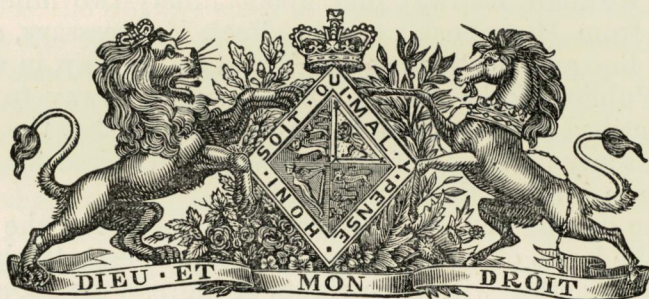


New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to enable the “Young Wallsend Coal Company (Limited)” to construct a Railway from the Young Wallsend Coal-fields to the Sydney and Waratah Railway. [Assented to, 10th January, 1889.]

WHEREAS certain persons now residing in the Colony of New South Wales propose opening coal-mines, and establishing a colliery, or collieries, on a parcel of land situated near Newcastle, in the parish of Teralba, county of Northumberland, and have formed themselves into a Company called the “Young Wallsend Coal Company (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 over Government roads and through land the property of 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,

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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 Company to make and construct a railway from a point on the north of the Government road leading from Wallsend to Cooranbong, crossing that and other Government roads, and through the lands known as those of Isaac Griffiths, Gilbert Ridley, John Charles Bonarius, James Gibson, and William Hestlow, and the Newcastle Wallsend Coal Company, joining the Sydney and Waratah Railway line, about ninety-two miles seventy-eight chains from Homebush; and to effect, if necessary, a junction between said line and the Sydney and Waratah Railway, in accordance with the "Public Works Act of 1888," such railway to be in the direction described in the 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 Company for the purposes of railway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the Company, 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 Company 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 Company shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall, at 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 Company, 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 Company as to the necessity for such fences and gates, then the said Company 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 Company of a sum not exceeding twopence per ton per mile in respect of every ton of goods for every transit, the party seeking

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seeking transit supplying and loading his own trucks or waggons, and the Company 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 Company 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 Company 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 Company 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 Company 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 Company 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 Company shall, if required, at the expense of such owners or occupiers, make openings in the rails, and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the said railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Company 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 Company 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 Company 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 Company, their deputies, agents, servants, and workmen, and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing the 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 Company 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;

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

Right to carry
passengers.

7. It shall be lawful for, but not compulsory upon the said Company 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 Company 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 authorized 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 and make liable the said Company 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 Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to; but, on the contrary, the Company 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 Company 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 Company or as to the repair thereof by them, such question shall be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company 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 Company, 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 Company on such road in the course of the using thereof.

Owners crossing.

9. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between the 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 said lands, or for the exercise of such right-of-way, and so as not to obstruct

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obstruct the passage along the railway or to damage the same, nevertheless if the owner or occupier of any such lands have in his arrangements with the Company 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 Company 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 said Commissioners, in any case in which they 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 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 accident, or of slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto, at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Company shall, within forty-eight hours after such entry, make a report to the said Commissioners, 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 Commissioners 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 bridge 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

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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 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 railways.

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 roads, 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 Company 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 Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the 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 Company 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

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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.

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 Drains. 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.

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 Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places.

Provided always that the Company shall not be required to make such accommodation works in such 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 animals under his care have passed through the same, he shall forfeit for any 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 Company 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 Company. 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 Company 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 work, or if any other question as to compensation shall arise under this Act, the amount of such Compensation clause.

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Appointment of
arbitrators.

such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say. Unless both parties shall concur in the appointment 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. When 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 matter so referred to him shall be final.

Attorney-General to
appoint umpire on
neglect.

22. If in either of the cases aforesaid, the arbitrators shall refuse or for seven days after the 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 arbitrators 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.

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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 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.

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

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 arbitrator 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 a 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 “Young Wallsend Coal Company's Railway Act.”

Made and subscribed in the presence of

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 Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, 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 Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to the Company.

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 Company 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, cost, charges, and inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company 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 Company shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent

Compensation to be made for temporary occupation.

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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 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 Commissioners
not to be taken.

34. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the said Commissioners, or to alter or interfere with the Great Northern Railway, or any other 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 said Commissioners.

Commissioners may
erect signals and
appoint watchmen
and switchmen.

35. The said Commissioners shall from time to time erect such signals and conveniences incident to the junction, either upon their own lands or on the lands of the Company; 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 Company.

Working of signals
to be under
regulations of
Commissioners.

36. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the said Commissioners.

Government
Railways and Public
Works Acts of 1888
not altered or
repealed.

37. Nothing herein contained shall alter or repeal or otherwise affect the "Government Railways Act of 1888," and the "Public Works Act of 1888."

Interpretation clause.

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

Short title.

39. This Act whenever cited shall be sufficiently described as the "Young Wallsend Coal Company's Railway Act of 1888."

SCHEDULE.

Commencing about the centre portion of sixty, parish of Teralba, county of Northumberland, and running in a easterly direction, crossing a Government main road leading from Cooranbong to Newcastle, at an angle of three chains, for a distance of thirty-seven chains, for a distance of thirty-seven chains seventy links; and thence crosses Cocked Hat Creek into section seventy-one in the same direction for a distance of about nineteen chains thirty links; and thence passes through Ridley's garden reserve for a distance of about four chains; and thence continue in the same direction to a distance of ten and a half chains to Mr. J. C. Bonarius' private property, and continues for a distance of about eighteen and a half chains; and thence passes into Wallsend Coal Company property about three chains south of the main road and continue in the same direction for a distance of about eight and a half chains, crossing a Government road leading to Cockle Creek Wharf; and thence continue in the same direction for about four chains crossing Millar's Creek; and thence continue in a south easterly direction for a distance of about six chains, crossing a Government road leading to Millar's Wharf; and thence passes over the head of Cockle Creek in a southerly direction of about thirty-four and a half chains, in the distance crosses the Government road leading from Newcastle to the Lake; and thence continued in the same direction of about thirty-six chains, and terminates on the Homebush and Waratah railway line at a point about ninety-two miles seventy-eight chains distant from Sydney.

New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to enable the “Young Wallsend Coal Company (Limited)” to construct a Railway from the Young Wallsend Coal-fields to the Sydney and Waratah Railway. [Assented to, 10th January, 1889.]

