

PENRITH NEPEAN  
BRIDGE.

An Act to enable William Russell Esquire of Regentville in the County of Cumberland to erect and maintain a Bridge over the River Nepean near the Town of Penrith and to take Toll thereat for a term of years and for other purposes therein mentioned. [1st October, 1850.]

Preamble.

WHEREAS there is now great traffic on the road from Bathurst and the western part of this Colony to Sydney which said traffic is likely to increase greatly And whereas the only means of communication between the Bathurst Road and the Sydney Road over the River Nepean is the Government punt or ferry near the town of Penrith And whereas the crossing of the said river at the said ferry is often attended with great danger and serious damage to drays horses sheep and cattle and is always accompanied with great delay and inconvenience to travellers upon the said roads And whereas the tolls payable at the said ferry are very onerous And whereas the building and maintaining a bridge over the said river with proper avenues and approaches thereto on either side communicating with the Bathurst Road and Sydney Road would prevent the said delays losses and inconveniences and would be of great public utility And whereas William Russell Esquire of Regentville in the county of Cumberland is desirous of building and maintaining the said bridge over the said river with proper avenues and approaches thereto communicating with the Bathurst Road and the Sydney Road upon the condition of taking to his own use and benefit certain reasonable tolls at the said bridge upon and after the proper completion of the said bridge with the said avenues and approaches thereto for a term of years but inasmuch as the several purposes aforesaid cannot be effectually accomplished without the aid and authority of the Legislature Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That from and after the passing of this Act it shall and may be lawful for the said William Russell Esquire of Regentville his executors administrators and assigns and his or their agents servants workmen and assistants and he and they are hereby authorized and empowered to construct and build or cause to

Liberty to William  
Russell Esq. to erect  
bridge over the River  
Nepean.

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be constructed and built and to complete a good and substantial bridge not less than twenty-five feet wide near the town of Penrith from a certain place known as the township of Regentville over and across the said river to Emu Plains with proper and convenient roads avenues and approaches to and from the said bridge communicating with the Great Western Road below the town of Penrith in the county of Cumberland on one side of the said river and with the Bathurst Road in the county of Cook on the other side and also to dig and make proper foundations in the said river and to cut remove take and carry away all trees roots of trees beds of gravel sand mud or any other impediment whatsoever which may in anywise hinder the erecting and completing the said bridge and generally to do and execute all and every other acts matters and things requisite and necessary useful or convenient for erecting building preserving and protecting and repairing the said bridge and the course and channel of the said river and making such proper embankments roads ways avenues and approaches thereto as aforesaid according to the tenor and true intent and meaning of this Act.

2. And be it enacted That it shall and may be lawful for the said William Russell his executors administrators and assigns and he and they are hereby authorized and empowered to make form and set out or cause to be made formed and set out proper and commodious and convenient roads avenues or approaches to the said intended bridge to lead from the Great Western Road below the town of Penrith to the said place called the township of Regentville and to and over the said intended bridge and from there to a place called Emu Plains on the Bathurst Road in the county of Cook the said roads avenues or approaches to be made through and along any public highway now used in the said line or direction and also upon obtaining the requisite consent and authority in that behalf through and along any public or Crown lands or any private lands in the said line or direction. Provided always that the expenses of making forming and maintaining such roads avenues and approaches shall be borne and sustained by the said William Russell his executors administrators and assigns during the continuance of this Act and in case the said William Russell his executors administrators or assigns shall cause to be formed and set out any new or other roads avenues or approaches which may be required as advantageous to the public traffic to the said bridge the said William Russell his executors administrators and assigns shall maintain and keep in repair such new roads avenues and approaches at his and their own cost and charge.

and to make and form roads and approaches to bridge.

3. And be it enacted That upon the proper completion of the said bridge with the said ways and approaches thereto within three years from and after the passing of this Act and provided always that the said bridge during the continuance of this Act shall be kept and maintained in proper repair by the said William Russell his heirs executors administrators and assigns the tolls hereinafter authorized and directed to be demanded and received at the said intended bridge and the said intended bridge and any toll-house or houses toll-bar or gate and toll-bars or gates thereto belonging and their appurtenances shall during the continuance of this Act and for the term of thirty years next ensuing the completion of the said bridge belong to and be the property of and vested in the said William Russell his executors administrators and assigns and it shall be lawful to the said William Russell his executors administrators and assigns to bring actions and suits or institute any criminal or summary proceedings as the case may require against any person or persons who shall steal take or carry away spoil injure or destroy the said bridge or other erections thereto belonging.

