail upon such road to the prejudice thereof or if any person shall leave any waggon wain cart or other carriage whatever upon such road or on the side or sides thereof without any proper person in the sole custody or care thereof longer than may be necessary to load or unload the same except in cases of accident and in cases of accident for a longer time than may be necessary to remove the same or shall not place such waggon wain cart or other carriage during the time of loading or unloading the same or of taking refreshment as near to one side of the road as conveniently may be either with or without any horse or beast of draught harnessed or yoked thereto or shall lay any timber stone hay straw dung manure soil ashes rubbish or other matter or thing whatsoever upon such road or on the side or sides thereof or the footpaths or causeways adjoining to the prejudice of such road or footways or to the prejudice annoyance interruption or personal danger of any person or persons travelling thereon or shall suffer any water filth dirt or other offensive matter or thing whatsoever to run or flow into or upon such road or footpaths from any house building erection lands or premises adjacent thereto or if any person driving any pigs or swine upon such road shall suffer such pigs or swine to root up or damage such road or the fences hedges banks or copse on either side thereof respectively or if any person shall after having blocked or stopped any cart waggon

by leaving waggons &c.

by laying timber &c.

by running of water or filth

by swine

Duties Tolls &c.

waggon or other carriage in going up or down a hill or rising ground cause or suffer to be or remain on such road the stone timber or other thing with which such cart or other carriage shall have been blocked or stopped or if any person or persons shall pull down damage injure or destroy any lamp or lamp-post put up erected or placed in or near to the side of any highway or turnpike-road or toll-house erected thereon or shall extinguish the light of any such lamp every person offending in any of the cases aforesaid shall for each and every such offence forfeit and pay any sum not exceeding forty shillings over and above the damages occasioned thereby to be recovered as hereinafter mentioned one moiety of which penalty or penalties when recovered shall go and be paid to the informer and the other moiety thereof shall be to the use of His Majesty to be applied to the purposes hereinafter mentioned.

28. And be it further enacted That no person shall hereafter erect or cause to be erected any windmill within the distance of two hundred yards from any part of any highway or turnpike-road under the penalty of five pounds for each and every day such windmill shall continue Provided always that nothing herein contained shall be construed to render legal the re-erection or continuance of any windmill in any case where by the common law such windmill shall be a public or private nuisance.

29. And whereas many accidents happen and great mischiefs are frequently done upon highways and turnpike-roads by the negligence or wilful misbehaviour of persons driving thereon Be it therefore enacted That if the driver of any waggon wain cart or dray of any kind shall ride upon any such carriage on any turnpike-road not having some other person on foot or on horseback to guide the same (such light carts as are usually driven with reins and are then conducted by some person holding the reins of the horse or horses not being more than two drawing the same excepted) or if the driver of any carriage whatsoever on any part of any highway or turnpike-road shall by driving furiously thereon or by any negligence or wilful misbehaviour cause any hurt or damage to any person or carriage passing or being upon such road or shall quit the said road and go on the other side of the hedge or fence enclosing the same or wilfully be at such distance from such carriage or in such a situation whilst it shall be passing upon such turnpike-road that he cannot have the direction and government of the horse or horses or cattle drawing the same or if the driver of any waggon cart dray coach or other carriage whatsoever meeting any other carriage shall not keep his or her waggon cart dray or carriage on the left or near side of the road or if any person shall in any manner wilfully prevent any other person or persons from passing him or her or any carriage under his or her care upon such road or by negligence or misbehaviour prevent hinder or interrupt the free passage of any carriage or of His Majesty's subjects upon any turnpike-road every such driver so offending in any of the cases aforesaid and being convicted of any such offence either by his own confession the view of a Justice of the Peace or by the oath of one or more credible witnesses before any Justice of the Peace near to the place where such offence shall be committed or where such offender shall be apprehended shall for every such offence forfeit any sum not exceeding forty shillings or in default of payment be committed to the house of correction for any time not exceeding one month unless such forfeiture shall be sooner paid and every such driver offending in either of the said cases shall and may by authority of this Act with or without warrant be apprehended by any person or persons who shall see such offence committed and shall be conveyed before some Justice of the Peace to be dealt with according to law and

by leaving block stones &c.

or by damaging lamps

No windmill to be erected within 200 yards.

If any driver ride without a person to guide his beast.

light carts with reins excepted

or quit the road

or go a distance from his vehicle

or driving on the wrong side of the road

or by negligence or misbehaviour prevent persons from passing

shall forfeit and pay not exceeding 40s. or stand committed to the house of correction for one month or till paid

and such driver may be apprehended without warrant

Duties Tolls &c.

and if he refuse to give his name may be committed to house of correction not exceeding one month or may be proceeded against by description of his person.

Provision made for the recovery of penalties and expenses of proceedings.

Limitation of convictions.

