



ANNO VICESIMO TERTIO ET VICESIMO QUARTO

VICTORIÆ REGINÆ.

A.D. 1860.

No. 10.

An Act to authorize the levying of Tolls on the Port Road, and for other Purposes.

[Assented to, 17th October, 1860.]

WHEREAS it is desirable to authorize the levying of tolls on the Port Road—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows: Preamble.

1. For the maintaining and improving of the Port Road, it shall be lawful for the Commissioners of Main Roads, from time to time, to cause such and so many toll-bars, toll-gates or toll-houses, to be erected and built in and upon the said Port Road, at such places as to the said Commissioners shall seem fit, and at their discretion to remove the same; and to direct tolls to be paid at such toll-bars, toll-gates, or toll-houses, for animals and vehicles passing or repassing through such toll-bars or toll-gates, at a rate not exceeding the rates in the Schedule hereto annexed, for each animal and vehicle so passing and repassing as aforesaid; and such rates, from time to time, to reduce or raise to any amount not exceeding the rates specified in the said Schedule: Commissioners may levy tolls. Provided that no toll shall be taken at any such toll-bar, toll-gate, or toll-house, until the same shall have been publicly notified in the *South Australian Government Gazette* at least one month before the same shall be demanded; and that no toll shall be taken or demanded at any such toll-bar, toll-gate, or toll-house, until there shall be affixed to such toll-bar, toll-gate, or toll-house, a board, on which shall be painted or written in legible characters, the tolls payable at the same respectively, and the name of the toll-bar, toll-gate, or toll-house. Proviso.

In case of refusal to pay, toll-collectors may seize and distrain for toll.

2. If any person subject or liable to the payment of any toll by virtue of this Act, shall, after demand thereof made, neglect or refuse to pay the same or any part thereof, it shall be lawful for the persons authorized or appointed to collect such tolls by themselves, or taking such assistance as they shall think necessary, to seize and distrain any horse, beast, cattle, carriage, or other thing upon or in respect of which any such toll is imposed, together with their respective bridles, saddles, gears, harness, or accoutrements, except the bridles or reins of any horse or other beast separate from the horse or beast, or any carriage in respect of the horses or cattle drawing the carriage on which such toll is imposed, or any of the goods or chattels of the person so neglecting or refusing to pay; and if the toll, or any part thereof, so neglected or refused to be paid, and the reasonable charges of such seizure and distress, shall not be paid within the space of four days next after such seizure and distress made, the person so seizing and distraining may sell the horse, beast, cattle, carriages, or things so seized and distrained, or a sufficient part thereof, returning the overplus of the money to arise by such sale (if any), and what shall remain unpaid, upon demand, to the owner thereof, after such tolls and the reasonable charges occasioned by such seizure, distress, and sale shall be deducted.

Disputes to be settled by one Justice.

3. If any dispute shall happen or arise about the amount of the tolls due, or the charges of making, keeping, or selling any distress, made for non-payment of any tolls, it shall be lawful for the collector, or person distraining, to retain such distress, or the money arising from the sale thereof, as the case may be, until the amount of the tolls due and the charges of the making, keeping, and selling the distress be ascertained by some Justice of the Peace for the said Province, who, upon application made to him for that purpose, shall examine the matter on the oath of the parties or other witness or witnesses, which oath such Justice is hereby authorized and empowered to administer, and shall determine the amount of the tolls due, and shall award such costs and charges to either party as to the said Justice shall appear right and proper; all which costs and charges shall and may be levied and recovered, in case of non-payment thereof forthwith, by distress and sale of the goods and chattels of the person or persons so awarded or directed to pay the same, by warrant under the hand and seal of such Justice, rendering the overplus (if any), upon demand, after deducting the costs and charges of making such distress and sale, to the person or persons whose goods and chattels shall have been so distrained and sold: Provided that no person shall be required to attend before any such Justice touching any of the matters aforesaid, which Justice shall reside beyond seven miles from the place where such distress shall be made.

Proviso.

Penalties imposed in certain cases of evasion of payment of toll.

4. If any person shall with any horse, cattle, beast, or carriage, go off or pass from any road, through or over any land or ground near or adjoining thereto, not being a public road

road or highway, and such person not being the owner or occupier, or servant, or one of the family of the owner or occupier of such land or ground, with intent to evade the payment of any tolls granted by this Act; or if any owner or occupier of any such land or ground, shall knowingly and willingly permit or suffer any person, except as aforesaid, with any horse, cattle, beast, or carriage whatsoever, to go or pass through or over such land or ground, with intent to evade any such toll; or if any person shall fraudulently or forcibly pass through any such toll-bar or toll-gate with any horse, cattle, 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 horse or cattle from any carriage, either before or after having passed through any toll-bar, or toll-gate, or having passed through any toll-bar, or toll-gate, shall afterwards add or put any horse or other beast to any such carriage and draw therewith upon any part of any road so as to increase the number of horses or other beasts drawing the said carriage, after the same shall have passed through any toll-bar or toll-gate, whereby the payment of all or any of the said tolls shall or may be evaded; or if any person shall do any other act whatsoever in order or with intent to evade the payment of all or any of the said tolls, and whereby the same shall be evaded, every such person shall, for every such offence, forfeit and pay any sum not exceeding Five Pounds.

