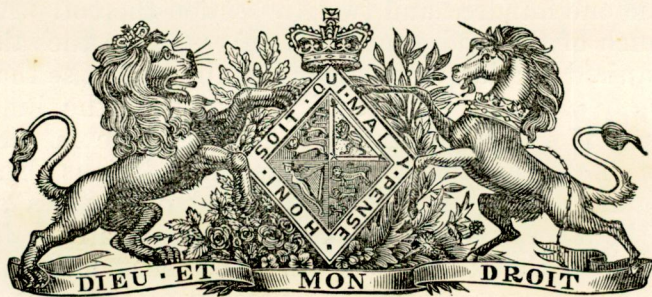


New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway; also a Branch Line in connection therewith. [Assented to, 10th October, 1889.]

WHEREAS the "Greta Coal Company (Limited)," a joint stock Preamble.
company duly registered under an Act of the Victorian Parliament made and passed in the twenty-seventh year of Her present Majesty Queen Victoria, number one hundred and ninety, and hereinafter designated the Company, have opened coal-mines and established collieries on lands situate near Greta, in the county of Northumberland; and in order to facilitate communication between the said coal-mines and the Great Northern Railway the Company is desirous of constructing a railway from their said coal-mines to the Great Northern Railway, such railway to run through certain private lands and across the Great Northern Road, as described or mentioned in the Schedule to this Act, and a branch line also described or mentioned in the said Schedule, both which railway and branch line are hereinafter termed "the railway." 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
A consumption,

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consumption, steam navigation, and export as would result from the construction of the railway, and the traffic on the Great Northern Railway would be increased thereby. And it is desirable to authorize by Legislative enactment the construction and maintenance of the railway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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

1. It shall be lawful for the Company to make and construct the railway from the Great Northern Railway, at a point near the Greta Station, across the lands and in the directions described in the Schedule to this Act, with power to effect a junction with the said Great Northern Railway in the same manner as if the last-mentioned railway was a railway made under the provisions of the "Public Works Act of 1888," and subject to the terms, conditions, and restrictions enacted in the one hundred and twelfth section thereof. And to take and use so much of the roads and lands referred to in the said Schedule as may be required for the purposes of the railway, but so that the same shall not occupy in any part thereof (except near the junction with the said Great Northern Railway) a greater space in breadth than sixty-six feet, including the supports and foundations thereof. And also to take and occupy three acres of land or any less area at the junction of the railway with the existing branch railway from Greta Station. Provided that the railway shall be constructed and brought into use within three years after the passing of this Act. Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act. And the lands taken by and in pursuance hereof at the end of the said period of ninety-nine years, or if the railway shall not be constructed and brought into use within three years after the passing of this Act, or if after its completion the railway shall cease to be used for one year continuously, then at the end of such respective periods shall become the absolute property of the several persons to whom the same belonged immediately before the exercise by the Company of the powers hereby conferred, their heirs or assigns.

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

2. The Company, its successors and assigns, shall have all necessary rights of ingress and egress to and over and upon the adjacent lands, and all such other rights as are required for the construction, repair, completion, maintenance and use of the said railway. Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of. And full compensation shall be made to the owners or occupiers of such lands for the loss, injury, and inconvenience sustained by them respectively by reason of the exercise of such rights. The amount of such compensation, in case of any dispute about the same, shall be settled by arbitration in the manner hereinafter mentioned. Provided also that if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of any road, whether carriage-road or horse-road, so as to render it impassable for, or dangerous, or inconvenient to the persons entitled to the use thereof, the Company shall before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the Company before they use the said lands 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 lands,

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lands, and shall also to all private roads used by them as aforesaid, put up fences and gates in like manner in all cases where the same may be necessary, to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands and the Company, as to the necessity for such fences and gates, then the Company shall put up and erect such fences and gates as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them.

3. The gauge of the railway shall be the Government standard ^{Gauge.} gauge of four feet eight and a-half inches. Provided that pending the completion thereof during the period mentioned, it shall be lawful for the Company to construct and use a railway of the gauge of two feet nine inches.

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

5. It shall be lawful for the owners or occupiers of the lands ^{Branch railways.} traversed by or adjoining or adjacent to the railway to lay down upon their own lands any collateral branches of railway to communicate with the railway for the purpose of bringing carriages to or from or upon the railway, and the Company shall, if required, at the expense of such owners or occupiers, make openings in the rails and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any 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 Company from time to time made with respect to passing upon or crossing the railway and otherwise, and the persons making or using such branch

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branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

Branch railways crossing railway.

