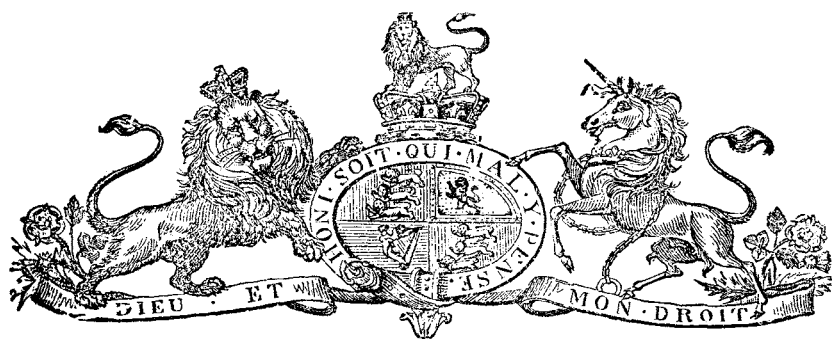


T A S M A N I A .



1 8 6 1 .

ANNO VICESIMO-QUINTO

VICTORIÆ REGINÆ,

No. 14.



AN ACT for constructing and maintaining a
Bridge over the *South Esk* River at or near
the *Cataract* Ferry at *Launceston*.

[16 *December*, 1861.]

WHEREAS it is expedient that provision should be made to enable the Trustees of the Road District of *West Tamar* to construct, for the use of the public, a Bridge across the *South Esk* River, between the Town of *Launceston* and the County of *Devon*, at or near the Ferry commonly known as the *Cataract Ferry*, and to make convenient approaches to the said Bridge, and to maintain and repair the said Bridge and the approaches thereto; and also for the purposes aforesaid to levy and collect Tolls, and to borrow Money: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.

1 In the construction and for the purposes of this Act, the term "Trustees" shall mean the Trustees for the time being of the Road District of *West Tamar*; and all acts and proceedings relating to this Act which are directed to be had or done by the Trustees, and all the

Interpretation.

powers vested in them generally, shall and may be had, done, and exercised by the major part of the Trustees present at any Meeting of the Trustees, the whole number present not being less than three; and any such three Trustees shall form a quorum.

Trustees may erect a Bridge and works.

2 It shall be lawful for the Trustees to construct and make a Bridge, with convenient approaches thereto, across the *South Esk* River between the Town of *Launceston* and the County of *Devon*, upon such site at or near the Ferry commonly known as the *Cataract Ferry*, and according to such plans and specifications as the Trustees shall see fit; and to make all such embankments, dams, excavations, and works, and to erect all such structures and works in the bed of the River as they may deem necessary or convenient for the purpose of constructing and making the said Bridge and the approaches thereto; and of repairing, maintaining, and improving the same from time to time, as they may see fit.

Trustees may take land.

3 The Trustees are hereby empowered, from time to time, to purchase and take, in the mode prescribed by the *Lands Clauses Act*, such land within the Town of *Launceston* and the said Road District as they deem necessary for the purpose of constructing, repairing, maintaining, widening, or improving the said Bridge or the approaches thereto, or of erecting Toll-houses or Toll-gates, or obtaining any materials for any such purpose, or as they may deem necessary for any other of the purposes of this Act; and, subject to the provisions of this Act, the *Lands Clauses Act* shall be incorporated with this Act; and for the purposes of such incorporation the Trustees shall be deemed to be the Promoters of the undertaking: Provided that no yard, garden, or orchard shall be taken without the consent of the owner thereof.

Form of notice by Trustees.

4 Any notice required to be given by the Trustees, by virtue of provisions of the *Lands Clauses Act* or of this Act, shall be sufficient if signed by any Two of the Trustees or by their Solicitor.

Trustees may erect Toll-house and gate.

5 The Trustees may erect a Toll-house and Toll-gate, and such erections, buildings, and fences as they may deem necessary or convenient for the collection of Tolls, securing of cattle, or other purposes connected with the safety and convenience of passengers, or collecting the said Tolls upon or across or at the sides of the said Bridge, or the approaches thereto, as the Trustees think proper; and from time to time may repair, renew, and rebuild, or remove the same, as occasion requires.

Trustees may fix Tolls to be taken.

