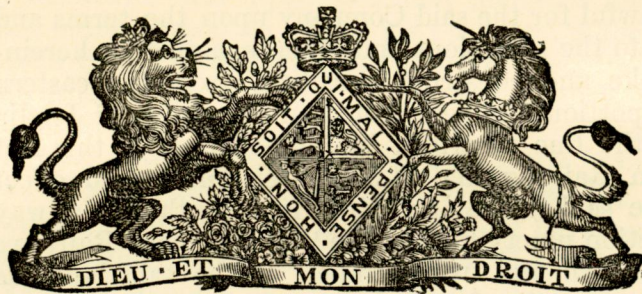


This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 3 February, 1880.* }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUADRAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable the Australian Kerosene Oil and Mineral Company (Limited) to construct a Railway to connect the Joadja Creek Tramway with the Great Southern Railway and for other purposes.

WHEREAS the Australian Kerosene Oil and Mineral Company Preamble.
(Limited) being a Joint Stock Company duly registered and incorporated under and in accordance with the provisions of the Companies Act (hereinafter called the said Company) is possessed of
5 or entitled to certain large tracts of lands situate on and near Joadja Creek in the parish of Joadja in the county of Camden in the Colony of New South Wales containing valuable deposits of coal and kerosene mineral and has constructed and executed extensive works and machinery for the purpose of working such deposits and extracting
10 kerosene oil therefrom And whereas the said Company has constructed upon land belonging to or occupied by the said Company a tramway in order to facilitate communication between their said works and the Great Southern Railway And whereas the said Company is desirous for the purpose of further facilitating such communication of construct-
15 ing a railway in the line described in the Schedule to this Act from the eastern boundary of measured portion number seventy in the parish of Joadja county of Camden to the Great Southern Railway but such proposed railway is intended to be made upon and pass through lands believed to be the property of the Crown and of certain private persons
196—A and

Joadja Creek Railway.

and the same cannot therefore be made without Legislative authority
 And whereas the working of such coal and kerosene mineral deposits
 is likely to prove beneficial to the Colony and the public is interested in
 promoting such an increase in and facilities for the supply of such coal
 5 and kerosene mineral and the oil manufactured therefrom for local
 consumption gas manufacturing and export as would result from the
 construction of the said proposed railway and the traffic on the Great
 Southern Railway would be largely increased thereby and it is desirable
 to authorise by Legislative enactment the construction of the said
 10 proposed railway subject to the provisions hereinafter contained and
 upon payment to the several parties through whose lands the same
 shall pass the compensation for such portions of their respective lands
 as may require to be occupied thereby Be it therefore enacted by the
 Queen's Most Excellent Majesty by and with the advice and consent of
 15 the Legislative Council and Legislative Assembly of New South Wales
 in Parliament assembled and by the authority of the same as follows :—

1. It shall be lawful for the said Company upon the terms and
 conditions and subject to the provisions and other enactments herein-
 after contained to make and construct a railway from the eastern
 20 boundary of measured portion number seventy in the parish of Joadja
 county of Camden in the line described in the Schedule to this Act
 to the Great Southern Railway and at such termination to effect
 a junction between the said railway and the Great Southern Railway
 in accordance with section ninety-nine of the "Government Railways
 25 Act of 1858" and to take and use so much of the said lands as
 the said Company may require for the purposes of such railway
 Such railway to be in the line described in the schedule to this Act
 but so that the same shall not occupy in any part thereof a greater
 space in breadth than ninety-nine feet excepting as to the portion
 30 thereof within the distance of not more than fifteen chains from the
 junction with the Great Southern Railway where the width may be
 one hundred and thirty-two feet including the support abutments and
 foundations thereof Provided that the said railway shall be constructed
 and brought into use within two years from the passing of this Act and
 35 that the said Company in constructing and connecting the same with the
 Great Southern Railway shall do so in a proper and workmanlike
 manner and repair all damages caused by so doing.

2. Such land as shall be taken under the provisions of this Act
 for the purpose of the said railway together with such right of ingress
 40 egress and regress upon the adjacent land as may be necessary for the
 making and repair thereof shall be vested by virtue of this Act and
 without the necessity of any conveyance in the said Company for the
 purposes of the said railway Provided that no lands vested in the
 Commissioner of Railways shall by virtue of this Act be vested in the
 45 said Company Provided also that nothing herein contained shall
 prevent the owners of such lands from carrying on any mining
 operations beneath the said railway which shall not interfere with the
 safety of the said railway and the traffic thereon and the said Company
 shall have no further right to the soil of the said lands beneath the
 50 surface than shall be requisite for the formation and repair of the said
 railway by cutting embanking or otherwise Provided also that if in
 the exercise of the powers hereby granted it be found necessary to cross
 cut through raise sink or use any part of any road whether carriage
 road or horse road so as to render it impassable for or dangerous or
 55 inconvenient to the persons entitled to the use thereof the said Com-
 pany shall before the commencement of any such operations cause a
 sufficient road to be made instead of any road interfered with and shall
 at its own expense maintain such substituted road in a state as con-
 venient as the road interfered with or as nearly as may be and the said
 Company

Authority to con-
 struct railway.

Site of railway shall
 be vested in the
 Company without
 conveyance.

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Company before the said lands of the said owners of land respectively and the said Crown land shall be used for any of the purposes aforesaid shall if required so to do separate the same by a sufficient fence from the land adjoining thereto with such gates as may be required for the
 5 convenient occupation of such land and shall also to all private roads used by them as aforesaid put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads and in case of any difference between the owners or occupiers of such roads and lands and
 10 the said Company as to the necessity for such fences and gates such fences and gates shall be put up by the said Company as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

3. The said railway shall be open to public use upon payment Railway open to the public.
 15 of a toll to the said Company not exceeding three-pence per ton per mile the party seeking transit supplying and loading his own trucks or waggons and all trucks when emptied shall be conveyed on their return free of cost The said Company providing means of haulage by their own locomotives for the party seeking transit on the said
 20 railway if the said party seeking transit so desire Provided that no charge shall be made by the said Company on account of the waggons which may be used by the said party seeking transit Provided that if the said railway shall be damaged in any way by parties using the same the said Company shall be entitled to compensation for such
 25 damage to be recovered in the Supreme or any other competent Court and in estimating such damage the said Company shall be entitled only to compensation for the cost of repairing and restoring such railway but not to the consequential damage if any sustained by reason of the suspension of transit Provided that all persons using
 30 the said railway shall arrange their traffic in such a way as not to interfere with the regular traffic of the said Company and shall fix such times for passing upon and using the said railway as shall be approved by the manager of the said Company.