6. It shall be lawful for the owners or occupiers of the land traversed by or adjoining or adjacent to the railway to lay down upon their own lands any railway, tramway, waggon, or other way for the purpose of working the mines and minerals underlying their said lands, under, across, and intersecting the railway in places where the crossings can be made with safety to the public and without damage to the railway. And also to pass and repass, across, under, and at the points of intersection of the said railway, but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the railway and the other works of the Company. Provided that the powers conferred by this section shall be subject to the conditions in the last-preceding section contained.

Right of owners of adjoining land to apply to Parliament not prejudiced.

7. Nothing herein contained shall be deemed in any way to prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to the railway to apply for an Act to enable them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

Power to divert or alter roads.

8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company, their deputies, agent, 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.

9. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit ten 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 Court of competent jurisdiction.

Road repairs.

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

Owners crossing.

11. Until the Company shall have made the bridges or other proper communications, which they shall, under the provisions in this Act contained have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such

lands

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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 or adjoining their respective lands solely for the purpose of occupying the said lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have in his arrangements with the Company received or agreed to receive compensation for or on account of any such communications instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

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

13. 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 Company, and their workmen and servants, to enter upon the land adjoining thereto at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the Company shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they 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 for any such works otherwise than is in this Act 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.

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Construction of
bridges over roads.

14. 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 rail-
roads.

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

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet.

The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a public highway, and twenty-five feet if a parish road, and twelve feet if a private road.

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

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

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

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

17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved

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

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

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from the railway, as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made; and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof.

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

Also all necessary arches, tunnels, culverts, drains, or other passages 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.

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

Provided always that the Company shall not be required to make such accommodation works in such 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.

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

20. 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

Works for benefit of owners.

Gates, bridges, &c.

Fences.

Drains.

Watering-places.

Minerals not to pass.

Penalty on persons omitting to fasten gates.

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occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, recoverable before two Justices.

Owners of lands traversed by railway may work mines under same.

21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands. Provided that the railway shall not be injured or interfered with by any such working of such mines or minerals.

Compensation clause.

22. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass, or any of them, and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or any of them 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 any 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.

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

Appointment of umpire.

24. 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.

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25. 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 to appoint an umpire on neglect. 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.

26. 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*.

27. 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*.

28. 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.

29. 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 to arbitrators to call for books, &c.

30. 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 "Leconfield Coal-mine Railway Act of 1889."

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.

31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the Company, 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.

32. The arbitrators shall deliver their award in writing to the Company who shall retain the same and shall forthwith, on demand, at their own expense furnish a copy thereof to the other party, and shall Award to be delivered to the Company.

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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.

How compensation to be paid when any of parties under any disability.

33. If the person or persons through whose lands the railway shall pass, shall be under any disability or incapacity, or shall be entitled only to a partial or qualified interest in the said lands, or not entitled to dispose of the same absolutely for his or their own benefit, or shall be absent from this Colony, the amount of compensation to be paid by the Company as aforesaid shall be ascertained, and when so ascertained shall be paid into the Supreme Court of New South Wales to be applied for and obtained by the parties legally entitled thereto.

Submission may be made a rule of Court.

34. 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.

35. 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.

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

Compensation to be made for temporary occupation.

37. In every case where the Company 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, 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.

Sheriff authorized to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly.

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39. For the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects, it shall be lawful for the Company, subject to the provisions in this Act contained, 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, or to any resolution of any general meeting of shareholders, and such by-laws shall be reduced into writing, and shall have affixed thereto the common seal of the Company, and a copy of such by-laws shall be given to every officer and servant of the Company 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 Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

Company may make by-laws.

40. The production of a printed or written copy of the by-laws of the Company, having the common seal of the Company affixed thereto, shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

41. Nothing in this Act shall be deemed to authorize the Company to take or enter upon any lands belonging to the said Commissioners, 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 intercommunication between the railways without the previous consent in writing in every instance of the said Commissioners.

Lands belonging to Commissioners for Railways not to be taken.

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

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

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

"Government Railway Act of 1888" and "Public Works Act of 1888" not altered or repealed.

45. In this Act the word "Justices" shall mean Justices of the Peace in and for the Colony of New South Wales; and when any matter is authorized or required to be done by, or any penalty or forfeiture is recoverable before two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, or a Stipendiary or Police Magistrate, and the word "Owner" shall mean any person or corporation who, under the provisions of this Act is authorized to sell land to the Company.