6 The Trustees may cause such Tolls to be demanded and taken at such Toll-gate as to them seems necessary and proper; and, from time to time, may increase or reduce the rates of Toll to be demanded and taken at such Toll-gate: Provided, that where the whole money borrowed on the credit of the Tolls has not been paid off, or during the continuance of any demise of the Tolls, no such Tolls shall be reduced without the consent of the person or persons entitled to three-fourths of the money remaining due upon such Tolls, or of the Lessee of such Tolls, as the case may be: Provided also, that the Tolls to be demanded and taken at such Toll-gate shall not at any time exceed the rates mentioned in the Schedule (1.)

Schedule (1.)

Tables of Tolls.

7 The Trustees are hereby required to put up, and to continue on some conspicuous part of the front of such Toll-gate so that the same

appears to public view, a Table, painted in distinct and legible black letters on a board with a white ground, containing a List of all the Tolls payable at such Toll-gate; and any person who collects or receives any Tolls at such Toll-gate when such Table of Tolls is not affixed as aforesaid shall incur a penalty not exceeding Forty Shillings for every day during which he continues to collect Tolls without such Table being affixed.

8 The Tolls, according to the rates specified in and by such Table of Tolls, shall be payable and paid to the Collector thereof at the respective rates for the respective persons, animals, or vehicles as the same are specified in and by such Table of Tolls; and if any person liable to the payment of any Toll fails to pay such Toll when demanded by any Collector of Tolls, it shall be lawful for such Collector by himself, or taking such assistance as he thinks necessary, to seize and distrain any animal or vehicle in respect of which such Toll is payable, and its harness, or any of the goods or chattels of the person failing to pay; and if the Toll, or any part thereof so unpaid, and the reasonable charges of such seizure and distress, are not paid within the space of Four days next after such seizure and distress made, the Collector so seizing and distraining may sell the animal, vehicle, 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 remains unsold, upon demand, to the owner thereof, after such Toll, and the reasonable charges occasioned by such seizure, distress, and sale, have been deducted.

Recovery of Tolls.

9 If any Collector of Tolls demands or takes a greater or less Toll from any person than he is authorised to do by virtue of this Act, or refuses to permit or suffer any person to read, or in any wise hinders any person from reading, the inscriptions on such Table of Tolls as aforesaid, or refuses to tell his Christian and surname to any person who inquires the same on payment of the Toll demanded by such Collector, or in answer to such demand gives a false name, or upon the legal Toll being paid or tendered, or where no Toll is legally due, unnecessarily detains or wilfully obstructs, hinders, or prevents any person, or his animal or vehicle, from passing through such Toll-gate, or makes use of any scurrilous or abusive language to any passenger, any such Collector of Tolls shall, for every such offence, incur a penalty not exceeding Five Pounds.

Collectors of Toll taking greater or less Toll, &c.

10 No Toll shall be demanded or taken at such Toll-gate—

Exemptions from Tolls.

- (1.) Of or from any Minister of Religion :
- (2.) Of or from any person going to, or returning from, his usual place of religious worship on *Sundays* :
- (3.) Of or from any Stipendiary Magistrate going on or returning from duty :
- (4.) Of or from any Constable or other Police Officer going on or returning from duty ; or any person in his custody :
- (5.) Of or from any person going to, or returning from, any funeral :
- (6.) Of or from any person going to or returning from school :

(8.) Of or from any person for returning with any vehicle or animal once only through such Toll-gate at which on the same day he has already paid Toll for such vehicle and animal :

(9.) Of or from any person now by law exempted from payment of Tolls.

Illegally claiming exemption from Tolls.

11 If any person claims or takes the benefit of any exemption from Toll payable under this Act, not being entitled to the same, every such person shall, for every such offence, incur a penalty not exceeding Five Pounds ; and in all cases the proof of exemption shall be upon the person claiming the same.

Evading Tolls.

12 Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Five Pounds :—

(1.) Any person who fraudulently or forcibly passes through or by such Toll-gate, either alone or with any animal or vehicle, by reason whereof the payment of any Toll payable under this Act is evaded :

(2.) Any person who does any other act whatsoever in order or with intent to evade the payment of such Toll, and whereby the same is evaded.

Compounding for Tolls.

13 It shall be lawful for the Trustees, from time to time, to compound and agree for any term, not exceeding One Year at any one time, with any person for the Tolls payable for himself, his family and servants, and his animals and vehicles, passing through the said Toll-gate ; and all such composition money shall, for the period agreed upon, be paid in advance, and shall be applied in like manner as the Tolls received by virtue of this Act are directed to be applied.