5. Every toll-collector shall place or cause to be placed on some conspicuous parts of the fronts of the several toll-houses or toll-bars at which they shall be respectively stationed, and so that the same shall appear to public view, their Christian and surnames, painted in black on a board with a white ground, each of the letters of such names to be at least two inches in length and of a breadth in proportion, and which board shall be and remain at such toll-house, toll-gate, or toll-bar, during the whole of the time that the person whose name shall be expressed thereon shall be on duty thereat, and every such collector shall place or cause to be placed on the front of the toll-house, toll-bar, or toll-gate at which such collector shall be stationed, the board containing the list of tolls hereinbefore directed to be affixed to the same respectively, which board shall also contain the name of the toll-gate, toll-bar, or toll-house, to which the same shall be affixed, as well as the list of the tolls payable at such toll-bar or toll-gate where such collector shall be stationed as aforesaid; and if any collector of the said tolls shall not place such boards respectively as aforesaid, and keep the same there during the time he shall be such collector as aforesaid, or shall refuse to permit or suffer any person to read, or shall in anywise hinder any person from reading the inscriptions on such boards respectively; or shall refuse to tell his Christian and surname to any person who shall demand the same, on being paid the said tolls or any of them, or shall, in answer to such demand, give a false name, or, upon the legal toll being paid or tendered, shall unnecessarily detain or wilfully obstruct, hinder, or prevent any passenger from passing through any toll-bar or toll-gate, or shall make use of any scurrilous or abusive language to any traveller
or

Collectors to have
their names painted
on front of toll-house

or passenger, then, and in every such case, every such toll-collector shall forfeit and pay any sum not exceeding Five Pounds for every such offence.

Toll-collectors guilty of misconduct to be fined.

6. If any collector or other person appointed to collect the tolls on any road, shall allow any coach, waggon, dray, cart, or other carriage of whatever description, or any horse, beast, or other cattle liable to pay toll, to pass through any toll-bar or toll-gate, without paying the toll payable thereat, or shall demand and take a greater or less toll from any person than he shall be authorized to do by virtue of this Act, or of any order or direction made in pursuance thereof, or shall demand and take a toll from any person who shall be exempt from the payment thereof, and who shall claim such exemption, or shall refuse to permit or suffer any person to read, or shall in anywise hinder any person from reading the inscriptions on such toll-boards as aforesaid, or shall refuse to tell his Christian and surname to any person who shall demand the same, on being paid the said tolls or any of them, or shall in answer to such demand give a false name, or upon the legal toll being paid or tendered shall unnecessarily detain or wilfully obstruct, hinder, or prevent any passenger from passing through any toll-bar or toll-gate, or shall make use of any scurrilous or abusive language to any Commissioner or Surveyor of the District in which such toll-bar, toll-gate, or toll-house is situate, or to any traveller or passenger, or shall be guilty of any other misconduct in his office, then and in every such case, every such toll-collector or other person, on conviction, for every such offence, shall forfeit and pay a penalty not exceeding Five Pounds.

Collectors not accounting for toll, to pay a penalty of £50.

7. If any collector of tolls upon any road shall neglect or refuse to account for and pay over to the person authorized to receive the same, upon demand, the money collected and paid at any toll-bar, toll-gate, or toll-house at which he shall be stationed as collector, every such collector shall, for every such offence, forfeit and pay a penalty not exceeding Fifty Pounds.

Toll-collectors discharged, and refusing to give up toll-houses, may be ejected upon warrant.

8. If any toll-collector who shall be discharged from his office by such Commissioners, or other person in that behalf authorized by such Commissioners, shall refuse to deliver up the possession of the house, buildings, and appurtenances which he enjoyed in right of his appointment, to that office within two days after notice of his discharge shall be given to him or left at his house, or if the wife or family of any such toll-collector who shall die as aforesaid, shall refuse to deliver up the possession of such house, building, and appurtenances, within four days after lawful demand for that purpose shall be made, then and in either of the said cases it shall and may be lawful for any Justice of the Peace for the said Province, upon proof of any such refusal 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 such house and premises in the day time, and to remove the person

persons who shall be found therein, together with their goods, out of such house, and to give possession of such house and premises to the surveyor, or such person as by him, or by the Commissioners, shall be appointed to take possession thereof.