Interpretation clause.

46. This Act may be cited as the "Leconfield Coal-mine Railway Act of 1889."

Short title.

Leconfield Coal-mine Railway.

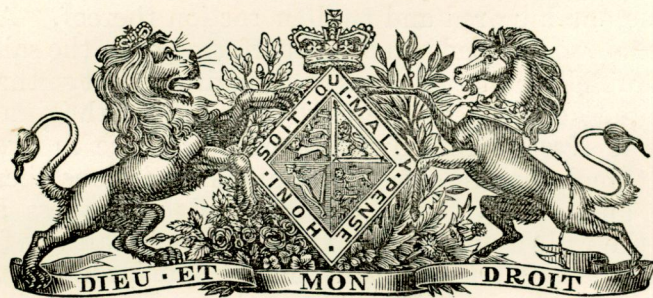
SCHEDULE.

Commencing on the Great Northern Railway at the junction of the present Greta siding; and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal Company from W. Clift, to the southern side of the Great Northern Road; thence crossing that road, and proceeding north-westerly and northerly, running parallel to a subdivision fence through five hundred and thirty-six acres belonging to Edith Marianne Parnell, Charles Parnell, and Gerald Parnell; thence north-easterly to the northern boundary of said land; thence still north-easterly and easterly through R. Wyndham's four hundred and twenty-seven acres and one thousand two hundred and forty-nine acres crossing the Dalwood Road to the Leconfield tunnels. Also a branch line starting at a point on the above described line, distant about one thousand five hundred and seventy links west from its intersection with the western side of the Dalwood Road, and proceeding north-easterly through the Greta Coal Company's freehold of nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield; thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's seven hundred and ninety-two acres one rood held under mineral lease by the aforesaid Greta Coal Company.

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

[9d.]

New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway; also a Branch Line in connection therewith. [Assented to, 10th October, 1889.]

WHEREAS the "Greta Coal Company (Limited)," a joint stock Preamble. company duly registered under an Act of the Victorian Parliament made and passed in the twenty-seventh year of Her present Majesty Queen Victoria, number one hundred and ninety, and hereinafter designated the Company, have opened coal-mines and established collieries on lands situate near Greta, in the county of Northumberland; and in order to facilitate communication between the said coal-mines and the Great Northern Railway the Company is desirous of constructing a railway from their said coal-mines to the Great Northern Railway, such railway to run through certain private lands and across the Great Northern Road, as described or mentioned in the Schedule to this Act, and a branch line also described or mentioned in the said Schedule, both which railway and branch line are hereinafter termed "the railway." 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,

Leconfield Coal-mine Railway.

consumption, steam navigation, and export as would result from the construction of the railway, and the traffic on the Great Northern Railway would be increased thereby. And it is desirable to authorize by Legislative enactment the construction and maintenance of the railway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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

1. It shall be lawful for the Company to make and construct the railway from the Great Northern Railway, at a point near the Greta Station, across the lands and in the directions described in the Schedule to this Act, with power to effect a junction with the said Great Northern Railway in the same manner as if the last-mentioned railway was a railway made under the provisions of the "Public Works Act of 1888," and subject to the terms, conditions, and restrictions enacted in the one hundred and twelfth section thereof. And to take and use so much of the roads and lands referred to in the said Schedule as may be required for the purposes of the railway, but so that the same shall not occupy in any part thereof (except near the junction with the said Great Northern Railway) a greater space in breadth than sixty-six feet, including the supports and foundations thereof. And also to take and occupy three acres of land or any less area at the junction of the railway with the existing branch railway from Greta Station. Provided that the railway shall be constructed and brought into use within three years after the passing of this Act. Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act. And the lands taken by and in pursuance hereof at the end of the said period of ninety-nine years, or if the railway shall not be constructed and brought into use within three years after the passing of this Act, or if after its completion the railway shall cease to be used for one year continuously, then at the end of such respective periods shall become the absolute property of the several persons to whom the same belonged immediately before the exercise by the Company of the powers hereby conferred, their heirs or assigns.

