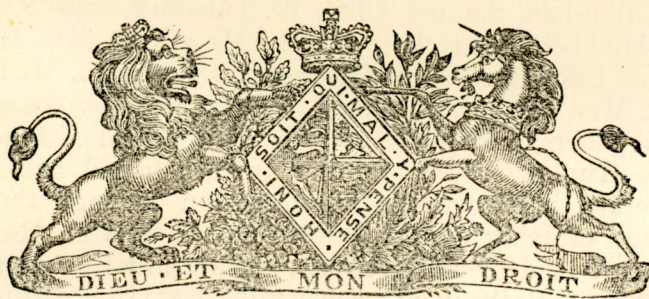


## New South Wales.



ANNO QUINQUAGESIMO TERTIO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, to construct a Railway from the Silkstone Coal-mine to the Great Northern Railway. [Assented to, 30th September, 1889.]

**W**HEREAS Richard Tilden Smith, of Sydney, in the Colony of Preamble. New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, have opened coal-mines upon lands situated near Maitland, in the parish of Stanford, in the county of Northumberland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said Richard Tilden Smith and John Thomas Mance, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to the Great Northern Railway, but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown, bodies corporate, and private persons respectively, the same cannot be made without Legislative authority. And whereas the said coal-mines are likely to prove beneficial to the Colony, and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption, steam navigation, and export, as would result from the construction of the said proposed railway, and traffic on the Great Northern Railway would be increased

A



*Silkstone Coal-mine Railway.*

increased thereby. It is therefore desirable to authorize by Legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose land 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 authority of the same, as follows:—

Authority to construct railway, and connect same with Great Northern Railway.

1. It shall be lawful for the said promoters to make and construct a railway, which shall be of the same gauge as the Government Railways, from a point inside the boundary of their property situated in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction, through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and P. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pileher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portion of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing a road, known as the Telarah Road, to and through property held by Peter Green, and terminating at a point on the Great Northern Railway, at twenty miles sixty-five chains seventy-two links from Newcastle, and which lands and route are particularly described in the Schedule, and to effect, if necessary, a junction between the said line and the Great Northern Railway in accordance with section one hundred and twelve of the "Public Works Act of 1888," such railway to be in the direction described in the Schedule, and the said promoters may take and occupy three acres of land, or any lesser area, at the junction of the said railway with the Great Northern Railway.

Site of railway shall be vested in the promoters 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 of such railway, shall so far as is necessary for the purpose of this Act be vested, by virtue of this Act, and without the necessity of any conveyance, in the promoters for the purposes of the railway. Provided that no lands vested in the Commissioners for Railways shall by virtue of this Act be vested in the promoters, 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 promoters 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 that the said railway shall be constructed and brought into use within three years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for three years continuously, all the said lands, including Crown Lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and original owners thereof, their heirs and assigns respectively. 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, so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road



*Silkstone Coal-mine Railway.*

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 promoters, 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 promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two Justices of the Peace, after inquiry, shall deem necessary for the purposes aforesaid, on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of threepence per ton in respect of every ton of coal for every transit, and for the conveyance of goods at the rate per ton not exceeding that charged by the Commissioners for Railways in respect of every ton of goods for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government 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 promoters to supply locomotive power unless the party seeking transit guarantee and bring one hundred tons, at least, during the twelve working hours, and give notice of same at least, twenty-four hours previously. The railway shall at all times be open to the public for conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-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 promoters shall be willing to supply locomotive power, no other person shall use locomotive power on the line other than the Commissioners for Railways. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power, the promoters 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 promoters 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. It shall be lawful for the owners or occupiers of the lands adjoining thereto or 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, trucks, and waggons to or from or upon the said railway, and the promoters 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

Railway open to the public.

Branch railways.



*Silkstone Coal-mine Railway.*

to the said railway, and without inconvenience to the traffic thereupon, and the promoters shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

No such railway shall run parallel to the said railway—provided that this shall not apply to any railway line connecting any other colliery in that neighbourhood with the Great Northern Railway, the promoters 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 inclined plane or bridge, nor in any tunnel.

The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters, 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 promoters, under the direction of their engineer.

Power to divert or alter roads.

5. For the purposes, and subject to the provisions hereinafter contained, it shall be lawful for the promoters, 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.

Penalty for not substituting a road.

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

Right to carry passengers.

7. It shall be lawful for but not compulsory upon the said promoters from time to time, and at any and all times, to carry passengers and live stock upon the said railway 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 promoters for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railway or any part thereof respectively. And the promoters 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 railway, 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 any person by petition to 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.



*Silkstone Coal-mine Railway.*

8. If, in the course of making the railway, the promoters 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 promoters, 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 promoters, and within such period as they may think reasonable, and may impose on the promoters 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 promoters, 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 promoters on such road in the course of the using thereof.

Road repairs.

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

Owners crossing.

10. If the railway cross any public highways or parish road on a level, the promoters 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, to be recoverable before any two Justices in a summary way. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

Provisions in cases where roads are crossed on a level.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall

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



*Silkstone Coal-mine Railway.*

shall be lawful for the promoters 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 promoters shall within forty-eight hours after such entry make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety. Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

Construction of  
bridges over roads.

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 :—

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

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be 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 railroads

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.



*Silkstone Coal-mine Railway.*

14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point 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 promoters 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 mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then the promoters may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

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

16. The promoters 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.

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

Gates, bridges, &c.

All sufficient posts, rails, hedges, ditches, mounds or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereon by reason of the railway, together with all necessary gates made to open towards such adjoining lands and not towards the railway; and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway 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.

Drains.

Also, proper watering-places for cattle or compensation in lieu thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places; and such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore, and as if the railway had not

Watering-places.

not



*Silkstone Coal-mine Railway.*

not been made, or as nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places.

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

Penalty on persons  
omitting to fasten  
gates.

17. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he, and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, to be recoverable in a summary way before any two Justices.

Minerals not to pass.

18. The promoters shall not be entitled to any minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the said promoters.

Compensation clause.

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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say: Unless both parties shall concur in the appointment 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.

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.



*Silkstone Coal-mine Railway.*

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

Appointment of umpire.

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

Attorney-General to appoint umpire on neglect.

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

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*.

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 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 “Silkstone Coal-mine Railway Act.”

Made and subscribed in the presence of

A.B.

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

Penalty for misconduct.

28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, 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

Cost of arbitration how to be borne.



*Silkstone Coal-mine Railway.*

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.

Award to be delivered to the promoters.

29. The arbitrators shall deliver their award in writing to the promoters, 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.

Submission may be made a rule of Court.

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

Award not void through error in form.

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.

Compensation for temporary or permanent or recurring injuries

32. The promoters shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoters of any of the matters and things hereby required to be performed by them or otherwise.

Compensation to be made for temporary occupation.

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

Power for Government to purchase railway.

34. It shall be lawful for the Secretary for Public Works on behalf of the Government, at any time by notice in writing, to require the said promoters, their heirs, executors, administrators, or assigns to sell, and thereupon the said promoters, their heirs, executors, administrators or assigns shall sell to the Government, as the case may be, the said railway upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said railway or any compensation for compulsory sale or other consideration whatsoever) of the said railway, and all lands, buildings, works, materials, and plant of the said promoters, their heirs, executors, administrators, or assigns, suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the "Public Works Act of 1888," fifty-first Victoria number thirty-seven, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said



*Silkstone Coal-mine Railway.*

said railway, lands, buildings, works, materials, plant, and premises shall vest in the Commissioners for Railways, who shall have all the rights, powers, and authorities of the said promoters, their heirs, executors, administrators, and assigns in respect of the said railway so sold.

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

36. The production of a printed or written copy of the by-laws of the promoters, shall be sufficient evidence of such by-laws in all proceedings under the same.

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

38. 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 promoters, 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 promoters.

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

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

41. In this Act the word "Justices" shall mean Justices of the Peace in and for the territory of New South Wales; and when any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions or a Stipendiary or Police Magistrate; the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the promoters; and the word "promoters" shall mean and include the said Richard Tilden Smith and John Thomas Mance, and the survivor of them, and the heirs, executors, or administrators of such survivor, their or his assigns.

42. This Act whenever cited shall be sufficiently described as the "Silkstone Coal-mine Railway Act of 1889."



---

*Silkstone Coal-mine Railway.*

---

## SCHEDULE.

From a point inside the boundary of their property, situate in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and J. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portions of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing the Telarah Road to and through property held by Peter Green, and terminating at a point on the Great Northern Railway at twenty miles sixty-five chains seventy-two links from Newcastle.

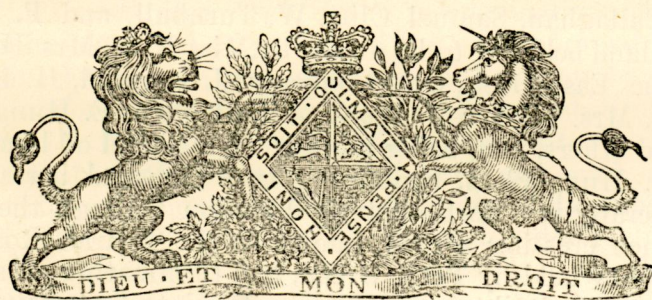
---

By Authority: CHARLES POTTER, Government Printer, Sydney, 1889.

[9d.]



## New South Wales.



ANNO QUINQUAGESIMO TERTIO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, to construct a Railway from the Silkstone Coal-mine to the Great Northern Railway. [Assented to, 30th September, 1889.]

**W**HEREAS Richard Tilden Smith, of Sydney, in the Colony of Preamble. New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, have opened coal-mines upon lands situated near Maitland, in the parish of Stanford, in the county of Northumberland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said Richard Tilden Smith and John Thomas Mance, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to the Great Northern Railway, but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown, bodies corporate, and private persons respectively, the same cannot be made without Legislative authority. And whereas the said coal-mines are likely to prove beneficial to the Colony, and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption, steam navigation, and export, as would result from the construction of the said proposed railway, and traffic on the Great Northern Railway would be increased



*Silkstone Coal-mine Railway.*

increased thereby. It is therefore desirable to authorize by Legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose land 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 authority of the same, as follows:—

Authority to construct railway, and connect same with Great Northern Railway.

1. It shall be lawful for the said promoters to make and construct a railway, which shall be of the same gauge as the Government Railways, from a point inside the boundary of their property situated in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction, through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and P. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portion of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing a road, known as the Telarah Road, to and through property held by Peter Green, and terminating at a point on the Great Northern Railway, at twenty miles sixty-five chains seventy-two links from Newcastle, and which lands and route are particularly described in the Schedule, and to effect, if necessary, a junction between the said line and the Great Northern Railway in accordance with section one hundred and twelve of the "Public Works Act of 1888," such railway to be in the direction described in the Schedule, and the said promoters may take and occupy three acres of land, or any lesser area, at the junction of the said railway with the Great Northern Railway.