4. And be it enacted That it shall be lawful for the owners or Branch railways.
 35 occupiers of the lands traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the said railway for the purpose of bringing carriages to or from or upon the said railway and the said Company shall if required at the expense of such owners or occupiers make openings in the rails and such
 40 additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public and without injury to the said railway and without inconvenience to the traffic thereupon and the said Company shall not take any rate or toll or other moneys for the passing of any passengers
 45 goods or other things along any branch so to be made by any such owner or occupier or other person but this enactment shall be subject to the following restrictions and conditions (that is to say)—

No such railway shall run parallel to the said railway and the
 50 said Company shall not be bound to make any such openings in any place which shall have been set apart for any specific purpose with which such communication would interfere nor upon any inclined plane exceeding one in fifty or bridge nor in any tunnel.

The persons making or using such branch railways shall be subject
 55 to all by-laws and regulations of the said Company from time to time made with respect to passing upon or crossing the said railway and otherwise and to the provisions of the last preceding section and shall be bound to construct and from time to time as need may require to renew the off-set plates and switches

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switches according to the most approved plan adopted by the said Company under the direction of the Engineer of the said Company.

5 5. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the said Company its deputies agents servants and workmen and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing the said railway or to raise or sink any road or way in order the more conveniently to carry the same over or under or by the side of the said
10 railway.

Power to divert or alter roads.

6. If the said Company shall not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been
15 interrupted and such penalty shall be paid to the trustees commissioners surveyor or other persons having the management of such road if a public road and shall be applied for the purposes thereof or in case of a private road the same shall be paid to the owner thereof and every such penalty shall be recoverable with costs by action in the Supreme Court.

Penalty for not substituting a road.

20 7. If in the course of making the said railway the said Company shall use or interfere with any road they shall from time to time make good all damages done by them to such road and if any question shall arise as to the damage done to any such road by the said Company or as to the repair thereof by them such question shall be referred to the
25 determination of two Justices and such Justices may direct such repairs to be made upon such road in respect of damage done by the said Company and within such period as they may deem reasonable and may impose on the said Company for not carrying into effect such directions any penalty not exceeding five pounds as to such Justices
30 shall seem fit and any such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the said Company if a public road and be applied for the purposes of such road and if a private road the same shall be paid to the owner thereof Provided always that the said Justices shall have regard to and make full
35 allowance for any tolls that may have been paid by the said Company on such road in the course of using the same.

Road repairs.

8. If the said railway shall cross any public highway or parish road on a level the said Company shall erect and at all times maintain good and sufficient gates across the said railway on each side of such
40 road where the same shall communicate therewith and such gates shall be kept constantly closed across the said railway or both sides of such road except when engines or carriages or other vehicles passing along the said railway shall have occasion to cross such road and such gates shall be of such dimensions and so constructed as when closed to fence
45 in the said railway and prevent horses or cattle passing along such road from entering upon the said railway as aforesaid and if any person omit to shut and fasten any such gates so soon as he and the engine carriages or vehicles under his charge shall have passed through the same he shall on conviction thereof before any two Justices forfeit and
50 pay the sum of forty shillings.

Gates to be constructed where roads crossed at a level.

9. In case of accidents or slips happening or being apprehended to the cuttings or embankments or other works of the said railway it shall be lawful for the said Company and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for
55 the purpose of repairing or preventing such accidents and to do such works as may be necessary for the purpose Provided always that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit and shall be executed with all possible despatch and full compensation shall

Power to enter upon adjoining lands to repair accidents.

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shall be made the owner and occupier of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works the amount of which compensation in case of any dispute about the same shall be settled by arbitrators in the manner herein-
5 after mentioned And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

10 10. Every bridge to be erected for the purpose of carrying the said railway over any road shall be built in conformity with the following regulations (that is to say)—

Construction of
bridges over roads.

15 The width of the arch shall be such as to leave thereunder a clear space of not less than thirty feet if the arch be over a public highway and of twenty feet if over a parish road and of twelve feet if over a private road.

20 The clear height of the arch from the surface of the road shall not be less than sixteen feet for the space of twelve feet if the arch be over a turnpike road and fifteen feet for the space of ten feet if over a public carriage road and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet the clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private road.

25 The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a public highway one foot in twenty feet if over a parish road and one foot in sixteen if over a private road.

30 11. Every bridge erected for carrying any road over the said railway shall be built in conformity with the following regulations (that is to say)—

Construction of
bridges over railroad

35 There shall be a good and sufficient fence on each side of the bridge of not less height than four feet and on each side of the immediate approaches of such bridge of not less than three feet. The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a public highway and twenty-five feet if a parish road and twelve feet if a private road. The ascent shall not be more than one foot in thirty feet if the road be a turnpike road one foot in twenty feet if a parish road and one foot in sixteen feet if a private road.

40 12. Provided always that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same or the inclination of such portion of any road as may require to be altered or for which another road shall be substituted shall be steeper
45 than the inclination hereinbefore required to be preserved by the said Company then the said Company may carry any such road over or under the railway or may construct such altered or substituted road at an inclination not steeper than the mean inclination of the road so to be crossed or of the road so requiring to be altered or for which another
50 road shall be substituted.

Existing inclination
of roads crossed or
diverted need not be
improved.

55 13. The said Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the said railway (that is to say)—

Works for benefit of
owners.

Such and so many gates bridges arches culverts and passages over
55 under or by the side of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the said railway to the use of the lands through which the said railway shall be made and such works shall be made forthwith after the part of the said railway passing

Gates bridges &c.

passing

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5 passing over such lands shall have been laid out or formed during the formation thereof All sufficient posts rails and fences for separating the lands taken for the use of the said railway from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from straying thereon by reason of the said railway together with all necessary gates made to open towards such adjoining lands and not towards the said railway and all necessary posts rails and fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be

10 Also all necessary arches tunnels culverts drains or other passages either over or under or by the sides of the said railway of such dimensions as will be sufficient at all times to carry the water as clearly from the lands lying near or affected by the said railway as before the making of the said railways or as nearly so as may be and such works shall be made from time to time as the said railway works proceed

15 20 Provided always that the said Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said railway nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of the making them.