Letting Tolls.

14 It shall be lawful for the Trustees, from time to time, to let for any term not exceeding Twelve Months the Tolls authorised to be collected under the provisions of this Act, together with the Toll-gate, such letting to be either by tender to be advertised for in Two consecutive numbers of a Newspaper published in *Launceston* Seven days at least before the day appointed for the opening of such tenders, or otherwise by public auction duly advertised in like manner ; and such security shall be taken by the Trustees as they may deem necessary for the due payment of the rent or sum stipulated to be paid for such Tolls ; and during the continuance of any such demise the Lessee of the Tolls, or any Collector or person by him appointed, is hereby empowered to demand and take the Tolls so let, and to use the same means for the recovery thereof in case of non-payment or evasion as any Collector of Tolls appointed by the Trustees is empowered to use.

Power to appoint Officers.

15 The Trustees shall, from time to time, appoint a Treasurer, who may be one of the Trustees, and may, from time to time, appoint and employ a Solicitor, Clerk, and such Collectors of Tolls and other Officers as the Trustees think necessary and proper ; and, from time to time, may remove any of such Officers, and appoint others in the room of such as are so removed, or as may die, resign, or discontinue their offices ; and may, out of the moneys at the disposal of the Trustees under this Act, pay such salaries and allowances to the said Officers respectively as the Trustees think reasonable.

16 Every Collector or other Officer appointed or employed by the Trustees to collect money shall, within Seven days after he has received any moneys on behalf of the Trustees, pay over the same to their Treasurer, and the receipt of such Treasurer for the moneys so paid shall be a sufficient discharge to such Collector or other Officer; and every such Collector or Officer shall, in such time and in such manner as the Trustees direct, deliver to the Trustees true and perfect accounts in writing under his hand of all moneys received by him and of all moneys paid by him to the said Treasurer, and also a list of the names of all persons who have neglected or refused to pay any moneys owing by them, with a statement of the moneys due from them respectively.

Payment over of moneys by Officers.

17 If any such Collector or other Officer fails to render such accounts as aforesaid, or to produce and deliver up, upon the Trustees requiring him so to do, all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for Five days after being thereunto required he fails to deliver up to the Trustees, or to any person appointed by the Trustees to receive the same, all books, papers, and writings, property, effects, matters, and things in his possession or power relating to the execution of his office or belonging to the Trustees, then, on complaint thereof being made to a Justice, such Justice shall summon such Officer to appear before Two or more Justices, at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such Officer, or upon proof that such summons was personally served upon him or left at his last known place of abode, such Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such Officer; and if it appears, either upon confession of such Officer, or upon evidence, or upon inspection of the account, that any moneys of the Trustees are in the hands of such Officer, or owing by him to the Trustees, such Justices may order such Officer to pay the same; and if he fails to pay the amount it shall be lawful for such Justices to grant a Warrant to levy the same by distress, and in default of sufficient distress to commit the offender to gaol, there to remain without bail for a period not exceeding Three Months, unless the same is sooner paid.

Summary proceeding against Officers failing to account.

18 If any such Officer summoned as aforesaid refuses to make out such account in writing, or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Trustees, such Justices may commit such offender to gaol, there to remain until he has delivered up all the vouchers and receipts in his possession or power relating to such accounts, and all the books, papers, writings, property, effects, matters, and things in his possession or power belonging to the Trustees.

Officers refusing to make out accounts, &c., may be committed.

19 The Trustees shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid under the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any Trustee, or any Mortgagee or Transferee of Tolls or other Creditor of the Trustees, without fee or reward; and the persons aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same; and any person having the custody of the said Books who does not, on the reasonable demand of

Trustees to keep accounts of receipts and disbursements.

any person as aforesaid, permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall, for every such offence, incur a penalty not exceeding Five Pounds.

Publication of accounts.

20 The Trustees in office on the 31st day of *December* shall annually, in the first week in the month of *January* following, publish in the *Gazette* a true and faithful account, signed by them, of all moneys received under the authority of this Act during the preceding year, together with the mode in which and purposes to which such moneys have been appropriated.

Trustees may borrow money.