Site of railway shall be vested in the promoters 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 of such railway, shall so far as is necessary for the purpose of this Act be vested, by virtue of this Act, and without the necessity of any conveyance, in the promoters for the purposes of the railway. Provided that no lands vested in the Commissioners for Railways shall by virtue of this Act be vested in the promoters, 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 promoters 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 that the said railway shall be constructed and brought into use within three years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for three years continuously, all the said lands, including Crown Lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and original owners thereof, their heirs and assigns respectively. 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, so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road



*Silkstone Coal-mine Railway.*

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 promoters, 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 promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two Justices of the Peace, after inquiry, shall deem necessary for the purposes aforesaid, on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters Railway open to the public. for the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of threepence per ton in respect of every ton of coal for every transit, and for the conveyance of goods at the rate per ton not exceeding that charged by the Commissioners for Railways in respect of every ton of goods for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government 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 promoters to supply locomotive power unless the party seeking transit guarantee and bring one hundred tons, at least, during the twelve working hours, and give notice of same at least, twenty-four hours previously. The railway shall at all times be open to the public for conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-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 promoters shall be willing to supply locomotive power, no other person shall use locomotive power on the line other than the Commissioners for Railways. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power, the promoters 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 promoters 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. It shall be lawful for the owners or occupiers of the lands Branch railways. adjoining thereto or 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, trucks, and waggons to or from or upon the said railway, and the promoters 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



*Silkstone Coal-mine Railway.*

to the said railway, and without inconvenience to the traffic thereupon, and the promoters shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

No such railway shall run parallel to the said railway—provided that this shall not apply to any railway line connecting any other colliery in that neighbourhood with the Great Northern Railway, the promoters 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 inclined plane or bridge, nor in any tunnel.

The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters, 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 promoters, under the direction of their engineer.

Power to divert or alter roads.

5. For the purposes, and subject to the provisions hereinafter contained, it shall be lawful for the promoters, 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.

Penalty for not substituting a road.

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

Right to carry passengers.

7. It shall be lawful for but not compulsory upon the said promoters from time to time, and at any and all times, to carry passengers and live stock upon the said railway 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 promoters for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railway or any part thereof respectively. And the promoters 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 railway, 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 any person by petition to 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.



*Silkstone Coal-mine Railway.*

8. If, in the course of making the railway, the promoters 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 promoters, 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 promoters, and within such period as they may think reasonable, and may impose on the promoters 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 promoters, 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 promoters on such road in the course of the using thereof.

Road repairs.

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

Owners crossing.

10. If the railway cross any public highways or parish road on a level, the promoters 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, to be recoverable before any two Justices in a summary way. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

Provisions in cases where roads are crossed on a level.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall

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



*Silkstone Coal-mine Railway.*

shall be lawful for the promoters 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 promoters shall within forty-eight hours after such entry make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety. Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

Construction of  
bridges over roads.

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 :—

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

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be 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 railroads

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.



*Silkstone Coal-mine Railway.*

14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point 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 promoters 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 mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then the promoters may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

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

16. The promoters 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.

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

Gates, bridges, &c.

All sufficient posts, rails, hedges, ditches, mounds or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereon by reason of the railway, together with all necessary gates made to open towards such adjoining lands and not towards the railway; and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway 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.

Drains.

Also, proper watering-places for cattle or compensation in lieu thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places; and such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore, and as if the railway had not

Watering-places.

not



*Silkstone Coal-mine Railway.*

not been made, or as nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places.

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

Penalty on persons  
omitting to fasten  
gates.

17. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he, and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, to be recoverable in a summary way before any two Justices.

Minerals not to pass.

18. The promoters shall not be entitled to any minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the said promoters.

Compensation clause.

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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say: Unless both parties shall concur in the appointment 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.

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.



*Silkstone Coal-mine Railway.*

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

Appointment of umpire.

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

Attorney-General to appoint umpire on neglect.

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

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*.

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 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 “Silkstone Coal-mine Railway Act.”

Made and subscribed in the presence of

A.B.

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

Penalty for misconduct.

28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, 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

Cost of arbitration how to be borne.



*Silkstone Coal-mine Railway.*

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.

Award to be delivered to the promoters.

29. The arbitrators shall deliver their award in writing to the promoters, 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.

Submission may be made a rule of Court.

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

Award not void through error in form.

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.

Compensation for temporary or permanent or recurring injuries

32. The promoters shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoters of any of the matters and things hereby required to be performed by them or otherwise.

Compensation to be made for temporary occupation.

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

Power for Government to purchase railway.

34. It shall be lawful for the Secretary for Public Works on behalf of the Government, at any time by notice in writing, to require the said promoters, their heirs, executors, administrators, or assigns to sell, and thereupon the said promoters, their heirs, executors, administrators or assigns shall sell to the Government, as the case may be, the said railway upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said railway or any compensation for compulsory sale or other consideration whatsoever) of the said railway, and all lands, buildings, works, materials, and plant of the said promoters, their heirs, executors, administrators, or assigns, suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the "Public Works Act of 1888," fifty-first Victoria number thirty-seven, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said



*Silkstone Coal-mine Railway.*

said railway, lands, buildings, works, materials, plant, and premises shall vest in the Commissioners for Railways, who shall have all the rights, powers, and authorities of the said promoters, their heirs, executors, administrators, and assigns in respect of the said railway so sold.

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

Company may make by-laws.

36. The production of a printed or written copy of the by-laws of the promoters, shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

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

Lands belonging to Commissioners for Railways not to be taken.

38. 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 promoters, 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 promoters.

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

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

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

41. In this Act the word "Justices" shall mean Justices of the Peace in and for the territory of New South Wales; and when any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions or a Stipendiary or Police Magistrate; the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the promoters; and the word "promoters" shall mean and include the said Richard Tilden Smith and John Thomas Mance, and the survivor of them, and the heirs, executors, or administrators of such survivor, their or his assigns.

Interpretation clause.

42. This Act whenever cited shall be sufficiently described as the "Silkstone Coal-mine Railway Act of 1889."

Short title.



---

*Silkstone Coal-mine Railway.*

---

## SCHEDULE.

From a point inside the boundary of their property, situate in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and J. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portions of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing the Telarah Road to and through property held by Peter Green, and terminating at a point on the Great Northern Railway at twenty miles sixty-five chains seventy-two links from Newcastle.

---

By Authority: CHARLES POTTER, Government Printer, Sydney, 1889.

[9d.]

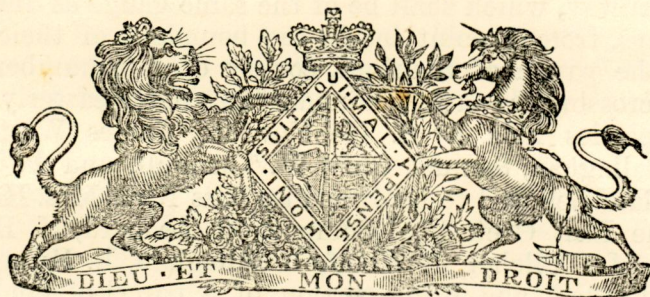


*I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Assembly Chamber,  
Sydney, 25 September, 1889.* }

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

## New South Wales.



ANNO QUINQUAGESIMO TERTIO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, to construct a Railway from the Silkstone Coal-mine to the Great Northern Railway. [Assented to, 30th September, 1889.]

**W**HEREAS Richard Tilden Smith, of Sydney, in the Colony of **Preamble.** New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, have opened coal-mines upon lands situated near Maitland, in the parish of Stanford, in the county of Northumberland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said Richard Tilden Smith and John Thomas Mance, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to the Great Northern Railway, but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown, bodies corporate, and private persons respectively, the same cannot be made without Legislative authority. And whereas the said coal-mines are likely to prove beneficial to the Colony, and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption, steam navigation, and export, as would result from the construction of the said proposed railway, and traffic on the Great Northern Railway would be increased

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

*NINIAN MELVILLE,  
Chairman of Committees of the Legislative Assembly.*



*Silkstone Coal-mine Railway.*

increased thereby. It is therefore desirable to authorize by Legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose land 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 authority of the same, as follows:—

Authority to construct railway, and connect same with Great Northern Railway.

1. It shall be lawful for the said promoters to make and construct a railway, which shall be of the same gauge as the Government Railways, from a point inside the boundary of their property situated in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction, through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and P. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portion of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing a road, known as the Telarah Road, to and through property held by Peter Green, and terminating at a point on the Great Northern Railway, at twenty miles sixty-five chains seventy-two links from Newcastle, and which lands and route are particularly described in the Schedule, and to effect, if necessary, a junction between the said line and the Great Northern Railway in accordance with section one hundred and twelve of the "Public Works Act of 1888," such railway to be in the direction described in the Schedule, and the said promoters may take and occupy three acres of land, or any lesser area, at the junction of the said railway with the Great Northern Railway.

Site of railway shall be vested in the promoters 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 of such railway, shall so far as is necessary for the purpose of this Act be vested, by virtue of this Act, and without the necessity of any conveyance, in the promoters for the purposes of the railway. Provided that no lands vested in the Commissioners for Railways shall by virtue of this Act be vested in the promoters, 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 promoters 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 that the said railway shall be constructed and brought into use within three years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for three years continuously, all the said lands, including Crown Lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and original owners thereof, their heirs and assigns respectively. 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, so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road



*Silkstone Coal-mine Railway.*

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 promoters, 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 promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two Justices of the Peace, after inquiry, shall deem necessary for the purposes aforesaid, on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of threepence per ton in respect of every ton of coal for every transit, and for the conveyance of goods at the rate per ton not exceeding that charged by the Commissioners for Railways in respect of every ton of goods for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government 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 promoters to supply locomotive power unless the party seeking transit guarantee and bring one hundred tons, at least, during the twelve working hours, and give notice of same at least, twenty-four hours previously. The railway shall at all times be open to the public for conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-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 promoters shall be willing to supply locomotive power, no other person shall use locomotive power on the line other than the Commissioners for Railways. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power, the promoters 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 promoters 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. It shall be lawful for the owners or occupiers of the lands adjoining thereto or 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, trucks, and waggons to or from or upon the said railway, and the promoters 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

Railway open to the public.

Branch railways.



*Silkstone Coal-mine Railway.*

to the said railway, and without inconvenience to the traffic thereupon, and the promoters shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

No such railway shall run parallel to the said railway—provided that this shall not apply to any railway line connecting any other colliery in that neighbourhood with the Great Northern Railway, the promoters 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 inclined plane or bridge, nor in any tunnel.

The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters, 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 promoters, under the direction of their engineer.

Power to divert or  
alter roads.

5. For the purposes, and subject to the provisions hereinafter contained, it shall be lawful for the promoters, 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.

Penalty for not sub-  
stituting a road.

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

Right to carry  
passengers.

7. It shall be lawful for but not compulsory upon the said promoters from time to time, and at any and all times, to carry passengers and live stock upon the said railway 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 promoters for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railway or any part thereof respectively. And the promoters 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 railway, 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 any person by petition to 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.



*Silkstone Coal-mine Railway.*

8. If, in the course of making the railway, the promoters 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 promoters, 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 promoters, and within such period as they may think reasonable, and may impose on the promoters 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 promoters, 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 promoters on such road in the course of the using thereof.

Road repairs.

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

Owners crossing.

10. If the railway cross any public highways or parish road on a level, the promoters 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, to be recoverable before any two Justices in a summary way. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

Provisions in cases where roads are crossed on a level.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall

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



*Silkstone Coal-mine Railway.*

shall be lawful for the promoters 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 promoters shall within forty-eight hours after such entry make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety. Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

Construction of  
bridges over roads.