25 14. If any person omit to shut and fasten any gates set up at either side of the said railway for the accommodation of the owners or occupiers of the adjoining lands so soon as he and the carriage cattle or other animals under his care have passed through the same he shall for every such offence upon conviction thereof before any two Justices forfeit and pay any sum not exceeding ten pounds.

30 15. The said Company shall not be entitled to any mines of coal iron-stone slate or other minerals under any land whereof the surface is vested in them by virtue of this Act except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised and such mines shall not be deemed to vest in the said Company.

35 16. If within twenty-eight days of the passing of this Act the said persons through whose lands the railway shall pass or any of them and the said Company shall not agree as to the amount of compensation other than that provided for by section thirty of this Act to be paid by them for the said lands belonging to the said parties or any of them or for any damage that may be sustained by them or him by reason of the execution of the works or if any other question as to compensation shall arise under this Act the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned (that is to say)—

40 Unless both parties concur in the appointment of a single arbitrator each party on the request of the other shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred and any appointment of an arbitrator shall be under the common seal of the said Company and under the hand of such person or persons respectively and such appointment shall be delivered to the arbitrator or arbitrators and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other nor shall the death of either party operate as a revocation and

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and if for the space of fourteen days after such dispute or other matter shall have arisen and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator such last-mentioned party shall fail to appoint such arbitrator then upon such failure it shall be lawful for the Attorney General for the time being of the said Colony on the application of the party who has himself appointed an arbitrator to appoint such arbitrator to act on behalf of both parties and such arbitrator may proceed to hear and determine the matters which shall be in dispute and in such case the award or determination of such single arbitrator shall be final and conclusive.

17. If before the matter so referred shall be determined any arbitrator appointed by either party shall die or become incapable or refuse or for fourteen days neglect to act as arbitrator the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed alone and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death refusal neglect or disability as aforesaid.

18. Where more than one arbitrator shall have been appointed such arbitrators shall before they enter upon the matters referred to them nominate and appoint by writing under their hands an umpire to decide any matters on which they shall differ or which shall be referred to them under the provisions of this Act and if such umpire shall die or refuse or for seven days neglect to act after being called upon so to do by the arbitrators or either of them they shall forthwith after such death refusal or neglect appoint another umpire in his place and the decision of every such umpire on the matters so referred to him shall be final.

19. If in either of the cases aforesaid the arbitrators shall refuse or for seven days after request of either party to such arbitrators neglect to appoint an umpire it shall be lawful for the Attorney General for the time being on the application of either party to such arbitration to appoint an umpire and the decision of such umpire on the matters on which the arbitrators differ shall or which shall be referred to him under this Act shall be final.

20. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable or shall refuse or for fourteen days neglect to act before he shall have made his award the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such arbitrator had not been appointed.

21. If when more than one arbitrator shall have been appointed and when neither of them shall die become incapable refuse or neglect to act as aforesaid such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed or within such extended term (if any) as shall have been appointed for that purpose by both of such arbitrators under their hands the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

22. The said arbitrator or arbitrators or his or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the questions in dispute and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose.

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23. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him he shall in the presence of a Justice of the Peace make and subscribe the following declaration (that is to say)—

5 I A. B. do solemnly and sincerely declare that I will faithfully and honestly and to the best of my skill and ability hear and determine the matters referred to me under the provisions of the "Joadja Creek Railway Act of 1880."

Made and subscribed in the presence of

C.D.

10 And such declaration shall be annexed to the award when made and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanour.

15 24. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount which shall have been offered by the said Company in which case the whole costs of the arbitrators and also the costs of and incident to the said arbitration shall be paid by the claimant. Provided that if either party shall be 20 dissatisfied with the costs allowed by the said arbitrators as aforesaid the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court and the amount allowed by such officer shall be the amount of costs to be paid.

25 25. The arbitrator or umpire shall deliver their award in writing to the said Company who shall retain the same and shall forthwith on demand at their own expense furnish a copy thereof to the other party and shall at all times on demand produce the said award and allow the same to be inspected or examined by such party or any person appointed by him for that purpose and the amount awarded 30 shall be paid within sixty days after the publication of the award.

26. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties.

35 27. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

40 28. The said Company shall make compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided for temporary permanent or recurring injury and all other damage loss costs charges and inconvenience which may in anywise be 45 occasioned to the owners and occupiers of the lands through which the said railway shall pass by the non-performance or negligent performance by the said Company of any of the matters or things hereby required or authorised to be performed by them.

50 29. In every case where the said Company shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within three months after entry upon such land upon being required so to do to pay to the occupier of the said lands the value of any crop or dressing that may be thereon and damaged or injured by such entry as well as full compensation for any 55 other damage of a temporary nature which he may sustain by reason of such entry and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands as the case may require a rent to be fixed by two Justices in case the parties differ and shall also within twelve months after such entry pay to such owners and occupiers or deposit in the Bank for the benefit of all parties interested as the case may require compensation for all permanent or other loss damage or injury that may have been sustained by them by reason of the exercise as regards the said lands of the powers hereby granted including the full value of all clay stone 60 gravel sand and other things taken from such lands.

30.

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30. If the owner of any lands required to be taken for the construction of the said railway is absent from the colony or cannot upon diligent inquiry be found or is under disability or if any such lands are vested in persons who have respectively only limited or qualified interests therein and who cannot enter into binding agreements with the said Company for the purchase of such lands or join in submitting their claims for compensation to arbitration as hereinbefore provided the purchase money or compensation payable by the said Company in respect of such lands shall be determined by the valuation of a surveyor to be nominated as hereinafter mentioned.

Compensation to parties absent or under disability or with limited interests.

31. Upon application by the said Company to two Justices and upon such proof as may be satisfactory to them that there is no person in the colony or to be found who can enter into a binding contract with the said Company or join with the said Company in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said railway such Justices shall by writing under their hands nominate an able practical surveyor for determining such compensation as aforesaid and such surveyor shall determine the same accordingly and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Two Justices to nominate a surveyor.

32. Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall in the presence of such Justices or one of them make and subscribe the following declaration at the foot of such nomination that is to say—

Declaration to be made by the surveyor.

“I A.B. do solemnly and sincerely declare that I will faithfully impartially and honestly according to the best of my skill and ability execute the duty of making the valuation hereby referred to me.

A.B.

