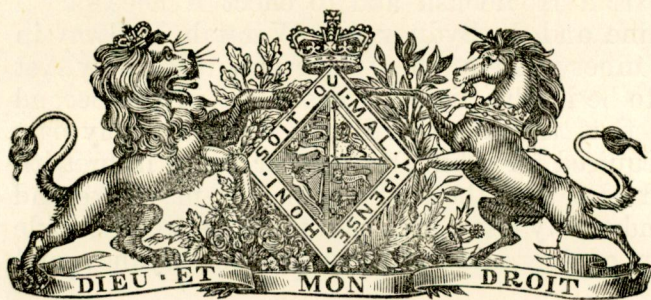


This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 18 May, 1886.*

F. W. WEBB,
Acting Clerk of Legislative Assembly.

New South Wales.



ANNO QUADRAGESIMO NONO

VICTORIÆ REGINÆ.

An Act to enable the West Wallsend Coal Company (Limited) and the Monk-Wearmouth Colliery Estate Company of Australia (Limited) to construct a Railway from the West Wallsend Coal-fields to the Sydney and Waratah Railway.

WHEREAS certain persons now residing in the Colony of New South Wales propose opening coal-mines and establishing collieries on a parcel of land situated near Newcastle in the parish of Teralba county of Northumberland and with others have formed themselves into Companies called the "West Wallsend Coal Company (Limited) and the Monk-Wearmouth Colliery Estate Company of Australia (Limited)" and in order to facilitate communication between the said coal-mines and the Sydney and Waratah Railway such persons are desirous of constructing a railway from their said coal-mines to the Sydney and Waratah Railway but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown bodies corporate and private persons respectively the same cannot be made without Legislative authority And whereas the said coal-mines are likely to prove beneficial to the Colony and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption steam navigation and export as would result from the construction of the said proposed railway and the traffic on the Sydney and Waratah Railway would be increased thereby It is therefore desirable to authorize by Legislative enactment the construction of the said railway subject to the provisions hereinafter contained upon payment of compensation to the

Preamble.

West Wallsend and Monk-Wearmouth Railway.

several parties through whose lands the same shall pass for such portion of their respective lands as may be required to be taken and 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:—

1. It shall be lawful for the said Companies jointly in terms as set out in the First Schedule hereto to make and construct a railway from the north side of the Government Road running through portion one hundred and twenty unto and through the lands known as that of J. Notley J. Price Griffith Morgan and Price and the Newcastle Wallsend Coal Company joining the Sydney and Waratah Railway line about ninety-two miles from Homebush and to effect if necessary a junction between said line and the Sydney and Waratah Railway in accordance with section ninety-nine of the "Government Railway Act of 1858" such railway to be in the direction described in the Second Schedule hereto but so that the same shall not occupy at any part thereof (except where required for sidings) a greater space in breadth than sixty-six feet. And also that the said Companies may take and occupy three acres of land or any lesser area at a place between Cockle Creek and the junction of the said railway with the Sydney and Waratah Railway.

Authority to construct railway and connect same with Sydney and Waratah Railway.

2. The ground and soil of so much of the site of the railway as passes over the lands of the said owners of lands respectively and over Crown Lands together with such rights 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 Companies for the purposes of the railway. Provided that no lands vested in the Commissioner for Railways shall by virtue of this Act be vested in the Companies and nothing herein contained shall prevent the said owners 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 Companies shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repairs of the said road by cutting embanking sinking wells or otherwise. Provided also that if in the exercise of the powers hereby granted it be found necessary to cross cut through sink raise 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 Companies shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly as may be. And the Companies before they use the said lands of the said owners of land and the said Crown Lands respectively 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 Companies as to the necessity for such fences and gates then the said Companies shall put up and erect such fences and gates as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

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

3. The railway shall be open to the public use upon payment of a toll to the Companies of a sum not exceeding two pence per ton

Railway open to the public.

per

West Wallsend and Monk-Wearmouth Railway.

per mile in respect of every ton of goods for every transit the party seeking transit supplying and loading his own trucks or waggons and the Companies supplying locomotive power and all trucks when emptied shall be conveyed on their return free of charge Provided always
 5 that it shall not be compulsory on the Companies to supply locomotive power unless the party seeking transit guarantee and bring fifty tons at least during the twelve working hours and give notice of the same at least twenty-four hours previously The railway shall at all times be open to the public upon payment of a toll to the Companies of
 10 a sum not exceeding one penny per ton per mile in respect of every ton of goods for every transit if the party seeking transit supply the locomotive power as well as the trucks and waggons Provided that so long as the Companies shall be willing to supply locomotive power no other person shall use locomotive power on the line Provided that
 15 if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power the Companies shall be entitled to compensation for such damage to be recovered either by action in the Supreme Court of New South Wales or if such damage do not exceed the sum of twenty pounds summarily before two
 20 Justices and in estimating such damage the Companies shall be entitled not only to compensation for the cost of repairing and restoring the railway but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

4. And be it enacted that it shall be lawful for the owners or ^{Branch railways.}
 25 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 Companies shall if required at the expense of such owners or occupiers make openings in the rails and
 30 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 but this enactment shall be subject to the following restrictions and conditions (that is to say)—

35 The Companies shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere nor upon any bridge nor in any tunnel.

40 The persons making or using such branch railways shall be subject to all by-laws and regulations of the Companies from time to time made with respect to passing upon or crossing the railway and otherwise and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches
 45 according to the most approved plan adopted by the Companies under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter ^{Power to divert or alter roads.}
 contained it shall be lawful for the Companies their deputies agents servants and workmen and all other persons by them authorised and
 50 empowered to divert or alter the course of any road or way crossing the 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 railway.

6. If the Companies do not cause another sufficient road to be so ^{Penalty for not substituting a road.}
 made before they interfere with any such existing road as aforesaid they
 55 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

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a private road the same shall be paid to the owner thereof and every such penalty shall be recoverable with costs by action in any of the Superior Courts.

7. It shall be lawful for but not compulsory upon the said Companies from time to time and at any and all times to carry passengers and live stock upon the said railways or any part thereof respectively and to make demand take receive and recover such tolls or dues for carrying the same at such rates per mile or other scale of charges as shall be established from time to time by the Directors of the Companies for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railways or either of them or any part thereof respectively And the Directors are hereby authorised to make such by-laws and regulations not inconsistent with this Act as may be necessary for the regulation of such traffic and such by-laws or regulations shall be binding upon all persons using or travelling upon the said railways and any persons offending against such by-laws or regulations shall be liable to a fine not exceeding ten pounds for each offence to be recovered in a summary way before any two Justices Provided always that if the rates tolls or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive it shall and may be lawful for the Executive Council to reduce the said rates tolls or dues and to revise them in such manner as may seem most proper and advisable And it is hereby provided that nothing in this Act contained shall extend to charge or make liable the said Companies further or in any other case than where according to the laws of this Colony stage-coach proprietors and common carriers would be liable nor shall extend in any degree to deprive the said Companies of any protection or privilege which common carriers or stage-coach proprietors may be entitled to but on the contrary the Companies shall at all times be entitled to the benefit of every such protection and privilege.