WHEREAS certain persons now residing in the Colony of New South Wales propose opening coal-mines, and establishing a colliery, or collieries, on a parcel of land situated near Newcastle, in the parish of Teralba, county of Northumberland, and have formed themselves into a Company called the “Young Wallsend Coal Company (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 over Government roads and through land the property of 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,

A

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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 Company to make and construct a railway from a point on the north of the Government road leading from Wallsend to Cooranbong, crossing that and other Government roads, and through the lands known as those of Isaac Griffiths, Gilbert Ridley, John Charles Bonarius, James Gibson, and William Hestlow, and the Newcastle Wallsend Coal Company, joining the Sydney and Waratah Railway line, about ninety-two miles seventy-eight chains from Homebush; and to effect, if necessary, a junction between said line and the Sydney and Waratah Railway, in accordance with the "Public Works Act of 1888," such railway to be in the direction described in the 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 Company for the purposes of railway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the Company, 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 Company 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 Company shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall, at 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 Company, 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 Company as to the necessity for such fences and gates, then the said Company 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 Company of a sum not exceeding twopence per ton per mile in respect of every ton of goods for every transit, the party seeking

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seeking transit supplying and loading his own trucks or waggons, and the Company 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 Company 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 Company 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 Company 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 Company 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 Company 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 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 Company shall, if required, at the expense of such owners or occupiers, make openings in the rails, and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the said railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Company 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 Company 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 Company under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter contained, it shall be lawful for the Company, their deputies, agents, servants, and workmen, and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing the 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 Company do not cause another sufficient road to be 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

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

Right to carry
passengers.

7. It shall be lawful for, but not compulsory upon the said Company 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 Company 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 authorized 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 and make liable the said Company 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 Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to; but, on the contrary, the Company 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 Company 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 Company or as to the repair thereof by them, such question shall be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company 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 Company, 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 Company on such road in the course of the using thereof.

Owners crossing.

9. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between the 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 said lands, or for the exercise of such right-of-way, and so as not to obstruct

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obstruct the passage along the railway or to damage the same, nevertheless if the owner or occupier of any such lands have in his arrangements with the Company 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 Company 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 said Commissioners, in any case in which they 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 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 accident, or of slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto, at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Company shall, within forty-eight hours after such entry, make a report to the said Commissioners, 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 Commissioners 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 bridge 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.

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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 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 railways.

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 roads, 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 Company 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 Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the 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 Company 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

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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.

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 Drains. 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.

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 Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places.

Provided always that the Company shall not be required to make such accommodation works in such 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 Penalty on persons omitting to fasten gates. 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 animals under his care have passed through the same, he shall forfeit for any such offence any sum not exceeding ten pounds, recoverable in a summary way before any two Justices of the Peace.

18. The Company shall not be entitled to any mines of coal, Minerals not to pass. 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 Company.

19. If within twenty-eight days after the passing of this Act Compensation clause. the said persons through whose lands the railway shall pass, or any of them, and the Company 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 work, or if any other question as to compensation shall arise under this Act, the amount of such

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Appointment of
arbitrators.

such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say. Unless both parties shall concur in the appointment 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. When 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 matter so referred to him shall be final.

Attorney-General to
appoint umpire on
neglect.

22. If in either of the cases aforesaid, the arbitrators shall refuse or for seven days after the 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 arbitrators 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.

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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 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.

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

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 arbitrator 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 a 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 "Young Wallsend Coal Company's Railway Act."

Made and subscribed in the presence of

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 Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, 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 Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to the Company.

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 Company 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, cost, charges, and inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company 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 Company shall take temporary possession of lands by virtue of the powers hereby granted, it shall be

Compensation to be made for temporary occupation,

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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 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 Commissioners
not to be taken.

34. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the said Commissioners, or to alter or interfere with the Great Northern Railway, or any other 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 said Commissioners.

Commissioners may
erect signals and
appoint watchmen
and switchmen.

35. The said Commissioners shall from time to time erect such signals and conveniences incident to the junction, either upon their own lands or on the lands of the Company; 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 Company.

Working of signals
to be under
regulations of
Commissioners.

36. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the said Commissioners.

Government
Railways and Public
Works Acts of 1888
not altered or
repealed.

37. Nothing herein contained shall alter or repeal or otherwise affect the "Government Railways Act of 1888," and the "Public Works Act of 1888."

Interpretation clause.

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

Short title.

39. This Act whenever cited shall be sufficiently described as the "Young Wallsend Coal Company's Railway Act of 1888."

SCHEDULE.

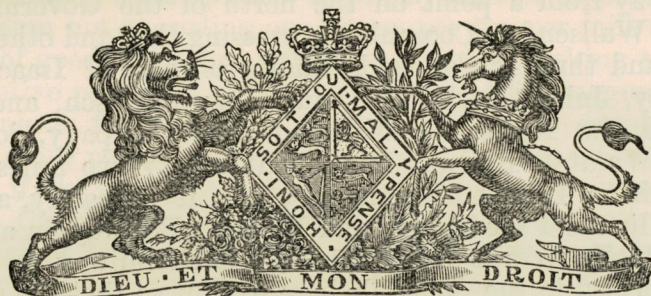
Commencing about the centre portion of sixty, parish of Teralba, county of Northumberland, and running in a easterly direction, crossing a Government main road leading from Cooranbong to Newcastle, at an angle of three chains, for a distance of thirty-seven chains, for a distance of thirty-seven chains seventy links; and thence crosses Cocked Hat Creek into section seventy-one in the same direction for a distance of about nineteen chains thirty links; and thence passes through Ridley's garden reserve for a distance of about four chains; and thence continue in the same direction to a distance of ten and a half chains to Mr. J. C. Bonarius' private property, and continues for a distance of about eighteen and a half chains; and thence passes into Wallsend Coal Company property about three chains south of the main road and continue in the same direction for a distance of about eight and a half chains, crossing a Government road leading to Cockle Creek Wharf; and thence continue in the same direction for about four chains crossing Millar's Creek; and thence continue in a south easterly direction for a distance of about six chains, crossing a Government road leading to Millar's Wharf; and thence passes over the head of Cockle Creek in a southerly direction of about thirty-four and a half chains, in the distance crosses the Government road leading from Newcastle to the Lake; and thence continued in the same direction of about thirty-six chains, and terminates on the Homebush and Waratah railway line at a point about ninety-two miles seventy-eight chains distant from Sydney.

I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Assembly Chamber,
Sydney, 13 December, 1838. }*

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

New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to enable the "Young Wallsend Coal Company (Limited)" to construct a Railway from the Young Wallsend Coal-fields to the Sydney and Waratah Railway. [Assented to, 10th January, 1889.]

WHEREAS certain persons now residing in the Colony of New South Wales propose opening coal-mines, and establishing a colliery, or collieries, on a parcel of land situated near Newcastle, in the parish of Teralba, county of Northumberland, and have formed themselves into a Company called the "Young Wallsend Coal Company (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 over Government roads and through land the property of 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,

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

ANGUS CAMERON,
Chairman of Committees of the Legislative Assembly.