Made and subscribed in the presence of—”

And if any such surveyor shall corruptly make such declaration or having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanour.

33. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor and shall be preserved together therewith by the said Company and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

Valuation &c. to be produced to parties interested in lands.

34. All the expenses of and incident to any such valuation shall be borne by the said Company.

Costs of valuation.

35. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds it shall except in the cases where the owner is absent from the Colony or cannot be found be paid by the said Company to the person or persons for the time being entitled to the rents and profits of lands in respect whereof the same shall be payable for their own use and benefit or in case of the conversion infancy idiotcy lunacy or other incapacity of any such persons then such money shall be paid for their use to their respective husbands guardians committees or trustees of such persons.

Sums not exceeding £50 to be paid to parties entitled to rents and profits.

36. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds or in the cases where the owner is absent from the colony or cannot be found whether it exceeds the sum of fifty pounds or not it shall be paid by the said Company into the hands of the Master in Equity of the Supreme Court in the matter of this Act in trust for the parties interested in the lands in respect of which it is paid in and a certificate from the Master of the fact of the money being so paid in shall be a sufficient discharge to the said Company for the money so paid. Provided that all moneys so paid in shall be dealt with by the Supreme Court in the

Sums exceeding £50 to be paid into Court.

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same manner in all respects as moneys paid in under an Act passed in the twenty-first year of the reign of Her present Majesty and intituled "*An Act for better securing Trust Funds and for the relief of Trustees*" and shall be subject in all respects to the provisions of the
5 said Act and all rules of the said Court made thereunder.

37. Nothing in this Act contained shall be deemed to authorize the said Company to take or enter upon any lands belonging to the Commissioner for Railways or to alter or to interfere with the Great Southern Railway or any of the works thereof further or otherwise
10 than is necessary for making the junction and inter-communication between the railways without the previous consent in writing in every instance of the Commissioner for Railways.

Lands belonging to Commissioner for Railways not to be taken and Great Southern Railway not to be altered or interfered with.

38. The Commissioner shall from time to time at the expense of the Company erect such signals and conveniences incident to the
15 junction either upon his own lands or on the lands of the Company and may from time to time appoint and remove such watchmen switchmen or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

Commissioner may erect signals and appoint watchmen and switchmen.

39. The working and management of such signals and con-
20 veniences wherever situate shall be under the exclusive regulation of the Commissioner for Railways.

Working of signals to be under regulation of Commissioner.

40. Nothing herein contained shall alter repeal or otherwise affect the "*Government Railways Act of 1858.*"

"Government Railways Act of 1858" not altered or repealed.

41. In this Act the said "*Justices*" shall mean Justices of the
25 Peace in and for the territory of New South Wales and where any matter shall be authorised or required to be done by two Justices the expression "*two Justices*" shall mean two Justices assembled and acting together in Petty Sessions and the word "*owner*" shall mean any person or corporation who under the provisions of this Act would
30 be able to sell land to said Company.

Interpretation clause.

42. This Act shall be deemed and taken to be a Public Act and
the same whenever cited shall be sufficiently described as the "*Joadja Creek Railway Act of 1880.*"

Short title.

THE SCHEDULE.

35

DESCRIPTION OF TRAMWAY.

Commencing at the south-east angle of J. de V. Lamb's portion number seventy in the parish of Joadja county of Camden thence in a south-easterly direction about one (1) mile through Crown lands thence north-easterly through Crown lands about one mile forty (40) chains to west boundary of Manion's portion one hundred and one thence
40 in a north-easterly direction through Manion's portion one hundred and one about twenty-six chains thence in a north-easterly direction through Crown lands about one mile twenty chains thence south-easterly through Crown lands about eight chains to Manion's portion forty-four parish of Berrima thence south-easterly through Manion's portion forty-four about twenty chains thence easterly through Crown lands about fifteen (15)
45 chains thence north-easterly through Crown lands about sixteen (16) chains to west boundary of Cahill's portion number sixty-five (65) thence north-easterly across the north-west corner of Cahill's portion number sixty-five about five chains thence north-easterly through Crown lands about one mile sixty-four (64) chains to Wanganderry Road thence easterly across Wanganderry Road thence continued easterly through
50 Crown lands about fifty chains thence south-easterly through Crown lands about twenty (20) chains to west boundary of A. Sharpe's portion number one hundred and thirty-six thence easterly through A. Sharpe's portion number one hundred and thirty-six about forty (40) chains thence north-easterly across one-chain road to west boundary of Butler's (Trustees) portion number one hundred and thirty-five thence north-easterly
55 through Butler's (Trustees) portion one hundred and thirty-five (135) about eight chains thence easterly and south-easterly still through Butler's (Trustees) portion one hundred and thirty-five about thirty (30) chains thence south-east across one-chain road to west boundary of M. Butler's (Trustees) Woodlands Estate thence through Butler's (Trustees) Woodlands Estate south-easterly about twenty chains thence north-easterly through
60 Woodlands Estate about thirty chains thence easterly through Woodlands Estate about thirty-five (35) chains to west boundary of Breen's land thence easterly through Breen's about

Joadja Creek Railway.

- about twenty-six (26) chains thence easterly through Breen's about forty (40) chains thence easterly through Breen's about thirteen (13) chains to west boundary of C. Loseby's portion number twenty-two parish of Jellore thence south-easterly through C. Loseby's portion number twenty-two about seventeen (17) chains to west boundary of
- 5 J. de V. Lamb's portion number twenty-one thence south-easterly through J. de V. Lamb's portion number twenty-one about ten (10) chains to west boundary of Thompson's portion number twenty-four thence south-easterly through Thompson's portion number twenty-four about seventeen chains to west boundary of Fitzroy village reserve thence south-easterly and southerly through village reserve about thirty (30) chains to Main
- 10 Southern Road thence south-easterly across Main Southern Road about eight (8) chains to west boundary of J. de V. Lamb's (late R. Snowdon's) land parish of Berrima thence easterly through J. de V. Lamb's about twenty-one chains to west boundary of Quarry Reserve thence easterly across Quarry Reserve about seven (7) chains to west boundary of Welby's portion number one thence south-easterly and southerly through Welby's
- 15 portion number one about fifty chains to south boundary of Welby's portion number one thence south-easterly through village reserve about sixteen (16) chains to west boundary of J. de V. Lamb's portions numbers eighteen and nineteen thence easterly through J. de V. Lamb's portions numbers eighteen and nineteen about five (5) chains where it crosses Gibber Gonyah Creek thence through block number twenty-nine of Cripp's sub-
- 20 division parish of Mittagong easterly about three chains thence easterly along reserve between John-street and Hind's property about sixteen (16) chains thence easterly along said reserve belonging to Thomas Chalder's about eighteen chains where it crosses street connecting with Bowral Road thence north-easterly through portion number sixty-one Fitzroy Bessemer Steel Hematite Iron and Coal Company (Limited) about twenty-
- 25 two (22) chains thence easterly and south-easterly through portion number sixty-seven Fitzroy Bessemer Steel Hematite Iron and Coal Company (Limited) about thirty chains to a point on the Great Southern Railway about thirty chains north-east of Mittagong Railway Station being a total distance of about fifteen (15) miles more or less.

