

An Act to form and make a Dam or Bridge or both combined across the River called Cook's River in the County of Cumberland in the Colony of New South Wales. [30th November, 1854.]

Preamble.

WHEREAS it would be of advantage as well to the inhabitants of the parishes of Petersham and St. George both in the county of Cumberland in the Colony of New South Wales and places adjacent thereto as to the inhabitants of the district of Illawarra and also to the public at large if a bridge or dam or both combined were erected across the river called Cook's River in the county aforesaid at or near a certain place called Undercliff in the parish of St. George aforesaid

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aforesaid and certain roads made thereto and therefrom connecting the said parishes of Petersham and St. George and rendering to the public at large a more direct way to and from Sydney and the principal roads ways and avenues leading thereto and the adjacent lands hereditaments and premises and also for rendering the roads more perfect and good and for facilitating communication with Illawarra and more distant places. And whereas Thomas John Fisher Esquire of the town of St. Leonard's in the parish of Willoughby in the county aforesaid and Piddocke Arthur Tompson Esquire of Bexley in the parish of St. George aforesaid are the owners of the land where the said dam or bridge is intended to be erected and they are willing and desirous to make such bridge or dam and the roads from the Cook's River Road and the Newtown Road both in the parish of Petersham aforesaid to the Illawarra Road in the parish of St. George aforesaid thereby connecting the Parramatta Road and the Newtown Road with the Illawarra Road over George's River in the parish of St. George aforesaid and it is deemed advisable to grant them full powers to do and make the said bridge or dam or both combined and the approaches thereto. Be it therefore enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows—

1. From and after the passing of this Act it shall and may be lawful for the said Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns and their agents servants workmen and assistants and they are hereby authorized and empowered to construct and build or cause to be constructed and built and to complete a bridge or dam or both combined whichever shall seem to the said Thomas John Fisher and the said Piddocke Arthur Tompson most expedient over or on the said river opposite to Undercliff aforesaid in the said parish of St. George 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 or dam 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 or dam 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.

Liberty to Thomas
John Fisher and Pid-
docke Arthur Tomp-
son Esquires to erect
bridge or dam over
Cook's River

2. It shall and may be lawful for the said Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns 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 or dam and along their said respective lands on each side of the said river as aforesaid and to and over the said intended bridge or dam.

And to make and
form roads and ap-
proaches to bridge
or dam.

3. Upon the proper completion of the said bridge or dam 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 Thomas John Fisher and Piddocke Arthur Tompson their heirs executors administrators and assigns the tolls hereinafter authorized and directed to be demanded and received at the said intended bridge or dam and the said intended bridge or dam 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 ten years next ensuing the completion of

Tolls to be the pro-
perty of Thomas
John Fisher and
Piddocke Arthur
Tompson their ex-
ecutors &c.

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of the said bridge belong to and be the property of and vested in the said Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns and it shall be lawful to the said Thomas John Fisher and Piddocke Arthur Tompson their 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 dam or other erections thereto belonging.

Tolls may be let.

4. It shall and may be lawful for the said Thomas John Fisher and Piddocke Arthur Tompson their 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 or dam 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 unless the same shall be approved of by His Excellency the Governor with the advice of the Executive Council.

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

5. 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. It shall be lawful for the said Thomas John Fisher and Piddocke Arthur Tompson their 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 or dam and at or upon such part or parts thereof as to the said Thomas John Fisher and Piddocke Arthur Tompson their 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 ten years.

7. At the expiration of the said term of ten years and at the expiration of this Act then and from thenceforth the said bridge or dam 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. If the said bridge or dam 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 public.

9. 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 or dam 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

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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.

10. From and after the passing of this Act it shall and may be lawful for the said Thomas John Fisher and Piddocke Arthur Tompson their executors administrators or assigns and they are 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 or dam by one or more mortgage or mortgages of the tolls to be collected at such bridge or dam and of such bridge or dam 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 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 Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns in respect of the tolls and the receipt thereof and the repairs of the said bridge or dam.

11. It shall and may be lawful for the said Thomas John Fisher and Piddocke Arthur Tompson their 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 or dam 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 Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns.

12. 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 Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns and such lessee or lessees might or could do under and by virtue of this Act.

13. In case the tolls demandable at or upon the said bridge shall be demised by the said Thomas John Fisher and Piddocke Arthur Tompson their 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 Thomas John Fisher and Piddocke Arthur Tompson their 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

Liberty to borrow
money on mortgage
of tolls.

Lessee may appoint
collectors.

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

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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 mean time be collected by the said Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns or his or their servants and agents in that behalf.

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

14. In case the lessee or the 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 Thomas John Fisher and Piddocke Arthur Tompson their executors administrators or assigns to any new lessee or lessees possession of the toll-house or toll-houses at or upon the said bridge or dam 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 Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns by warrant under his hand and seal to order any constable with all such assistance 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. The said Thomas John Fisher and Piddocke Arthur Tompson their 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 or dam 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 Thomas John Fisher and Piddocke Arthur Tompson their 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 Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns while they shall take the said tolls or their 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

Name of collector to
be put up in a con-
spicuous place &c.

shall

Penalty in case of
default.

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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 or dam 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.

16. 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.

17. 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 or dam without paying the legal toll to which he or they is or are liable or shall fraudulently or forcibly evade or 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. If any lessee or collector of tolls under this Act or any keeper of a gate on the said bridge or dam 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 dam or if any such lessee or collector of tolls or keeper of a gate on the said bridge or dam 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 or dam 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.

19. If any person subject or liable to the payment of any of the tolls under or 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.

20. 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 dam or any house

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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 dam 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 Thomas John Fisher and Piddocke Arthur Tompson their executors administrators and assigns.

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

Justices of the Peace
to hear and deter-
mine offences sum-
marily.

21. 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 or dam.

22. 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 whereupon 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 cost 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.

23. This Act shall continue and be in force ten 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.

North Shore Steam Company.

A.

SCHEDULE REFERRED TO.

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

For every horse mare gelding ass mule ox or head of neat	s.	d.	Or such other rate
cattle drawing or not drawing	0	2	as His Excellency
,, gig dray or cart with two wheels only	0	4	shall with the advice
,, wagon carriage or other vehicle with four wheels ...	0	8	of the Executive
,, sheep lamb pig or goat	0	0 $\frac{1}{2}$	Council from time

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