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

2. The Company, its successors and assigns, shall have all necessary rights of ingress and egress to and over and upon the adjacent lands, and all such other rights as are required for the construction, repair, completion, maintenance and use of the said railway. Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of. And full compensation shall be made to the owners or occupiers of such lands for the loss, injury, and inconvenience sustained by them respectively by reason of the exercise of such rights. The amount of such compensation, in case of any dispute about the same, shall be settled by arbitration in the manner hereinafter mentioned. Provided also that if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of any road, whether carriage-road or horse-road, so as to render it impassable for, or dangerous, or inconvenient to the persons entitled to the use thereof, the Company shall before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the Company before they use the said lands 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 lands,

Leconfield Coal-mine Railway.

lands, and shall also to all private roads used by them as aforesaid, put up fences and gates in like manner in all cases where the same may be necessary, to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands and the Company, as to the necessity for such fences and gates, then the Company shall put up and erect such fences and gates as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them.

3. The gauge of the railway shall be the Government standard ^{Gauge.} gauge of four feet eight and a-half inches. Provided that pending the completion thereof during the period mentioned, it shall be lawful for the Company to construct and use a railway of the gauge of two feet nine inches.

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

5. It shall be lawful for the owners or occupiers of the lands ^{Branch railways.} traversed by or adjoining or adjacent to the railway to lay down upon their own lands any collateral branches of railway to communicate with the railway for the purpose of bringing carriages to or from or upon the railway, and the Company shall, if required, at the expense of such owners or occupiers, make openings in the rails and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any 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 Company from time to time made with respect to passing upon or crossing the railway and otherwise, and the persons making or using such branch

Leconfield Coal-mine Railway.

branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

Branch railways crossing railway.

6. It shall be lawful for the owners or occupiers of the land traversed by or adjoining or adjacent to the railway to lay down upon their own lands any railway, tramway, waggon, or other way for the purpose of working the mines and minerals underlying their said lands, under, across, and intersecting the railway in places where the crossings can be made with safety to the public and without damage to the railway. And also to pass and repass, across, under, and at the points of intersection of the said railway, but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the railway and the other works of the Company. Provided that the powers conferred by this section shall be subject to the conditions in the last-preceding section contained.

Right of owners of adjoining land to apply to Parliament not prejudiced.

7. Nothing herein contained shall be deemed in any way to prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to the railway to apply for an Act to enable them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

Power to divert or alter roads.

8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company, their deputies, agent, 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.

9. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit ten 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 Court of competent jurisdiction.

Road repairs.

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

Owners crossing.

11. Until the Company shall have made the bridges or other proper communications, which they shall, under the provisions in this Act contained have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such lands

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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 or adjoining their respective lands solely for the purpose of occupying the said lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have in his arrangements with the Company received or agreed to receive compensation for or on account of any such communications instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

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

13. 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 Company, and their workmen and servants, to enter upon the land adjoining thereto at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the Company shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they 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 for any such works otherwise than is in this Act 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.

Leconfield Coal-mine Railway.

Construction of
bridges over roads.

14. 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 rail-
roads.

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

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet.

The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a public highway, and twenty-five feet if a parish road, and twelve feet if a private road.

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

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

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

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

17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved

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

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

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 been made, or as nearly so as may be. And the Company shall make all necessary water-courses and drains for the purpose of conveying water to the said watering-places. Watering-places.

Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the 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.

19. The Company shall not be entitled by virtue of this Act to any mines of coal, ironstone, slate, or other minerals under any private land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the Company by virtue of this Act. Minerals not to pass.

20. 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 Penalty on persons omitting to fasten gates.

Leconfield Coal-mine Railway.

occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, recoverable before two Justices.

Owners of lands traversed by railway may work mines under same.

21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands. Provided that the railway shall not be injured or interfered with by any such working of such mines or minerals.

Compensation clause.

22. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass, or any of them, and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or any of them 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 any 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.

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

Appointment of umpire.

24. 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.

Leconfield Coal-mine Railway.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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 "Leconfield Coal-mine Railway Act of 1889."

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.

31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the Company, 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.

32. The arbitrators shall deliver their award in writing to the Company who shall retain the same and shall forthwith, on demand, at their own expense furnish a copy thereof to the other party, and shall

Leconfield Coal-mine Railway.

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.

How compensation to be paid when any of parties under any disability.

33. If the person or persons through whose lands the railway shall pass, shall be under any disability or incapacity, or shall be entitled only to a partial or qualified interest in the said lands, or not entitled to dispose of the same absolutely for his or their own benefit, or shall be absent from this Colony, the amount of compensation to be paid by the Company as aforesaid shall be ascertained, and when so ascertained shall be paid into the Supreme Court of New South Wales to be applied for and obtained by the parties legally entitled thereto.

Submission may be made a rule of Court.

34. 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.

35. 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.

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

Compensation to be made for temporary occupation.