8. If in the course of making the railway the Companies shall use or interfere with any road they shall from time to time make good all damage done by them to such road and if any question shall arise as to the damage done to any such road by the Companies 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 in the state of such road in respect of damage done by the Companies and within such period as they may think reasonable and may impose on the Companies for not carrying into effect such repairs any penalty not exceeding ten pounds per day 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 Companies if a public road and be applied for the purposes of such road or if a private road the same shall be paid to the owner thereof Provided always the said Justices shall have regard to and shall make full allowance for any tolls that may have been paid to the Companies on such road in the course of the using thereof.

9. Until the Companies shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between lands intersected and the railway and no longer the owners and occupiers of such lands and any other persons whose right-of-way shall be affected by the want of such communications and their respective servants may at all times freely pass and re-pass with carriages horses and other animals directly but not otherwise across any part of the railway made in or through their respective lands solely for the purpose of occupying the same lands or for the exercise of such right-of-way and so as not to obstruct the passage along the railway or to damage the same nevertheless if

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the owner or occupier of any such lands have in his arrangements with the Companies received or agreed to receive compensation for or on account of any such communications instead of the same being formed such owner or occupier or those claiming under him shall not be
5 entitled so to cross the railway.

10. If the railway cross any public highway or parish road on a level the Companies shall erect and at all times maintain good and sufficient gates across such road on each side of the railway where the same shall communicate therewith and shall employ proper persons to open
10 and shut such gates and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses cattle carts or carriages passing along the same shall have to cross such railway and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent
15 cattle or horses passing along the road from entering upon the railway and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses cattle carts or carriages shall have passed through the same under a penalty not exceeding forty shillings for every default therein Provided always that it shall be
20 lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway to order that such gates shall be kept so closed instead of across the road and in case such gates shall be kept
25 constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

11. In case of accidents or slips happening or being apprehended
30 to the cuttings embankments or other works of the said railway it shall be lawful for the Companies 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 but in every such case the Companies shall
35 within forty-eight hours after such entry make a report to the Secretary for Public Works specifying the nature of such accident or apprehended accident and of the works necessary to be done and such powers shall cease and determine if the said Secretary shall after considering the said report certify that their exercise is not necessary for the public
40 safety Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of and shall be executed with all possible despatch and full compensation shall be made to the owners and occupiers of
45 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
50 making the said railway.

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

55 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 a space of twelve feet if the arch
be

Provisions in cases where roads are crossed on a level.

Power to enter upon adjoining lands to repair accidents subject to certain restrictions.

Construction of bridges over roads.

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- be over a main road and fifteen feet for a 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.
- 5 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 feet if over a private road not being a tramroad or railroad or if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad.
- 10
13. Every bridge erected for carrying any road over the railway shall be built in conformity with the following regulations (that is to
- 15 say)—
- 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.
- 20 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.
- 25 The ascent shall not be more than one foot in thirty feet if the road be a main road one foot in twenty feet if a parish road and one foot in sixteen if a private road not being a tramroad or railroad or if the same be a tramroad or railroad the ascent shall not be greater than the ruling gradient of such tramroad or railroad.
- 30 14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway the width of such bridges need not be greater than such average available width of
- 35 such roads but so nevertheless that such bridges be not of less width in case of a public highway or parish road than twenty feet. Provided also that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof the Companies shall be bound at their
- 40 own expense to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road not exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the railway.
- 45 15. Provided also that if the mesne 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 be preserved to be altered or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved by the
- 50 Companies then the Companies 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 said mesne 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.
- 55 16. The Companies shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway that is to say—
- Such and so many convenient gates bridges arches culverts and passages over under or by the sides of or leading to or from
- the
- Construction of bridges over railroads.
- The width of the bridges need not exceed the width of the road in certain cases.
- Existing inclination of roads crossed or diverted need not be improved.
- Works for benefit of owners.
- Gates bridges &c.

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5 the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed or during the formation thereof.

10 All sufficient posts rails hedges ditches mounds or other fences Fences. for separating the land taken for the use of the 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 railway together with all necessary gates made to open towards such adjoining lands and not towards the railway and all necessary stiles and such posts rails and other 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

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

20 Also proper watering places for cattle or compensation in lieu Watering places. thereof where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places and such watering places shall be so made as to be at all times sufficiently supplied with water as theretofore And as if the railway had not been made or as nearly so as may be And the said Companies shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places

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

30 17. If any person omit to shut and fasten any gate set up at either side of the 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 forfeit for every such offence any sum not exceeding ten pounds. Penalty on persons omitting to fasten gates.

35 18. The Companies shall not be entitled to any mines of coal iron stone slate or other minerals under any private 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 authorized And such mines shall not be deemed to vest in the said Companies. Minerals not to pass.

40 19. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass or any of them and the Companies shall not agree as to the amount of compensation 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) Unless both parties shall concur in the appointment Appointment of arbitrators. of

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of a single arbitrator each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred. And every appointment of an arbitrator shall be under the hand of such party. And such appointment shall be
 5 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
 10 And if for the space of fourteen days after any 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 fail to appoint such arbitrator then upon such failure it shall be lawful for the Attorney-General for the
 15 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
 20 conclusive.

20. 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
 25 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 arbitrators 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
 30 the time of such his death refusal neglect or disability as aforesaid.

21. 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
 35 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 to do so by the arbitrators 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.

22. If in either of the cases aforesaid the arbitrator shall refuse
 or for seven days after request of either party to such arbitration
 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
 45 the matters on which the arbitrators shall differ or which shall be referred to him under this Act shall be final.

23. 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
 50 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.

24. If where more than one arbitrator shall have been appointed
 either of the arbitrators shall refuse or for seven days neglect to act
 the other arbitrator may proceed alone and the decision of such other
 55 arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

25. If where more than one arbitrator shall have been appointed
 and where neither of them shall refuse or neglect to act as aforesaid
 such arbitrators shall fail to make their award within twenty-one
 days the matter to
 after go to the umpire.

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after the day on which the last of such arbitrators shall have been appointed or within such extended time (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 so appointed as aforesaid.

26. The said arbitrators 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 question 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 &c.

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

Arbitrator or umpire to make a declaration for faithful discharge of duty.

15 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 "West Wallsend and Monk-Wearmouth Railway Act" Made and subscribed in the presence of

A.B.

20 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 misdemeanour.

Penalty for misconduct.

25 28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Companies unless the arbitrators shall award the same or a less sum than shall have been offered by the Companies in which case each party shall bear his own costs incident to the arbitration 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 in which case the whole costs shall be paid by the claimant. Provided that if either party shall be dissatisfied with the costs allowed by the 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.

Cost of arbitration how to be borne.

30 29. The arbitrators shall deliver their award in writing to the Companies 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 such award.

Award to be delivered to the Companies.

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

Submission may be made a rule of Court.

40 31. 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.

Award not void through error in form.

45 32. The Companies shall make compensation and satisfaction to the said owners and occupiers (the amount of such 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 inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Companies of any of the matters and things hereby required to be performed by them or otherwise.

Compensation for temporary or permanent or recurring injuries.

50 33. In every case where the Companies shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within one month after their entry upon such lands upon being required so to do to pay to the occupier of the said lands

Compensation to be made for temporary occupation.

West Wallsend and Monk-Wearmouth Railway.

lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of their lands and they shall also from time to time during their occupation of the said
 5 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 six months after the completion of the railway pay to such owner and occupier or deposit in the bank for the benefit of all parties interested as the case may require com-
 10 pensation of 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.