Young Wallsend Coal Company's Railway.

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 Company to make and construct a railway from a point on the north of the Government road leading from Wallsend to Cooranbong, crossing that and other Government roads, and through the lands known as those of Isaac Griffiths, Gilbert Ridley, John Charles Bonarius, James Gibson, and William Hestlow, and the Newcastle Wallsend Coal Company, joining the Sydney and Waratah Railway line, about ninety-two miles seventy-eight chains from Homebush; and to effect, if necessary, a junction between said line and the Sydney and Waratah Railway, in accordance with the "Public Works Act of 1888," such railway to be in the direction described in the 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 Company for the purposes of railway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the Company, 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 Company 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 Company shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall, at 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 Company, 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 Company as to the necessity for such fences and gates, then the said Company 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 Company of a sum not exceeding twopence per ton per mile in respect of every ton of goods for every transit, the party seeking

Young Wallsend Coal Company's Railway.

seeking transit supplying and loading his own trucks or waggons, and the Company 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 Company 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 Company 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 Company 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 Company 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 Company 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 Company shall, if required, at the expense of such owners or occupiers, make openings in the rails, and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the said railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Company 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 Company 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 Company 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 Company, their deputies, agents, servants, and workmen, and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing the 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 Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, Penalty for not substituting a road. 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

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

Right to carry
passengers.

7. It shall be lawful for, but not compulsory upon the said Company 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 Company 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 authorized 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 and make liable the said Company 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 Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to; but, on the contrary, the Company 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 Company 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 Company or as to the repair thereof by them, such question shall be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company 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 Company, 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 Company on such road in the course of the using thereof.

Owners crossing.

9. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between the 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 said lands, or for the exercise of such right-of-way, and so as not to obstruct

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obstruct the passage along the railway or to damage the same, nevertheless if the owner or occupier of any such lands have in his arrangements with the Company 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 Company 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 said Commissioners, in any case in which they 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 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 accident, or of slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto, at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Company shall, within forty-eight hours after such entry, make a report to the said Commissioners, 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 Commissioners 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 bridge 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.

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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 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 railways.

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 roads, 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 Company 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 Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the 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 Company 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

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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.

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 Drains. 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.

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 Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places.

Provided always that the Company shall not be required to make such accommodation works in such 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 Penalty on persons omitting to fasten gates. 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 animals under his care have passed through the same, he shall forfeit for any such offence any sum not exceeding ten pounds, recoverable in a summary way before any two Justices of the Peace.

18. The Company shall not be entitled to any mines of coal, Minerals not to pass. 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 Company.

19. If within twenty-eight days after the passing of this Act Compensation clause. the said persons through whose lands the railway shall pass, or any of them, and the Company 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 work, or if any other question as to compensation shall arise under this Act, the amount of such

Young Wallsend Coal Company's Railway.

Appointment of
arbitrators.

such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say. Unless both parties shall concur in the appointment 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. When 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 matter so referred to him shall be final.

Attorney-General to
appoint umpire on
neglect.

22. If in either of the cases aforesaid, the arbitrators shall refuse or for seven days after the 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 arbitrators 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.

25.

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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 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.

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

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 a 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 "Young Wallsend Coal Company's Railway Act."

Made and subscribed in the presence of

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 Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, 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 Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to the Company.

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 Company 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, cost, charges, and inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company 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 Company shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent

Compensation to be made for temporary occupation.

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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 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.

34. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the said Commissioners, or to alter or interfere with the Great Northern Railway, or any other 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 said Commissioners.

35. The said Commissioners shall from time to time erect such signals and conveniences incident to the junction, either upon their own lands or on the lands of the Company; 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 Company.

36. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the said Commissioners.

37. Nothing herein contained shall alter or repeal or otherwise affect the "Government Railways Act of 1888," and the "Public Works Act of 1888."

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

39. This Act whenever cited shall be sufficiently described as the "Young Wallsend Coal Company's Railway Act of 1888."

SCHEDULE.

Commencing about the centre portion of sixty, parish of Teralba, county of Northumberland, and running in a easterly direction, crossing a Government main road leading from Cooranbong to Newcastle, at an angle of three chains, for a distance of thirty-seven chains, for a distance of thirty-seven chains seventy links; and thence crosses Cocked Hat Creek into section seventy-one in the same direction for a distance of about nineteen chains thirty links; and thence passes through Ridley's garden reserve for a distance of about four chains; and thence continue in the same direction to a distance of ten and a half chains to Mr. J. C. Bonarius' private property, and continues for a distance of about eighteen and a half chains; and thence passes into Wallsend Coal Company property about three chains south of the main road and continue in the same direction for a distance of about eight and a half chains, crossing a Government road leading to Cockle Creek Wharf; and thence continue in the same direction for about four chains crossing Millar's Creek; and thence continue in a south easterly direction for a distance of about six chains, crossing a Government road leading to Millar's Wharf; and thence passes over the head of Cockle Creek in a southerly direction of about thirty-four and a half chains, in the distance crosses the Government road leading from Newcastle to the Lake; and thence continued in the same direction of about thirty-six chains, and terminates on the Homebush and Waratah railway line at a point about ninety-two miles seventy-eight chains distant from Sydney.

In the name and on the behalf of Her Majesty I assent to this Act.

CARRINGTON.

Sydney, 10th January, 1889.

Lands belonging to Commissioners not to be taken.

Commissioners may erect signals and appoint watchmen and switchmen.

Working of signals to be under regulations of Commissioners.
Government Railways and Public Works Acts of 1888 not altered or repealed.
Interpretation clause.

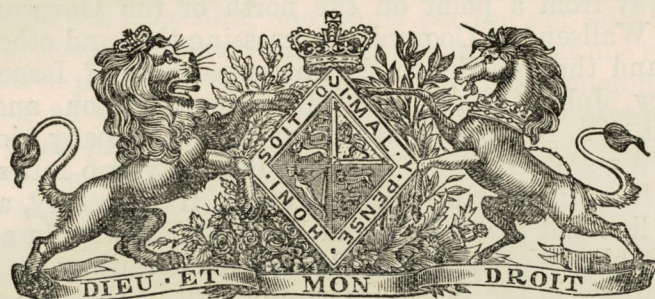
Short title.

I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Assembly Chamber,
Sydney, 13 December, 1888. }*

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

New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to enable the "Young Wallsend Coal Company (Limited)" to construct a Railway from the Young Wallsend Coal-fields to the Sydney and Waratah Railway. [Assented to, 10th January, 1889.]