Tolls to be the property of William Russell his executors &c.

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Tolls in schedule to be received.

4. And be it enacted That it shall and may be lawful for the said William Russell his executors administrators and assigns to charge demand and receive at the toll-bar or gate toll-bars or gates erected at or upon the said bridge the tolls which are specified in the Schedule marked A annexed to this Act and no other or higher tolls shall be charged demanded or received than such as are specified in the said Schedule for each and every person animal cart carriage dray wain wagon and other vehicle which shall pass over such bridge.

Exemption of the Governor and servants and persons in the employment of Government clergy-men mails and military from payment of tolls.

5. And be it enacted That no toll 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 toll-bar or bars toll-gate or gates at or upon the said bridge 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 for or in respect of any horse beast carriage or other vehicle carrying the Post Office mails nor shall any toll be demandable or taken by virtue of this Act from any of Her Majesty's officers and soldiers being in proper staff or regimental or military uniform dress or undress in respect of themselves or their horses nor shall toll be demandable or taken by virtue of this Act in respect of any carriages or horses belonging to Her Majesty or employed in Her service when conveying persons baggage arms or ammunition or returning therefrom.

Liberty to erect toll-bars and appoint collectors.

6. And be it enacted That it shall be lawful for the said William Russell his executors administrators and assigns to erect or cause to be erected a toll-bar or gate or toll-bars or gates at or upon the said bridge and at or upon such part or parts thereof as to the said William Russell his executors administrators and assigns shall seem fit and to collect and receive the said tolls thereat or to nominate and appoint some fit and proper person or persons to attend the said toll-bar or gate or toll-bars or gates to collect and receive the tolls thereat.

Bridge to be a public bridge at the end of thirty years.

7. And be it enacted That at the expiration of the said term of thirty years and at the expiration of this Act then and from thenceforth the said bridge shall be and shall be deemed to be a public bridge.

If bridge &c. not completed within three years powers of this Act to determine.

8. And be it enacted That if the said bridge with the said roads avenues and approaches be not fully and properly completed within three years next after the passing of this Act the powers given in and by the same shall cease and determine.

Dedication of roads to the public.

9. And be it enacted That all land which shall after the passing of this Act be lawfully formed into an avenue approach or road leading to the said bridge on either side thereof as hereinbefore provided and shall not at any time after the passing of this Act and after the completion of the said bridge be used as such avenue approach or road shall be deemed and taken to be dedicated to the public and shall not be fenced in or resumed on any pretence whatsoever but shall be subject to all such and the like regulations orders powers authorities and provisions to which land used as a public thoroughfare now is or hereafter shall be subject to the law.

Liberty to borrow money on mortgage of tolls.

10. And be it enacted That from and after the passing of this Act it shall and may be lawful for the said William Russell his executors administrators or assigns and he is hereby authorized and empowered from time to time to borrow and take up at interest any sum or sums of money that shall or may be required for the making of the said bridge by one or more mortgage or mortgages of the tolls to be collected at such bridge and of such bridge and of the toll-houses for collecting the said tolls and the mortgagee or mortgagees of the same shall if at any time they lawfully enter into possession of the

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the said tolls and toll-houses and bridge have the same powers and be subject to the same liabilities which are hereby given to and imposed upon the said William Russell his executors administrators and assigns in respect of the tolls and the receipt thereof and the repairs of the said bridge.

11. And be it enacted That it shall and may be lawful for the said William Russell his executors administrators and assigns to demise and let to farm the tolls demandable under and by virtue of this Act at or upon the said bridge and the said lessee or lessees shall have the same powers of demanding and collecting and taking the said tolls as are hereby given to the said William Russell his executors administrators and assigns.

Tolls may be let.

12. And be it enacted That the said lessee or lessees of the said tolls during such time as the said tolls shall be so leased as aforesaid shall and may nominate and appoint such other person or persons as he she or they may think necessary to collect demand and take such tolls 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 the said William Russell his executors administrators and assigns and such lessee or lessees might or could do under and by virtue of this Act.

Lessee may appoint collectors.