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:—

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

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be 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 railroads.

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.



*Silkstone Coal-mine Railway.*

14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point 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 promoters 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 mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then the promoters may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

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

16. The promoters 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.

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

Gates, bridges, &c.

All sufficient posts, rails, hedges, ditches, mounds or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereon by reason of the railway, together with all necessary gates made to open towards such adjoining lands and not towards the railway; and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway 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.

Drains.

Also, proper watering-places for cattle or compensation in lieu thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places; and such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore, and as if the railway had not

Watering-places.



*Silkstone Coal-mine Railway.*

not been made, or as nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places.

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

Penalty on persons omitting to fasten gates.

17. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he, and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, to be recoverable in a summary way before any two Justices.

Minerals not to pass.

18. The promoters shall not be entitled to any minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the said promoters.

Compensation clause.

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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say: Unless both parties shall concur in the appointment 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.

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.



*Silkstone Coal-mine Railway.*

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

Appointment of umpire.

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

Attorney-General to appoint umpire on neglect.

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

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*.

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 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 "Silkstone Coal-mine Railway Act."

Made and subscribed in the presence of

A.B.

And such declaration shall be annexed to the award when made, and if any arbitrator or umpire, having made such declaration, shall willfully 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 promoters, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, 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

Cost of arbitration how to be borne.



*Silkstone Coal-mine Railway.*

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.

Award to be delivered to the promoters.

29. The arbitrators shall deliver their award in writing to the promoters, 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.

Submission may be made a rule of Court.

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

Award not void through error in form.

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.

Compensation for temporary or permanent or recurring injuries.

32. The promoters shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoters of any of the matters and things hereby required to be performed by them or otherwise.

Compensation to be made for temporary occupation.

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

Power for Government to purchase railway.

34. It shall be lawful for the Secretary for Public Works on behalf of the Government, at any time by notice in writing, to require the said promoters, their heirs, executors, administrators, or assigns to sell, and thereupon the said promoters, their heirs, executors, administrators or assigns shall sell to the Government, as the case may be, the said railway upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said railway or any compensation for compulsory sale or other consideration whatsoever) of the said railway, and all lands, buildings, works, materials, and plant of the said promoters, their heirs, executors, administrators, or assigns, suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the "Public Works Act of 1888," fifty-first Victoria number thirty-seven, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said



*Silkstone Coal-mine Railway.*

said railway, lands, buildings, works, materials, plant, and premises shall vest in the Commissioners for Railways, who shall have all the rights, powers, and authorities of the said promoters, their heirs, executors, administrators, and assigns in respect of the said railway so sold.

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

Company may make by-laws.

36. The production of a printed or written copy of the by-laws of the promoters, shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

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

Lands belonging to Commissioners for Railways not to be taken.

38. 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 promoters, 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 promoters.

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

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

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

41. In this Act the word "Justices" shall mean Justices of the Peace in and for the territory of New South Wales; and when any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions or a Stipendiary or Police Magistrate; the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the promoters; and the word "promoters" shall mean and include the said Richard Tilden Smith and John Thomas Mance, and the survivor of them, and the heirs, executors, or administrators of such survivor, their or his assigns.

Interpretation clause.

42. This Act whenever cited shall be sufficiently described as the "Silkstone Coal-mine Railway Act of 1889."

Short title.



---

*Silkstone Coal-mine Railway.*

---

## SCHEDULE.

From a point inside the boundary of their property, situate in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and J. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portions of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing the Telarah Road to and through property held by Peter Green, and terminating at a point on the Great Northern Railway at twenty miles sixty-five chains seventy-two links from Newcastle.

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

CARRINGTON.

*Government House,  
Sydney, 30 September, 1889.*

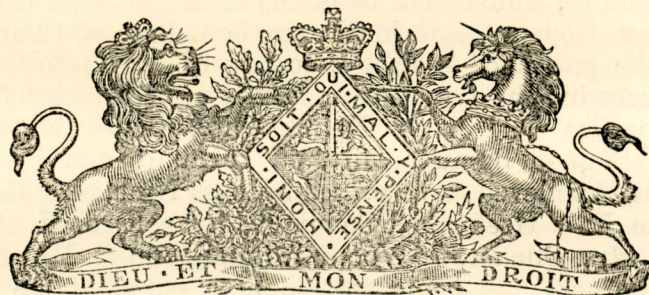


*I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Assembly Chamber,  
Sydney, 25 September, 1889.* }

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

## New South Wales.



ANNO QUINQUAGESIMO TERTIO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, to construct a Railway from the Silkstone Coal-mine to the Great Northern Railway. [Assented to, 30th September, 1889.]

**W**HEREAS Richard Tilden Smith, of Sydney, in the Colony of Preamble. New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, have opened coal-mines upon lands situated near Maitland, in the parish of Stanford, in the county of Northumberland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said Richard Tilden Smith and John Thomas Mance, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to the Great Northern Railway, but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown, bodies corporate, and private persons respectively, the same cannot be made without Legislative authority. And whereas the said coal-mines are likely to prove beneficial to the Colony, and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption, steam navigation, and export, as would result from the construction of the said proposed railway, and traffic on the Great Northern Railway would be increased

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

NINIAN MELVILLE,  
*Chairman of Committees of the Legislative Assembly.*



*Silkstone Coal-mine Railway.*

increased thereby. It is therefore desirable to authorize by Legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose land 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 authority of the same, as follows:—

Authority to construct railway, and connect same with Great Northern Railway.

1. It shall be lawful for the said promoters to make and construct a railway, which shall be of the same gauge as the Government Railways, from a point inside the boundary of their property situated in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction, through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Cliff, W. Turnbull, and P. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portion of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing a road, known as the Telarah Road, to and through property held by Peter Green, and terminating at a point on the Great Northern Railway, at twenty miles sixty-five chains seventy-two links from Newcastle, and which lands and route are particularly described in the Schedule, and to effect, if necessary, a junction between the said line and the Great Northern Railway in accordance with section one hundred and twelve of the "Public Works Act of 1888," such railway to be in the direction described in the Schedule, and the said promoters may take and occupy three acres of land, or any lesser area, at the junction of the said railway with the Great Northern Railway.

Site of railway shall be vested in the promoters 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 of such railway, shall so far as is necessary for the purpose of this Act be vested, by virtue of this Act, and without the necessity of any conveyance, in the promoters for the purposes of the railway. Provided that no lands vested in the Commissioners for Railways shall by virtue of this Act be vested in the promoters, 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 promoters 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 that the said railway shall be constructed and brought into use within three years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for three years continuously, all the said lands, including Crown Lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and original owners thereof, their heirs and assigns respectively. 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, so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road



*Silkstone Coal-mine Railway.*

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 promoters, 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 promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two Justices of the Peace, after inquiry, shall deem necessary for the purposes aforesaid, on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of threepence per ton in respect of every ton of coal for every transit, and for the conveyance of goods at the rate per ton not exceeding that charged by the Commissioners for Railways in respect of every ton of goods for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government 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 promoters to supply locomotive power unless the party seeking transit guarantee and bring one hundred tons, at least, during the twelve working hours, and give notice of same at least, twenty-four hours previously. The railway shall at all times be open to the public for conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-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 promoters shall be willing to supply locomotive power, no other person shall use locomotive power on the line other than the Commissioners for Railways. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power, the promoters 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 promoters 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. It shall be lawful for the owners or occupiers of the lands adjoining thereto or 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, trucks, and waggons to or from or upon the said railway, and the promoters 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

Railway open to the public.

Branch railways.



*Silkstone Coal-mine Railway.*

to the said railway, and without inconvenience to the traffic thereupon, and the promoters shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

- No such railway shall run parallel to the said railway—provided that this shall not apply to any railway line connecting any other colliery in that neighbourhood with the Great Northern Railway, the promoters 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 inclined plane or bridge, nor in any tunnel.

The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters, 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 promoters, under the direction of their engineer.

Power to divert or alter roads.

- 5. For the purposes, and subject to the provisions hereinafter contained, it shall be lawful for the promoters, 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.

Penalty for not substituting a road.

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

Right to carry passengers.

- 7. It shall be lawful for but not compulsory upon the said promoters from time to time, and at any and all times, to carry passengers and live stock upon the said railway 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 promoters for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railway or any part thereof respectively. And the promoters 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 railway, 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 any person by petition to 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.



*Silkstone Coal-mine Railway.*

8. If, in the course of making the railway, the promoters 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 promoters, 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 promoters, and within such period as they may think reasonable, and may impose on the promoters 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 promoters, 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 promoters on such road in the course of the using thereof.

Road repairs.

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

Owners crossing.

10. If the railway cross any public highways or parish road on a level, the promoters 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, to be recoverable before any two Justices in a summary way. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

Provisions in cases where roads are crossed on a level.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall

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



*Silkstone Coal-mine Railway.*

shall be lawful for the promoters 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 promoters shall within forty-eight hours after such entry make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety. Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

Construction of  
bridges over roads.

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 :—

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

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be 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 railroads.

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.



*Silkstone Coal-mine Railway.*

14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point 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 promoters 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 mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then the promoters may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

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

16. The promoters 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.

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

Gates, bridges, &c.

All sufficient posts, rails, hedges, ditches, mounds or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereon by reason of the railway, together with all necessary gates made to open towards such adjoining lands and not towards the railway; and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway 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.

Drains.

Also, proper watering-places for cattle or compensation in lieu thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places; and such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore, and as if the railway had not

Watering-places.



*Silkstone Coal-mine Railway.*

not been made, or as nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places.

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

Penalty on persons omitting to fasten gates.

17. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he, and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, to be recoverable in a summary way before any two Justices.

Minerals not to pass.

18. The promoters shall not be entitled to any minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the said promoters.

Compensation clause.

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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say: Unless both parties shall concur in the appointment 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.

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.



*Silkstone Coal-mine Railway.*

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

Appointment of umpire.

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

Attorney-General to appoint umpire on neglect.

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

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.

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 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 "Silkstone Coal-mine Railway Act."

Made and subscribed in the presence of

A.B.

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

Penalty for misconduct.

28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, 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

Cost of arbitration how to be borne.



*Silkstone Coal-mine Railway.*

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.

Award to be delivered to the promoters.

29. The arbitrators shall deliver their award in writing to the promoters, 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.

Submission may be made a rule of Court.

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

Award not void through error in form.

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.

Compensation for temporary or permanent or recurring injuries.

32. The promoters shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoters of any of the matters and things hereby required to be performed by them or otherwise.

Compensation to be made for temporary occupation.

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

Power for Government to purchase railway.

34. It shall be lawful for the Secretary for Public Works on behalf of the Government, at any time by notice in writing, to require the said promoters, their heirs, executors, administrators, or assigns to sell, and thereupon the said promoters, their heirs, executors, administrators or assigns shall sell to the Government, as the case may be, the said railway upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said railway or any compensation for compulsory sale or other consideration whatsoever) of the said railway, and all lands, buildings, works, materials, and plant of the said promoters, their heirs, executors, administrators, or assigns, suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the "Public Works Act of 1888," fifty-first Victoria number thirty-seven, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said



*Silkstone Coal-mine Railway.*

said railway, lands, buildings, works, materials, plant, and premises shall vest in the Commissioners for Railways, who shall have all the rights, powers, and authorities of the said promoters, their heirs, executors, administrators, and assigns in respect of the said railway so sold.