WHEREAS certain persons now residing in the Colony of New South Wales propose opening coal-mines, and establishing a colliery, or collieries, on a parcel of land situated near Newcastle, in the parish of Teralba, county of Northumberland, and have formed themselves into a Company called the "Young Wallsend Coal Company (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 over Government roads and through land the property of 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,

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

*ANGUS CAMERON,
Chairman of Committees of the Legislative Assembly.*

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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 Company to make and construct a railway from a point on the north of the Government road leading from Wallsend to Cooranbong, crossing that and other Government roads, and through the lands known as those of Isaac Griffiths, Gilbert Ridley, John Charles Bonarius, James Gibson, and William Hestlow, and the Newcastle Wallsend Coal Company, joining the Sydney and Waratah Railway line, about ninety-two miles seventy-eight chains from Homebush; and to effect, if necessary, a junction between said line and the Sydney and Waratah Railway, in accordance with the "Public Works Act of 1888," such railway to be in the direction described in the 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 Company for the purposes of railway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the Company, 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 Company 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 Company shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall, at 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 Company, 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 Company as to the necessity for such fences and gates, then the said Company 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 Company of a sum not exceeding twopence per ton per mile in respect of every ton of goods for every transit, the party seeking

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seeking transit supplying and loading his own trucks or waggons, and the Company 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 Company 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 Company 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 Company 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 Company 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 Company 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 Company shall, if required, at the expense of such owners or occupiers, make openings in the rails, and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the said railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Company 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 Company 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 Company 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 Company, their deputies, agents, servants, and workmen, and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing the 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 Company do not cause another sufficient road to be 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

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

Right to carry
passengers.

7. It shall be lawful for, but not compulsory upon the said Company 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 Company 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 authorized 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 and make liable the said Company 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 Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to; but, on the contrary, the Company 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 Company 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 Company or as to the repair thereof by them, such question shall be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company 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 Company, 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 Company on such road in the course of the using thereof.

Owners crossing.

9. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between the 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 said lands, or for the exercise of such right-of-way, and so as not to obstruct

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obstruct the passage along the railway or to damage the same, nevertheless if the owner or occupier of any such lands have in his arrangements with the Company 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 Company 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 said Commissioners, in any case in which they 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 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 accident, or of slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto, at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Company shall, within forty-eight hours after such entry, make a report to the said Commissioners, 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 Commissioners 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 bridge 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.

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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 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 railways.

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 roads, 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 Company 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 Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the 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 Company 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

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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.

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 Drains. 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.

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 Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places.

Provided always that the Company shall not be required to make such accommodation works in such 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 animals under his care have passed through the same, he shall forfeit for any 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 Company 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 Company. 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 Company 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 work, or if any other question as to compensation shall arise under this Act, the amount of such Compensation clause.

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Appointment of
arbitrators.

such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say. Unless both parties shall concur in the appointment 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. When 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 matter so referred to him shall be final.

Attorney-General to
appoint umpire on
neglect.

22. If in either of the cases aforesaid, the arbitrators shall refuse or for seven days after the 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 arbitrators 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.

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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 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.

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

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 a 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 "Young Wallsend Coal Company's Railway Act."

Made and subscribed in the presence of

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 Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, 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 Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to the Company.

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 Company 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, cost, charges, and inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company 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 Company shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent

Compensation to be made for temporary occupation.

Young Wallsend Coal Company's Railway.

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 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 Commissioners
not to be taken.

34. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the said Commissioners, or to alter or interfere with the Great Northern Railway, or any other 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 said Commissioners.

Commissioners may
erect signals and
appoint watchmen
and switchmen.

35. The said Commissioners shall from time to time erect such signals and conveniences incident to the junction, either upon their own lands or on the lands of the Company; 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 Company.

Working of signals
to be under
regulations of
Commissioners.
Government
Railways and Public
Works Acts of 1888
not altered or
repealed.

36. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the said Commissioners.

Interpretation clause.

37. Nothing herein contained shall alter or repeal or otherwise affect the "Government Railways Act of 1888," and the "Public Works Act of 1888."

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

Short title.

39. This Act whenever cited shall be sufficiently described as the "Young Wallsend Coal Company's Railway Act of 1888."

SCHEDULE.

Commencing about the centre portion of sixty, parish of Teralba, county of Northumberland, and running in a easterly direction, crossing a Government main road leading from Cooranbong to Newcastle, at an angle of three chains, for a distance of thirty-seven chains, for a distance of thirty-seven chains seventy links; and thence crosses Cocked Hat Creek into section seventy-one in the same direction for a distance of about nineteen chains thirty links; and thence passes through Ridley's garden reserve for a distance of about four chains; and thence continue in the same direction to a distance of ten and a half chains to Mr. J. C. Bonarius' private property, and continues for a distance of about eighteen and a half chains; and thence passes into Wallsend Coal Company property about three chains south of the main road and continue in the same direction for a distance of about eight and a half chains, crossing a Government road leading to Cockle Creek Wharf; and thence continue in the same direction for about four chains crossing Millar's Creek; and thence continue in a south easterly direction for a distance of about six chains, crossing a Government road leading to Millar's Wharf; and thence passes over the head of Cockle Creek in a southerly direction of about thirty-four and a half chains, in the distance crosses the Government road leading from Newcastle to the Lake; and thence continued in the same direction of about thirty-six chains, and terminates on the Homebush and Waratah railway line at a point about ninety-two miles seventy-eight chains distant from Sydney.

In the name and on the behalf of Her Majesty I assent to this Act.

CARRINGTON.

Sydney, 10th January, 1889.

I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Assembly Chamber,
Sydney, 13 December, 1888. }*

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

New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to enable the "Young Wallsend Coal Company (Limited)" to construct a Railway from the Young Wallsend Coal-fields to the Sydney and Waratah Railway. [Assented to, 10th January, 1889.]

WHEREAS certain persons now residing in the Colony of New South Wales propose opening coal-mines, and establishing a colliery, or collieries, on a parcel of land situated near Newcastle, in the parish of Teralba, county of Northumberland, and have formed themselves into a Company called the "Young Wallsend Coal Company (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 over Government roads and through land the property of 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,

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

*ANGUS CAMERON,
Chairman of Committees of the Legislative Assembly.*

Young Wallsend Coal Company's Railway.

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 Company to make and construct a railway from a point on the north of the Government road leading from Wallsend to Cooranbong, crossing that and other Government roads, and through the lands known as those of Isaac Griffiths, Gilbert Ridley, John Charles Bonarius, James Gibson, and William Hestlow, and the Newcastle Wallsend Coal Company, joining the Sydney and Waratah Railway line, about ninety-two miles seventy-eight chains from Homebush; and to effect, if necessary, a junction between said line and the Sydney and Waratah Railway, in accordance with the "Public Works Act of 1888," such railway to be in the direction described in the 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 Company for the purposes of railway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the Company, 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 Company 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 Company shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall, at 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 Company, 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 Company as to the necessity for such fences and gates, then the said Company 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 Company of a sum not exceeding twopence per ton per mile in respect of every ton of goods for every transit, the party seeking

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seeking transit supplying and loading his own trucks or waggons, and the Company 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 Company 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 Company 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 Company 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 Company 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 Company 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 Company shall, if required, at the expense of such owners or occupiers, make openings in the rails, and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the said railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Company 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 Company 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 Company 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 Company, their deputies, agents, servants, and workmen, and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing the 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 Company 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

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

Right to carry
passengers.