New South Wales.



ANNO QUADRAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable the Australian Kerosene Oil and Mineral Company (Limited) to construct a Railway to connect the Joadja Creek Tramway with the Great Southern Railway and for other purposes. [Assented to, 18th March, 1880.]

WHEREAS the Australian Kerosene Oil and Mineral Company Preamble.
(Limited) being a Joint Stock Company duly registered and incorporated under and in accordance with the provisions of the Companies Act (hereinafter called the said Company) is possessed of or entitled to certain large tracts of lands situate on and near Joadja Creek in the parish of Joadja in the county of Camden in the Colony of New South Wales containing valuable deposits of coal and kerosene mineral and has constructed and executed extensive works and machinery for the purpose of working such deposits and extracting kerosene oil therefrom And whereas the said Company has constructed upon land belonging to or occupied by the said Company a tramway in order to facilitate communication between their said works and the Great Southern Railway And whereas the said Company is desirous for the purpose of further facilitating such communication of constructing a railway in the line described in the Schedule to this Act from the eastern boundary of measured portion number seventy in the parish of Joadja county of Camden to the Great Southern Railway but such proposed railway is intended to be made upon and pass through lands believed to be the property of the Crown and of certain private persons

A

and

Joadja Creek Railway.

and the same cannot therefore be made without Legislative authority And whereas the working of such coal and kerosene mineral deposits is likely to prove beneficial to the Colony and the public is interested in promoting such an increase in and facilities for the supply of such coal and kerosene mineral and the oil manufactured therefrom for local consumption gas manufacturing and export as would result from the construction of the said proposed railway and the traffic on the Great Southern Railway would be largely increased thereby and it is desirable to authorise by Legislative enactment the construction of the said proposed railway subject to the provisions hereinafter contained and upon payment to the several parties through whose lands the same shall pass the compensation for such portions of their respective lands as may require to be occupied thereby Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

Authority to construct railway.

1. It shall be lawful for the said Company upon the terms and conditions and subject to the provisions and other enactments hereinafter contained to make and construct a railway from the eastern boundary of measured portion number seventy in the parish of Joadja county of Camden in the line described in the Schedule to this Act to the Great Southern Railway and at such termination to effect a junction between the said railway and the Great Southern Railway in accordance with section ninety-nine of the "Government Railways Act of 1858" and to take and use so much of the said lands as the said Company may require for the purposes of such railway Such railway to be in the line described in the schedule to this Act but so that the same shall not occupy in any part thereof a greater space in breadth than ninety-nine feet excepting as to the portion thereof within the distance of not more than fifteen chains from the junction with the Great Southern Railway where the width may be one hundred and thirty-two feet including the support abutments and foundations thereof Provided that the said railway shall be constructed and brought into use within two years from the passing of this Act and that the said Company in constructing and connecting the same with the Great Southern Railway shall do so in a proper and workmanlike manner and repair all damages caused by so doing.

Site of railway shall be vested in the Company without conveyance.

2. Such land as shall be taken under the provisions of this Act for the purpose of the said railway together with such right of ingress egress and regress upon the adjacent land as may be necessary for the making and repair thereof shall be vested by virtue of this Act and without the necessity of any conveyance in the said Company for the purposes of the said railway Provided that no lands vested in the Commissioner of Railways shall by virtue of this Act be vested in the said Company Provided also that nothing herein contained shall prevent the owners of such lands from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon and the said Company shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repair of the said railway by cutting embanking or otherwise Provided also that if in the exercise of the powers hereby granted it be found necessary to cross cut through raise sink or use any part of any road whether carriage road or horse road so as to render it impassable for or dangerous or inconvenient to the persons entitled to the use thereof the said Company shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with and shall at its own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly as may be and the said

Company

Joadja Creek Railway.

Company before the said lands of the said owners of land respectively and the said Crown land shall be used for any of the purposes aforesaid shall if required so to do separate the same by a sufficient fence from the land adjoining thereto with such gates as may be required for the convenient occupation of such land and shall also to all private roads used by them as aforesaid put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads and in case of any difference between the owners or occupiers of such roads and lands and the said Company as to the necessity for such fences and gates such fences and gates shall be put up by the said Company as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

3. The said railway shall be open to public use upon payment of a toll to the said Company not exceeding three-pence per ton per mile the party seeking transit supplying and loading his own trucks or waggons and all trucks when emptied shall be conveyed on their return free of cost. The said Company providing means of haulage by their own locomotives for the party seeking transit on the said railway if the said party seeking transit so desire. Provided that no charge shall be made by the said Company on account of the waggons which may be used by the said party seeking transit. Provided that if the said railway shall be damaged in any way by parties using the same the said Company shall be entitled to compensation for such damage to be recovered in the Supreme or any other competent Court and in estimating such damage the said Company shall be entitled only to compensation for the cost of repairing and restoring such railway but not to the consequential damage if any sustained by reason of the suspension of transit. Provided that all persons using the said railway shall arrange their traffic in such a way as not to interfere with the regular traffic of the said Company and shall fix such times for passing upon and using the said railway as shall be approved by the manager of the said Company.

4. And be it enacted That it shall be lawful for the owners or occupiers of the lands traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the said railway for the purpose of bringing carriages to or from or upon the said railway and the said Company shall if required at the expense of such owners or occupiers make openings in the rails and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public and without injury to the said railway and without inconvenience to the traffic thereupon and the said Company shall not take any rate or toll or other moneys for the passing of any passengers goods or other things along any branch so to be made by any such owner or occupier or other person but this enactment shall be subject to the following restrictions and conditions (that is to say)—

No such railway shall run parallel to the said railway and the said Company shall not be bound to make any such openings in any place which shall have been set apart for any specific purpose with which such communication would interfere nor upon any inclined plane exceeding one in fifty or bridge nor in any tunnel.