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

Company may make by-laws.

36. The production of a printed or written copy of the by-laws of the promoters, shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

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

Lands belonging to Commissioners for Railways not to be taken.

38. 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 promoters, 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 promoters.

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

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

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

41. In this Act the word "Justices" shall mean Justices of the Peace in and for the territory of New South Wales; and when any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions or a Stipendiary or Police Magistrate; the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the promoters; and the word "promoters" shall mean and include the said Richard Tilden Smith and John Thomas Mance, and the survivor of them, and the heirs, executors, or administrators of such survivor, their or his assigns.

Interpretation clause.

42. This Act whenever cited shall be sufficiently described as the "Silkstone Coal-mine Railway Act of 1889."

Short title.



*Silkstone Coal-mine Railway.*

## SCHEDULE.

From a point inside the boundary of their property, situate in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and J. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portions of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing the Telarah Road to and through property held by Peter Green, and terminating at a point on the Great Northern Railway at twenty miles sixty-five chains seventy-two links from Newcastle.

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

CARRINGTON.

Government House,  
Sydney, 30 September, 1889.



# SILKSTONE COAL-MINE RAILWAY BILL

## SCHEDULE of Amendments referred to in Message of 20th June, 1889.

- Page 2, clause 1, line 11. After "Railway" insert "which shall be of the same gauge as the Govern-  
"ment Railways"
- Page 2, clause 2, line 38. After "shall" insert "so far as is necessary for the purpose of this Act"
- Page 2, clause 2, line 49. Omit "five" insert "three"
- Page 2, clause 2, line 52. After "lands" insert "including Crown Lands"
- Page 2, clause 2, line 54. After "the" insert "Crown and"
- Page 2, clause 2, line 54. After "assigns" insert "respectively"
- Page 3, clause 3, line 16. After "use" insert "for the conveyance of coal and goods"
- Page 3, clause 3, lines 17 and 18. Omit "of a sum not exceeding the rate per ton" insert "for the con-  
veyance of coal of a sum not exceeding one penny per ton per mile, with a minimum  
charge of threepence per ton in respect of every ton of coal for every transit, and for  
the conveyance of goods at the rate per ton not exceeding that"
- Page 3, clause 3, line 28. Omit "two" insert "one"
- Page 3, clause 3, line 31. After "public" insert "for conveyance of coal and goods"
- Page 3, clause 3, line 32. After "promoters" insert "for the conveyance of coal of a sum not  
exceeding one half-penny per ton per mile, with a minimum charge of twopence per  
ton in respect of every ton of coal for every transit, and for goods"
- Page 3, clause 4, line 50. Omit "And be it enacted that"
- Page 3, clause 4, line 51. After "lands" insert "adjoining thereto or"
- Page 3, clause 4, line 54. After "carriages" insert "trucks and waggons"
- Page 4, clause 4, line 2. After "passengers" insert "coal, and"
- Page 4, clause 4, line 6. After "railway" second occurring, insert "provided that this shall not apply  
to any railway line connecting any other colliery in that neighbourhood with the Great  
Northern Railway"
- Page 4, clause 7, line 56. After "for" insert "any person by petition to"
- Page 4, clause 7, line 58. After "advisable" omit remainder of clause.
- Page 5, clause 10, line 54. After "therein" insert "to be recoverable before any two Justices in a  
summary way"
- Page 8, clause 17. At end of clause add "to be recoverable in a summary way before any two  
Justices"
- Page 10, clause 33, line 44. Omit "and" insert "or"
- Page 10, clause 33, line 44. Omit "a" insert "or"
- Page 10, clause 33, line 44. Before "bank" omit "the" insert "a"
- Page 11, clause 38, line 37. After "the" insert "said"
- Page 11, clause 41, line 50. Omit "said" insert "word"
- Page 11, clause 41, line 54. After "Sessions" insert "or a Stipendiary or Police Magistrate"
- Page 12, clause 42, lines 1 and 2. Omit "shall be deemed and taken to be a public Act, and the same







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

*Legislative Assembly Chamber,  
Sydney, 21 May, 1889. }*

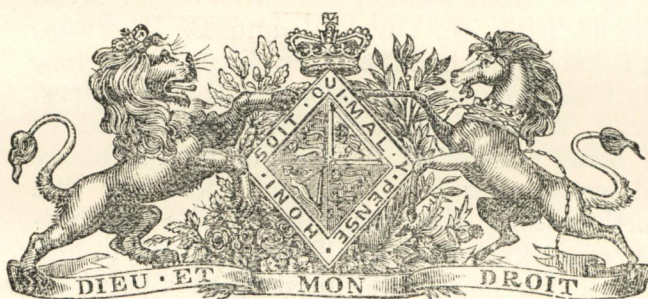
*F. W. WEBB,  
Clerk of Legislative Assembly.*

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

*Legislative Council Chamber,  
Sydney, 20th June, 1889. }*

*For the Clerk of the Parliaments,  
ADOLPHUS P. CLAPIN,  
Clerk Assistant.*

## New South Wales.



ANNO QUINQUAGESIMO TERTIO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, to construct a Railway from the Silkstone Coal-mine to the Great Northern Railway.

**W**HEREAS Richard Tilden Smith, of Sydney, in the Colony of Preamble.  
New South Wales, and John Thomas Mance, of Parramatta,  
in the said Colony, have opened coal-mines upon lands situated near  
Maitland, in the parish of Stanford, in the county of Northumberland,  
5 and in order to facilitate communication between the said coal-mines  
and the Great Northern Railway, the said Richard Tilden Smith and  
John Thomas Mance, hereinafter designated the promoters, are desirous  
of constructing a railway from their said coal-mines to the Great  
Northern Railway, but as part of such proposed railway is intended  
10 to be made upon and pass through land believed to be the property  
of the Crown, bodies corporate, and private persons respectively, the  
same cannot be made without Legislative authority. And whereas  
the said coal-mines are likely to prove beneficial to the Colony, and  
the public are concerned in promoting such an increase in and  
15 facilities for the supply of coal for local consumption, steam navigation,  
and export, as would result from the construction of the said pro-  
posed railway, and traffic on the Great Northern Railway would be  
increased

141—A

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



*Silkstone Coal-mine Railway.*

increased thereby. It is therefore desirable to authorize by Legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose land the same shall pass for such portion  
 5 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 authority of the same, as follows:—

- 10 1. It shall be lawful for the said promoters to make and construct a railway, which shall be of the same gauge as the Government  
 Railways, from a point inside the boundary of their property situated in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction,  
 15 through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and P. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C.  
 20 Simpson, and others, and being portion of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing a road, known as the Telarah Road, to and through property held by Peter Green, and terminating at a point on  
 25 the Great Northern Railway, at twenty miles sixty-five chains seventy-two links from Newcastle, and which lands and route are particularly described in the Schedule, and to effect, if necessary, a junction between the said line and the Great Northern Railway in accordance with section one hundred and twelve of the "Public Works Act of  
 30 1888," such railway to be in the direction described in the Schedule, and the said promoters may take and occupy three acres of land, or any lesser area, at the junction of the said railway with the Great Northern Railway.

Authority to construct railway, and connect same with Great Northern Railway.

- 35 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 of such railway, shall so far as is necessary for the purpose of this Act be vested, by virtue of this Act, and without the necessity of any conveyance, in the promoters for the purposes of the railway. Provided  
 40 that no lands vested in the Commissioners for Railways shall by virtue of this Act be vested in the promoters, 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  
 45 the said railway and the traffic thereon; and the promoters 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 that the said railway shall be constructed and brought into use within five three years  
 50 after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for three years continuously, all the said lands, including Crown Lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and original owners thereof, their heirs, and assigns  
 55 respectively. 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, so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient  
 60 road to be made instead of any road interfered with, and shall, at their own expense,

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



*Silkstone Coal-mine Railway.*

expense, maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the promoters, 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  
 5 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  
 10 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 promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two Justices of the Peace, after inquiry, shall deem necessary for the pur-  
 15 poses aforesaid, on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters ~~of a sum not exceeding the rate per ton for the conveyance of coal of a sum not~~ <sup>Railway open to the public.</sup>  
 20 ~~exceeding one penny per ton per mile, with a minimum charge of three-~~ <sup>public.</sup>  
~~pence per ton in respect of every ton of coal for every transit, and for~~  
 the conveyance of goods at the rate per ton not exceeding that charged by the Commissioners for Railways in respect of every ton of goods for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government  
 25 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 promoters to supply locomotive power unless the party seeking transit guarantee and bring ~~two~~ one hundred tons, at least, during the twelve working hours, and give notice of same at  
 30 least, twenty-four hours previously. The railway shall at all times be open to the public for conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of  
 35 a sum not exceeding one penny half-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 promoters shall be willing to supply locomotive power, no other person shall use locomotive power on the line other  
 40 than the Commissioners for Railways. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power, the promoters 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  
 45 the sum of twenty pounds, summarily before two Justices; and in estimating such damage, the promoters 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.

50 4. ~~And be it enacted that~~ It shall be lawful for the owners or occupiers of the lands adjoining thereto or 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, trucks, and waggons to or from or upon the said railway,  
 55 and the promoters 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



*Silkstone Coal-mine Railway.*

traffic thereupon, and the promoters shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

No such railway shall run parallel to the said railway—**provided that this shall not apply to any railway line connecting any other colliery in that neighbourhood with the Great Northern Railway**, the promoters 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 inclined plane or bridge, nor in any tunnel.

The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters, 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 promoters, under the direction of their engineer.

5. For the purposes, and subject to the provisions hereinafter contained, it shall be lawful for the promoters, 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.

Power to divert or alter roads.

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

Penalty for not substituting a road.

7. It shall be lawful for but not compulsory upon the said promoters from time to time, and at any and all times, to carry passengers and live stock upon the said railway 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 promoters for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railway or any part thereof respectively. And the promoters 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 railway, 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 any person by petition to 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

Right to carry passengers.



*Silkstone Coal-mine Railway.*

or make liable the said promoters 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 promoters of any protection or privilege which  
 5 common carriers or stage-coach proprietors may be entitled to, but on the contrary the promoters 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 promoters shall  
 use or interfere with any road, they shall from time to time make good  
 10 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 promoters, 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  
 15 promoters, and within such period as they may think reasonable, and may impose on the promoters 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  
 20 promoters, 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 promoters on such road in the course of the using thereof.

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

10. If the railway cross any public highways or parish road on  
 a level, the promoters 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  
 45 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  
 50 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, to be recoverable  
 55 before any two Justices in a summary way. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall  
 be

Road repairs.

Owners crossing.

Provisions in cases where roads are crossed on a level..



*Silkstone Coal-mine Railway.*

be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall be lawful for the promoters 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 promoters shall within forty-eight hours after such entry make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety. Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

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

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

Construction of bridges over roads.

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

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be 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 :—

Construction of bridges over railroads.