34. For the purpose of regulating the conduct of the officers
 15 and servants of the Companies and for providing for the due manage-
 ment of the affairs of the Companies in all respects it shall be lawful for the Companies subject to the provisions herein mentioned from time to time to make such by-laws and regulations as they shall think fit
 20 Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act or to any resolution of any general meeting of shareholders and such by-laws shall be reduced into writing and shall have affixed thereto the common seal of the Companies and a copy of such by-laws shall be given to every officer and servant of the Companies affected thereby and such by-laws may specify a maximum
 25 and minimum penalty for any breach thereof such penalty to be proceeded for and recovered under the provisions of the Act eleventh and twelfth Victoria chapter forty-three Provided always that any by-laws of the said Companies relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

35. The production of a printed or written copy of the by-laws
 30 of the Companies having the common seals of the Companies affixed thereto shall be sufficient evidence of such by-laws in all proceedings under the same.

36. Nothing in this Act shall be deemed to authorize the said
 35 Companies to take or enter upon any lands belonging to the Commis-
 sioner for Railways or to alter or to interfere with the Great Northern 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
 40 of the Commissioner for Railways.

37. The Commissioner shall from time to time erect such signals
 and conveniences incident to the junction either upon his own lands or on the lands of the Companies and may from time to time appoint and
 45 remove such watchmen switchmen and other persons as may be neces-
 sary for the prevention of danger to or interference with the traffic at or near the junction and in all cases at the expense of the Companies.

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

39. Nothing herein contained shall alter repeal or otherwise
 50 affect "The Government Railway Act of 1858."

40. In this Act the said Justices shall mean Justices of the
 Peace in and for the territory of New South Wales and when any
 matter shall be authorized or required to be done by two Justices the
 55 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 the Companies.

Companies may make by-laws.

Evidence of by-laws.

Lands belonging to Commissioner for Railways not to be taken.

Commissioner may erect signals and appoint watchmen and switchmen.

Working of signals to be under regulations of Commissioner.

Government Railway Act of 1858 not altered or repealed.

Interpretation clause.

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41. This shall be deemed and taken to be a Public Act and Short title.
the same whenever cited shall be sufficiently described as the "West
Wallsend and Monk-Wearmouth Railway Act of 1886." ' 1

SCHEDULES.

5 FIRST SCHEDULE.

- AN Agreement made this day of A.D. one thousand eight hundred and eighty-six between the West Wallsend Coal Company (Limited) of the one part and the Monk-Wearmouth Colliery Estate Company of Australia (Limited) of the other part.
- 10 WITNESSETH that in consideration of the terms hereinafter expressed the said Companies have agreed to join in constructing a railway line from a point near the West Wallsend Coal Company's pit to the Sydney and Waratah Railway Line the cost of construction and purchase of land for the said line to run over and all the necessary expenses of laying the said railway line to be borne by the respective Companies in equal shares half cost of value of land belonging to West Wallsend over which railway passes to be paid by Monk-Wearmouth The cost of renewals and maintenances to the said railway line to be paid by each Company or their transferees in proportion to the traffic done by each Company or their transferees and it is also agreed that should the Monk-Wearmouth Colliery Estate Company of Australia (Limited) or their transferees so desire they shall be at liberty to construct an extension of the said railway line from the said West Wallsend Coal Company pit to their collieries situated at Monk-Wearmouth at the cost of the said Monk-Wearmouth Colliery Estate Company Provided always that the West Wallsend Coal Company (Limited) or their transferees shall be at liberty to use the said extension by paying a proportionate part of the cost of renewals and maintenance to the extension according to the traffic done by the said West Wallsend Coal Company (Limited) or their transferees and it is further agreed between the parties hereto that in case of any dispute arising as to the management and construction of the said line the same shall be referred to arbitration as provided for in the "West Wallsend and Monk-Wearmouth Railway Act of 1886."

30 SECOND SCHEDULE.

- Commencing about the centre of portion one hundred and twenty parish of Teralba county of Northumberland and running southerly crossing a Government road at a distance of about one thousand three hundred links east of the western boundary of the above-mentioned section thence south-west for about twenty-two chains where it crosses a Government road and the southern boundary of the above section thence southerly passing through section one hundred and seventeen and through section one hundred and eighteen in a south-eastern direction crossing a Government road passing through block one hundred and seventeen and running about two chains south of Isaac Griffiths' section number sixty it crosses the Wallsend and Flaggy Creek Government road at a point about three chains west of the north-west boundary of Morgan and Price's section number seventy thence through that section at a point about eight chains from the said north-western corner and enters the property of the Wallsend Coal Company about twenty-two chains from the south-eastern corner of Morgan and Price's section number seventy running in the same course until it gains Cockle Creek at the junction of the three creeks whence it runs easterly for about four chains to cross the creek in a straight course from whence it takes a straight course until it terminates on the Newcastle and Waratah railway line at a point about ninety-two miles forty-five chains distant from Sydney.

WEST WALLSEND AND MONK-WEARMOUTH RAILWAY BILL

SCHEDULE of Amendments referred to in Message of 7th July, 1886.

- Page 2, clause 1, line 19. *After "feet" omit remainder of clause.*
- Page 6, clause 15, line 44. *Omit "mesne" insert "mean"*
- Page 6, clause 15, line 46. *Omit "preserved" insert "required"*
- Page 6, clause 15, line 51. *Omit "mesne" insert "mean"*
- Page 7, clause 17. *At end of clause add "recoverable in a summary way before
"any two Justices of the Peace"*
- Page 10, clauses 34 and 35. *Omit clauses 34 and 35.*
- Page 10, clause 40. **38**, lines 52 to 56. *Omit "the said Justices shall mean Justices of
"the Peace in and for the territory of New South Wales and when any matter
"shall be authorized or required to be done by two Justices the expression 'two
"Justices' shall mean two Justices assembled and acting together in Petty
"Sessions and"*
- Page 11, clause ~~41~~ **39**, line 1. *Omit "shall be deemed and taken to be a Public"*
- Page 11, clause ~~41~~ **39**, lines 1 and 2. *Omit "and the same"*
-

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, 18 May, 1886. }*

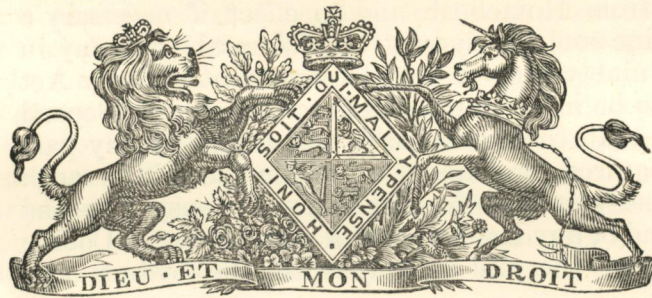
F. W. WEBB,
Acting Clerk of Legislative Assembly.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

*Legislative Council Chamber,
Sydney, 7th July, 1886. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO

VICTORIÆ REGINÆ.

An Act to enable the West Wallsend Coal Company (Limited) and the Monk-Wearmouth Colliery Estate Company of Australia (Limited) to construct a Railway from the West Wallsend Coal-fields to the Sydney and Waratah Railway.