The persons making or using such branch railways shall be subject to all by-laws and regulations of the said Company from time to time made with respect to passing upon or crossing the said railway and otherwise and to the provisions of the last preceding section and shall be bound to construct and from time to time as need may require to renew the off-set plates and switches

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switches according to the most approved plan adopted by the said Company under the direction of the Engineer of the said Company.

Power to divert or alter roads.

5. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the said Company its deputies agents servants and workmen and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing the said railway or to raise or sink any road or way in order the more conveniently to carry the same over or under or by the side of the said railway.

Penalty for not substituting a road.

6. If the said Company shall not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted and such penalty shall be paid to the trustees commissioners surveyor or other persons having the management of such road if a public road and shall be applied for the purposes thereof or in case of a private road the same shall be paid to the owner thereof and every such penalty shall be recoverable with costs by action in the Supreme Court.

Road repairs.

7. If in the course of making the said railway the said Company shall use or interfere with any road they shall from time to time make good all damages done by them to such road and if any question shall arise as to the damage done to any such road by the said Company or as to the repair thereof by them such question shall be referred to the determination of two Justices and such Justices may direct such repairs to be made upon such road in respect of damage done by the said Company and within such period as they may deem reasonable and may impose on the said Company for not carrying into effect such directions any penalty not exceeding five pounds as to such Justices shall seem fit and any such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the said Company if a public road and be applied for the purposes of such road and if a private road the same shall be paid to the owner thereof. Provided always that the said Justices shall have regard to and make full allowance for any tolls that may have been paid by the said Company on such road in the course of using the same.

Gates to be constructed where roads crossed at a level.

8. If the said railway shall cross any public highway or parish road on a level the said Company shall erect and at all times maintain good and sufficient gates across the said railway on each side of such road where the same shall communicate therewith and such gates shall be kept constantly closed across the said railway or both sides of such road except when engines or carriages or other vehicles passing along the said railway shall have occasion to cross such road and such gates shall be of such dimensions and so constructed as when closed to fence in the said railway and prevent horses or cattle passing along such road from entering upon the said railway as aforesaid and if any person omit to shut and fasten any such gates so soon as he and the engine carriages or vehicles under his charge shall have passed through the same he shall on conviction thereof before any two Justices forfeit and pay the sum of forty shillings.

Power to enter upon adjoining lands to repair accidents.

9. In case of accidents or slips happening or being apprehended to the cuttings or embankments or other works of the said railway it shall be lawful for the said Company and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents and to do such works as may be necessary for the purpose. Provided always that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit and shall be executed with all possible despatch and full compensation shall

Joadja Creek Railway.

shall be made the owner and occupier of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works the amount of which compensation in case of any dispute about the same shall be settled by arbitrators in the manner hereinafter mentioned And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

10. Every bridge to be erected for the purpose of carrying the said railway over any road shall be built in conformity with the following regulations (that is to say)—

Construction of bridges over roads.

The width of the arch shall be such as to leave thereunder a clear space of not less than thirty feet if the arch be over a public highway and of twenty feet if over a parish road and of twelve feet if over a private road.

The clear height of the arch from the surface of the road shall not be less than sixteen feet for the space of twelve feet if the arch be over a turnpike road and fifteen feet for the space of ten feet if over a public carriage road and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet the clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private road.

The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a public highway one foot in twenty feet if over a parish road and one foot in sixteen if over a private road.

11. Every bridge erected for carrying any road over the said railway shall be built in conformity with the following regulations (that is to say)—

Construction of bridges over railroad

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet and on each side of the immediate approaches of such bridge of not less than three feet. The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a public highway and twenty-five feet if a parish road and twelve feet if a private road. The ascent shall not be more than one foot in thirty feet if the road be a turnpike road one foot in twenty feet if a parish road and one foot in sixteen feet if a private road.

12. Provided always that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same or the inclination of such portion of any road as may require to be altered or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved by the said Company then the said Company may carry any such road over or under the railway or may construct such altered or substituted road at an inclination not steeper than the mean inclination of the road so to be crossed or of the road so requiring to be altered or for which another road shall be substituted.

Existing inclination of roads crossed or diverted need not be improved.

13. The said Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the said railway (that is to say)—

Works for benefit of owners.

Such and so many gates bridges arches culverts and passages over under or by the side of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the said railway to the use of the lands through which the said railway shall be made and such works shall be made forthwith after the part of the said railway passing

Gates bridges &c.

passing

Joadja Creek Railway.

Fences.

passing over such lands shall have been laid out or formed during the formation thereof All sufficient posts rails and fences for separating the lands taken for the use of the said railway from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from straying thereon by reason of the said railway together with all necessary gates made to open towards such adjoining lands and not towards the said railway and all necessary posts rails and fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be

Drains.

Also all necessary arches tunnels culverts drains or other passages either over or under or by the sides of the said railway of such dimensions as will be sufficient at all times to carry the water as clearly from the lands lying near or affected by the said railway as before the making of the said railways or as nearly so as may be and such works shall be made from time to time as the said railway works proceed

Provided always that the said Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said railway nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of the making them.

Penalty on persons omitting to shut gates.

14. If any person omit to shut and fasten any gates set up at either side of the said railway for the accommodation of the owners or occupiers of the adjoining lands so soon as he and the carriage cattle or other animals under his care have passed through the same he shall for every such offence upon conviction thereof before any two Justices forfeit and pay any sum not exceeding ten pounds.

Minerals not to pass.

15. The said Company shall not be entitled to any mines of coal iron-stone slate or other minerals under any land whereof the surface is vested in them by virtue of this Act except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised and such mines shall not be deemed to vest in the said Company.

Compensation claim.

16. If within twenty-eight days of the passing of this Act the said persons through whose lands the railway shall pass or any of them and the said Company shall not agree as to the amount of compensation other than that provided for by section thirty of this Act to be paid by them for the said lands belonging to the said parties or any of them or for any damage that may be sustained by them or him by reason of the execution of the works or if any other question as to compensation shall arise under this Act the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned (that is to say)—

Appointment of arbitrators.