7. It shall be lawful for, but not compulsory upon the said Company 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 Company 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 authorized 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 and make liable the said Company 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 Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to; but, on the contrary, the Company 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 Company 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 Company or as to the repair thereof by them, such question shall be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company 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 Company, 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 Company on such road in the course of the using thereof.

Owners crossing.

9. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between the 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 said lands, or for the exercise of such right-of-way, and so as not to obstruct

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obstruct the passage along the railway or to damage the same, nevertheless if the owner or occupier of any such lands have in his arrangements with the Company 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 Company 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 said Commissioners, in any case in which they 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 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 accident, or of slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto, at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Company shall, within forty-eight hours after such entry, make a report to the said Commissioners, 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 Commissioners 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
bridge 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.

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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 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 railways. 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 roads, 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 Company 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 Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the 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 Company 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

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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.

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 Drains. 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.

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 Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places.

Provided always that the Company shall not be required to make such accommodation works in such 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 animals under his care have passed through the same, he shall forfeit for any 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 Company 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 Company. 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 Company 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 work, or if any other question as to compensation shall arise under this Act, the amount of such Compensation clause.

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Appointment of
arbitrators.

such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say. Unless both parties shall concur in the appointment 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. When 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 matter so referred to him shall be final.

Attorney-General to
appoint umpire on
neglect.

22. If in either of the cases aforesaid, the arbitrators shall refuse or for seven days after the 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 arbitrators 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.

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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 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.

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

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 a 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 "Young Wallsend Coal Company's Railway Act."

Made and subscribed in the presence of

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 Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, 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 Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to the Company.

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 Company 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, cost, charges, and inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company 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 Company shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent

Compensation to be made for temporary occupation.

Young Wallsend Coal Company's Railway.

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 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 Commissioners
not to be taken.

34. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the said Commissioners, or to alter or interfere with the Great Northern Railway, or any other 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 said Commissioners.

Commissioners may
erect signals and
appoint watchmen
and switchmen.

35. The said Commissioners shall from time to time erect such signals and conveniences incident to the junction, either upon their own lands or on the lands of the Company; 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 Company.

Working of signals
to be under
regulations of
Commissioners.

36. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the said Commissioners.

Government
Railways and Public
Works Acts of 1888
not altered or
repealed.

37. Nothing herein contained shall alter or repeal or otherwise affect the "Government Railways Act of 1888," and the "Public Works Act of 1888."

Interpretation clause.

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

Short title.

39. This Act whenever cited shall be sufficiently described as the "Young Wallsend Coal Company's Railway Act of 1888."

SCHEDULE.

Commencing about the centre portion of sixty, parish of Teralba, county of Northumberland, and running in a easterly direction, crossing a Government main road leading from Cooranbong to Newcastle, at an angle of three chains, for a distance of thirty-seven chains, for a distance of thirty-seven chains seventy links; and thence crosses Cocked Hat Creek into section seventy-one in the same direction for a distance of about nineteen chains thirty links; and thence passes through Ridley's garden reserve for a distance of about four chains; and thence continue in the same direction to a distance of ten and a half chains to Mr. J. C. Bonarius' private property, and continues for a distance of about eighteen and a half chains; and thence passes into Wallsend Coal Company property about three chains south of the main road and continue in the same direction for a distance of about eight and a half chains, crossing a Government road leading to Cockle Creek Wharf; and thence continue in the same direction for about four chains crossing Millar's Creek; and thence continue in a south easterly direction for a distance of about six chains, crossing a Government road leading to Millar's Wharf; and thence passes over the head of Cockle Creek in a southerly direction of about thirty-four and a half chains, in the distance crosses the Government road leading from Newcastle to the Lake; and thence continued in the same direction of about thirty-six chains, and terminates on the Homebush and Waratah railway line at a point about ninety-two miles seventy-eight chains distant from Sydney.

In the name and on the behalf of Her Majesty I assent to this Act.

CARRINGTON.

Sydney, 10th January, 1889.

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, 5 December, 1888. }*

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

New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to enable the "Young Wallsend Coal Company (Limited)" to construct a Railway from the Young 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 a colliery, or collieries, on a parcel of land situated near Newcastle, in the parish of Teralba, county of Northumberland, and have formed themselves into a Company called the "Young Wallsend Coal Company (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 over Government roads and through land the property of 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,

165—A

Young Wallsend Coal Company's Railway.

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 5 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 Company to make and construct a railway from a point on the north of the Government road 10 leading from Wallsend to Cooranbong, crossing that and other Government roads, and through the lands known as those of Isaac Griffiths, Gilbert Ridley, John Charles Bonarius, James Gibson, and William Hestlow, and the Newcastle Wallsend Coal Company, joining the Sydney and Waratah Railway line, about ninety-two miles seventy- 15 eight chains from Homebush; and to effect, if necessary, a junction between said line and the Sydney and Waratah Railway, in accordance with the "Public Works Act of 1888," such railway to be in the direction described in the Schedule hereto; but so that the same shall not occupy, at any part thereof (except where required for sidings), a 20 greater space in breadth than sixty-six feet.

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 25 thereof shall be vested by virtue of this Act, and without the necessity of any conveyance in the Company for the purposes of railway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the Company, and nothing herein contained shall prevent the said owners from 30 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 Company 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, 35 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 Company shall, before 40 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 Company, before they use the said lands of the said owners of land, and the said Crown 45 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 50 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 Company as to the necessity for such fences and gates, then the said Company shall put up and erect such fences and gates as any two Justices of the 55 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 Company of a sum not exceeding twopence per ton per mile in respect of every ton of goods for every transit, the party 60 seeking

Railway open to the public.

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seeking transit supplying and loading his own trucks or waggons, and the Company 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 Company to supply
 5 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 Company of a sum not exceeding one penny per ton per mile in respect of
 10 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 Company 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
 15 Company 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
 20 Company 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
 25 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 Company shall, if required, at the expense of such owners or occupiers, make openings in the rails, and such additional lines of railway as may be necessary for effecting such communi-
 30 cation 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 Company 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 Company 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
 45 Company 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 Company, their deputies, agents, servants, and workmen, and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing
 50 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 Company 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,
 55 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

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

7. It shall be lawful for, but not compulsory upon the said Company 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 Company 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 authorized 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 and make liable the said Company 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 Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to; but, on the contrary, the Company 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 Company 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 Company or as to the repair thereof by them, such question shall be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company 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 Company, 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 Company on such road in the course of the using thereof.

9. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between the 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 said lands, or for the exercise of such right-of-way, and so as not to obstruct

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obstruct the passage along the railway or to damage the same, nevertheless if the owner or occupier of any such lands have in his arrangements with the Company 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 Company 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 said Commissioners, in any case in which they 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 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 accident, or of slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto, at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Company shall, within forty-eight hours after such entry, make a report to the said Commissioners, 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 Commissioners 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 bridge 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

Young Wallsend Coal Company's Railway.

5 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 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.

10 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.

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

Construction of bridges over railways.

20 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.

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 roads, 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 Company 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.

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

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 Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the 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.

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

16. The Company 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—

Works for benefit of owners.

60 Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the

Gates, bridges, &c.

the

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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.

5 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
10 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
15 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 Drains.
20 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.

25 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
30 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 Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places.

35 Provided always that the Company shall not be required to make such accommodation works in such 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
40 instead of the making them.

17. If any person omit to shut and fasten any gate, set up at Penalty on persons omitting to fasten gates.
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 animals under his care have passed through the same, he shall
45 forfeit for any such offence any sum not exceeding ten pounds, recoverable in a summary way before any two Justices of the Peace.

18. The Company shall not be entitled to any mines of coal, Minerals not to pass.
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
50 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 Company.

19. If within twenty-eight days after the passing of this Act Compensation clause.
the said persons through whose lands the railway shall pass, or any of
55 them, and the Company 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 work, or if any other question as to compensation shall arise under this Act, the amount of
such

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such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say. Unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such

Appointment of arbitrators.

5 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
10 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
15 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
20 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.

20. If before the matter so referred shall be determined any arbitrator appointed by either party shall die, or become incapable, or
25 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.
30 And every arbitrator so to be substituted as aforesaid, shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, neglect, or disability as aforesaid.

Vacancy of arbitrator to be supplied.

21. When more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to
35 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,
40 refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire on the matter so referred to him shall be final.

Appointment of umpire.

22. If in either of the cases aforesaid, the arbitrators shall refuse or for seven days after the request of either party to such arbitration neglect to appoint an umpire, it shall be lawful for the
45 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.

Attorney-General to appoint umpire on neglect.

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

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

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

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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 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.

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

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 a 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 "Young Wallsend Coal Company's Railway Act."

Made and subscribed in the presence of

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 Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, 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 Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to the Company.

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 Company 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, cost, charges, and inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company 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 Company shall take temporary possession of lands by virtue of the powers hereby granted, it shall be

Compensation to be made for temporary occupation.

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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 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.

34. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the said Commissioners, or to alter or interfere with the Great Northern Railway, or any other 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 said Commissioners.

Lands belonging to Commissioners not to be taken.

35. The said Commissioners shall from time to time erect such signals and conveniences incident to the junction, either upon their own lands or on the lands of the Company; 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 Company.

Commissioners may erect signals and appoint watchmen and switchmen.

36. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the said Commissioners.

Working of signals to be under regulations of Commissioners.

37. Nothing herein contained shall alter or repeal or otherwise affect the "Government Railways Act of 1888," and the "Public Works Act of 1888."

Government Railways and Public Works Acts of 1888 not altered or repealed.

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

Interpretation clause.

39. This Act whenever cited shall be sufficiently described as the "Young Wallsend Coal Company's Railway Act of 1888."

Short title.

SCHEDULE.

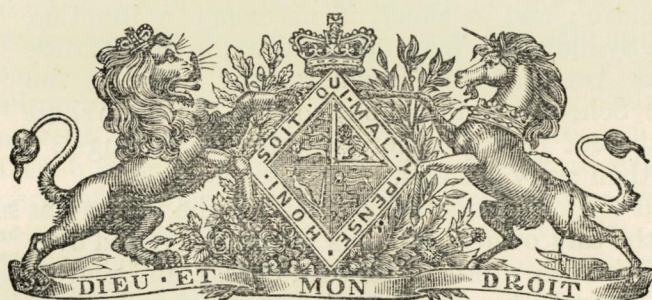
Commencing about the centre portion of sixty, parish of Teralba, county of Northumberland, and running in a easterly direction, crossing a Government main road leading from Cooranbong to Newcastle, at an angle of three chains, for a distance of thirty-seven chains, for a distance of thirty-seven chains seventy links; and thence crosses Cocked Hat Creek into section seventy-one in the same direction for a distance of about nineteen chains thirty links; and thence passes through Ridley's garden reserve for a distance of about four chains; and thence continue in the same direction to a distance of ten and a half chains to Mr. J. C. Bonarius' private property, and continues for a distance of about eighteen and a half chains; and thence passes into Wallsend Coal Company property about three chains south of the main road and continue in the same direction for a distance of about eight and a half chains, crossing a Government road leading to Cockle Creek Wharf; and thence continue in the same direction for about four chains crossing Millar's Creek; and thence continue in a south easterly direction for a distance of about six chains, crossing a Government road leading to Millar's Wharf; and thence passes over the head of Cockle Creek in a southerly direction of about thirty-four and a half chains, in the distance crosses the Government road leading from Newcastle to the Lake; and thence continued in the same direction of about thirty-six chains, and terminates on the Homebush and Waratah railway line at a point about ninety-two miles seventy-eight chains distant from Sydney.

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, 5 December, 1888.* }

F. W. WEBB,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to enable the "Young Wallsend Coal Company (Limited)" to construct a Railway from the Young 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 a colliery, or collieries, on a parcel of land situated near Newcastle, in the parish of Teralba, county of Northumberland, and have formed themselves into a Company called the "Young Wallsend Coal Company (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 over Government roads and through land the property of 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,

165—A

Young Wallsend Coal Company's Railway.

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
 5 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 Company to make and con-
 10 struct a railway from a point on the north of the Government road leading from Wallsend to Cooranbong, crossing that and other Govern-
 ment roads, and through the lands known as those of Isaac Griffiths, Gilbert Ridley, John Charles Bonarius, James Gibson, and William Hestlow, and the Newcastle Wallsend Coal Company, joining the
 15 Sydney and Waratah Railway line, about ninety-two miles seventy-eight chains from Homebush; and to effect, if necessary, a junction between said line and the Sydney and Waratah Railway, in accordance with the "Public Works Act of 1888," such railway to be in the direction described in the Schedule hereto; but so that the same shall not occupy, at any part thereof (except where required for sidings), a
 20 greater space in breadth than sixty-six feet.