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



*Silkstone Coal-mine Railway.*

5 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 road within fifty yards of the point of crossing the same is less than the width herein-  
 10 before 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  
 15 average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the promoters 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  
 20 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 mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to  
 25 be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then the promoters may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the  
 30 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 promoters 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—

35 Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making  
 40 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.

Gates, bridges, &c.

45 All sufficient posts, rails, hedges, ditches, mounds or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereon by reason of the railway, together with all necessary gates made to open towards such adjoining lands and not towards the railway; and all necessary stiles, and such  
 50 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.

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other  
 55 passages, either over or under or by the sides of the railway 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.

Drains.

Also,



*Silkstone Coal-mine Railway.*

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

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

15 the making them.

17. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he, and the carriage, cattle, or other animals under his care have passed through the same, he shall 20 forfeit for every such offence any sum not exceeding ten pounds, to be recoverable in a summary way before any two Justices.

Penalty on persons omitting to fasten gates.

18. The promoters shall not be entitled to any minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried 25 away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the said promoters.

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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is 30 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 40 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 45 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 50 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.

Compensation clause.

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 55 of

Vacancy of arbitrator to be supplied.



*Silkstone Coal-mine Railway.*

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.

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

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

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

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. 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.

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

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

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 "Silkstone Coal-mine Railway Act."

Made and subscribed in the presence of

A.B.

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



*Silkstone Coal-mine Railway.*

28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, 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 promoters, 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  
promoters.

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 promoters shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoters of any of the matters and things hereby required to be performed by them or otherwise.

Compensation for  
temporary or perma-  
nent or recurring  
injuries.

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

Compensation to be  
made for temporary  
occupation.

34. It shall be lawful for the Secretary for Public Works on behalf of the Government, at any time by notice in writing, to require the said promoters, their heirs, executors, administrators, or assigns to sell, and thereupon the said promoters, their heirs, executors, administrators or assigns shall sell to the Government, as the case may be, the said railway upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said railway or any compensation for compulsory sale or other consideration whatsoever) of the said railway, and all lands, buildings, works, materials, and plant of the said promoters, their heirs, executors, administrators, or assigns, suitable

Power for Govern-  
ment to purchase  
railway.



*Silkstone Coal-mine Railway.*

suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the "Public Works Act of 1888," fifty-first Victoria number thirty-seven, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said railway, lands, buildings, works, materials, plant, and premises shall vest in the Commissioners for Railways, who shall have all the rights, powers, and authorities of the said promoters, their heirs, executors, administrators, and assigns in respect of the said railway so sold.

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

Company may make by-laws.

36. The production of a printed or written copy of the by-laws of the promoters, shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

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

Lands belonging to Commissioners for Railways not to be taken.

38. 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 promoters, 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 promoters.

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

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

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

41. In this Act the said word "Justices" shall mean Justices of the Peace in and for the territory of New South Wales; and when any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions or a Stipendiary or Police Magistrate; the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the promoters; and the word "promoters" shall mean and include the said Richard Tilden Smith and John Thomas Mance, and the survivor of them, and the heirs, executors, or administrators of such survivor, their or his assigns.

Interpretation clause.



*Silkstone Coal-mine Railway.*

42. This Act shall be deemed and taken to be a public Act, Short title.  
and the same whenever cited shall be sufficiently described as the  
"Silkstone Coal-mine Railway Act of 1889."

## SCHEDULE.

- 5 From a point inside the boundary of their property, situate in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and J. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal
- 10 Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portions of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing the Telarah Road to and through property held by Peter Green, and terminating at a point on the
- 15 Great Northern Railway at twenty miles sixty-five chains seventy-two links from Newcastle.

Sydney: Charles Potter, Government Printer.—1889.

[9d.]



# SILKSTONE COAL-MINE RAILWAY BILL

## SCHEDULE of Amendments referred to in Message of 20th June, 1889.

- Page 2, clause 1, line 11. After "Railway" insert "which shall be of the same gauge as the Govern-  
"ment Railways"
- Page 2, clause 2, line 38. After "shall" insert "so far as is necessary for the purpose of this Act"
- Page 2, clause 2, line 49. Omit "five" insert "three"
- Page 2, clause 2, line 52. After "lands" insert "including Crown Lands"
- Page 2, clause 2, line 54. After "the" insert "Crown and"
- Page 2, clause 2, line 54. After "assigns" insert "respectively"
- Page 3, clause 3, line 16. After "use" insert "for the conveyance of coal and goods"
- Page 3, clause 3, lines 17 and 18. Omit "of a sum not exceeding the rate per ton" insert "for the con-  
veyance of coal of a sum not exceeding one penny per ton per mile, with a minimum  
charge of threepence per ton in respect of every ton of coal for every transit, and for  
the conveyance of goods at the rate per ton not exceeding that"
- Page 3, clause 3, line 28. Omit "two" insert "one"
- Page 3, clause 3, line 31. After "public" insert "for conveyance of coal and goods"
- Page 3, clause 3, line 32. After "promoters" insert "for the conveyance of coal of a sum not  
exceeding one half-penny per ton per mile, with a minimum charge of twopence per  
ton in respect of every ton of coal for every transit, and for goods"
- Page 3, clause 4, line 50. Omit "And be it enacted that"
- Page 3, clause 4, line 51. After "lands" insert "adjoining thereto or"
- Page 3, clause 4, line 54. After "carriages" insert "trucks and waggons"
- Page 4, clause 4, line 2. After "passengers" insert "coal, and"
- Page 4, clause 4, line 6. After "railway" second occurring, insert "provided that this shall not apply  
to any railway line connecting any other colliery in that neighbourhood with the Great  
Northern Railway"
- Page 4, clause 7, line 56. After "for" insert "any person by petition to"
- Page 4, clause 7, line 58. After "advisable" omit remainder of clause.
- Page 5, clause 10, line 54. After "therein" insert "to be recoverable before any two Justices in a  
summary way"
- Page 8, clause 17. At end of clause add "to be recoverable in a summary way before any two  
Justices"
- Page 10, clause 33, line 44. Omit "and" insert "or"
- Page 10, clause 33, line 44. Omit "a" insert "or"
- Page 10, clause 33, line 44. Before "bank" omit "the" insert "a"
- Page 11, clause 38, line 37. After "the" insert "said"
- Page 11, clause 41, line 50. Omit "said" insert "word"
- Page 11, clause 41, line 54. After "Sessions" insert "or a Stipendiary or Police Magistrate"
- Page 12, clause 42, lines 1 and 2. Omit "shall be deemed and taken to be a public Act, and the same



10



*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, 21 May, 1889. }*

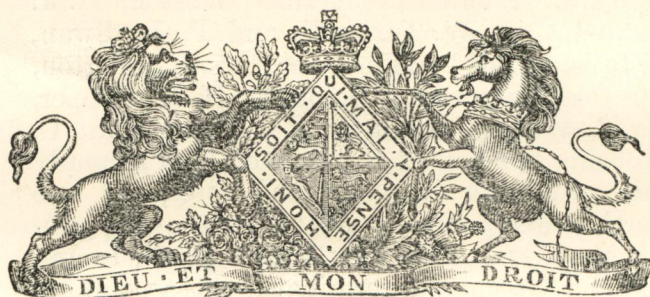
*F. W. WEBB,  
Clerk of Legislative Assembly.*

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

*Legislative Council Chamber,  
Sydney, 20th June, 1889. }*

*For the Clerk of the Parliaments,  
ADOLPHUS P. CLAPIN,  
Clerk Assistant.*

## New South Wales.



ANNO QUINQUAGESIMO TERTIO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, to construct a Railway from the Silkstone Coal-mine to the Great Northern Railway.

**W**HEREAS Richard Tilden Smith, of Sydney, in the Colony of Preamble.  
New South Wales, and John Thomas Mance, of Parramatta,  
in the said Colony, have opened coal-mines upon lands situated near  
Maitland, in the parish of Stanford, in the county of Northumberland,  
5 and in order to facilitate communication between the said coal-mines  
and the Great Northern Railway, the said Richard Tilden Smith and  
John Thomas Mance, hereinafter designated the promoters, are desirous  
of constructing a railway from their said coal-mines to the Great  
Northern Railway, but as part of such proposed railway is intended  
10 to be made upon and pass through land believed to be the property  
of the Crown, bodies corporate, and private persons respectively, the  
same cannot be made without Legislative authority. And whereas  
the said coal-mines are likely to prove beneficial to the Colony, and  
the public are concerned in promoting such an increase in and  
15 facilities for the supply of coal for local consumption, steam navigation,  
and export, as would result from the construction of the said pro-  
posed railway, and traffic on the Great Northern Railway would be  
141—A increased

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



*Silkstone Coal-mine Railway.*

increased thereby. It is therefore desirable to authorize by Legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose land the same shall pass for such portion 5 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 authority of the same, as follows:—

- 10 1. It shall be lawful for the said promoters to make and construct a railway, which shall be of the same guage as the Government Railways, from a point inside the boundary of their property situated in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction, 15 through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and P. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. 20 Simpson, and others, and being portion of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing a road, known as the Telarah Road, to and through property held by Peter Green, and terminating at a point on 25 the Great Northern Railway, at twenty miles sixty-five chains seventy-two links from Newcastle, and which lands and route are particularly described in the Schedule, and to effect, if necessary, a junction between the said line and the Great Northern Railway in accordance with section one hundred and twelve of the "Public Works Act of 30 1888," such railway to be in the direction described in the Schedule, and the said promoters may take and occupy three acres of land, or any lesser area, at the junction of the said railway with the Great Northern Railway.
- 35 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 of such railway, shall so far as is necessary for the purpose of this Act be vested, by virtue of this Act, and without the necessity of any conveyance, in the promoters for the purposes of the railway. Provided 40 that no lands vested in the Commissioners for Railways shall by virtue of this Act be vested in the promoters, 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 45 the said railway and the traffic thereon; and the promoters 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 that the said railway shall be constructed and brought into use within ~~five~~ three years 50 after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for three years continuously, all the said lands, including Crown Lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and original owners thereof, their heirs, and assigns 55 respectively. 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, so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient 60 road to be made instead of any road interfered with, and shall, at their own expense,

Authority to construct railway, and connect same with Great Northern Railway.

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



*Silkstone Coal-mine Railway.*

expense, maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the promoters, 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  
 5 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  
 10 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 promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two Justices of the Peace, after inquiry, shall deem necessary for the pur-  
 15 poses aforesaid, on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters ~~of a sum not exceeding the rate per ton~~ <sup>Railway open to the public.</sup> for the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of three-  
 20 pence per ton in respect of every ton of coal for every transit, and for the conveyance of goods at the rate per ton not exceeding that charged by the Commissioners for Railways in respect of every ton of goods for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government  
 25 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 promoters to supply locomotive power unless the party seeking transit guarantee and bring ~~two~~ one hundred tons, at least, during the twelve working hours, and give notice of same at  
 30 least, twenty-four hours previously. The railway shall at all times be open to the public for conveyance of coal and goods upon payment of a toll to the promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of  
 35 a sum not exceeding one penny half-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 promoters shall be willing to supply locomotive power, no other person shall use locomotive power on the line other  
 40 than the Commissioners for Railways. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power, the promoters 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  
 45 the sum of twenty pounds, summarily before two Justices; and in estimating such damage, the promoters 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.