Unless both parties concur in the appointment of a single arbitrator each party on the request of the other shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred and any appointment of an arbitrator shall be under the common seal of the said Company and under the hand of such person or persons respectively and such appointment shall be delivered to the arbitrator or arbitrators and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other nor shall the death of either party operate as a revocation and

Joadja Creek Railway.

and if for the space of fourteen days after such dispute or other matter shall have arisen and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator such last-mentioned party shall fail to appoint such arbitrator then upon such failure it shall be lawful for the Attorney General for the time being of the said Colony on the application of the party who has himself appointed an arbitrator to appoint such arbitrator to act on behalf of both parties and such arbitrator may proceed to hear and determine the matters which shall be in dispute and in such case the award or determination of such single arbitrator shall be final and conclusive.

17. If before the matter so referred shall be determined any arbitrator appointed by either party shall die or become incapable or refuse or for fourteen days neglect to act as arbitrator the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator may proceed alone and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death refusal neglect or disability as aforesaid.

Vacancy of arbitrator to be supplied.

18. Where more than one arbitrator shall have been appointed such arbitrators shall before they enter upon the matters referred to them nominate and appoint by writing under their hands an umpire to decide any matters on which they shall differ or which shall be referred to them under the provisions of this Act and if such umpire shall die or refuse or for seven days neglect to act after being called upon so to do by the arbitrators or either of them they shall forthwith after such death refusal or neglect appoint another umpire in his place and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire.

19. If in either of the cases aforesaid the arbitrators shall refuse or for seven days after request of either party to such arbitrators neglect to appoint an umpire it shall be lawful for the Attorney General for the time being on the application of either party to such arbitration to appoint an umpire and the decision of such umpire on the matters on which the arbitrators differ shall or which shall be referred to him under this Act shall be final.

Attorney General to appoint umpire.

20. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable or shall refuse or for fourteen days neglect to act before he shall have made his award the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such arbitrator had not been appointed.

In case of death of single arbitrator the matter to commence *de novo*.

21. If when more than one arbitrator shall have been appointed and when neither of them shall die become incapable refuse or neglect to act as aforesaid such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed or within such extended term (if any) as shall have been appointed for that purpose by both of such arbitrators under their hands the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

If arbitrators fail to make their award within fourteen days the matter to go to the umpire.

22. The said arbitrator or arbitrators or his or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the questions in dispute and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose.

Powers of arbitrators to call for books.

Joadja Creek Railway.

Arbitrator or umpire
to make declaration.

23. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him he shall in the presence of a Justice of the Peace make and subscribe the following declaration (that is to say)—

I A. B. do solemnly and sincerely declare that I will faithfully and honestly and to the best of my skill and ability hear and determine the matters referred to me under the provisions of the "Joadja Creek Railway Act of 1880."

Made and subscribed in the presence of

C.D.

And such declaration shall be annexed to the award when made and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanour.

Costs of arbitration.

24. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount which shall have been offered by the said Company in which case the whole costs of the arbitrators and also the costs of and incident to the said arbitration shall be paid by the claimant. Provided that if either party shall be dissatisfied with the costs allowed by the said arbitrators as aforesaid the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court and the amount allowed by such officer shall be the amount of costs to be paid.

Award to be delivered
to the said Company.

25. The arbitrators or umpire shall deliver their or his award in writing to the said Company who shall retain the same and shall forthwith on demand at their own expense furnish a copy thereof to the other party and shall at all times on demand produce the said award and allow the same to be inspected or examined by such party or any person appointed by him for that purpose and the amount awarded shall be paid within sixty days after the publication of the award.

Submission may be
made a rule of Court.

26. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties.

Award not void
through error in form.

27. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

Compensation for
temporary
permanent or recur-
ring injuries
occasioned by negli-
gence.

28. The said Company shall make compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided for temporary permanent or recurring injury and all other damage loss costs charges and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which the said railway shall pass by the non-performance or negligent performance by the said Company of any of the matters or things hereby required or authorised to be performed by them.

Compensation to be
made for temporary
occupation.

29. In every case where the said Company shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within three months after entry upon such land upon being required so to do to pay to the occupier of the said lands the value of any crop or dressing that may be thereon and damaged or injured by such entry as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands as the case may require a rent to be fixed by two Justices in case the parties differ and shall also within twelve months after such entry pay to such owners and occupiers or deposit in the Bank for the benefit of all parties interested as the case may require compensation for all permanent or other loss damage or injury that may have been sustained by them by reason of the exercise as regards the said lands of the powers hereby granted including the full value of all clay stone gravel sand and other things taken from such lands.

30.

Joadja Creek Railway.

30. If the owner of any lands required to be taken for the construction of the said railway is absent from the colony or cannot upon diligent inquiry be found or is under disability or if any such lands are vested in persons who have respectively only limited or qualified interests therein and who cannot enter into binding agreements with the said Company for the purchase of such lands or join in submitting their claims for compensation to arbitration as hereinbefore provided the purchase money or compensation payable by the said Company in respect of such lands shall be determined by the valuation of a surveyor to be nominated as hereinafter mentioned.

Compensation to parties absent or under disability or with limited interests.

31. Upon application by the said Company to two Justices and upon such proof as may be satisfactory to them that there is no person in the colony or to be found who can enter into a binding contract with the said Company or join with the said Company in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said railway such Justices shall by writing under their hands nominate an able practical surveyor for determining such compensation as aforesaid and such surveyor shall determine the same accordingly and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Two Justices to nominate a surveyor.

32. Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall in the presence of such Justices or one of them make and subscribe the following declaration at the foot of such nomination that is to say—

Declaration to be made by the surveyor.

“I A.B. do solemnly and sincerely declare that I will faithfully impartially and honestly according to the best of my skill and ability execute the duty of making the valuation hereby referred to me.

A.B.

Made and subscribed in the presence of—”

And if any such surveyor shall corruptly make such declaration or having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanour.

33. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor and shall be preserved together therewith by the said Company and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

Valuation &c. to be produced to parties interested in lands.

34. All the expenses of and incident to any such valuation shall be borne by the said Company.

Costs of valuation.

35. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds it shall except in the cases where the owner is absent from the Colony or cannot be found be paid by the said Company to the person or persons for the time being entitled to the rents and profits of lands in respect whereof the same shall be payable for their own use and benefit or in case of the conversion infancy idiotcy lunacy or other incapacity of any such persons then such money shall be paid for their use to their respective husbands guardians committees or trustees of such persons.

