

THE TURNPIKE ACT, 1866.

IN THE TWENTY-NINTH YEAR OF THE REIGN OF HER
MAJESTY QUEEN VICTORIA.

1866. SESSION XIX, No. 12.

AN ACT to authorise the erection of Toll-bars and levying of Tolls within the Province of Auckland.

WHEREAS it is expedient to make provision for the erection of Toll-bars or Gates and the levying of Tolls thereat for the maintenance and repair of Public Roads in the Province of Auckland.

BE IT THEREFORE ENACTED by the Superintendent of the Province of Auckland by and with the advice and consent of the Provincial Council thereof as follows :

1. The Short Title of this Act shall be "The Turnpike Act 1866."

2. "The Turnpike Act 1863" and "Turnpike Act Amendment Act 1863" are hereby repealed.

Repeal of Act of 1863.

3. It shall be lawful for the Superintendent from time to time to cause such and so many Toll-bars and Toll-houses to be erected in upon or at the sides of any public road within the said Province as he shall think fit and to prescribe the tolls to be paid thereat for all animals and vehicles passing the same at a rate not exceeding the rates set forth in the Schedule hereto and such Toll-bars and Houses to repair renew remove and dispose of and such rates to alter and vary as he shall think fit.

Toll-bars may be erected by Superintendent.

4. It shall be lawful for the Superintendent or his lessees or his or their respective collectors or agents to demand receive and take at the several Toll-bars or Gates erected in pursuance of this Act the tolls prescribed as aforesaid by the Superintendent subject to the other provisions of this Act.

Tolls may be collected.

Erection of Toll-bar to be notified.

5. The tolls payable at all Toll-bars or Gates shall be uniform and no tolls shall be taken at any Toll-bar or Gate until the erection of the said Toll-bar shall have been previously notified in the Provincial Government Gazette for at least one month.

One toll only to be taken for once passing and re-passing any toll on the same day.

6. Payment of toll at any Toll-bar or Gate shall exempt the person paying the same from the payment of toll in respect of the same cattle or vehicle on once re-passing through the same Toll-bar or Gate on the same day and also from payment of toll on once passing and re-passing through any other Toll-bar or Gate on the same day within a distance of six miles by road of the Bar or Gate at which he had already paid. And if any Toll-bars or Gates be erected at or near both Otahuhu and Drury payment of tolls at either of such Bars or Gates shall clear the Bar or Gate erected at or near the other of these two places provided that any person claiming such exemption shall be bound to produce his ticket for payment of the original toll paid by him.

Tickets to be given by Toll-bar keeper.

7. Every Toll-bar keeper shall on the request of any person paying toll to him furnish such person with a ticket containing the name of the Toll-bar at which payment is made the toll paid and the date of payment and without production of such ticket no person unless exempt from payment of tolls as hereinafter mentioned shall be entitled to exemption on re-passing through the same or on passing or re-passing through any other Toll-bar within six miles by road on the same day.

On non-payment of tolls cattle vehicle or goods may be seized and sold.

8. If any person liable to pay toll as herein provided shall refuse to pay or attempt to evade payment of toll it shall be lawful for the collector of tolls at the gate or bar where such tolls is payable either to sue for the same or to seize any cattle or vehicle in respect of which such toll is payable or any goods or chattels upon such cattle or in such vehicle and detain the same until payment of the toll and if such toll shall not be paid within four days the cattle vehicle or goods or chattels so seized as aforesaid may be sold by public auction after not less than seven days' notice in at least one of the local newspapers by such Toll-collector and the proceeds applied in payment of the reasonable costs of seizure and sale and of the tolls payable as aforesaid and the balance of such sale if any shall be paid to the owner of such cattle vehicle or goods or chattels on demand.

9. In case any cattle or vehicle shall be subject to a higher rate of toll on re-passing through the same gate or bar or on passing or re-passing through any other gate or within the distance specified by reason of a different use made of the same cattle or vehicle then and in such case the difference only between the toll first paid and the higher toll shall be paid on such subsequent passing or re-passing.

When higher toll payable on re-passing difference only to be paid.

10. If any vehicle shall pass through any Toll-bar or Gate affixed tied or secured to any other vehicle toll shall be taken in respect of such affixed tied or secured vehicle as if the same were drawn by one horse unless such affixed tied or secured vehicle shall contain any goods therein in which case the toll payable shall be as if the said vehicle were drawn by two horses.

Tolls leviable on vehicles attached to other vehicles.