WHEREAS certain persons now residing in the Colony of New South Wales propose opening coal-mines and establishing collieries on a parcel of land situated near Newcastle in the parish of Teralba county of Northumberland and with others have formed themselves into Companies called the "West Wallsend Coal Company (Limited) and the Monk-Wearmouth Colliery Estate Company of Australia (Limited)" and in order to facilitate communication between the said coal-mines and the Sydney and Waratah Railway such persons are desirous of constructing a railway from their said coal-mines to the Sydney and Waratah Railway but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown bodies corporate and private persons respectively the same cannot be made without Legislative authority And whereas the said coal-mines are likely to prove beneficial to the Colony and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption steam navigation and export as would result from the construction of the said proposed railway and the traffic on the Sydney and Waratah Railway would be increased thereby It is therefore desirable to authorize by Legislative enactment the construction of the said railway subject to the provisions hereinafter contained upon payment of compensation to the

66—A

several

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

West Wallsend and Monk-Wearmouth Railway.

several parties through whose lands the same shall pass for such portion of their respective lands as may be required to be taken and 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:—

1. It shall be lawful for the said Companies jointly in terms as set out in the First Schedule hereto to make and construct a railway from the north side of the Government Road running through portion one hundred and twenty unto and through the lands known as that of J. Notley J. Price Griffith Morgan and Price and the Newcastle Wallsend Coal Company joining the Sydney and Waratah Railway line about ninety-two miles from Homebush and to effect if necessary a junction between said line and the Sydney and Waratah Railway in accordance with section ninety-nine of the "Government Railway Act of 1858" such railway to be in the direction described in the Second Schedule hereto but so that the same shall not occupy at any part thereof (except where required for sidings) a greater space in breadth than sixty-six feet ~~And also that the said Companies may take and occupy three acres of land or any lesser area at a place between Cockle Creek and the junction of the said railway with the Sydney and Waratah Railway.~~

Authority to construct railway and connect same with Sydney and Waratah Railway.

2. The ground and soil of so much of the site of the railway as passes over the lands of the said owners of lands respectively and over Crown Lands together with such rights 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 Companies for the purposes of the railway Provided that no lands vested in the Commissioner for Railways shall by virtue of this Act be vested in the Companies and nothing herein contained shall prevent the said owners 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 Companies shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repairs of the said road by cutting embanking sinking wells or otherwise Provided also that if in the exercise of the powers hereby granted it be found necessary to cross cut through sink raise 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 Companies shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly as may be And the Companies before they use the said lands of the said owners of land and the said Crown Lands respectively 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 Companies as to the necessity for such fences and gates then the said Companies shall put up and erect such fences and gates as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

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

3. The railway shall be open to the public use upon payment of a toll to the Companies of a sum not exceeding two pence per ton per

Railway open to the public.

West Wallsend and Monk-Wearmouth Railway.

per mile in respect of every ton of goods for every transit the party seeking transit supplying and loading his own trucks or waggons and the Companies supplying locomotive power and all trucks when emptied shall be conveyed on their return free of charge Provided always
 5 that it shall not be compulsory on the Companies to supply locomotive power unless the party seeking transit guarantee and bring fifty tons at least during the twelve working hours and give notice of the same at least twenty-four hours previously The railway shall at all times be open to the public upon payment of a toll to the Companies of
 10 a sum not exceeding one penny per ton per mile in respect of every ton of goods for every transit if the party seeking transit supply the locomotive power as well as the trucks and waggons Provided that so long as the Companies shall be willing to supply locomotive power no other person shall use locomotive power on the line Provided that
 15 if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power the Companies shall be entitled to compensation for such damage to be recovered either by action in the Supreme Court of New South Wales or if such damage do not exceed the sum of twenty pounds summarily before two
 20 Justices and in estimating such damage the Companies shall be entitled not only to compensation for the cost of repairing and restoring the railway but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

4. And be it enacted that it shall be lawful for the owners or
 25 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 Companies shall if required at the expense of such owners or occupiers make openings in the rails and
 30 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 but this enactment shall be subject to the following restrictions and conditions (that is to say)—
 35 The Companies shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere nor upon any bridge nor in any tunnel.

40 The persons making or using such branch railways shall be subject to all by-laws and regulations of the Companies from time to time made with respect to passing upon or crossing the railway and otherwise and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches
 45 according to the most approved plan adopted by the Companies under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter
 contained it shall be lawful for the Companies their deputies agents
 servants and workmen and all other persons by them authorised and
 50 empowered to divert or alter the course of any road or way crossing the 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 railway.

6. If the Companies do not cause another sufficient road to be so
 made before they interfere with any such existing road as aforesaid they
 55 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

Branch railways.

Penalty for not substituting a road.

West Wallsend and Monk-Wearmouth Railway.

a private road the same shall be paid to the owner thereof and every such penalty shall be recoverable with costs by action in any of the Superior Courts.

7. It shall be lawful for but not compulsory upon the said Companies from time to time and at any and all times to carry passengers and live stock upon the said railways or any part thereof respectively and to make demand take receive and recover such tolls or dues for carrying the same at such rates per mile or other scale of charges as shall be established from time to time by the Directors of the Companies for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railways or either of them or any part thereof respectively And the Directors are hereby authorised to make such by-laws and regulations not inconsistent with this Act as may be necessary for the regulation of such traffic and such by-laws or regulations shall be binding upon all persons using or travelling upon the said railways and any persons offending against such by-laws or regulations shall be liable to a fine not exceeding ten pounds for each offence to be recovered in a summary way before any two Justices Provided always that if the rates tolls or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive it shall and may be lawful for the Executive Council to reduce the said rates tolls or dues and to revise them in such manner as may seem most proper and advisable And it is hereby provided that nothing in this Act contained shall extend to charge or make liable the said Companies further or in any other case than where according to the laws of this Colony stage-coach proprietors and common carriers would be liable nor shall extend in any degree to deprive the said Companies of any protection or privilege which common carriers or stage-coach proprietors may be entitled to but on the contrary the Companies shall at all times be entitled to the benefit of every such protection and privilege.

Right to carry passengers.

8. If in the course of making the railway the Companies shall use or interfere with any road they shall from time to time make good all damage done by them to such road and if any question shall arise as to the damage done to any such road by the Companies 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 in the state of such road in respect of damage done by the Companies and within such period as they may think reasonable and may impose on the Companies for not carrying into effect such repairs any penalty not exceeding ten pounds per day 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 Companies if a public road and be applied for the purposes of such road or if a private road the same shall be paid to the owner thereof Provided always the said Justices shall have regard to and shall make full allowance for any tolls that may have been paid to the Companies on such road in the course of the using thereof.

Road repairs.

9. Until the Companies shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between lands intersected and the railway and no longer the owners and occupiers of such lands and any other persons whose right-of-way shall be affected by the want of such communications and their respective servants may at all times freely pass and re-pass with carriages horses and other animals directly but not otherwise across any part of the railway made in or through their respective lands solely for the purpose of occupying the same lands or for the exercise of such right-of-way and so as not to obstruct the passage along the railway or to damage the same nevertheless if the

Owners crossing.

West Wallsend and Monk-Wearmouth Railway.

the owner or occupier of any such lands have in his arrangements with the Companies received or agreed to receive compensation for or on account of any such communications instead of the same being formed such owner or occupier or those claiming under him shall not be
5 entitled so to cross the railway.