21 The Trustees are hereby empowered to raise by way of Loan, bearing Interest at the rate not exceeding Eight per Centum per Annum, upon the security of the Tolls payable under this Act, such sum or sums of money as the Trustees shall deem necessary for defraying the expenses of constructing and making the said Bridge, and the approaches thereto, and of purchasing land for the purposes of this Act, and for defraying all other costs and expenses incidental to the carrying out and effectuating the objects of this Act; and if after having borrowed the said sums, or any part thereof, the Trustees pay off the same, or any part thereof, it shall be lawful for the Trustees again to borrow the amount so paid off, and so from time to time.

Loans to be effected by mortgage of the Tolls or Rate.

22 Every Loan so authorised to be raised shall be by mortgage of the said Tolls and Rates, together with the Toll-house and Toll-gate and appurtenances.

Form of mortgage of Tolls or Rate.

23 Every such mortgage shall be by Deed under the hands and seals of the Trustees, or any Three of them, and may be according to the form in the Schedule (2) or to the like effect; and the respective mortgagees shall be entitled one with another to their respective proportions of the said Tolls and Rates, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced with interest, without any preference one above another by reason of the priority of advancing such moneys, or of the dates of any such mortgages.

Mortgages to be registered.

24 A register of such mortgages shall be kept by the Treasurer of the Trustees; and any such register may at all reasonable times be perused and inspected upon payment of a fee of One Shilling.

Transfer of mortgages.

25 Any person entitled to any such mortgage may transfer his right and interest therein to any other person; and every such transfer shall be by Deed wherein the consideration is truly stated, and may be according to the form in the Schedule (3) or to the like effect.

Transfers to be registered.

26 Every such transfer shall, within One Month from the date thereof, be produced to the Treasurer of the Trustees, and thereupon such Treasurer shall cause an entry thereof to be made in the same manner as in the case of an original mortgage; and for every such entry the Treasurer may demand the sum of One Shilling; and any such entry may at all reasonable times be perused and inspected upon payment of a fee of One Shilling; and upon such entry being made, such transfer shall entitle the transferee, his executors, administrators, and assigns, to the full benefit of the original mortgage, and the principal and interest thereby secured; and such transferee may in like manner transfer the same again *toties quoties*; and it shall not

be in the power of any person except the person to whom the same has been last transferred, his executors, administrators, or assigns, to make void, release, or discharge the mortgage so transferred, or any money thereby secured.

27 If the Trustees can at any time borrow any sum of money, in order to pay off and discharge any such mortgage then in force, at a lower rate of interest than such existing mortgage bears, it shall be lawful for the Trustees to borrow such sum for such purpose, and to charge the said Tolls and Rates with payment of such sum and such lower rate of interest in such manner and subject to such regulations as are herein contained with respect to other moneys borrowed on mortgage of the said Tolls.

Power to borrow money at a lower rate of interest to pay off securities at a higher rate.

28 If no time is fixed in the mortgage-deed for the repayment of the money so borrowed, the party entitled to receive such money may at the expiration or at any time after the expiration of One year from the date of such deed demand payment of the principal money thereby secured, with all arrears of interest, upon giving Six months previous notice for that purpose; and in the like case the Trustees may at any time pay off the money borrowed on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or transferee shall be delivered to the Treasurer of the Trustees or left at his Office, and if given by the Trustees shall be given either personally to such mortgagee or transferee or left at his residence, or if such mortgagee or transferee is unknown to the Trustees, or cannot be found after diligent enquiry, such notice shall be given by advertisement in the *Gazette*.

Repayment of money borrowed when no time has been agreed upon.

29 If the Trustees give notice of their intention to pay off any such mortgage in security at a time when the same may lawfully be paid off, then at the expiration of such notice all further interest shall cease to be payable thereon, unless on demand of payment made pursuant to such notice, or at any time thereafter, the Trustees fail to pay the principal and interest due at the expiration of such notice on such mortgage in security.

Interest to cease on expiration of notice to pay off a mortgage debt.

30 Whenever the Trustees are enabled to pay off one or more of the mortgages which are then payable, and are not able to pay off the whole of the mortgages, the Trustees shall decide the order in which they are to be paid off by lot, and shall cause a notice to be given to the person entitled to the money to be paid off pursuant to such lot; and such notice shall express the principal sum so proposed to be paid off, and that the same will be paid, together with the interest due thereon, at a place to be specified at the expiration of Six months from the date of giving such notice, and the same may be lawfully paid accordingly.

Mode of paying off mortgages.