Appeal to the Quarter Sessions.

and if any such driver in any of the cases aforesaid shall refuse to discover his name it shall and may be lawful for the Justice of the Peace before whom he shall be taken or to whom any such complaint shall be made to commit him to the house of correction for any time not exceeding one month or to proceed against him for the penalty aforesaid by a description of his person and the offence only without adding any name or designation but expressing in the proceedings that he refused to discover his name.

30. And for the better and more easy recovery of the several penalties forfeitures and sums of money directed to be paid under this Act and the powers herein contained the recovery of which is not hereinbefore provided for be it further enacted That it shall be lawful for any one or more Justice or Justices of the Peace as the case may require to hear and determine in a summary way all offences committed against the true intent and meaning of this Act and for that purpose to summon before him or them any party or parties accused of being an offender or offenders against the true intent and meaning of this Act and in case the party accused shall not appear on such summons or offer some reasonable excuse for his default then and in every such case any such Justice or Justices is and are hereby authorized and required to proceed to make enquiry touching the matters complained of and to examine any witness or witnesses who shall be offered on either side on oath and which oath every such Justice is hereby authorized empowered and required to administer and after hearing the parties who shall appear and the witnesses offered on either side such Justice or Justices shall convict or acquit the party or parties accused and if the penalty or money forfeited or directed to be paid in any such conviction shall not be paid within the space of three days after any such conviction every such Justice or Justices shall thereupon issue a warrant under his or their hand and seal directed to any Peace Officer or Officers and thereby require him or them to make distress of the goods or chattels of the offender or offenders to satisfy such penalty or money forfeited or directed to be paid and the costs of the prosecution and distress and if within five days from the distress being taken the penalty or money forfeited or required to be paid and costs shall not be paid the goods seized shall be appraised and sold rendering the overplus (if any) after deducting the penalty or sum of money required to be paid and the costs and charges of the prosecution distress and sale to the owner or owners thereof which costs and charges shall be ascertained by the Justice or Justices before whom any such offender or offenders shall have been so convicted and for want of such distress then every such Justice or Justices shall on the application of any prosecutor or prosecutors and proof on oath made of the conviction and non-payment of the penalty or sum of money directed to be paid and the charges thereon by warrant under his hand and seal commit every such offender or offenders to the common gaol or house of correction for any period not exceeding three months Provided always that no person or persons shall be convicted of any offence or offences contrary to the provisions of this Act in a summary way before any Justice or Justices of the Peace after the expiration of three months from the time when any such offence or offences shall have been committed.

31. And be it further enacted That if any person convicted of any offence or offences punishable by this Act before one or more Justice or Justices of the Peace shall think himself or herself aggrieved by the judgment of such Justice or Justices such person shall have liberty to appeal from any such conviction to the next Court of Quarter Sessions of the Peace which shall be held nearest to the place where such offence shall have been committed and that the execution of

Duties Tolls &c.

of every judgment so appealed from shall be suspended in case the person so convicted shall with two sufficient sureties immediately before such Justice or Justices enter into a bond or recognizance to His Majesty His Heirs and Successors in the penal sum of double the amount of the penalty so incurred or forfeited or in case such conviction should contain a judgment of imprisonment such appellant shall immediately enter into a recognizance before such Justice or Justices himself or herself in the penalty of twenty pounds with two sufficient sureties in the penalty of ten pounds each which bond or recognizance respectively such Justice or Justices is and are hereby authorized and required to take and such bond or recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the judgment and determination of the said Court of Quarter Sessions and to pay such costs as the said Court shall award on such occasion and the Justices and the said Court of Quarter Sessions are hereby authorized and required to hear and determine the matter of the said appeal and to award such costs as to them shall appear just and reasonable to be paid by either party and such decision shall be final between the said parties to all intents and purposes and if upon hearing the said appeal the judgment of the Justice or Justices before whom the appellant shall have been convicted shall be affirmed such appellant shall forthwith pay the forfeiture or penalty (if any be mentioned in such conviction) and the costs awarded to be paid by such appellant and in default of payment thereof or in case such conviction shall contain a judgment of imprisonment such appellant shall immediately be committed by the said Court to the common gaol or house of correction according to such conviction and for the space of time therein mentioned without bail or mainprize and also until the payment of such costs as shall be awarded by the said Court be paid by such appellant.

32. And be it further enacted That no conviction under this Act nor any adjudication made on appeal therefrom shall be quashed for want of form or to be removed by writ of *certiorari* or otherwise into the Supreme Court and no warrant or commitment shall be held void by reason of any defect therein provided it be therein alleged that the party has been convicted and that there be good and valid conviction to sustain the same.

Proceedings not to be quashed for informality and no *certiorari* to be allowed.