10 10. If the railway cross any public highway or parish road on a level the Companies shall erect and at all times maintain good and sufficient gates across such road on each side of the railway where the same shall communicate therewith and shall employ proper persons to open
15 and shut such gates and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses cattle carts or carriages passing along the same shall have to cross such railway and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent
20 cattle or horses passing along the road from entering upon the railway and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses cattle carts or carriages shall have passed through the same under a penalty not exceeding forty shillings for every default therein Provided always that it shall be
25 lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway to order that such gates shall be kept so closed instead of across the road and in case such gates shall be kept
30 constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

Provisions in cases where roads are crossed on a level.

35 11. In case of accidents or slips happening or being apprehended to the cuttings embankments or other works of the said railway it shall be lawful for the Companies 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 but in every such case the Companies shall
40 within forty-eight hours after such entry make a report to the Secretary for Public Works specifying the nature of such accident or apprehended accident and of the works necessary to be done and such powers shall cease and determine if the said Secretary shall after considering the said report certify that their exercise is not necessary for the public
45 safety Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of and shall be executed with all possible despatch and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them
50 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.

Power to enter upon adjoining lands to repair accidents subject to certain restrictions.

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

Construction of bridges over roads.

55 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 a space of twelve feet if the arch

be

West Wallsend and Monk-Wearmouth Railway.

- be over a main road and fifteen feet for a 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.
- 5 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 feet if over a private road not being a tramroad or railroad or if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad.
- 10
13. Every bridge erected for carrying any road over the railway shall be built in conformity with the following regulations (that is to 15 say)—
- 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.
- 20 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 main road one foot in twenty feet if a parish road and one foot in sixteen if a private road not being a tramroad or railroad or if the same be a tramroad or railroad the ascent shall not be greater than the ruling gradient of such tramroad or railroad.
- 25
14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway the width of such bridges need not be greater than such average available width of 30 such roads but so nevertheless that such bridges be not of less width in case of a public highway or parish road than twenty feet Provided also that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof the Companies shall be bound at their 40 own expense to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road not exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the railway.
15. Provided also that if the ~~mesme~~ mean inclination of any road 45 within two hundred and fifty yards of the point of crossing the same or the inclination of such portion of any road as may be ~~preserved~~ required to be altered or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved by the Companies then the Companies may carry any such road over or under 50 the railway or may construct such altered or substituted road at an inclination not steeper than the said ~~mesme~~ 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.
16. The Companies shall make and at all times thereafter 55 maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway that is to say—
- Such and so many convenient gates bridges arches culverts and passages over under or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good

Construction of bridges over railroads.

The width of the bridges need not exceed the width of the road in certain cases.

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

Works for benefit of owners.

Gates bridges &c.

West Wallsend and Monk-Wearmouth Railway.

good any interruptions caused by the railway to the use of the lands through which the railway shall be made and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed or during the formation thereof.

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All sufficient posts rails hedges ditches mounds or other fences for separating the land taken for the use of the 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 railway together with all necessary gates made to open towards such adjoining lands and not towards the railway and all necessary stiles and such posts rails and other 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

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

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Also proper watering places for cattle or compensation in lieu thereof where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places and such watering places shall be so made as to be at all times sufficiently supplied with water as theretofore And as if the railway had not been made or as nearly so as may be And the said Companies shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places

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

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17. If any person omit to shut and fasten any gate set up at either side of the 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 forfeit for every such offence any sum not exceeding ten pounds recoverable in a summary way before any two Justices of the Peace.

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18. The Companies shall not be entitled to any mines of coal iron stone slate or other minerals under any private 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 authorized And such mines shall not be deemed to vest in the said Companies.

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19. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass or any of them and the Companies shall not agree as to the amount of compensation 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) Unless both parties shall concur in the appointment

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Penalty on persons omitting to fasten gates.
Minerals not to pass.
Compensation clause.
Appointment of arbitrators.

of

West Wallsend and Monk-Wearmouth Railway.

of a single arbitrator each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred. And every appointment of an arbitrator shall be under the hand of such party. And such appointment shall be
 5 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.
 10 And if for the space of fourteen days after any 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 fail to appoint such arbitrator then upon such failure it shall be lawful for the Attorney-General for the
 15 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
 20 conclusive.

20. 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
 25 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 arbitrators 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
 30 the time of such his death refusal neglect or disability as aforesaid.

21. 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
 35 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 to do so by the arbitrators 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.

40 22. If in either of the cases aforesaid the arbitrator shall refuse or for seven days after request of either party to such arbitration 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
 45 arbitration to appoint an umpire and the decision of such umpire on the matters on which the arbitrators shall differ or which shall be referred to him under this Act shall be final.

23. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable or shall refuse or for fourteen
 50 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.

24. If where more than one arbitrator shall have been appointed either of the arbitrators shall refuse or for seven days neglect to act
 55 the other arbitrator may proceed alone and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

25. If where more than one arbitrator shall have been appointed and where neither of them shall refuse or neglect to act as aforesaid such arbitrators shall fail to make their award within twenty-one days
 after

Vacancy of arbitrator to be supplied.

Appointment of umpire.

Attorney-General to appoint umpire on neglect.

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

If either arbitrator refuse to act the other to proceed *ex parte*.

If arbitrators fail to make their award within twenty-one days the matter to go to the umpire.

West Wallsend and Monk-Wearmouth Railway.

after the day on which the last of such arbitrators shall have been appointed or within such extended time (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 so appointed as aforesaid.

26. The said arbitrators 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 question in dispute and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose.

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

15 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 "West Wallsend and Monk-Wearmouth Railway Act" Made and subscribed in the presence of

Powers of arbitrators to call for books &c.

Arbitrator or umpire to make a declaration for faithful discharge of duty.

20 A.B.
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 misdemeanour.

Penalty for misconduct.

25 28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Companies unless the arbitrators shall award the same or a less sum than shall have been offered by the Companies in which case each party shall bear his own costs incident to the arbitration 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 in which case the whole costs shall be paid by the claimant. Provided that if either party shall be dissatisfied with the costs allowed by the 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.

Cost of arbitration how to be borne.

30 29. The arbitrators shall deliver their award in writing to the Companies 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 such award.

Award to be delivered to the Companies

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

Submission may be made a rule of Court.

45 31. 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.

Award not void through error in form.

50 32. The Companies shall make compensation and satisfaction to the said owners and occupiers (the amount of such 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 inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Companies of any of the matters and things hereby required to be performed by them or otherwise.

Compensation for temporary or permanent or recurring injuries.

55 33. In every case where the Companies shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within one month after their entry upon such lands upon being required so to do to pay to the occupier of the said lands

Compensation to be made for temporary occupation.

West Wallsend and Monk-Wearmouth Railway.

lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of their lands and they shall also from time to time during their occupation of the said
 5 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 six months after the completion of the railway pay to such owner and occupier or deposit in the bank for the benefit of all parties interested as the case may require com-
 10 pensation of 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.

34. For the purpose of regulating the conduct of the officers
 15 and servants of the Companies and for providing for the due management of the affairs of the Companies in all respects it shall be lawful for the Companies subject to the provisions herein mentioned from time to time to make such by-laws and regulations as they shall think fit Provided that such by-laws be not repugnant to the laws of the Colony
 20 or to the provisions of this Act or to any resolution of any general meeting of shareholders and such by-laws shall be reduced into writing and shall have affixed thereto the common seal of the Companies and a copy of such by-laws shall be given to every officer and servant of the Companies affected thereby and such by-laws may specify a maximum
 25 and minimum penalty for any breach thereof such penalty to be proceeded for and recovered under the provisions of the Act eleventh and twelfth Victoria chapter forty-three Provided always that any by-laws of the said Companies relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

Companies may make by-laws.