31 It shall not be lawful for any mortgagee or transferee to enter into the receipt or possession of such Tolls as aforesaid until default is made in payment of the interest due upon such mortgage security for the space of Twenty-eight days, and unless after demand thereof the same is not paid within such time; and in case after demand made as aforesaid any such interest is not paid within such time as aforesaid, or in case within Six months after the principal money owing upon any such mortgage becomes payable, and after demand thereof the same is not paid, together with all interest due in respect thereof, it shall be

Mortgagee may enter and receive Tolls on default.

lawful for the mortgagee or transferee, his executors, administrators, or assigns, as the case may be, to enter into possession of the Tolls so mortgaged, if no other mortgagee or transferee is then in possession, and to continue in such possession, and in receipt of such Tolls as aforesaid, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of collecting and receiving the Tolls aforesaid, are fully paid; and every mortgagee or transferee so in possession of such Tolls shall have and exercise all powers for collecting and recovering the said Tolls hereinbefore contained for those purposes; and if there is any other mortgagee or transferee in such possession as aforesaid, then such mortgage shall be deemed and taken to be a continuing security for the payment of the principal and interest mentioned in such mortgage until the same are fully paid and satisfied, notwithstanding the period for which such mortgage has been granted has expired.

Tolls to be applied by mortgagee in possession *pari passu*.

32 Any mortgagee or transferee, who so enters into the possession and receipt of such Tolls as aforesaid, shall not apply such Tolls which may consequently be received by him to his own exclusive use and benefit, but to and for the use and benefit of all other mortgagees and transferees, if any, of such Tolls *pari passu*, and in proportion to the several sums which are due to them as such mortgagees or transferees.

Application of Tolls.

33 All Tolls which shall be received by the Trustees under this Act shall be applied in the first place in repairing and maintaining the said Bridge and works after the completion thereof, and in payment of the salaries of the requisite officers and servants, and all necessary and current expenses incurred by the Trustees in respect of the said Bridge and works; and the residue of such Tolls shall be applied in, for, or towards payment of the moneys so to be borrowed as aforesaid by the Trustees, and all interest payable thereon; and from and after the payment of all such moneys and interest, then the said approaches and Bridge shall be deemed and taken to be a Cross Road and Bridge upon the line of such road in the Road District of *West Tamar*, within the meaning of the Cross and Bye Roads Act, and the provisions of this Act shall thereupon cease and be void: Provided, that it shall be lawful for the Trustees, if they see fit, at any time, when all interest then due in respect of the moneys which may be so borrowed as aforesaid has been paid out of the said Tolls, to apply the balance of such Tolls, or any part thereof, for the purpose of maintaining or repairing the approaches to the distance of Three hundred yards from the said Bridge.

Loans to be secured by special Rate.

34 In order to secure the payment of all sums of money that may be borrowed by virtue of the provisions of this Act, the Trustees are hereby authorised, and expressly required, to raise a special Rate upon all property within the Road District of *West Tamar*; and such special Rate, as to the mode in which the same is to be levied, collected, paid, applied, and otherwise dealt with, shall be deemed and taken to be, for all intents and purposes, a special Rate within the meaning and provisions of *The Cross and Bye Roads Act, 1860*, save so far as is otherwise herein provided.

Government may guarantee interest upon loans to the amount of £10,000.

35 In order to facilitate the loan of such sum or sums of money as aforesaid, it shall be lawful for the Colonial Government to guarantee the payment of interest at a rate not exceeding eight per cent. upon the same, or any part or parts thereof, to the lender or lenders: Provided, that the Colonial Government shall at no one time guarantee interest

on any larger amount than the sum of Ten thousand Pounds: And provided further, that, in every case, and so far as the Colonial Government shall in consequence of such guarantee advance and pay any sum of money to such lender, all moneys so paid shall be, and the same are hereby declared to be, a first or primary charge upon the Tolls, special Rate, and other moneys to be received by the Trustees under or by virtue of this Act.

36 If any collector, mortgagee, transferee, or lessee of Tolls, or any other person who, under or by virtue of this Act, may occupy any Toll-house, messuage, tenement, or hereditament, shall at the termination of his right to the occupation thereof by any means whatsoever, wrongfully refuse or neglect to deliver up possession thereof within Two days after notice demanding the same is left thereat, then and in such case it shall be lawful for any Justice of the Peace, upon proof to his satisfaction of such demand and refusal or neglect as aforesaid, by warrant under his hand, to order any constable or other peace officer, with all necessary assistance, to enter such Toll-house, messuage, tenement, or hereditament in the day-time, and to remove the persons who shall be found therein, together with their goods and chattels, and to give possession thereof to the Trustees.