37. In every case where the Company 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, 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.

Sheriff authorized to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly.

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39. For the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects, it shall be lawful for the Company, subject to the provisions in this Act contained, 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, or to any resolution of any general meeting of shareholders, and such by-laws shall be reduced into writing, and shall have affixed thereto the common seal of the Company, and a copy of such by-laws shall be given to every officer and servant of the Company 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 Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

Company may make by-laws.

40. The production of a printed or written copy of the by-laws of the Company, having the common seal of the Company affixed thereto, shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

41. Nothing in this Act shall be deemed to authorize the Company to take or enter upon any lands belonging to the said Commissioners, 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 intercommunication between the railways without the previous consent in writing in every instance of the said Commissioners.

Lands belonging to Commissioners for Railways not to be taken.

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

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

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

"Government Railway Act of 1888" and "Public Works Act of 1888" not altered or repealed.

45. In this Act the word "Justices" shall mean Justices of the Peace in and for the Colony of New South Wales; and when any matter is authorized or required to be done by, or any penalty or forfeiture is recoverable before two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, or a Stipendiary or Police Magistrate, and the word "Owner" shall mean any person or corporation who, under the provisions of this Act is authorized to sell land to the Company.

Interpretation clause.

46. This Act may be cited as the "Leconfield Coal-mine Railway Act of 1889."

Short title.

Leconfield Coal-mine Railway.

SCHEDULE.

Commencing on the Great Northern Railway at the junction of the present Greta siding; and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal Company from W. Clift, to the southern side of the Great Northern Road; thence crossing that road, and proceeding north-westerly and northerly, running parallel to a subdivision fence through five hundred and thirty-six acres belonging to Edith Marianne Parnell, Charles Parnell, and Gerald Parnell; thence north-easterly to the northern boundary of said land; thence still north-easterly and easterly through R. Wyndham's four hundred and twenty-seven acres and one thousand two hundred and forty-nine acres crossing the Dalwood Road to the Leconfield tunnels. Also a branch line starting at a point on the above described line, distant about one thousand five hundred and seventy links west from its intersection with the western side of the Dalwood Road, and proceeding north-easterly through the Greta Coal Company's freehold of nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield; thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's seven hundred and ninety-two acres one rood held under mineral lease by the aforesaid Greta Coal Company.

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

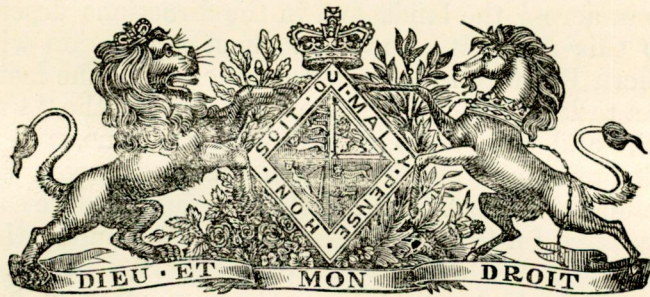
[9d.]

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

*Legislative Council Chamber,
Sydney, 9th October, 1889. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway; also a Branch Line in connection therewith. [Assented to, 10th October, 1889.]

WHEREAS the "Greta Coal Company (Limited)," a joint stock Preamble. company duly registered under an Act of the Victorian Parliament made and passed in the twenty-seventh year of Her present Majesty Queen Victoria, number one hundred and ninety, and hereinafter designated the Company, have opened coal-mines and established collieries on lands situate near Greta, in the county of Northumberland; and in order to facilitate communication between the said coal-mines and the Great Northern Railway the Company is desirous of constructing a railway from their said coal-mines to the Great Northern Railway, such railway to run through certain private lands and across the Great Northern Road, as described or mentioned in the Schedule to this Act, and a branch line also described or mentioned in the said Schedule, both which railway and branch line are hereinafter termed "the railway." 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,

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

ARCHD. H. JACOB,
Chairman of Committees of the Legislative Council.