50 4. ~~And be it enacted that~~ It shall be lawful for the owners or occupiers of the lands adjoining thereto or 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  
 55 carriages, trucks, and waggons to or from or upon the said railway, and the promoters 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



*Silkstone Coal-mine Railway.*

traffic thereupon, and the promoters shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

10 No such railway shall run parallel to the said railway—**provided that this shall not apply to any railway line connecting any other colliery in that neighbourhood with the Great Northern Railway,** the promoters 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 inclined plane or bridge, nor in any tunnel.

15 The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters, 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 promoters, under the direction of their engineer.

20 5. For the purposes, and subject to the provisions hereinafter contained, it shall be lawful for the promoters, 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. Power to divert or alter roads.

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

40 7. It shall be lawful for but not compulsory upon the said promoters from time to time, and at any and all times, to carry passengers and live stock upon the said railway 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 promoters for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railway or any part thereof respectively. And the promoters 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 railway, 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 any person by petition to 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 Right to carry passengers.



*Silkstone Coal-mine Railway.*

or make liable the said promoters 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 promoters of any protection or privilege which  
 5 common carriers or stage-coach proprietors may be entitled to, but on the contrary the promoters 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 promoters shall  
 use or interfere with any road, they shall from time to time make good  
 10 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 promoters, 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  
 15 promoters, and within such period as they may think reasonable, and may impose on the promoters 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  
 20 promoters, 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 promoters on such road in the course of the using thereof.

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

10. If the railway cross any public highways or parish road on  
 a level, the promoters 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  
 45 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  
 50 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, to be recoverable  
 55 before any two Justices in a summary way. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall  
 be

Road repairs.

Owners crossing.

Provisions in cases where roads are crossed on a level.



*Silkstone Coal-mine Railway.*

be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed  
5 with respect to the gates being kept closed across the road.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall be lawful for the promoters and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the  
10 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 promoters shall within forty-eight hours after such entry make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done,  
15 and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety. Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed  
20 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.  
25 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  
30 regulations, that is to say :—

Construction of bridges over roads.

The width of the arch shall be such as to leave thereunder a clear space of not less than thirty feet, if the arch be over a public highway, and of twenty feet if over a parish road, and of twelve feet if over a private road.  
35 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  
40 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  
45 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  
50 say :—

Construction of bridges over railroads.

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  
55 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



*Silkstone Coal-mine Railway.*

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.

5

14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point 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 promoters 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 mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then the promoters may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

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

16. The promoters 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.

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

Gates, bridges, &c.

All sufficient posts, rails, hedges, ditches, mounds or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereon by reason of the railway, together with all necessary gates made to open towards such adjoining lands and not towards the railway; and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway 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.

Drains.

Also,



*Silkstone Coal-mine Railway.*

- Also, proper watering-places for cattle or compensation in lieu thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places; and such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore, and as if the railway had not been made, or as nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places.
- 10 Provided always that the promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works with respect to which the owners and occupiers of the land shall have agreed to receive, and shall have been paid compensation instead of
- 15 the making them.
17. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he, and the carriage, cattle, or other animals under his care have passed through the same, he shall
- 20 forfeit for every such offence any sum not exceeding ten pounds, to be recoverable in a summary way before any two Justices.
18. The promoters shall not be entitled to any minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried
- 25 away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the said promoters.
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 promoters shall not agree as to the amount of compensation to
- 30 be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is
- 35 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
- 40 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
- 45 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
- 50 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.
- 55 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

Watering-places.

Penalty on persons omitting to fasten gates.

Minerals not to pass.

Compensation clause.

Appointment of arbitrators.

Vacancy of arbitrator to be supplied.

of



*Silkstone Coal-mine Railway.*

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.

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

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

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

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. 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.

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

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

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 "Silkstone Coal-mine Railway Act."

Made and subscribed in the presence of

A.B.

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



*Silkstone Coal-mine Railway.*

28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, 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 promoters, 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 promoters.

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 promoters shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoters 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 promoters shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands, 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 or occupier a or deposit in the a 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.

Compensation to be made for temporary occupation.

34. It shall be lawful for the Secretary for Public Works on behalf of the Government, at any time by notice in writing, to require the said promoters, their heirs, executors, administrators, or assigns to sell, and thereupon the said promoters, their heirs, executors, administrators or assigns shall sell to the Government, as the case may be, the said railway upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said railway or any compensation for compulsory sale or other consideration whatsoever) of the said railway, and all lands, buildings, works, materials, and plant of the said promoters, their heirs, executors, administrators, or assigns, suitable

Power for Government to purchase railway.



*Silkstone Coal-mine Railway.*

suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the "Public Works Act of 1888," fifty-first Victoria number thirty-seven, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said railway, lands, buildings, works, materials, plant, and premises shall vest in the Commissioners for Railways, who shall have all the rights, powers, and authorities of the said promoters, their heirs, executors, administrators, and assigns in respect of the said railway so sold.

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

36. The production of a printed or written copy of the by-laws of the promoters, shall be sufficient evidence of such by-laws in all proceedings under the same.

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

38. 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 promoters, 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 promoters.

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

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

41. In this Act the said word "Justices" shall mean Justices of the Peace in and for the territory of New South Wales; and when any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions or a Stipendiary or Police Magistrate; the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the promoters; and the word "promoters" shall mean and include the said Richard Tilden Smith and John Thomas Mance, and the survivor of them, and the heirs, executors, or administrators of such survivor, their or his assigns.



*Silkstone Coal-mine Railway.*

42. This Act shall be deemed and taken to be a public Act, Short title.  
and the same whenever cited shall be sufficiently described as the  
"Silkstone Coal-mine Railway Act of 1889."

## SCHEDULE.

- 5 From a point inside the boundary of their property, situate in the parish of  
Stanford, county of Northumberland, and from thence crossing the eastern boundary  
in a north-easterly direction through properties held by S. Hebblewhite, James Weston,  
H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and J. H. Swan, and through land  
believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal  
10 Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan,  
E. Hungerford, C. Simpson, and others, and being portions of a parcel of land formerly  
owned by E. Hungerford, containing two thousand acres, the line running generally in  
a north-easterly direction through the said properties; thence crossing the Telarah  
Road to and through property held by Peter Green, and terminating at a point on the  
15 Great Northern Railway at twenty miles sixty-five chains seventy-two links from  
Newcastle.

Sydney : Charles Potter, Government Printer.—1889.

[9d.]

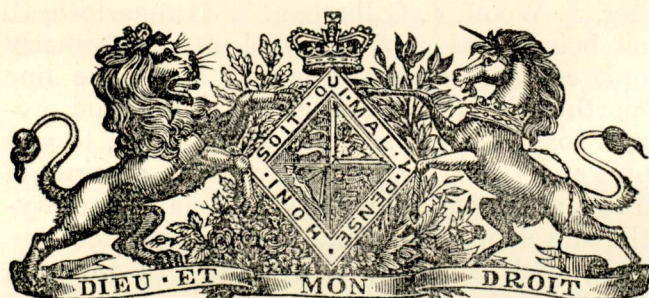


*This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 21 May, 1889. }*

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

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, to construct a Railway from the Silkstone Coal-mine to the Great Northern Railway.

**W**HEREAS Richard Tilden Smith, of Sydney, in the Colony of Preamble.  
New South Wales, and John Thomas Mance, of Parramatta,  
in the said Colony, have opened coal-mines upon lands situated near  
Maitland, in the parish of Stanford, in the county of Northumberland,  
5 and in order to facilitate communication between the said coal-mines  
and the Great Northern Railway, the said Richard Tilden Smith and  
John Thomas Mance, hereinafter designated the promoters, are desirous  
of constructing a railway from their said coal-mines to the Great  
Northern Railway, but as part of such proposed railway is intended  
10 to be made upon and pass through land believed to be the property  
of the Crown, bodies corporate, and private persons respectively, the  
same cannot be made without Legislative authority. And whereas  
the said coal-mines are likely to prove beneficial to the Colony, and  
the public are concerned in promoting such an increase in and  
15 facilities for the supply of coal for local consumption, steam navigation,  
and export, as would result from the construction of the said pro-  
posed railway, and traffic on the Great Northern Railway would be  
increased



*Silkstone Coal-mine Railway.*

increased thereby. It is therefore desirable to authorize by Legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose land the same shall pass for such portion  
 5 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 authority of the same, as follows:—

- 10 1. It shall be lawful for the said promoters to make and construct a railway from a point inside the boundary of their property situated in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction, through properties held by S. Hebblewhite, James Weston, H. J.  
 15 Adams, J. Callaghan, Samuel Clift, W. Turnbull, and P. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portion of a parcel of land formerly  
 20 owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing a road, known as the Telarah Road, to and through property held by Peter Green, and terminating at a point on the Great Northern Railway, at twenty miles sixty-five chains seventy-  
 25 two links from Newcastle, and which lands and route are particularly described in the Schedule, and to effect, if necessary, a junction between the said line and the Great Northern Railway in accordance with section one hundred and twelve of the "Public Works Act of 1888," such railway to be in the direction described in the Schedule,  
 30 and the said promoters may take and occupy three acres of land, or any lesser area, at the junction of the said railway with the Great Northern Railway.

Authority to construct railway, and connect same with Great Northern 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  
 35 Crown Lands, together with such rights of ingress, egress, and regress upon the adjacent land as may be necessary for the making and repair of such railway, shall be vested, by virtue of this Act, and without the necessity of any conveyance, in the promoters for the purposes of the railway. Provided that no lands vested in the Commissioners for Rail-  
 40 ways shall by virtue of this Act be vested in the promoters, 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 promoters shall have no further right to the soil of the said lands  
 45 beneath the surface than shall be requisite for the formation and repairs of the said road by cutting, embanking, sinking wells, or otherwise. Provided that the said railway shall be constructed and brought into use within five years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to  
 50 be used for three years continuously, all the said lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the original owners thereof, their heirs, and assigns. 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,  
 55 so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters 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

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



*Silkstone Coal-mine Railway.*

interfered with, or as nearly as may be. And the promoters, 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  
 5 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  
 10 between the owners or occupiers of such roads and lands and the promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two Justices of the Peace, after inquiry, shall deem necessary for the purposes aforesaid, on application being made to them.

15 3. The railway shall be open to the public use upon payment of a toll to the promoters of a sum not exceeding the rate per ton charged by the Commissioners for Railways in respect of every ton of goods for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government  
 20 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 promoters to supply locomotive power unless the party seeking transit guarantee and bring two hundred tons, at least, during the twelve working hours, and give notice of same at  
 25 least, twenty-four hours previously. The railway shall at all times be open to the public upon payment of a toll to the promoters of a sum not exceeding one penny half-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  
 30 that so long as the promoters shall be willing to supply locomotive power, no other person shall use locomotive power on the line other than the Commissioners for Railways. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power, the promoters shall be entitled to  
 35 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 promoters shall be entitled, not only to compensation for the cost of repairing and restoring the railway, but  
 40 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  
 45 with the said railway for the purpose of bringing carriages to or from or upon the said railway, and the promoters 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  
 50 safety to the public and without injury to the said railway, and without inconvenience to the traffic thereupon, and the promoters shall not take any rate or toll or other moneys for the passing of any passengers, goods, or other things along any branch so to be made by any such owner or occupier or other person, but this enactment shall be subject  
 55 to the following restrictions and conditions (that is to say)—

No such railway shall run parallel to the said railway—the promoters 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  
 60 any inclined plane or bridge, nor in any tunnel.