Sums not exceeding £50 to be paid to parties entitled to rents and profits.

36. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds or in the cases where the owner is absent from the colony or cannot be found whether it exceeds the sum of fifty pounds or not it shall be paid by the said Company into the hands of the Master in Equity of the Supreme Court in the matter of this Act in trust for the parties interested in the lands in respect of which it is paid in and a certificate from the Master of the fact of the money being so paid in shall be a sufficient discharge to the said Company for the money so paid. Provided that all moneys so paid in shall be dealt with by the Supreme Court in the

Sums exceeding £50 to be paid into Court.

B

same

Joadja Creek Railway.

same manner in all respects as moneys paid in under an Act passed in the twenty-first year of the reign of Her present Majesty and intituled "*An Act for better securing Trust Funds and for the relief of Trustees*" and shall be subject in all respects to the provisions of the said Act and all rules of the said Court made thereunder.

Lands belonging to Commissioner for Railways not to be taken and Great Southern Railway not to be altered or interfered with.

37. Nothing in this Act contained shall be deemed to authorize the said Company to take or enter upon any lands belonging to the Commissioner for Railways or to alter or to interfere with the Great Southern Railway or any of the works thereof further or otherwise than is necessary for making the junction and inter-communication between the railways without the previous consent in writing in every instance of the Commissioner for Railways.

Commissioner may erect signals and appoint watchmen and switchmen.

38. The Commissioner shall from time to time at the expense of the Company erect such signals and conveniences incident to the junction either upon his own lands or on the lands of the Company and may from time to time appoint and remove such watchmen switchmen or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

Working of signals to be under regulation of Commissioner.

39. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the Commissioner for Railways.

"Government Railways Act of 1858" not altered or repealed.

40. Nothing herein contained shall alter repeal or otherwise affect the "Government Railways Act of 1858."

Interpretation clause.

41. In this Act the said "Justices" shall mean Justices of the Peace in and for the territory of New South Wales and where any matter shall be authorised or required to be done by two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions and the word "owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to said Company.

Short title.

42. This Act shall be deemed and taken to be a Public Act and the same whenever cited shall be sufficiently described as the "Joadja Creek Railway Act of 1880."

THE SCHEDULE.

DESCRIPTION OF TRAMWAY.

Commencing at the south-east angle of J. de V. Lamb's portion number seventy in the parish of Joadja county of Camden thence in a south-easterly direction about one (1) mile through Crown lands thence north-easterly through Crown lands about one mile forty (40) chains to west boundary of Manion's portion one hundred and one thence in a north-easterly direction through Manion's portion one hundred and one about twenty-six chains thence in a north-easterly direction through Crown lands about one mile twenty chains thence south-easterly through Crown lands about eight chains to Manion's portion forty-four parish of Berrima thence south-easterly through Manion's portion forty-four about twenty chains thence easterly through Crown lands about fifteen (15) chains thence north-easterly through Crown lands about sixteen (16) chains to west boundary of Cahill's portion number sixty-five (65) thence north-easterly across the north-west corner of Cahill's portion number sixty-five about five chains thence north-easterly through Crown lands about one mile sixty-four (64) chains to Wanganderry Road thence easterly across Wanganderry Road thence continued easterly through Crown lands about fifty chains thence south-easterly through Crown lands about twenty (20) chains to west boundary of A. Sharpe's portion number one hundred and thirty-six thence easterly through A. Sharpe's portion number one hundred and thirty-six about forty (40) chains thence north-easterly across one-chain road to west boundary of Butler's (Trustees) portion number one hundred and thirty-five thence north-easterly through Butler's (Trustees) portion one hundred and thirty-five (135) about eight chains thence easterly and south-easterly still through Butler's (Trustees) portion one hundred and thirty-five about thirty (30) chains thence south-east across one-chain road to west boundary of M. Butler's (Trustees) Woodlands Estate thence through Butler's (Trustees) Woodlands Estate south-easterly about twenty chains thence north-easterly through Woodlands Estate about thirty chains thence easterly through Woodlands Estate about thirty-five (35) chains to west boundary of Breen's land thence easterly through Breen's about

Joadja Creek Railway.

about twenty-six (26) chains thence easterly through Breen's about forty (40) chains thence easterly through Breen's about thirteen (13) chains to west boundary of C. Loseby's portion number twenty-two parish of Jellore thence south-easterly through C. Loseby's portion number twenty-two about seventeen (17) chains to west boundary of J. de V. Lamb's portion number twenty-one thence south-easterly through J. de V. Lamb's portion number twenty-one about ten (10) chains to west boundary of Thompson's portion number twenty-four thence south-easterly through Thompson's portion number twenty-four about seventeen chains to west boundary of Fitzroy village reserve thence south-easterly and southerly through village reserve about thirty (30) chains to Main Southern Road thence south-easterly across Main Southern Road about eight (8) chains to west boundary of J. de V. Lamb's (late R. Snowdon's) land parish of Berrima thence easterly through J. de V. Lamb's about twenty-one chains to west boundary of Quarry Reserve thence easterly across Quarry Reserve about seven (7) chains to west boundary of Welby's portion number one thence south-easterly and southerly through Welby's portion number one about fifty chains to south boundary of Welby's portion number one thence south-easterly through village reserve about sixteen (16) chains to west boundary of J. de V. Lamb's portions numbers eighteen and nineteen thence easterly through J. de V. Lamb's portions numbers eighteen and nineteen about five (5) chains where it crosses Gibber Gunyah Creek thence through block number twenty-nine of Cripp's subdivision parish of Mittagong easterly about three chains thence easterly along reserve between John-street and Hind's property about sixteen (16) chains thence easterly along said reserve belonging to Thomas Chalder's about eighteen chains where it crosses street connecting with Bowral Road thence north-easterly through portion number sixty-one Fitzroy Bessemer Steel Hematite Iron and Coal Company (Limited) about twenty-two (22) chains thence easterly and south-easterly through portion number sixty-seven Fitzroy Bessemer Steel Hematite Iron and Coal Company (Limited) about thirty chains to a point on the Great Southern Railway about thirty chains north-east of Mittagong Railway Station being a total distance of about fifteen (15) miles more or less.

By Authority: THOMAS RICHARDS, Government Printer, Sydney, 1880.

[9d.]