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consumption, steam navigation, and export as would result from the construction of the railway, and the traffic on the Great Northern Railway would be increased thereby. And it is desirable to authorize by Legislative enactment the construction and maintenance of the railway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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

1. It shall be lawful for the Company to make and construct the railway from the Great Northern Railway, at a point near the Greta Station, across the lands and in the directions described in the Schedule to this Act, with power to effect a junction with the said Great Northern Railway in the same manner as if the last-mentioned railway was a railway made under the provisions of the "Public Works Act of 1888," and subject to the terms, conditions, and restrictions enacted in the one hundred and twelfth section thereof. And to take and use so much of the roads and lands referred to in the said Schedule as may be required for the purposes of the railway, but so that the same shall not occupy in any part thereof (except near the junction with the said Great Northern Railway) a greater space in breadth than sixty-six feet, including the supports and foundations thereof. And also to take and occupy three acres of land or any less area at the junction of the railway with the existing branch railway from Greta Station. Provided that the railway shall be constructed and brought into use within three years after the passing of this Act. Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act. And the lands taken by and in pursuance hereof at the end of the said period of ninety-nine years, or if the railway shall not be constructed and brought into use within three years after the passing of this Act, or if after its completion the railway shall cease to be used for one year continuously, then at the end of such respective periods shall become the absolute property of the several persons to whom the same belonged immediately before the exercise by the Company of the powers hereby conferred, their heirs or assigns.

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

2. The Company, its successors and assigns, shall have all necessary rights of ingress and egress to and over and upon the adjacent lands, and all such other rights as are required for the construction, repair, completion, maintenance and use of the said railway. Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of. And full compensation shall be made to the owners or occupiers of such lands for the loss, injury, and inconvenience sustained by them respectively by reason of the exercise of such rights. The amount of such compensation, in case of any dispute about the same, shall be settled by arbitration in the manner hereinafter mentioned. Provided also that if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of any road, whether carriage-road or horse-road, so as to render it impassable for, or dangerous, or inconvenient to the persons entitled to the use thereof, the Company shall before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the Company before they use the said lands 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

lands,

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lands, and shall also to all private roads used by them as aforesaid, put up fences and gates in like manner in all cases where the same may be necessary, to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands and the Company, as to the necessity for such fences and gates, then the Company shall put up and erect such fences and gates as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them.

3. The gauge of the railway shall be the Government standard Gauge. gauge of four feet eight and a-half inches. Provided that pending the completion thereof during the period mentioned, it shall be lawful for the Company to construct and use a railway of the gauge of two feet nine inches.

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

5. It shall be lawful for the owners or occupiers of the lands traversed by or adjoining or adjacent to the railway to lay down upon their own lands any collateral branches of railway to communicate with the railway for the purpose of bringing carriages to or from or upon the railway, and the Company shall, if required, at the expense of such owners or occupiers, make openings in the rails and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)— Branch railways.

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any 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 Company from time to time made with respect to passing upon or crossing the railway and otherwise, and the persons making or using such branch

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branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

Branch railways crossing railway.

6. It shall be lawful for the owners or occupiers of the land traversed by or adjoining or adjacent to the railway to lay down upon their own lands any railway, tramway, waggon, or other way for the purpose of working the mines and minerals underlying their said lands, under, across, and intersecting the railway in places where the crossings can be made with safety to the public and without damage to the railway. And also to pass and repass, across, under, and at the points of intersection of the said railway, but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the railway and the other works of the Company. Provided that the powers conferred by this section shall be subject to the conditions in the last-preceding section contained.

Right of owners of adjoining land to apply to Parliament not prejudiced.

7. Nothing herein contained shall be deemed in any way to prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to the railway to apply for an Act to enable them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

Power to divert or alter roads.

8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company, their deputies, agent, 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.

9. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit ten 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 Court of competent jurisdiction.

Road repairs.

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

Owners crossing.

11. Until the Company shall have made the bridges or other proper communications, which they shall, under the provisions in this Act contained have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such lands

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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 or adjoining their respective lands solely for the purpose of occupying the said lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have in his arrangements with the Company received or agreed to receive compensation for or on account of any such communications instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

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

13. 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 Company, and their workmen and servants, to enter upon the land adjoining thereto at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the Company shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they 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 for any such works otherwise than is in this Act 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.

Leconfield Coal-mine Railway.

Construction of
bridges over roads.

14. 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 rail-
roads.

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

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet.

The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a public highway, and twenty-five feet if a parish road, and twelve feet if a private road.

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

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

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

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

17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved

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

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

Works for benefit of owners.

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 been made, or as nearly so as may be. And the Company shall make all necessary water-courses and drains for the purpose of conveying water to the said watering-places.

Watering places.

Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the 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.

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

Minerals not to pass.

20. 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

Penalty on persons omitting to fasten gates.

occupiers

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occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, recoverable before two Justices.

Owners of lands
traversed by railway
may work mines
under same.

21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands. Provided that the railway shall not be injured or interfered with by any such working of such mines or minerals.