35. The production of a printed or written copy of the by-laws
 30 of the Companies having the common seals of the Companies affixed thereto shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

36. 34. Nothing in this Act shall be deemed to authorize the said
 35 Companies to take or enter upon any lands belonging to the Commissioner for Railways or to alter or to interfere with the Great Northern 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
 40 of the Commissioner for Railways.

Lands belonging to Commissioner for Railways not to be taken.

37. 35. The Commissioner shall from time to time erect such signals
 and conveniences incident to the junction either upon his own lands or
 on the lands of the Companies and may from time to time appoint and
 remove such watchmen switchmen and other persons as may be neces-
 45 sary for the prevention of danger to or interference with the traffic at or near the junction and in all cases at the expense of the Companies.

Commissioner may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioner.

39. 37. Nothing herein contained shall alter repeal or otherwise
 50 affect "The Government Railway Act of 1858."

Government Railway Act of 1858 not altered or repealed.

40. 38. In this Act the said Justices shall mean Justices of the
 Peace in and for the territory of New South Wales and when any
 matter shall be authorized or required to be done by two Justices the
 55 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 the Companies.

Interpretation clause.

West Wallsend and Monk-Wearmouth Railway.

~~41.~~ **39.** This ~~shall be deemed and taken to be a Public Act and~~ ^{Short title.} ~~the same~~ whenever cited shall be sufficiently described as the "West Wallsend and Monk-Wearmouth Railway Act of 1886."

SCHEDULES.

FIRST SCHEDULE.

- 5 AN Agreement made this day of A.D. one thousand eight hundred and eighty-six between the West Wallsend Coal Company (Limited) of the one part and the Monk-Wearmouth Colliery Estate Company of Australia (Limited) of the other part.
- 10 WITNESSETH that in consideration of the terms hereinafter expressed the said Companies have agreed to join in constructing a railway line from a point near the West Wallsend Coal Company's pit to the Sydney and Waratah Railway Line the cost of construction and purchase of land for the said line to run over and all the necessary expenses of laying the said railway line to be borne by the respective Companies in equal shares half cost of value of land belonging to West Wallsend over which railway
- 15 passes to be paid by Monk-Wearmouth The cost of renewals and maintenances to the said railway line to be paid by each Company or their transferees in proportion to the traffic done by each Company or their transferees and it is also agreed that should the Monk-Wearmouth Colliery Estate Company of Australia (Limited) or their transferees
- 20 so desire they shall be at liberty to construct an extension of the said railway line from the said West Wallsend Coal Company pit to their collieries situated at Monk-Wearmouth at the cost of the said Monk-Wearmouth Colliery Estate Company Provided always that the West Wallsend Coal Company (Limited) or their transferees shall be at liberty to use the said extension by paying a proportionate part of the cost of renewals and maintenance to the extension according to the traffic done by the said West
- 25 Wallsend Coal Company (Limited) or their transferees and it is further agreed between the parties hereto that in case of any dispute arising as to the management and construction of the said line the same shall be referred to arbitration as provided for in the "West Wallsend and Monk-Wearmouth Railway Act of 1886."

SECOND SCHEDULE.

- 30 Commencing about the centre of portion one hundred and twenty parish of Teralba county of Northumberland and running southerly crossing a Government road at a distance of about one thousand three hundred links east of the western boundary of the above-mentioned section thence south-west for about twenty-two chains where it
- 35 crosses a Government road and the southern boundary of the above section thence southerly passing through section one hundred and seventeen and through section one hundred and eighteen in a south-eastern direction crossing a Government road passing through block one hundred and seventeen and running about two chains south of Isaac Griffiths' section number sixty it crosses the Wallsend and Flaggy Creek Government
- 40 road at a point about three chains west of the north-west boundary of Morgan and Price's section number seventy thence through that section at a point about eight chains from the said north-western corner and enters the property of the Wallsend Coal Company about twenty-two chains from the south-eastern corner of Morgan and Price's section number seventy running in the same course until it gains Cockle Creek at the
- 45 junction of the three creeks whence it runs easterly for about four chains to cross the creek in a straight course from whence it takes a straight course until it terminates on the Newcastle and Waratah railway line at a point about ninety-two miles forty-five chains distant from Sydney.

West Walsby and Monk-Wernmouth Railway

41. 39. This shall be deemed and taken to be a public Act and shall be deemed to be a public Act of 1880.

SCHEDULES

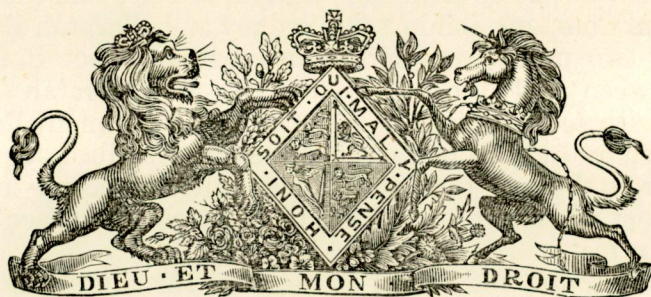
FIRST SCHEDULE

1. A/... of the day of... the West Walsby and Monk-Wernmouth Railway (Limited) and the Monk-Wernmouth Colliery (Limited) of Australia (Limited) of the other part.

SECOND SCHEDULE

1. Commencing about the centre of portion one hundred and twenty... of the county of Northampton and running generally easterly... at a distance of about one thousand three hundred... of the western boundary of the above-mentioned section... 35

New South Wales.



ANNO QUINQUAGESIMO

VICTORIÆ REGINÆ.

An Act to enable the West Wallsend Coal Company (Limited) and the Monk-Wearmouth Colliery Estate Company of Australia (Limited) to construct a Railway from the West Wallsend Coal-fields to the Sydney and Waratah Railway. [Assented to, 27th August, 1886.]

WHEREAS certain persons now residing in the Colony of New Preamble.
South Wales propose opening coal-mines and establishing collieries on a parcel of land situated near Newcastle in the parish of Teralba county of Northumberland and with others have formed themselves into Companies called the "West Wallsend Coal Company (Limited) and the Monk-Wearmouth Colliery Estate Company of Australia (Limited)" and in order to facilitate communication between the said coal-mines and the Sydney and Waratah Railway such persons are desirous of constructing a railway from their said coal-mines to the Sydney and Waratah Railway but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown bodies corporate and private persons respectively the same cannot be made without Legislative authority And whereas the said coal-mines are likely to prove beneficial to the Colony and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption steam navigation and export as would result from the construction of the said proposed railway and the traffic on the Sydney and Waratah Railway would be increased

A

West Wallsend and Monk-Wearmouth Railway.

increased thereby It is therefore desirable to authorize by Legislative enactment the construction of the said railway subject to the provisions hereinafter contained upon payment of compensation to the several parties through whose lands the same shall pass for such portion of their respective lands as may be required to be taken and 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 and connect same with Sydney and Waratah Railway.