Any person wrongfully refusing to deliver up Toll-houses may be ejected by Warrant.

37 If any Trustee wilfully neglects or refuses to perform any duty, matter, or thing which he is appointed or enjoined to perform under this Act, or in any manner infringes or disobeys any provision of this Act, such Trustee shall for every such offence incur a penalty not exceeding Twenty Pounds.

Neglect of duty by Trustee.

38 If any person wilfully obstructs, hinders, or interrupts, or causes or procures to be obstructed, hindered, or interrupted, the Trustees, or any Surveyor, Collector, Officer, Servant, or Workman of the Trustees, in doing or performing any work by this Act authorised to be done or performed by the Trustees, or in the exercise of any power or authority vested in the Trustees or any of the persons aforesaid by this Act, or threatens, or assaults, or uses improper or abusive language to any of the persons aforesaid whilst in the performance or execution of his duty under this Act, every such person shall for any such offence, if not otherwise specially provided for, incur a penalty not exceeding Twenty Pounds: Provided, that no proceeding for the recovery of any such penalty, nor the payment thereof, shall be a bar to any action at Law by any of the persons aforesaid for or in respect of any such assault as aforesaid, but every such action may be commenced and proceeded with as if this Act had not been passed, any Law or usage to the contrary notwithstanding.

Obstructing Trustees.

39 Wherever by this Act authority is conferred on the Trustees to enter upon any Land for the purposes of this Act, or to do any act in or relating to the construction or maintenance of the said Bridge or the approaches thereto, or other work, the same authority shall equally extend to all persons acting by the direction of the Trustees, and to all necessary agents, assistants, servants, workmen, means and appliances whatsoever.

Powers conferred on Trustees to extend to Officers duly authorised.

40 Every person who is guilty of any of the following offences shall, for every such offence, incur a penalty not exceeding Five Pounds:—

Injuring Bridge.

(1.) Wilfully riding, leading, or driving any Animal or Vehicle,

or any single wheel of any Vehicle, or wheeling or drawing any wheelbarrow, truck, or sledge upon any Footpath, by the side of the said Bridge or approaches :

- (2.) Hawling or drawing, or causing to be hauled or drawn, upon any part of the said Bridge or the approaches thereto any timber, stone, or other thing otherwise than upon a wheeled Vehicle :
- (3.) Using any instrument for the purpose of retarding the descent of any Vehicle in such manner as to destroy, injure, or disturb the surface of the Roadway of the said Bridge or the approaches thereto :
- (4.) Making a fire thereon :
- (5.) Laying or causing to be laid any timber, stone, hay, straw, dung, manure, lime, soil, ashes, rubbish, or other like matter or thing thereon :
- (6.) In any manner whatsoever wilfully obstructing the free passage, use, or enjoyment of the said Bridge or the approaches thereto.

Maliciously
injuring Bridge.

41 If any person unlawfully and maliciously destroys, throws down, or damages the said Bridge, or any part of the same, or either of the approaches thereto, or any of the erections or works used in constructing the said Bridge and the approaches thereto, or any Toll-house or Toll-gate erected by virtue of this Act, such person shall be guilty of a misdemeanor, and for such offence shall be punished by fine or imprisonment with or without hard labour, or both, at the discretion of the Court before which he is convicted.

Offences to be
dealt with summarily.

42 All offences against this Act, and all penalties and sums of money imposed or made payable by this Act, shall, where no other mode of proceeding is by Law provided, be heard, determined, and recovered in a summary way by and before One or more Justice or Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*.

19 Vict. No. 8.

Imprisonment for
penalties limited
to Three months.

43 No person shall, unless otherwise expressly provided, be imprisoned for nonpayment of any penalty under this Act, or for want of sufficient distress, for a longer period than Three Months, to be computed from the day, if such offender has been arrested, on which he was actually arrested.

Appropriation of
penalties.

44 All penalties received by virtue of this Act shall, if not otherwise in any case specifically directed, be paid to the Treasurer of the Trustees, and shall form part of the moneys at the disposal of the Trustees for the purposes of this Act.

Appeal from
penalties.

45 Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act which is recoverable in a summary manner, may, unless otherwise expressly provided, appeal against the same in the mode prescribed by *The Appeals Regulation Act*.

19 Vict. No. 10.

Persons acting
under Act entitled
to notice of action,
&c.