Compensation clause.

22. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass, or any of them, and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or any of them 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 any 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.

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

Appointment of
umpire.

24. 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.

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25. 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 an umpire on neglect.

26. 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*.

27. 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*.

28. 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.

29. 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 to arbitrators to call for books, &c.

30. Before any arbitrator or umpire 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 "Leconfield Coal-mine Railway Act of 1889."

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.

31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the Company, 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.

32. The arbitrators shall deliver their award in writing to the Company who shall retain the same and shall forthwith, on demand, at their own expense furnish a copy thereof to the other party, and shall

Award to be delivered to the Company.

Leconfield Coal-mine Railway.

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.

How compensation to be paid when any of parties under any disability.

33. If the person or persons through whose lands the railway shall pass, shall be under any disability or incapacity, or shall be entitled only to a partial or qualified interest in the said lands, or not entitled to dispose of the same absolutely for his or their own benefit, or shall be absent from this Colony, the amount of compensation to be paid by the Company as aforesaid shall be ascertained, and when so ascertained shall be paid into the Supreme Court of New South Wales to be applied for and obtained by the parties legally entitled thereto.

Submission may be made a rule of Court.

34. 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.

35. 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.

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

Compensation to be made for temporary occupation.

37. In every case where the Company 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, 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.

Sheriff authorized to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly.

39.

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39. For the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects, it shall be lawful for the Company, subject to the provisions in this Act contained, 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, or to any resolution of any general meeting of shareholders, and such by-laws shall be reduced into writing, and shall have affixed thereto the common seal of the Company, and a copy of such by-laws shall be given to every officer and servant of the Company 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 Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

Company may make by-laws.

40. The production of a printed or written copy of the by-laws of the Company, having the common seal of the Company affixed thereto, shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

41. Nothing in this Act shall be deemed to authorize the Company to take or enter upon any lands belonging to the said Commissioners, 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 intercommunication between the railways without the previous consent in writing in every instance of the said Commissioners.

Lands belonging to Commissioners for Railways not to be taken.

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

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

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

"Government Railway Act of 1888" and "Public Works Act of 1888" not altered or repealed.

45. In this Act the word "Justices" shall mean Justices of the Peace in and for the Colony of New South Wales; and when any matter is authorized or required to be done by, or any penalty or forfeiture is recoverable before two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, or a Stipendiary or Police Magistrate, and the word "Owner" shall mean any person or corporation who, under the provisions of this Act is authorized to sell land to the Company.

Interpretation clause.

46. This Act may be cited as the "Leconfield Coal-mine Railway Act of 1889."

Short title.

Leconfield Coal-mine Railway.

SCHEDULE.

Commencing on the Great Northern Railway at the junction of the present Greta siding; and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal Company from W. Clift, to the southern side of the Great Northern Road; thence crossing that road, and proceeding north-westerly and northerly, running parallel to a subdivision fence through five hundred and thirty-six acres belonging to Edith Marianne Parnell, Charles Parnell, and Gerald Parnell; thence north-easterly to the northern boundary of said land; thence still north-easterly and easterly through R. Wyndham's four hundred and twenty-seven acres and one thousand two hundred and forty-nine acres crossing the Dalwood Road to the Leconfield tunnels. Also a branch line starting at a point on the above described line, distant about one thousand five hundred and seventy links west from its intersection with the western side of the Dalwood Road, and proceeding north-easterly through the Greta Coal Company's freehold of nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield; thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's seven hundred and ninety-two acres one rood held under mineral lease by the aforesaid Greta Coal Company.

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

CARRINGTON.

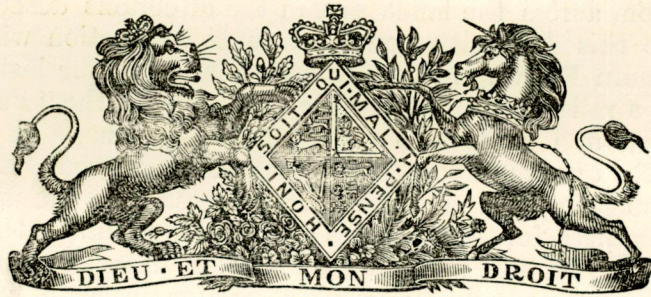
*Government House,
Sydney, 10th October, 1889.*

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

*Legislative Council Chamber,
Sydney, 9th October, 1889. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway; also a Branch Line in connection therewith. [Assented to, 10th October, 1889.]