11. No Toll shall be demanded or taken by virtue of this Act at any Toll-bar Toll-gate or Toll-house of or from any person for any horses or vehicles employed in carrying or going empty to carry on the same day any stones or other materials for the purpose of repairing the said road or any part thereof or of or from the Surveyor or Contractor when engaged in surveying inspecting executing or proceeding to execute any works for repairing or maintaining the said road or for any horses or carriages employed only in conveying or returning from conveying the Mails of Letters under the authority of the Postmaster-General or for the horses of any officers or soldiers in Her Majesty's service in uniform and on duty or for any horses cattle or carriages employed only in carrying or conveying the arms or baggage of any such officers or soldiers or for any horses cattle or carriages employed only in conveying any ordnance barrack or commissariat or other public stores of or belonging to Her Majesty or for the use of Her Majesty's forces or returning empty from having been so employed or of or from any person in respect of any horse beast or other cattle or carriage employed only in carrying or conveying on the same day any dung soil compost or manure for improving land or in respect of any ploughs harrows or implements of husbandry unless laden also with some other article not lawfully exempted from toll or in respect of any horses or other beasts employed in husbandry going to or returning from plough or harrow or to or from pasture or watering-place such horses or other beasts going or returning on these occasions not more than two miles on the Turnpike Road on which the exemption shall be claimed or

Exemptions.

of or from any person in respect of any horse or vehicle used for conveying any person or persons to attend any funeral or of or from any person in respect of any horse ridden by such person for the purpose of attending any jury to which he shall have been lawfully summoned to attend. Provided that no person shall be entitled to claim such last-mentioned exemption unless he shall on passing through any such gate produce to the Collector the summons requiring his attendance upon any such jury.

Penalty for fraudulently claiming exemption. 12. If any person shall by any fraudulent or collusive means whatsoever claim or take the benefit of any exemption from toll in this Act contained every such person shall for every such offence forfeit and pay any sum not exceeding five pounds and in all cases the proof of exemption shall be upon the person claiming the same.

Evasion of tolls or forcing toll-bars. 13. Any person who shall in any manner evade or attempt to evade or aid or assist or abet any person in evading or attempting to evade the payment of any toll authorised by this Act or who shall fraudulently or forcibly pass through or by any Toll-bar Toll-gate or Toll-house erected or established under this Act or shall do any other act whatsoever in order or with intent to evade the payment of any such toll or whereby the same shall or may be evaded shall for every such offence forfeit and pay a sum not exceeding five pounds.

Superintendent may appoint collector who shall give security. 14. The Superintendent may from time to time employ and appoint such proper persons as he may think fit to be collectors and who shall take charge of any such Toll-bars Toll-gates and Toll-houses and collect thereat all tolls authorised to be collected or taken under this Act. Provided always that the said Superintendent shall require the said collector to find two good and sufficient sureties for the due performance of his duties and for the due accounting of all moneys that may come into his hands as such collector.

Tolls may be let. 15. It shall be lawful for the said Superintendent from time to time to let and farm out for any term not exceeding one year all or any of the Tolls authorised to be collected under the provisions of this Act together with any Toll-bar Toll-gate or Toll-house such letting or farming out to be by Public Auction whereof due notice shall be given by publishing the same in not less than two newspapers circulated in the Province fourteen days at the least before such letting and such security shall be taken by the said

Superintendent as he may deem necessary and advisable for the due payment of the rent or sum stipulated to be paid for such Tolls and any lessee or farmer of Tolls during the continuance of any such letting or farming out or any collector or person by him appointed is hereby authorised and empowered to demand take have and receive such Tolls so let or farmed out and to enforce the recovery thereof in the same mode and by the same ways and means to all intents and purposes as the said collector appointed by the Superintendent could by virtue of this Act have demanded taken and received such Tolls if the same had not been so let or farmed out. Provided that no tolls shall be so let until the maximum rate of Tolls which may be demanded and taken under this Act during the continuance of such letting or farming out shall be fixed in manner aforesaid.

16. If at any such auction as aforesaid no bidder shall offer or in case the said Tolls shall not be let at such auction it shall be lawful for the said Superintendent to advertise for tenders for the said Tolls in the same manner as tenders for other public works are advertised for and to accept a private tender for the same and any such person who shall take the said Tolls by private contract shall be entitled to the same privileges and shall in all respects be deemed and taken to be for the purposes of this Act a person who shall have taken the said Tolls by reason of his being the highest bidder at any such auction.

If not sold by auction may be let by private tender.

17. If any farmer renter or collector of tolls shall demand or take a greater or less toll from any person than what is authorised or directed by this Act he shall for every such offence forfeit any sum not exceeding five pounds.

Penalty for taking more or less than legal toll.

18. Every Toll Collector shall cause to be placed and kept on some conspicuous part of the Toll-bar Toll-gate or Toll-house at which he shall be stationed and so that the name shall appear to public view his Christian or first and surname and a list of the Tolls payable thereat painted in black letters at least two inches in length on a board with a white ground and if any such collector shall not place and keep such board as aforesaid during the time he shall be such collector or shall in any wise hinder any person from reading the inscription on such board or shall refuse to tell his Christian or first and surname to any person who shall demand the same or shall give a false name or shall demand more than the legal toll and upon the legal toll being tendered shall detain any passenger horses cattle or carriage or shall use any abusive language every such

Collectors to have their names in front of Toll-house and table of tolls payable.

collector shall upon conviction for every such offence forfeit and pay any sum not exceeding ten pounds.