The



*Silkstone Coal-mine Railway.*

The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters, 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 promoters, under the direction of their engineer.

5  
10  
15  
20  
25  
30  
35  
40  
45  
50  
55

5. For the purposes, and subject to the provisions hereinafter contained, it shall be lawful for the promoters, 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.

Power to divert or alter roads.

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

Penalty for not substituting a road.

7. It shall be lawful for but not compulsory upon the said promoters from time to time, and at any and all times, to carry passengers and live stock upon the said railway 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 promoters for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railway or any part thereof respectively. And the promoters 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 railway, and any persons offending against such by-laws or regulations shall be liable to a fine not exceeding ten pounds for each offence, to be recovered in a summary way before any two Justices. Provided always that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, it shall and may be lawful for the Executive Council to reduce the said rates, tolls, or dues, and to revise them in such manner as may seem most proper and advisable. And it is hereby provided that nothing in this Act contained shall extend to charge or make liable the said promoters 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 promoters of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but on the contrary the promoters shall at all times be entitled to the benefit of every such protection and privilege.

Right to carry passengers.

8. If, in the course of making the railway, the promoters 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 promoters, 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

Road repairs.



*Silkstone Coal-mine Railway.*

to be made in the state of such road in respect of damage done by the promoters, and within such period as they may think reasonable, and may impose on the promoters for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such Justices shall  
 5 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 promoters, 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  
 10 full allowance for, any tolls that may have been paid to the promoters on such road in the course of the using thereof.

9. Until the promoters shall have made the bridges or other  
 proper communications, which they shall, under the provisions herein contained, have been required to make between lands intersected and  
 15 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 repass with carriages, horses, and other animals directly but not otherwise, across any part of the railway made in or through  
 20 their respective lands solely for the purpose of occupying the same lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same; nevertheless if the owner or occupier of any such lands have, in his arrangements with the promoters, received, or agreed to receive, compensation for or  
 25 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 highways or parish road on  
 a level, the promoters shall erect, and at all times maintain, good and  
 30 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  
 35 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  
 40 carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road  
 45 shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed  
 50 with respect to the gates being kept closed across the road.

11. In case of accidents or slips happening or being apprehended  
 to the cuttings, embankments, or other works of the said railway it shall be lawful for the promoters and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the  
 55 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 promoters shall within forty-eight hours after such entry make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done,  
 60 and such powers shall cease and determine if the said Secretary shall, after

Owners crossing.

Provisions in cases where roads are crossed on a level

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



*Silkstone Coal-mine Railway.*

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  
 5 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.  
 10 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.

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

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

20 The clear height of the arch from the surface of the road shall not be less than sixteen feet for 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  
 25 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  
 30 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  
 35 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  
 40 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.

45 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 tram-  
 50 road or railroad.

14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width herein-  
 55 before 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

Construction of bridges over roads.

Construction of bridges over railroads.

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



*Silkstone Coal-mine Railway.*

width of such bridge on either side thereof, the promoters 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 suveyors of such road, not exceeding the width of such road as so widened, or the  
 5 maximum width herein prescribed for a bridge in the like case over or under the railway.

15. Provided also, that if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to  
 10 be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then the promoters may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the  
 15 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 promoters 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.

20 Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making  
 25 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.

Gates, bridges, &c.

All sufficient posts, rails, hedges, ditches, mounds or other fences  
 30 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  
 35 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.

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other  
 40 passages, either over or under or by the sides of the railway 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  
 45 so as may be, and such works shall be made from time to time as the railway works proceed.

Drains.

Also, proper watering-places for cattle or compensation in lieu  
 thereof, where by reason of the railway the cattle of any  
 50 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 promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-  
 55 places.

Watering-places.

Provided always that the promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works  
 with



*Silkstone Coal-mine Railway.*

with respect to which the owners and occupiers of the land shall have agreed to receive, and shall have been paid compensation instead of the making them.

17. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he, and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds. Penalty on persons omitting to fasten gates.

18. The promoters shall not be entitled to any minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the said promoters. 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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say: Unless both parties shall concur in the appointment 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. Compensation clause.

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 arbitrators.

21. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire to decide any matters on which they shall differ, or which shall be referred to them under the provisions of this Act. And if such umpire shall die, or refuse, or for seven days neglect to act, after being called upon to do so by the arbitrators, they shall forthwith, after such death, Vacancy of arbitrator to be supplied.



*Silkstone Coal-mine Railway.*

death, refusal, or neglect appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

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

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

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 If either arbitrator refuse to act, the other to proceed ex parte. decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

25. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both of such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be so appointed as aforesaid.

26. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose. Powers of arbitrators to call for books, &c.

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

I, A.B. do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the “Silkstone Coal-mine Railway Act.”

Made and subscribed in the presence of

A.B.

And such declaration shall be annexed to the award when made, and if any arbitrator or umpire, having made such declaration, shall willfully 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 promoters, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, 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. Cost of arbitration how to be borne. 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.



*Silkstone Coal-mine Railway.*

29. The arbitrators shall deliver their award in writing to the promoters, 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 promoters.

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 promoters shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoters 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 promoters shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands, 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 a 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.

Compensation to be made for temporary occupation.

34. It shall be lawful for the Secretary for Public Works on behalf of the Government, at any time by notice in writing, to require the said promoters, their heirs, executors, administrators, or assigns to sell, and thereupon the said promoters, their heirs, executors, administrators or assigns shall sell to the Government, as the case may be, the said railway upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said railway or any compensation for compulsory sale or other consideration whatsoever) of the said railway, and all lands, buildings, works, materials, and plant of the said promoters, their heirs, executors, administrators, or assigns, suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the "Public Works Act of 1888," fifty-first Victoria number thirty-seven, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said railway, lands, buildings, works, materials, plant, and premises shall vest in the Commissioners for Railways, who shall have all the rights, powers, and authorities of the said promoters, their heirs, executors, administrators, and assigns in respect of the said railway so sold.

Power for Government to purchase railway.

35. For the purpose of regulating the conduct of the officers and servants of the promoters, and for providing for the due management of the affairs of the promoters in all respects, it shall be lawful for

Company may make by-laws.



*Silkstone Coal-mine Railway.*

for the promoters, subject to the provisions herein mentioned, from time to time to make such by-laws and regulations as they shall think fit. Provided that such by-laws be not repugnant to the laws of the Colony, or to the provisions of this Act; and such by-laws shall be reduced into writing, and shall have affixed thereto the names of the promoters, and a copy of such by-laws shall be given to every officer and servant of the promoters affected thereby, and such by-laws may specify a maximum and minimum penalty for any breach thereof, such penalty to be proceeded for and recovered under the provisions of the Act eleventh and twelfth Victoria, chapter forty-three. Provided always that any by-laws of the said promoters relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

36. The production of a printed or written copy of the by-laws of the promoters, shall be sufficient evidence of such by-laws in all proceedings under the same. Evidence of by-laws.

37. Nothing in this Act shall be deemed to authorize the said promoters to take or enter upon any lands belonging to the Commissioners for Railways, or to alter or to interfere with the Great Northern Railway, or any of the works thereof, further or otherwise than is necessary for making the junction and inter-communication between the Railways, without the previous consent in writing in every instance of the Commissioners for Railways. Lands belonging to Commissioners for Railways not to be taken.

38. The 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 promoters, 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 promoters. Commissioners may erect signals and appoint watchmen and switchmen.

39. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the Commissioners for Railways. Working of signals to be under regulations of Commissioners.

40. Nothing herein contained shall alter, repeal, or otherwise affect the "Public Works Act of 1888," or the "Government Railways Act of 1888." Public Works and Government Railways Acts of 1888 not altered or repealed.

41. In this Act the said "Justices" shall mean Justices of the Peace in and for the territory of New South Wales; and when any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions; the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the promoters; and the word "promoters" shall mean and include the said Richard Tilden Smith and John Thomas Mance, and the survivor of them, and the heirs, executors, or administrators of such survivor, their or his assigns. Interpretation clause.

42. This Act shall be deemed and taken to be a public Act, and the same whenever cited shall be sufficiently described as the "Silkstone Coal-mine Railway Act of 1889." Short title.

## SCHEDULE.

50 From a point inside the boundary of their property, situate in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and J. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portions of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing the Telarah Road to and through property held by Peter Green, and terminating at a point on the Great Northern Railway at twenty miles sixty-five chains seventy-two links from Newcastle.





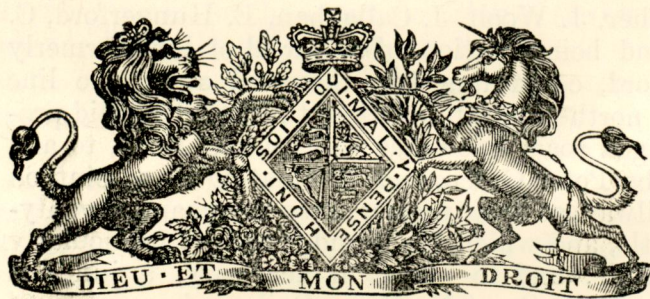


*This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 21 May, 1889. }*

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

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act to enable Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, to construct a Railway from the Silkstone Coal-mine to the Great Northern Railway.

**W**HEREAS Richard Tilden Smith, of Sydney, in the Colony of New South Wales, and John Thomas Mance, of Parramatta, in the said Colony, have opened coal-mines upon lands situated near Maitland, in the parish of Stanford, in the county of Northumberland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said Richard Tilden Smith and John Thomas Mance, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to the Great Northern Railway, but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown, bodies corporate, and private persons respectively, the same cannot be made without Legislative authority. And whereas the said coal-mines are likely to prove beneficial to the Colony, and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption, steam navigation, and export, as would result from the construction of the said proposed railway, and traffic on the Great Northern Railway would be increased

141—A



*Silkstone Coal-mine Railway.*

increased thereby. It is therefore desirable to authorize by Legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose land 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 authority of the same, as follows:—

- 10 1. It shall be lawful for the said promoters to make and con- Authority to con-  
 struct a railway from a point inside the boundary of their property  
 situated in the parish of Stanford, county of Northumberland, and  
 from thence crossing the eastern boundary in a north-easterly direction,  
 through properties held by S. Hebblewhite, James Weston, H. J.  
 15 Adams, J. Callaghan, Samuel Clift, W. Turnbull, and P. H. Swan,  
 and through land believed to be owned by Miss Nine, Mrs. Harrington,  
 J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper,  
 E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C.  
 Simpson, and others, and being portion of a parcel of land formerly  
 20 owned by E. Hungerford, containing two thousand acres, the line  
 running generally in a north-easterly direction through the said pro-  
 perties; thence crossing a road, known as the Telarah Road, to and  
 through property held by Peter Green, and terminating at a point on  
 the Great Northern Railway, at twenty miles sixty-five chains seventy-  
 25 two links from Newcastle, and which lands and route are particularly  
 described in the Schedule, and to effect, if necessary, a junction  
 between the said line and the Great Northern Railway in accordance  
 with section one hundred and twelve of the "Public Works Act of  
 1888," such railway to be in the direction described in the Schedule,  
 30 and the said promoters may take and occupy three acres of land, or  
 any lesser area, at the junction of the said railway with the Great  
 Northern 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  
 35 Crown Lands, together with such rights of ingress, egress, and regress  
 upon the adjacent land as may be necessary for the making and repair  
 of such railway, shall be vested, by virtue of this Act, and without the  
 necessity of any conveyance, in the promoters for the purposes of the  
 railway. Provided that no lands vested in the Commissioners for Rail-  
 40 ways shall by virtue of this Act be vested in the promoters; 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  
 promoters shall have no further right to the soil of the said lands  
 45 beneath the surface than shall be requisite for the formation and  
 repairs of the said road by cutting, embanking, sinking wells, or other-  
 wise. Provided that the said railway shall be constructed and brought  
 into use within five years after the passing of this Act, and that in  
 default thereof, or if after its completion, the said railway shall cease to  
 50 be used for three years continuously, all the said lands, and all the said  
 promoters' interest and estate therein shall revert without any convey-  
 ance to the original owners thereof, their heirs, and assigns. 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,  
 55 so as to render it impassable for, or dangerous or inconvenient to the  
 persons entitled to the use thereof, the promoters shall, before the com-  
 mencement 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

Authority to con-  
 struct railway, and  
 connect same with  
 Great Northern  
 Railway.