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
 25 thereof shall be vested by virtue of this Act, and without the necessity of any conveyance in the Company for the purposes of railway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the Company, and nothing herein contained shall prevent the said owners from
 30 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 Company 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,
 35 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 Company shall, before
 40 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 Company, before
 45 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
 50 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 Company as to the necessity for such fences and gates, then the said Company shall put up and erect such fences and gates as any two Justices of the
 55 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 Company of a sum not exceeding twopence per ton
 per mile in respect of every ton of goods for every transit, the party
 seeking
 Railway open to the public.

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seeking transit supplying and loading his own trucks or waggons, and the Company 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 Company to supply
 5 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 Company of a sum not exceeding one penny per ton per mile in respect of
 10 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 Company 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
 15 Company 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
 20 Company 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
 occupiers of the lands traversed by the said railway to lay down upon
 25 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 Company shall, if required, at the expense of such owners or occupiers, make openings in the rails, and such additional lines of railway as may be necessary for effecting such communi-
 30 cation 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 Company shall not be bound to make any such openings in
 35 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
 40 to all by-laws and regulations of the Company 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
 45 Company under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter
 contained, it shall be lawful for the Company, their deputies, agents, servants, and workmen, and all other persons by them authorized 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 Company do not cause another sufficient road to be so
 made before they interfere with any such existing road as aforesaid,
 55 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

Branch railways.

Power to divert or alter roads.

Penalty for not substituting a road.

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

7. It shall be lawful for, but not compulsory upon the said ^{Right to carry passengers.} Company 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 Company 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 authorized 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 and make liable the said Company 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 Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to; but, on the contrary, the Company 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 Company shall ^{Road repairs.} 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 Company or as to the repair thereof by them, such question shall be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company 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 Company, 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 Company on such road in the course of the using thereof.

9. Until the Company shall have made the bridges or other ^{Owners crossing.} proper communications which they shall under the provisions herein contained have been required to make between the 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 said lands, or for the exercise of such right-of-way, and so as not to obstruct

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obstruct the passage along the railway or to damage the same, nevertheless if the owner or occupier of any such lands have in his arrangements with the Company 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 Company 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 said Commissioners, in any case in which they 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 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 accident, or of slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto, at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Company shall, within forty-eight hours after such entry, make a report to the said Commissioners, 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 Commissioners 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 bridge 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

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5 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 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.

10 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.

15 13. Every bridge erected for carrying any road over the railway shall be built in conformity with the following regulations, that is to say— Construction of bridges over railways.

20 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.

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

35 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 Company 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

40 under the railway.

45 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 Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mean inclination of the road so to be crossed, or of the road so requiring to be altered, or for which

50 another road shall be substituted. Existing inclination of roads crossed or diverted need not be improved.

16. The Company 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— Works for benefit of owners.

60 Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the Gates, bridges, &c.

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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.

5 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
10 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
15 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 Drains.
passages, either over or under, or by the sides of the railways
20 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.

25 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
30 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 Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places.

35 Provided always that the Company shall not be required to make such accommodation works in such 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
40 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 animals under his care have passed through the same, he shall
45 forfeit for any 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 Company 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
50 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 Company. 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
55 them, and the Company 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 work, or if any other question as to compensation shall arise under this Act, the amount of such Compensation clause.

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such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say. Unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such
 5 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
 10 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
 15 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
 20 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.

Appointment of arbitrators.

20. If before the matter so referred shall be determined any arbitrator appointed by either party shall die, or become incapable, or
 25 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.
 30 And every arbitrator so to be substituted as aforesaid, shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, neglect, or disability as aforesaid.

Vacancy of arbitrator to be supplied.

21. When more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to
 35 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,
 40 refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire on the matter so referred to him shall be final.

Appointment of umpire.

22. If in either of the cases aforesaid, the arbitrators shall refuse or for seven days after the request of either party to such
 45 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.

Attorney-General to appoint umpire on neglect.

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

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

55 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 either arbitrator refuse to act the other to proceed ex parte.

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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 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.

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

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 a 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 "Young Wallsend Coal Company's Railway Act."

Made and subscribed in the presence of

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 Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, 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 Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to the Company.

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 Company 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, cost, charges, and inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company 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 Company shall take temporary possession of lands by virtue of the powers hereby granted, it shall be

Compensation to be made for temporary occupation.

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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 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.

34. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the said Commissioners, or to alter or interfere with the Great Northern Railway, or any other 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 said Commissioners.

Lands belonging to Commissioners not to be taken.

35. The said Commissioners shall from time to time erect such signals and conveniences incident to the junction, either upon their own lands or on the lands of the Company; 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 Company.

Commissioners may erect signals and appoint watchmen and switchmen.

36. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the said Commissioners.

Working of signals to be under regulations of Commissioners.

37. Nothing herein contained shall alter or repeal or otherwise affect the "Government Railways Act of 1888," and the "Public Works Act of 1888."

Government Railways and Public Works Acts of 1888 not altered or repealed.

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

Interpretation clause.

39. This Act whenever cited shall be sufficiently described as the "Young Wallsend Coal Company's Railway Act of 1888."

Short title.

SCHEDULE.

Commencing about the centre portion of sixty, parish of Teralba, county of Northumberland, and running in a easterly direction, crossing a Government main road leading from Cooranbong to Newcastle, at an angle of three chains, for a distance of thirty-seven chains, for a distance of thirty-seven chains seventy links; and thence crosses Cocked Hat Creek into section seventy-one in the same direction for a distance of about nineteen chains thirty links; and thence passes through Ridley's garden reserve for a distance of about four chains; and thence continue in the same direction to a distance of ten and a half chains to Mr. J. C. Bonarius' private property, and continues for a distance of about eighteen and a half chains; and thence passes into Wallsend Coal Company property about three chains south of the main road and continue in the same direction for a distance of about eight and a half chains, crossing a Government road leading to Cockle Creek Wharf; and thence continue in the same direction for about four chains crossing Millar's Creek; and thence continue in a south easterly direction for a distance of about six chains, crossing a Government road leading to Millar's Wharf; and thence passes over the head of Cockle Creek in a southerly direction of about thirty-four and a half chains, in the distance crosses the Government road leading from Newcastle to the Lake; and thence continued in the same direction of about thirty-six chains, and terminates on the Homebush and Waratah railway line at a point about ninety-two miles seventy-eight chains distant from Sydney.