Penalty for injuring Toll-bars or obstructing Collector. 19. Any person who shall wilfully injure damage or destroy any Toll-bar Toll-gate or Toll-house or any board or list of tolls erected or put up in pursuance of this Act or who shall wilfully obstruct or prevent any such collector in the due execution of his duty under the provisions of this Act shall for every such offence forfeit and pay any sum not exceeding five pounds.

Lessees to occupy Toll-houses only during performance of conditions of lease. 20. It shall be lawful for the lessee or farmer of any Tolls or such other person or persons as he shall appoint to occupy and enjoy the Toll-house and appurtenances thereunto belonging at which the tolls so let are to be collected during such time only as such farmer or lessee shall duly and regularly pay his rent and perform the covenants conditions and agreements of his lease but no longer.

On non-payment of rent or breach of conditions of lease lessee may be ejected. 21. If any lessee or farmer of any Tolls shall neglect or refuse for the space of twenty-one days to pay the rent due by him or to perform any of the conditions covenants or agreements of his lease it shall be lawful for the Superintendent by warrant under his hand to order any constable with such assistance as may be necessary to enter into possession of the Toll-house and appurtenances and to remove therefrom the lessee or other person in possession thereof together with his goods and chattels and to determine the lease or tenure of such lessee or farmer and to appoint a Collector of Tolls at such Toll-bar or Gate or to relet the Tolls there to be collected as if no former demise or agreement had been made relative thereto.

Appropriation of tolls. 22. All moneys and rents collected and received by virtue of this Act shall be paid to the Provincial Treasurer of the Province of Auckland who shall keep a separate account of the same and the said Treasurer shall thereout in the first place pay all interest due to any person for any moneys borrowed by virtue of this Act and any sinking fund and principal money that shall be due in respect of any money so borrowed and in the next place the said Treasurer shall pay all the costs charges and expenses incurred occasioned and incident to the collection of the said tolls and the letting thereof and all costs incurred in prosecuting any persons for penalties incurred under this Act and in the next place the said Treasurer shall pay thereout all costs charges and expenses in and about the erection construction

and repairs of all Toll-bars Toll-gates and Toll-houses erected in pursuance of this Act and lastly the balance shall be expended in the repair maintenance and construction of the roads on which such Toll-bars or Gates are respectively situated.

23. It shall be lawful for the Superintendent for the purpose of defraying any expenses incurred or to be incurred by him in the execution of this Act or for the purpose of repairing the said road to borrow and take up at interest on the credit of the Tolls authorised to be raised by him under the authority of this Act any sums of money necessary for defraying any such expenses or the costs of such repairs And for the purpose of securing the repayment of any sums so borrowed together with such interest as aforesaid the Superintendent may mortgage and assign over to the person by or on behalf of whom such sums are advanced the Tolls upon the credit of which such sums are borrowed in such manner at such interest and for such period as to the said Superintendent may seem fit.

Tolls may be mortgaged.

24. Notwithstanding anything hereinbefore contained it shall be lawful for the Superintendent to cause Tolls to be levied at or upon any bridge now or hereafter to be erected out of the public funds of the Province although such bridge be situated within six miles by road of some other Toll-bar or Gate Provided such Tolls shall only be levied so long as may be necessary to repay the cost of the erection maintenance and repair of such bridge and shall be so applied.

Special tolls on bridges may be levied to pay the cost thereof.

25. The word Collector for the purposes of this act shall mean and include any person whomsoever appointed or authorised by the Superintendent to collect Tolls or his servant or agent or any person actually collecting Tolls at any Toll-bar or Gate.

Interpretation.

26. Nothing in this Act contained shall be held to invalidate or effect any existing contracts entered into under "The Turnpike Act 1863."

Saving clause.

SCHEDULE.

	s.	d.
For every Single or Saddle Horse	0	3
For every Carriage or Vehicle drawn by One Horse	0	6
For every Carriage or Vehicle drawn by Two Horses	0	9

THE HIGHWAYS AMENDMENT ACT.

For every Carriage or Vehicle drawn by more than Two Horses	1	0
For every Public Van or Conveyance carrying passengers for hire	2	0
For every Dray drawn by Bullocks: every Two Bullocks to be charged as one Horse.		
For all great cattle, per head	0	3
For Pigs, Sheep, and Goats, per head	0	0 $\frac{1}{2}$

Provided that all vehicles with wheels having tires of a breadth not less than six inches shall only be liable to one-half the above rates of Toll.