9. It shall be lawful for the said Commissioners, at a public meeting, to let to farm the tolls of the several gates that may be erected upon the roads under their superintendence respectively, after causing notice to be given of the time and place for letting the same, at least fourteen days before the day to be appointed for that purpose, by affixing such notice upon all the toll-gates on the said road, and by insertion at least once in the *South Australian Government Gazette*, and specifying that such tolls will be let by auction to the best bidder, on his producing sufficient sureties for payment of the sum offered, in terms of the condition of letting, and also specifying the proposed upset price, and that at the time and place fixed in such notice the said tolls shall accordingly be exposed to be let by auction during the outrunning of a half-hour glass, and the last bidder at the outrunning of the said glass shall be declared the farmer or renter of the said tolls, and shall forthwith enter into a proper agreement for the taking thereof, and paying the money at the time specified in such notice, with such surety or sureties for payment thereof, and under such conditions, and in such manner, as the said Commissioners shall think fit, and if the person being the highest bidder shall not forthwith enter into such agreement, it shall and may be lawful to put up the said tolls again immediately for another bidder, and in like manner to continue putting up the same until a bidder shall be found who shall enter into such agreement; and in case no bidder shall offer, or in case the same shall not be let at such auction, it shall be lawful for the said Commissioners to accept a private tender for the same, and to demise or let to farm, or agree to demise or to let to farm, all or any of such tolls, at the highest rent that can be obtained therefor, or the said Commissioners may fix some future day for the letting thereof, as they shall judge most proper, upon giving such notice thereof as aforesaid; and if the farmer or renter of such tolls shall take a greater or less toll from any person than such as is directed or authorized by this Act, he shall, on conviction, for every such offence forfeit and pay a penalty of Five Pounds, and the said agreements for renting the tolls shall, if the Commissioners think fit to vacate the same, become null and void: Proviso. Provided always, that at all such lettings, the said Commissioners shall be entitled to bid for the tolls so to be let, either by themselves or their clerk, or any other person by them respectively authorized: Proviso. Provided also, that no such tolls shall be demised or leased for any longer term than one year at one time.

10. In case all or any of the said tolls shall be demised or let to farm to any person, and the lessee or farmer thereof shall neglect or refuse to perform the terms and conditions on which the same shall be demised or let, or in case the rent agreed to be paid by such lessee or farmer shall be in arrear by the space of fourteen days next after Power to remove lessee of tolls.

after any of the days on which the same ought to be paid pursuant to the agreement for letting to farm thereof, or in case any such lease or agreement shall in any other manner become void, then and in any of those cases, it shall and may be lawful for any Justice of the Peace for the said Province, by warrant under his hand and seal, to order a constable or other peace officer, with such assistance as may be necessary, to enter upon and take possession of such toll-house, toll-gate, or toll-bar, and the buildings and appurtenances thereto belonging, and to remove and put out such lessee or farmer of the tolls arising thereat respectively, or other persons who shall be found therein, together with their goods, out of and from the possession of the said toll-house or other buildings and appurtenances, and from the collection of tolls, and to put the said Commissioners, or any one of them, or their officer, or other persons authorized, acting by or under their authority, into the possession thereof, and thereupon it shall be lawful for the said Commissioners, if they shall think fit, to vacate and determine the contract or agreement (if any) for demising or letting the said tolls to such farmer or lessee, and the same shall be from that time utterly void to all intents and purposes (save as to the covenants or agreements for payment up to that time of the rents thereby reserved, or other covenants or agreements on the lessees' part which shall have been holden) as if such demise or agreements had never been made, and it shall be lawful for the said Commissioners, in every such case, to demise or let to farm the said tolls again to any other person, or cause them to be collected as if no former demise, contract, or agreement had been made relative thereto, any rule of law or right to the contrary notwithstanding.

Appropriation of
moneys.

11. All and singular the tolls and moneys levied and taken under the authority of this Act shall be appropriated by the said Commissioners of Main Roads to defray the cost of collecting such tolls and the expenses incidental thereto, and after such costs and expenses shall have been defrayed, the residue shall be expended in maintaining the Port Road in an efficient state of repair; and an account of the receipts and expenditure by the said Commissioners of Main Roads, under the authority of this Act, shall be annually laid before Parliament..

Commencement of
Act.

12. This Act shall take effect from the first day of January, 1861.

SCHEDULE.

| | <i>s.</i> | <i>d.</i> |
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| For every coach, chariot, chaise, gig, hearse, caravan, or other carriage; and every cart, waggon, dray, or other vehicle, if drawn by one horse or two bullocks | 1 | 0 |
| For every horse or two bullocks in addition to the above | 0 | 6 |
| For every such carriage or vehicle drawn by one pony, ass, or mule, not exceeding thirteen hands high | 0 | 6 |
| For every such carriage or vehicle drawn by two or more such ponies, asses, or mules | 1 | 0 |
| For every saddle or led horse, mule, or ass | 0 | 6 |
| For horses, mules, asses, oxen, cows, or other neat cattle driven, per head | 0 | 1 |
| For all sheep, lambs, calves, hogs, swine, or goats, driven, each | 0 | 0 $\frac{1}{4}$ |