46 No action shall lie against any person for any thing done in pursuance of this Act unless notice in writing of such action, and of the cause thereof, is given to the Defendant One Month at least before the commencement of the action, and such action is commenced within Three Months after the cause of action has accrued ; and in any such

action the Defendant may plead the general issue, and give this Act and the special matter in evidence; and no Plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the Defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the Defendant, or if the Plaintiff becomes nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the Plaintiff, the Defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any Defendant has by Law in other cases; and though a verdict is given for the Plaintiff in any such action, such Plaintiff shall not have costs against the Defendant unless the Judge before whom the case is tried certifies his approbation of the action, and the verdict obtained thereupon.

47 The Trustees may sue or be sued in the name of the “ Trustees of the *South Esk Bridge*” without otherwise naming such Trustees; and no action, suit, or other proceeding commenced or had by or against the Trustees shall abate or be in any way affected by reason of the death, resignation, absence, or new election or appointment of any Trustee, but the same may be carried on and proceeded with as if no such change had taken place. Trustees, how to sue and be sued.

48 In any proceeding, civil or criminal, relating to any property or money vested in the Trustees for the purposes of this Act, it shall be sufficient to describe such property or money as the property or money of the “ Trustees of the *South Esk Bridge*” without otherwise naming such Trustees. Property may be laid in Trustees.

49 In referring to this Act it shall be sufficient to use the expression *The South Esk Bridge Act, 1861*. Short Title.

SCHEDULE.

(1.)

THE maximum Rate of Tolls to be taken at the Toll-gate under this Act:—

	s.	d.
For each Gig, Dog-cart, or Tax-cart drawn by one Horse	1	3
For each Box-cart or Dray drawn by one Horse	1	6
For each Carriage or other light four-wheeled Vehicle drawn by one Horse.....	1	6
For each Waggon drawn by two Horses.....	3	0
For each additional Horse drawing any of the above-mentioned Vehicles	0	6
For each Bullock-dray or Cart drawn by two Bullocks	1	4
For each Bullock-dray or Cart drawn by four Bullocks	2	0
For each additional Bullock in yoke drawing the same	0	4
For each Timber-carriage drawn by either Horses or Bullocks.....	5	0
For each saddle Horse	1	0
For each Horse, Colt, Mule, or Ass	0	9
For each of any number of Horned Cattle under One Score.....	0	6
For each of any number of Horned Cattle consisting of One Score or upwards	0	4
For each Sheep, Pig, or Goat, not exceeding One Score.....	0	1
For each Score of Sheep or Lambs, after the first Score	0	9
For each Foot Passenger, each way	0	1

(2.)

FORM OF MORTGAGE OF TOLLS.

MORTGAGE No.

Sect. 23.

By virtue of *The South Esk Bridge Act, 1861*, the Trustees of the said Bridge in consideration of the sum of _____ paid to the Treasurer of the said Trustees by *A.B.* of _____ hereby grant and assign unto the said *A.B.*, his executors, administrators, and assigns, such proportion of the Tolls [arising or] to arise at the said Bridge together with the Toll-gates [erected or] to be erected thereat as the said sum of _____ bears to the whole sum which is or shall be borrowed upon the credit of the said Tolls, to hold to the said *A.B.*, his executors, administrators, and assigns, from this day until the said sum of _____ with interest for the same at _____ per centum per annum, payable _____, is fully paid and satisfied, [in case any period is agreed upon for that purpose, the principal sum to be repaid at the end of _____ years from the date hereof].

Given under our hands and seals this _____ day of _____ 1861.

Y.Z. (L.S.)

W.X. (L.S.)

U.V. (L.S.)

Trustees of the Road District of _____

(3.)

FORM OF TRANSFER OF MORTGAGE OF TOLLS.

Sect. 25.

I, *A.B.*, in consideration of the sum of _____ paid to me by *C.D.* of _____ hereby transfer to the said *C.D.*, his executors, administrators, and assigns, a certain Mortgage, Number _____, made by the Trustees of the South Esk Bridge to _____ bearing date the _____ day of _____ 1861, for securing the sum of _____ and _____ interest, (or if such transfer is by endorsement, the within Security,) and all my right, estate, and interest in and to the money thereby secured, and in and to the [Tolls or Rate] thereby assigned.

In witness whereof I have hereunto set my hand and seal, this _____ day of _____ 1861.

A.B. (L.S.)