1. It shall be lawful for the said Companies jointly in terms as set out in the First Schedule hereto to make and construct a railway from the north side of the Government Road running through portion one hundred and twenty unto and through the lands known as that of J. Notley J. Price Griffith Morgan and Price and the Newcastle Wallsend Coal Company joining the Sydney and Waratah Railway line about ninety-two miles from Homebush and to effect if necessary a junction between said line and the Sydney and Waratah Railway in accordance with section ninety-nine of the "Government Railway Act of 1858" such railway to be in the direction described in the Second Schedule hereto but so that the same shall not occupy at any part thereof (except where required for sidings) a greater space in breadth than sixty-six feet.

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

2. The ground and soil of so much of the site of the railway as passes over the lands of the said owners of lands respectively and over Crown Lands together with such rights 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 Companies for the purposes of the railway Provided that no lands vested in the Commissioner for Railways shall by virtue of this Act be vested in the Companies and nothing herein contained shall prevent the said owners 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 Companies shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repairs of the said road by cutting embanking sinking wells or otherwise Provided also that if in the exercise of the powers hereby granted it be found necessary to cross cut through sink raise 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 Companies shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly as may be And the Companies before they use the said lands of the said owners of land and the said Crown Lands respectively 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 Companies as to the necessity for such fences and gates then the said Companies shall put up and erect such fences and gates as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

Railway open to the public.

3. The railway shall be open to the public use upon payment of a toll to the Companies of a sum not exceeding two pence per ton per

West Wallsend and Monk-Wearmouth Railway.

per mile in respect of every ton of goods for every transit the party seeking transit supplying and loading his own trucks or waggons and the Companies supplying locomotive power and all trucks when emptied shall be conveyed on their return free of charge. Provided always that it shall not be compulsory on the Companies to supply locomotive power unless the party seeking transit guarantee and bring fifty tons at least during the twelve working hours and give notice of the same at least twenty-four hours previously. The railway shall at all times be open to the public upon payment of a toll to the Companies of a sum not exceeding one penny per ton per mile in respect of every ton of goods for every transit if the party seeking transit supply the locomotive power as well as the trucks and waggons. Provided that so long as the Companies shall be willing to supply locomotive power no other person shall use locomotive power on the line. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power the Companies shall be entitled to compensation for such damage to be recovered either by action in the Supreme Court of New South Wales or if such damage do not exceed the sum of twenty pounds summarily before two Justices and in estimating such damage the Companies shall be entitled not only to compensation for the cost of repairing and restoring the railway but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

4. And be it enacted that it shall be lawful for the owners or Branch railways. 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 Companies 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 but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Companies shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere nor upon any bridge nor in any tunnel.

The persons making or using such branch railways shall be subject to all by-laws and regulations of the Companies from time to time made with respect to passing upon or crossing the railway and otherwise and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Companies under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter Power to divert or alter roads. contained it shall be lawful for the Companies their deputies agents servants and workmen and all other persons by them authorised and empowered to divert or alter the course of any road or way crossing the 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 railway.

6. If the Companies do not cause another sufficient road to be so Penalty for not substituting a road. 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

West Wallsend and Monk-Wearmouth Railway.

a private road the same shall be paid to the owner thereof and every such penalty shall be recoverable with costs by action in any of the Superior Courts.

Right to carry
passengers.

7. It shall be lawful for but not compulsory upon the said Companies from time to time and at any and all times to carry passengers and live stock upon the said railways or any part thereof respectively and to make demand take receive and recover such tolls or dues for carrying the same at such rates per mile or other scale of charges as shall be established from time to time by the Directors of the Companies for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railways or either of them or any part thereof respectively. And the Directors are hereby authorised to make such by-laws and regulations not inconsistent with this Act as may be necessary for the regulation of such traffic and such by-laws or regulations shall be binding upon all persons using or travelling upon the said railways and any persons offending against such by-laws or regulations shall be liable to a fine not exceeding ten pounds for each offence to be recovered in a summary way before any two Justices. Provided always that if the rates tolls or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive it shall and may be lawful for the Executive Council to reduce the said rates tolls or dues and to revise them in such manner as may seem most proper and advisable. And it is hereby provided that nothing in this Act contained shall extend to charge or make liable the said Companies further or in any other case than where according to the laws of this Colony stage-coach proprietors and common carriers would be liable nor shall extend in any degree to deprive the said Companies of any protection or privilege which common carriers or stage-coach proprietors may be entitled to but on the contrary the Companies shall at all times be entitled to the benefit of every such protection and privilege.

Road repairs.

8. If in the course of making the railway the Companies shall use or interfere with any road they shall from time to time make good all damage done by them to such road and if any question shall arise as to the damage done to any such road by the Companies 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 in the state of such road in respect of damage done by the Companies and within such period as they may think reasonable and may impose on the Companies for not carrying into effect such repairs any penalty not exceeding ten pounds per day 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 Companies if a public road and be applied for the purposes of such road or if a private road the same shall be paid to the owner thereof. Provided always the said Justices shall have regard to and shall make full allowance for any tolls that may have been paid to the Companies on such road in the course of the using thereof.

Owners crossing.

9. Until the Companies shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between lands intersected and the railway and no longer the owners and occupiers of such lands and any other persons whose right-of-way shall be affected by the want of such communications and their respective servants may at all times freely pass and re-pass with carriages horses and other animals directly but not otherwise across any part of the railway made in or through their respective lands solely for the purpose of occupying the same lands or for the exercise of such right-of-way and so as not to obstruct the passage along the railway or to damage the same nevertheless if the

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the owner or occupier of any such lands have in his arrangements with the Companies received or agreed to receive compensation for or on account of any such communications instead of the same being formed such owner or occupier or those claiming under him shall not be entitled so to cross the railway.

10. If the railway cross any public highway or parish road on a level the Companies shall erect and at all times maintain good and sufficient gates across such road on each side of the railway where the same shall communicate therewith and shall employ proper persons to open and shut such gates and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses cattle carts or carriages passing along the same shall have to cross such railway and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent cattle or horses passing along the road from entering upon the railway and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses cattle carts or carriages shall have passed through the same under a penalty not exceeding forty shillings for every default therein. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway to order that such gates shall be kept so closed instead of across the road and in case such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

Provisions in cases where roads are crossed on a level.

11. In case of accidents or slips happening or being apprehended to the cuttings embankments or other works of the said railway it shall be lawful for the Companies 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 but in every such case the Companies shall within forty-eight hours after such entry make a report to the Secretary for Public Works specifying the nature of such accident or apprehended accident and of the works necessary to be done and such powers shall cease and determine if the said Secretary shall after considering the said report certify that their exercise is not necessary for the public safety. Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of and shall be executed with all possible despatch and full compensation shall be made to the owners and occupiers 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.

Power to enter upon adjoining lands to repair accidents subject to certain restrictions.

12. Every bridge to be erected for the purpose of carrying the 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 a space of twelve feet if the arch be

be

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be over a main road and fifteen feet for a 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 feet if over a private road not being a tramroad or railroad or if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad.

Construction of bridges over rail-roads.

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

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 main road one foot in twenty feet if a parish road and one foot in sixteen if a private road not being a tramroad or railroad or if the same be a tramroad or railroad the ascent shall not be greater than the ruling gradient of such tramroad or railroad.

The width of the bridges need not exceed the width of the road in certain cases.