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



*Silkstone Coal-mine Railway.*

interfered with, or as nearly as may be. And the promoters, 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  
 5 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  
 10 between the owners or occupiers of such roads and lands and the promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two Justices of the Peace, after inquiry, shall deem necessary for the purposes aforesaid, on application being made to them.

15 3. The railway shall be open to the public use upon payment of a toll to the promoters of a sum not exceeding the rate per ton charged by the Commissioners for Railways in respect of every ton of goods for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government  
 20 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 promoters to supply locomotive power unless the party seeking transit guarantee and bring two hundred tons, at least, during the twelve working hours, and give notice of same at  
 25 least, twenty-four hours previously. The railway shall at all times be open to the public upon payment of a toll to the promoters of a sum not exceeding one penny half-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  
 30 that so long as the promoters shall be willing to supply locomotive power, no other person shall use locomotive power on the line other than the Commissioners for Railways. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power, the promoters shall be entitled to  
 35 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 promoters shall be entitled, not only to compensation for the cost of repairing and restoring the railway, but  
 40 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  
 45 with the said railway for the purpose of bringing carriages to or from or upon the said railway, and the promoters 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  
 50 safety to the public and without injury to the said railway, and without inconvenience to the traffic thereupon, and the promoters shall not take any rate or toll or other moneys for the passing of any passengers, goods, or other things along any branch so to be made by any such owner or occupier or other person, but this enactment shall be subject  
 55 to the following restrictions and conditions (that is to say)—

No such railway shall run parallel to the said railway—the promoters 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  
 60 any inclined plane or bridge, nor in any tunnel.

The



*Silkstone Coal-mine Railway.*

The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters, 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 promoters, under the direction of their engineer.

5. For the purposes, and subject to the provisions hereinafter contained, it shall be lawful for the promoters, 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

Power to divert or alter roads.

15 railway.

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

Penalty for not substituting a road.

7. It shall be lawful for but not compulsory upon the said promoters from time to time, and at any and all times, to carry passengers and live stock upon the said railway 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 promoters for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railway or any part thereof respectively. And the promoters 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 railway, and any persons offending against such by-laws or regulations shall be liable to a fine not exceeding ten pounds for each offence, to be recovered in a summary way before any two Justices. Provided always that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, it shall and may be lawful for the Executive Council to reduce the said rates, tolls, or dues, and to revise them in such manner as may seem most proper and advisable. And it is hereby provided that nothing in this Act contained shall extend to charge or make liable the said promoters 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 promoters of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but on the contrary the promoters shall at all times be entitled to the benefit of every such protection and privilege.

Right to carry passengers.

8. If, in the course of making the railway, the promoters 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 promoters, 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

Road repairs.

to



*Silkstone Coal-mine Railway.*

to be made in the state of such road in respect of damage done by the promoters, and within such period as they may think reasonable, and may impose on the promoters for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such Justices shall  
 5 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 promoters, 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  
 10 full allowance for, any tolls that may have been paid to the promoters on such road in the course of the using thereof.

9. Until the promoters shall have made the bridges or other proper communications, which they shall, under the provisions herein contained, have been required to make between lands intersected and  
 15 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 repass with carriages, horses, and other animals directly but not otherwise, across any part of the railway made in or through  
 20 their respective lands solely for the purpose of occupying the same lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same; nevertheless if the owner or occupier of any such lands have, in his arrangements with the promoters, received, or agreed to receive, compensation for or  
 25 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 highways or parish road on a level, the promoters shall erect, and at all times maintain, good and  
 30 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  
 35 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  
 40 carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road  
 45 shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed  
 50 with respect to the gates being kept closed across the road.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall be lawful for the promoters and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the  
 55 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 promoters shall within forty-eight hours after such entry make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done,  
 60 and such powers shall cease and determine if the said Secretary shall, after

Owners crossing.

Provisions in cases where roads are crossed on a level

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



*Silkstone Coal-mine Railway.*

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  
 5 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.  
 10 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.

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

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

20 The clear height of the arch from the surface of the road shall not be less than sixteen feet for 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  
 25 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  
 30 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  
 35 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  
 40 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.

45 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 tram-  
 50 road or railroad.

14. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width herein-  
 55 before 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

Construction of  
bridges over roads.

Construction of  
bridges over railroads.

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



*Silkstone Coal-mine Railway.*

width of such bridge on either side thereof, the promoters 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  
 5 maximum width herein prescribed for a bridge in the like case over or under the railway.

15. Provided also, that if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to  
 10 be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the promoters, then the promoters may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the  
 15 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 promoters 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.

20 Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making  
 good any interruptions caused by the railway to the use of the lands through which the railway shall be made; and  
 25 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.

Gates, bridges, &c.

All sufficient posts, rails, hedges, ditches, mounds or other fences  
 30 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  
 35 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.

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other  
 40 passages, either over or under or by the sides of the railway 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  
 45 time as the railway works proceed.

Drains.

Also, proper watering-places for cattle or compensation in lieu  
 thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived  
 50 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 promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-  
 55 places.

Watering-places.

Provided always that the promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works  
 with



*Silkstone Coal-mine Railway.*

with respect to which the owners and occupiers of the land shall have agreed to receive, and shall have been paid compensation instead of the making them.

17. If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he, and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds.

Penalty on persons omitting to fasten gates.

18. The promoters shall not be entitled to any minerals under any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the said promoters.

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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned, that is to say: Unless both parties shall concur in the appointment 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.

Compensation clause.

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

Appointment of umpire.



*Silkstone Coal-mine Railway.*

death, refusal, or neglect appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

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

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

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. 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.

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

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

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 "Silkstone Coal-mine Railway Act."

Made and subscribed in the presence of

A.B.

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

28. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, 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.



*Silkstone Coal-mine Railway.*

29. The arbitrators shall deliver their award in writing to the promoters, 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 promoters.
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 promoters shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoters 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 promoters shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands, 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 a 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. Compensation to be made for temporary occupation.
34. It shall be lawful for the Secretary for Public Works on behalf of the Government, at any time by notice in writing, to require the said promoters, their heirs, executors, administrators, or assigns to sell, and thereupon the said promoters, their heirs, executors, administrators or assigns shall sell to the Government, as the case may be, the said railway upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said railway or any compensation for compulsory sale or other consideration whatsoever) of the said railway, and all lands, buildings, works, materials, and plant of the said promoters, their heirs, executors, administrators, or assigns, suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the "Public Works Act of 1888," fifty-first Victoria number thirty-seven, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said railway, lands, buildings, works, materials, plant, and premises shall vest in the Commissioners for Railways, who shall have all the rights, powers, and authorities of the said promoters, their heirs, executors, administrators, and assigns in respect of the said railway so sold. Power for Government to purchase railway.
35. For the purpose of regulating the conduct of the officers and servants of the promoters, and for providing for the due management of the affairs of the promoters in all respects, it shall be lawful for
- Company may make by-laws.



*Silkstone Coal-mine Railway.*

for the promoters, subject to the provisions herein mentioned, from time to time to make such by-laws and regulations as they shall think fit. Provided that such by-laws be not repugnant to the laws of the Colony, or to the provisions of this Act; and such by-laws shall be reduced into writing, and shall have affixed thereto the names of the promoters, and a copy of such by-laws shall be given to every officer and servant of the promoters affected thereby, and such by-laws may specify a maximum and minimum penalty for any breach thereof, such penalty to be proceeded for and recovered under the provisions of the Act eleventh and twelfth Victoria, chapter forty-three. Provided always that any by-laws of the said promoters relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

36. The production of a printed or written copy of the by-laws of the promoters, shall be sufficient evidence of such by-laws in all proceedings under the same. Evidence of by-laws.

37. Nothing in this Act shall be deemed to authorize the said promoters to take or enter upon any lands belonging to the Commissioners for Railways, or to alter or to interfere with the Great Northern Railway, or any of the works thereof, further or otherwise than is necessary for making the junction and inter-communication between the Railways, without the previous consent in writing in every instance of the Commissioners for Railways. Lands belonging to Commissioners for Railways not to be taken.

38. The 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 promoters, 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 promoters. Commissioners may erect signals and appoint watchmen and switchmen.

39. The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the Commissioners for Railways. Working of signals to be under regulations of Commissioners.

40. Nothing herein contained shall alter, repeal, or otherwise affect the "Public Works Act of 1888," or the "Government Railways Act of 1888." Public Works and Government Railways Acts of 1888 not altered or repealed.

41. In this Act the said "Justices" shall mean Justices of the Peace in and for the territory of New South Wales; and when any matter shall be authorized or required to be done by two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions; the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the promoters; and the word "promoters" shall mean and include the said Richard Tilden Smith and John Thomas Mance, and the survivor of them, and the heirs, executors, or administrators of such survivor, their or his assigns. Interpretation clause.

42. This Act shall be deemed and taken to be a public Act, and the same whenever cited shall be sufficiently described as the "Silkstone Coal-mine Railway Act of 1889." Short title.

## SCHEDULE.

50 From a point inside the boundary of their property, situate in the parish of Stanford, county of Northumberland, and from thence crossing the eastern boundary in a north-easterly direction through properties held by S. Hebblewhite, James Weston, H. J. Adams, J. Callaghan, Samuel Clift, W. Turnbull, and J. H. Swan, and through land believed to be owned by Miss Nine, Mrs. Harrington, J. Hickey, the East Greta Coal Company, J. Leonard, H. H. Capper, E. P. Capper, Mrs. Pilcher, J. Woolf, J. Callaghan, E. Hungerford, C. Simpson, and others, and being portions of a parcel of land formerly owned by E. Hungerford, containing two thousand acres, the line running generally in a north-easterly direction through the said properties; thence crossing the Telarah Road to and through property held by Peter Green, and terminating at a point on the Great Northern Railway at twenty miles sixty-five chains seventy-two links from Newcastle.