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, 5 December, 1888.* }

F. W. WEBB,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to enable the “Young Wallsend Coal Company (Limited)” to construct a Railway from the Young 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 a colliery, or collieries, on a parcel of land situated near Newcastle, in the parish of Teralba, county of Northumberland, and have formed themselves into a Company called the “Young Wallsend Coal Company (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 over Government roads and through land the property of 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,

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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
 5 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 Company to make and construct a railway from a point on the north of the Government road
 10 leading from Wallsend to Cooranbong, crossing that and other Government roads, and through the lands known as those of Isaac Griffiths, Gilbert Ridley, John Charles Bonarius, James Gibson, and William Hestlow, and the Newcastle Wallsend Coal Company, joining the Sydney and Waratah Railway line, about ninety-two miles seventy-
 15 eight chains from Homebush; and to effect, if necessary, a junction between said line and the Sydney and Waratah Railway, in accordance with the "Public Works Act of 1888," such railway to be in the direction described in the Schedule hereto; but so that the same shall not occupy, at any part thereof (except where required for sidings), a
 20 greater space in breadth than sixty-six feet.

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
 25 thereof shall be vested by virtue of this Act, and without the necessity of any conveyance in the Company for the purposes of railway. Provided that no lands vested in the Railway Commissioners of New South Wales shall by virtue of this Act be vested in the Company, and nothing herein contained shall prevent the said owners from
 30 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 Company 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,
 35 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 Company shall, before
 40 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 Company, before they use the said lands of the said owners of land, and the said Crown
 45 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
 50 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 Company as to the necessity for such fences and gates, then the said Company shall put up and erect such fences and gates as any two Justices of the
 55 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 Company of a sum not exceeding twopence per ton
 per mile in respect of every ton of goods for every transit, the party
 seeking

Railway open to the public.

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seeking transit supplying and loading his own trucks or waggons, and the Company 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 Company to supply
 5 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 Company of a sum not exceeding one penny per ton per mile in respect of
 10 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 Company 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
 15 Company 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
 20 Company 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
 25 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 Company shall, if required, at the expense of such owners or occupiers, make openings in the rails, and such additional lines of railway as may be necessary for effecting such communi-
 30 cation 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 Company 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 Company 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
 45 Company 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 Company, their deputies, agents, servants, and workmen, and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing
 50 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 Company 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,
 55 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

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

7. It shall be lawful for, but not compulsory upon the said Company 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 Company 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 authorized 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 and make liable the said Company 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 Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to; but, on the contrary, the Company 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 Company 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 Company or as to the repair thereof by them, such question shall be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company 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 Company, 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 Company on such road in the course of the using thereof.

9. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between the 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 said lands, or for the exercise of such right-of-way, and so as not to obstruct

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

10 10. If the railway cross any public highway or parish road on a level, the Company shall erect, and at all times maintain, good and sufficient gates across such road on each side of the railway where the
 15 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
 20 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
 25 exceeding forty shillings for every default therein. Provided always that it shall be lawful for the said Commissioners, in any case in which they 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
 30 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 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.

30 11. In case of accident, or of slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto, at any time whatsoever, for the purpose of repairing or preventing such accidents, and to
 35 do such works as may be necessary for the purpose; but in every such case the Company shall, within forty-eight hours after such entry, make a report to the said Commissioners, 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 Commissioners shall,
 40 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
 45 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
 50 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 bridge 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.

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- 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 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.
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.
14. Provided always that in all cases where the average available width for the passing of carriages of any existing roads, 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 Company 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.
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 Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the 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.
16. The Company 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 railways.

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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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.

5 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 Drains. 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.

25 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 Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places.

35 Provided always that the Company shall not be required to make such accommodation works in such 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 40 instead of the making them.

17. If any person omit to shut and fasten any gate, set up at Penalty on persons omitting to fasten gates. 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 animals under his care have passed through the same, he shall 45 forfeit for any such offence any sum not exceeding ten pounds, recoverable in a summary way before any two Justices of the Peace.

18. The Company shall not be entitled to any mines of coal, Minerals not to pass. 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 50 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 Company.

19. If within twenty-eight days after the passing of this Act Compensation clause. the said persons through whose lands the railway shall pass, or any of 55 them, and the Company 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 work, or if any other question as to compensation shall arise under this Act, the amount of such

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such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say. Unless both parties shall concur in the appointment 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.

Appointment of arbitrators.

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.

Vacancy of arbitrator to be supplied.

21. When 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 matter so referred to him shall be final.

Appointment of umpire.

22. If in either of the cases aforesaid, the arbitrators shall refuse or for seven days after the 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.

Attorney-General to appoint umpire on neglect.

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

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

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

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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 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.

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

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 a 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 “Young Wallsend Coal Company's Railway Act.”

Made and subscribed in the presence of

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 Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, 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 Company, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to the Company.

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 Company 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, cost, charges, and inconveniences which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company 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 Company shall take temporary possession of lands by virtue of the powers hereby granted, it shall be

Compensation to be made for temporary occupation.

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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 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.

34. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the said Commissioners, or to alter or interfere with the Great Northern Railway, or any other 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 said Commissioners.

Lands belonging to Commissioners not to be taken.

35. The said Commissioners shall from time to time erect such signals and conveniences incident to the junction, either upon their own lands or on the lands of the Company; 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 Company.

Commissioners may erect signals and appoint watchmen and switchmen.

36. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the said Commissioners.

Working of signals to be under regulations of Commissioners.

37. Nothing herein contained shall alter or repeal or otherwise affect the "Government Railways Act of 1888," and the "Public Works Act of 1888."

Government Railways and Public Works Acts of 1888 not altered or repealed.

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

Interpretation clause.

39. This Act whenever cited shall be sufficiently described as the "Young Wallsend Coal Company's Railway Act of 1888."

Short title.

SCHEDULE.

Commencing about the centre portion of sixty, parish of Teralba, county of Northumberland, and running in a easterly direction, crossing a Government main road leading from Cooranbong to Newcastle, at an angle of three chains, for a distance of thirty-seven chains, for a distance of thirty-seven chains seventy links; and thence crosses Cocked Hat Creek into section seventy-one in the same direction for a distance of about nineteen chains thirty links; and thence passes through Ridley's garden reserve for a distance of about four chains; and thence continue in the same direction to a distance of ten and a half chains to Mr. J. C. Bonarius' private property, and continues for a distance of about eighteen and a half chains; and thence passes into Wallsend Coal Company property about three chains south of the main road and continue in the same direction for a distance of about eight and a half chains, crossing a Government road leading to Cockle Creek Wharf; and thence continue in the same direction for about four chains crossing Millar's Creek; and thence continue in a south easterly direction for a distance of about six chains, crossing a Government road leading to Millar's Wharf; and thence passes over the head of Cockle Creek in a southerly direction of about thirty-four and a half chains, in the distance crosses the Government road leading from Newcastle to the Lake; and thence continued in the same direction of about thirty-six chains, and terminates on the Homebush and Waratah railway line at a point about ninety-two miles seventy-eight chains distant from Sydney.