14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway the width of such bridges need not be greater than such average available width of such roads but so nevertheless that such bridges be not of less width in case of a public highway or parish road than twenty feet. Provided also that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof the Companies shall be bound at their own expense to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road not exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the railway.

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

15. Provided also 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 be required to be altered or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved by the Companies then the Companies 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 said 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.

Works for benefit of owners.

16. The Companies shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway that is to say—

Gates bridges &c.

Such and so many convenient gates bridges arches culverts and passages over under or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good

West Wallsend and Monk-Wearmouth Railway.

good any interruptions caused by the railway to the use of the lands through which the railway shall be made and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed or during the formation thereof.

All sufficient posts rails hedges ditches mounds or other fences Fences. for separating the land taken for the use of the 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 railway together with all necessary gates made to open towards such adjoining lands and not towards the railway and all necessary stiles and such posts rails and other 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

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

Also proper watering places for cattle or compensation in lieu Watering places. thereof where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places and such watering places shall be so made as to be at all times sufficiently supplied with water as theretofore And as if the railway had not been made or as nearly so as may be And the said Companies shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places

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

17. If any person omit to shut and fasten any gate set up at either side of the 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 forfeit for every such offence any sum not exceeding ten pounds recoverable in a summary way before any two Justices of the Peace. Penalty on persons omitting to fasten gates.

18. The Companies shall not be entitled to any mines of coal iron stone slate or other minerals under any private 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 authorized And such mines shall not be deemed to vest in the said Companies. Minerals not to pass.

19. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass or any of them and the Companies shall not agree as to the amount of compensation 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) Unless both parties shall concur in the appointment Appointment of arbitrators.

of

West Wallsend and Monk-Wearmouth Railway.

of a single arbitrator each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred. And every appointment of an arbitrator shall be under the hand of such party. 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 if for the space of fourteen days after any 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 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.

Vacancy of arbitrator to be supplied.

20. 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 arbitrators 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.

Appointment of umpire.

21. 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 to do so by the arbitrators 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.

Attorney-General to appoint umpire on neglect.

22. If in either of the cases aforesaid the arbitrator shall refuse or for seven days after request of either party to such arbitration 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 shall differ or which shall be referred to him under this Act shall be final.

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

23. 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.

If either arbitrator refuse to act the other to proceed *ex parte*.

24. If where more than one arbitrator shall have been appointed either of the arbitrators shall refuse or for seven days neglect to act the other arbitrator may proceed alone and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

If arbitrators fail to make their award within twenty-one days the matter to go to the umpire.

25. If where more than one arbitrator shall have been appointed and where neither of them shall refuse or neglect to act as aforesaid such arbitrators shall fail to make their award within twenty-one days after

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after the day on which the last of such arbitrators shall have been appointed or within such extended time (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 so appointed as aforesaid.

26. The said arbitrators 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 question 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 &c.

27. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall in the presence of a Justice of the Peace make and subscribe the following declaration (that is to say)— Arbitrator or umpire to make a declaration for faithful discharge of duty.

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 "West Wallsend and Monk-Wearmouth Railway Act"
Made and subscribed in the presence of

A.B.

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 misdemeanour. Penalty for misconduct.

28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Companies unless the arbitrators shall award the same or a less sum than shall have been offered by the Companies in which case each party shall bear his own costs incident to the arbitration 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 in which case the whole costs shall be paid by the claimant. Provided that if either party shall be dissatisfied with the costs allowed by the 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. Cost of arbitration how to be borne.

29. The arbitrators shall deliver their award in writing to the Companies 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 such award. Award to be delivered to the Companies

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

31. 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. Award not void through error in form.

32. The Companies shall make compensation and satisfaction to the said owners and occupiers (the amount of such 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 inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Companies of any of the matters and things hereby required to be performed by them or otherwise. Compensation for temporary or permanent or recurring injuries.

33. In every case where the Companies shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within one month after their entry upon such lands upon being required so to do to pay to the occupier of the said lands Compensation to be made for temporary occupation.

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lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of their lands and they 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 six months after the completion of the railway pay to such owner and occupier or deposit in the bank for the benefit of all parties interested as the case may require compensation of 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.

Lands belonging to Commissioner for Railways not to be taken.

34. Nothing in this Act shall be deemed to authorize the said Companies to take or enter upon any lands belonging to the Commissioner for Railways or to alter or to interfere with the Great Northern 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.

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

Working of signals to be under regulations of Commissioner.

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

Government Railway Act of 1858 not altered or repealed. Interpretation clause.

37. Nothing herein contained shall alter repeal or otherwise affect "The Government Railway Act of 1858."

38. In this Act the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the Companies.

Short title.

39. This Act whenever cited shall be sufficiently described as the "West Wallsend and Monk-Wearmouth Railway Act of 1886."

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SCHEDULES.

FIRST SCHEDULE.

AN Agreement made this day of A.D. one thousand eight hundred and eighty-six between the West Wallsend Coal Company (Limited) of the one part and the Monk-Wearmouth Colliery Estate Company of Australia (Limited) of the other part.

WITNESSETH that in consideration of the terms hereinafter expressed the said Companies have agreed to join in constructing a railway line from a point near the West Wallsend Coal Company's pit to the Sydney and Waratah Railway Line the cost of construction and purchase of land for the said line to run over and all the necessary expenses of laying the said railway line to be borne by the respective Companies in equal shares half cost of value of land belonging to West Wallsend over which railway passes to be paid by Monk-Wearmouth The cost of renewals and maintenances to the said railway line to be paid by each Company or their transferees in proportion to the traffic done by each Company or their transferees and it is also agreed that should the Monk-Wearmouth Colliery Estate Company of Australia (Limited) or their transferees so desire they shall be at liberty to construct an extension of the said railway line from the said West Wallsend Coal Company pit to their collieries situated at Monk-Wearmouth at the cost of the said Monk-Wearmouth Colliery Estate Company Provided always that the West Wallsend Coal Company (Limited) or their transferees shall be at liberty to use the said extension by paying a proportionate part of the cost of renewals and maintenance to the extension according to the traffic done by the said West Wallsend Coal Company (Limited) or their transferees and it is further agreed between the parties hereto that in case of any dispute arising as to the management and construction of the said line the same shall be referred to arbitration as provided for in the "West Wallsend and Monk-Wearmouth Railway Act of 1886."

SECOND SCHEDULE.

Commencing about the centre of portion one hundred and twenty parish of Teralba county of Northumberland and running southerly crossing a Government road at a distance of about one thousand three hundred links east of the western boundary of the above-mentioned section thence south-west for about twenty-two chains where it crosses a Government road and the southern boundary of the above section thence southerly passing through section one hundred and seventeen and through section one hundred and eighteen in a south-eastern direction crossing a Government road passing through block one hundred and seventeen and running about two chains south of Isaac Griffiths' section number sixty it crosses the Wallsend and Flaggy Creek Government road at a point about three chains west of the north-west boundary of Morgan and Price's section number seventy thence through that section at a point about eight chains from the said north-western corner and enters the property of the Wallsend Coal Company about twenty-two chains from the south-eastern corner of Morgan and Price's section number seventy running in the same course until it gains Cockle Creek at the junction of the three creeks whence it runs easterly for about four chains to cross the creek in a straight course from whence it takes a straight course until it terminates on the Newcastle and Waratah railway line at a point about ninety-two miles forty-five chains distant from Sydney.