13. And be it enacted That in case the tolls demandable at or upon the said bridge shall be demised by the said William Russell his executors administrators or assigns to any person or persons 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 or any part thereof shall be in arrear for the space of fourteen days next after the day on which the same ought to be paid or the term 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 said William Russell his executors administrators and assigns 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 the said bridge and the toll-house or houses at or thereupon and all buildings and appurtenances 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 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 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 toll-houses may be given let or demised to any other person or persons and may in the meantime be collected by the said William Russell his executors administrators and assigns or his or their servants and agents in that behalf.

In case of non-payment of rent or avoidance of lease lessees and occupiers removable by order of a Justice of the Peace.

14. And be it enacted That in case the lessee or lessees of the said tolls shall on the expiration of the term for which the same shall have been so let or demised to him or them neglect or refuse to deliver up possession to the said William Russell his executors administrators or assigns to any new lessee or lessees possession of the toll-house or toll-houses at or upon the said bridge and all buildings and appurtenances thereto belonging it shall and may be lawful for any Justice of the Peace upon complaint made upon oath by or on behalf of the said William Russell his executors administrators and assigns by warrant under his hand and seal to order any constable with all such assistance

On determination of lease and refusal to quit Justice of the Peace may remove lessee.

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as shall be necessary to enter upon and take possession of the toll-houses and all buildings and appurtenances thereto belonging 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.

Table of tolls to be affixed to toll-house.

15. And be it enacted That the said William Russell his executors administrators and assigns are hereby required and the lessee or lessees of the said tolls shall and are hereby required during the whole time that he or they shall take or continue to be the lessee or lessees of the said tolls to put up or cause to be put up and continued in some conspicuous place at or near the toll-gate or toll-gates or at and upon the toll-house or toll-houses at or upon the said bridge a table painted in distinct legible black letters on a board with a white ground containing a list of the tolls payable at the said bridge 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 that the said William Russell his executors administrators and assigns and the said lessee or lessees during the whole time that he or they shall continue to take or be the lessee or lessees of the said tolls shall place on some conspicuous place near to such board the christian and surname of the collector or keeper of the said tolls 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 the said William Russell his executors administrators and assigns while he shall take the said tolls or his lessee or lessees shall neglect or refuse to put up such table of tolls as aforesaid or to cause the name or names of the said collectors or keepers of such tolls for the time being to be put up as aforesaid or if the collector or keeper of such tolls 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 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 the said boards or the name or names so fixed up as aforesaid or shall refuse to tell his christian name and surname to any person or persons who shall demand to know the same on paying the said tolls or any of them or upon the legal toll being tendered or paid shall unnecessarily detain or wilfully obstruct hinder or delay any passenger or passengers from going through the toll-gate or toll-gates at or upon the said bridge then and in each and every such case the said collector or collectors of the said tolls shall forfeit and pay for every such offence any sum not exceeding forty shillings to be recovered as hereinafter provided.

Name of collector to be put up in a conspicuous place &c.

Penalty in cases of default.

Persons refusing to pay toll may be prevented passing.

16. And be it enacted That if any person liable to the payment of the said tolls under this Act shall after demand neglect or refuse to pay the same or any part thereof it shall be lawful for any person having right or authority to collect the same to prevent such person or persons from passing through the said toll-gate or toll-gates and to shut close and fasten the said gates and to keep and continue the same closed and fastened.

Penalty on forcibly passing bridge without paying toll.

17. And be it enacted That if any person or persons shall resist or make forcible opposition against or shall assault any person or persons having right or authority to collect the said toll in the execution of their duty or shall pass through the toll-gate or toll-gates at or upon the said bridge without paying the legal toll to which he or they is or are liable or shall fraudulently or forcibly evade or

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do any act whatever in order or with intent to evade the payment of the said toll or tolls and whereby the same shall be evaded every such person shall for every such offence forfeit and pay a sum not exceeding five pounds.

18. And be it enacted That if any lessee or collector of tolls under this Act or any keeper of a gate on the said bridge shall upon the legal toll being tendered or paid unnecessarily or for an unreasonable time detain or wilfully obstruct hinder or delay any passenger or passengers with or without his her or their horses beasts carriages carts and other vehicles from passing over the said bridge or if any such lessee or collector of tolls or keeper of a gate on the said bridge shall make use of any uncivil scurrilous threatening or abusive language or behaviour to any traveller or passenger travellers or passengers over the said bridge then and in each and every such case the said lessee or collector of tolls or keeper of a gate on the said bridge shall forfeit and pay for every such offence any sum not exceeding five pounds to be recovered and applied as hereinafter mentioned.

If lessee or collector of tolls detain or obstruct passengers.