33. And be it further enacted That if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act then and in every such case such action or suit shall be commenced or prosecuted within three months after the fact committed and not afterwards and the defendant in every such action or suit shall and may plead the general issue and at the trial thereof give this Act and the special matter in evidence and if the matter or thing complained of shall appear to have been done under the authority and in the execution of this Act or if any such action or suit shall be brought after the time limited for bringing the same then the jury shall find for the defendant and if the plaintiff shall become nonsuit or discontinue his or her action after the defendant shall have appeared or have a verdict against him or her or if upon demurrer judgment shall be given against the plaintiff the defendant shall and may recover treble costs and have the like remedy for recovery thereof as any defendant hath in any cases by law.

Limitation of actions.

34. And be it further enacted That all sums of money levied and collected under and by virtue of this Act shall form and be a fund and be applied towards the making repairing and upholding public roads bridges and ferries throughout the said Colony.

Appropriation of tolls &c.

35. And be it further enacted That this Act shall commence and take effect from and after the passing and publication thereof.

Commencement of Act.

Duties Tolls &c.

FORM OF LEASE.

WHEREAS in pursuance of an Act of the Governor with the advice of the Legislative Council passed in the second year of the reign of King William the Fourth intituled "*An Act for repealing so much of an Act intituled 'An Act to continue until further provision shall be made certain Duties Tolls Rates Fees and other Sums of Money imposed by the Governors of New South Wales and for other purposes' as relates to the levying Tolls in New South Wales and for raising a Fund towards making repairing and upholding Public Roads Bridges and Ferries and for regulating the collection of Tolls thereon*" the tolls and dues authorized by the said Act arising and to be collected and received at the turnpike-gate called _____ gate situated at *Z.* (or at the ferry over the river *Y.* at *X.* as the case may be) in the Colony aforesaid were on the _____ day of _____ last put up to be leased by public auction for the term of _____ calendar months from the _____ day of _____ next when *C. D.* of _____ in the Colony aforesaid or some one on his behalf having attended and bid the sum of £ _____ for the same was declared the highest bidder and purchaser thereof Now KNOW YE That *A. B.* Collector of Internal Revenue of the said Colony (or other officer as the case may be) in pursuance and by the authority of the said Act and in consideration of the rent and covenants hereinafter reserved and contained and also in consideration of the said *C. D.* having duly entered into the bond with sureties in that behalf prescribed by the said Act in Council hath demised leased and to farm let and doth hereby demise lease and to farm let unto the said *C. D.* his executors and administrators all and every the toll and tolls dues and fees arising at the turnpike-gate called _____ gate situate at *Z.* (or arising at the ferry over the river *Y.* at *X.* as the case may be) in the Colony aforesaid to have and to hold the same unto the said *C. D.* his executors and administrators from the _____ day of _____ now next ensuing for the term of _____ calendar months And the said *C. D.* in consideration of this demise doth for himself his executors and administrators covenant promise and agree to and with the said *A. B.* and his successors in office that he the said *C. D.* his executors or administrators shall and will well and truly pay or cause to be paid unto the said *A. B.* or his successors in office the said rent of £ _____ by even quarterly (or monthly) payments of £ _____ each on the _____ day of _____ the _____ day of _____ (and so on as the case may require) without any deduction or abatement thereout whatsoever And further that he the said *C. D.* his executors and administrators shall and will at the end or other sooner determination of the said term hereby demised leave surrender and yield up the said turnpike-gate and all houses erections and buildings thereunto belonging (or the said ferry and all punts boats and other vessels houses erections and buildings thereunto belonging) together also with all posts rails bars chains ropes fastenings walls fences and appurtenances thereunto belonging in a good plight state and condition as to the repairs thereof And further that he the said *C. D.* his executors or administrators shall not at any time during the said term assign let set demise or otherwise part with the said term in the premises or any part thereof to any person or persons whomsoever without the license and consent in writing of the Governor of the said Colony for that purpose first had and obtained And lastly that he the said *C. D.* his executors and administrators shall and will well and truly observe perform fulfil and keep all and every the laws and ordinances rules orders and regulations now in force or which shall at any time during the said term be made and in force in respect of the said tolls dues and fees hereby demised or any part thereof.

IN WITNESS whereof the said parties have hereunto set their hands and seals
this _____ day of _____ A.D. 18 _____

Signed sealed and delivered }
in the presence of }

A. B. (Seal.)
C. D. (Seal.)

J. K.
L. M.

FORM OF BOND.

Know all men by these presents That we *C. D.* of _____
in the Colony of New South Wales _____ *E. F.* of _____
in the Colony aforesaid _____ and *G. H.* of _____ in the Colony
aforesaid are jointly and severally held and firmly bound unto His Most Excellent Majesty
King William the Fourth in the sum of _____
pounds of good and lawful money of the United Kingdom of Great Britain and Ireland
current in England to be paid to His said Majesty His Heirs and Successors for which
payment