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

19. And be it enacted That if any person subject or liable to the payment of any of the tolls under and by virtue of this Act shall after demand thereof neglect or refuse to pay the same or any part or parts thereof it shall be lawful for the person or persons having right or authority to collect such tolls by himself or themselves or taking such as he or they shall think necessary to seize and distrain any horse beast cattle sheep 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 or any of the goods or chattels of the person or persons 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 and of keeping and maintaining the same shall not be paid within the space of one day next after such seizure and distress made the person or persons so seizing and distraining may sell the horse beast cattle sheep 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 unsold upon demand to the owner thereof after such tolls and the reasonable charges occasioned by such seizure distress maintenance and sale shall be deducted.

Collector may seize and distrain for non-payment of tolls.

20. And be it enacted That if any person or persons whomsoever shall wilfully or maliciously injure pull or cut down pluck up throw down break level or otherwise damage demolish or destroy any toll-gate or any chain post rail bar wall or other fence or fences or lamp or lamps of or belonging to any toll-gate at or upon the said bridge or any house or houses erected for the use of any such toll-gate or table of tolls put up at any such toll-gate or toll-gates on the said bridge or any arch wall abutment prop or fence belonging thereto or any part of the said bridge whatsoever then and in each and every such case every person so offending shall forfeit and pay for every such offence a sum not exceeding ten pounds 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 with the amount of the said damages shall be to the use of the said William Russell his executors administrators and assigns.

Penalty for injuring or destroying toll-gate &c.

21. And be it enacted That all horses cattle sheep and other beasts for which toll shall be demanded or payable under this Act shall be counted by the lessee or collector of tolls under this Act or keeper of the gate at the said bridge before such horses cattle sheep and other beasts shall pass over the said bridge.

All cattle horses &c. to be counted by lessee collector or keeper before passing the bridge.

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Justice of the Peace  
to hear and determine  
offences summarily.

22. And be it enacted That it shall be lawful for any one or more Justice or Justices of the Peace 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 tone 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 or are hereby authorized and required to proceed to make inquiry 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 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 be not duly paid every such Justice or Justices shall thereupon issue a warrant under his or their hand and seal directed to any constable or constables 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 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 or their hand and seal or hands and seals commit every such offender or offenders to some one of the common gaols of the said Colony 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.

No conviction to be  
quashed for want of  
form or removable  
by *certiorari*.

23. And be it enacted That no conviction under this Act shall be quashed for want of form or be removed or removable 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 that it be therein alleged that the party has been convicted and that there be a good and valid conviction to sustain the same.

Limitation of  
actions &c.

24. And be it enacted That if any action or suit shall be commenced against any person or persons for anything done in pursuance of this Act then and in every such case such action or suit shall be commenced or prosecuted within three calendar months after the fact committed and not otherwise 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

*Burwood and Newcastle Tramroad.*

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 case by law.

25. And be it enacted That this Act shall continue and be in force thirty years after the passing of the same Provided that the said bridge and the avenues and roads thereto be properly built and completed within three years after the passing of the same.

Continuance and duration of Act.

26. Provided always and be it enacted That nothing in this Act contained shall be deemed to affect or apply to any right title or interest of Her Majesty Her Heirs and Successors or of any body or bodies politic or corporate or of any other person or persons excepting such as are mentioned herein or of those claiming by or under him her or them.

Rights of the Crown not affected.

27. And be it enacted That this Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by all Judges Justices and others without being specially pleaded.

Act to be deemed a public Act.

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SCHEDULE REFERRED TO.

TABLE OF TOLLS TO BE LEVIED PAID AND TAKEN UNDER AND BY VIRTUE OF THIS ACT.

								s.	d.
For every foot passenger	...	...	...	...	...	...	...	0	2
„ horse mare gelding ass or mule drawing or not drawing	...	...	...	...	...	...	...	0	6
„ gig dray or cart with two wheels only	...	...	...	...	...	...	...	1	0
„ wagon carriage or other vehicle with four wheels	...	...	...	...	...	...	...	1	6
„ ox or head of neat cattle drawing or not drawing being more than ten in number	...	...	...	...	...	...	...	0	3
„ „ „ „ „ „ not exceeding ten	...	...	...	...	...	...	...	0	4
„ sheep lamb pig or goat	...	...	...	...	...	...	...	0	0½

No double toll shall be charged on Sunday nor shall the above tolls be payable more than once in each day.

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