WHEREAS the "Greta Coal Company (Limited)," a joint stock Preamble. company duly registered under an Act of the Victorian Parliament made and passed in the twenty-seventh year of Her present Majesty Queen Victoria, number one hundred and ninety, and hereinafter designated the Company, have opened coal-mines and established collieries on lands situate near Greta, in the county of Northumberland; and in order to facilitate communication between the said coal-mines and the Great Northern Railway the Company is desirous of constructing a railway from their said coal-mines to the Great Northern Railway, such railway to run through certain private lands and across the Great Northern Road, as described or mentioned in the Schedule to this Act, and a branch line also described or mentioned in the said Schedule, both which railway and branch line are hereinafter termed "the railway." 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,

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

ARCHD. H. JACOB,
Chairman of Committees of the Legislative Council.

Leconfield Coal-mine Railway.

consumption, steam navigation, and export as would result from the construction of the railway, and the traffic on the Great Northern Railway would be increased thereby. And it is desirable to authorize by Legislative enactment the construction and maintenance of the railway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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

1. It shall be lawful for the Company to make and construct the railway from the Great Northern Railway, at a point near the Greta Station, across the lands and in the directions described in the Schedule to this Act, with power to effect a junction with the said Great Northern Railway in the same manner as if the last-mentioned railway was a railway made under the provisions of the "Public Works Act of 1888," and subject to the terms, conditions, and restrictions enacted in the one hundred and twelfth section thereof. And to take and use so much of the roads and lands referred to in the said Schedule as may be required for the purposes of the railway, but so that the same shall not occupy in any part thereof (except near the junction with the said Great Northern Railway) a greater space in breadth than sixty-six feet, including the supports and foundations thereof. And also to take and occupy three acres of land or any less area at the junction of the railway with the existing branch railway from Greta Station. Provided that the railway shall be constructed and brought into use within three years after the passing of this Act. Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act. And the lands taken by and in pursuance hereof at the end of the said period of ninety-nine years, or if the railway shall not be constructed and brought into use within three years after the passing of this Act, or if after its completion the railway shall cease to be used for one year continuously, then at the end of such respective periods shall become the absolute property of the several persons to whom the same belonged immediately before the exercise by the Company of the powers hereby conferred, their heirs or assigns.

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

2. The Company, its successors and assigns, shall have all necessary rights of ingress and egress to and over and upon the adjacent lands, and all such other rights as are required for the construction, repair, completion, maintenance and use of the said railway. Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of. And full compensation shall be made to the owners or occupiers of such lands for the loss, injury, and inconvenience sustained by them respectively by reason of the exercise of such rights. The amount of such compensation, in case of any dispute about the same, shall be settled by arbitration in the manner hereinafter mentioned. Provided also that if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of any road, whether carriage-road or horse-road, so as to render it impassable for, or dangerous, or inconvenient to the persons entitled to the use thereof, the Company shall before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the Company before they use the said lands 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
lands,

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lands, and shall also to all private roads used by them as aforesaid, put up fences and gates in like manner in all cases where the same may be necessary, to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands and the Company, as to the necessity for such fences and gates, then the Company shall put up and erect such fences and gates as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them.

3. The gauge of the railway shall be the Government standard ^{Gauge.} gauge of four feet eight and a-half inches. Provided that pending the completion thereof during the period mentioned, it shall be lawful for the Company to construct and use a railway of the gauge of two feet nine inches.

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

5. It shall be lawful for the owners or occupiers of the lands ^{Branch railways.} traversed by or adjoining or adjacent to the railway to lay down upon their own lands any collateral branches of railway to communicate with the railway for the purpose of bringing carriages to or from or upon the railway, and the Company shall, if required, at the expense of such owners or occupiers, make openings in the rails and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the railway, and without inconvenience to the traffic thereupon, but this enactment shall be subject to the following restrictions and conditions (that is to say)—

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any 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 Company from time to time made with respect to passing upon or crossing the railway and otherwise, and the persons making or using such branch

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branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

Branch railways crossing railway.

6. It shall be lawful for the owners or occupiers of the land traversed by or adjoining or adjacent to the railway to lay down upon their own lands any railway, tramway, waggon, or other way for the purpose of working the mines and minerals underlying their said lands, under, across, and intersecting the railway in places where the crossings can be made with safety to the public and without damage to the railway. And also to pass and repass, across, under, and at the points of intersection of the said railway, but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the railway and the other works of the Company. Provided that the powers conferred by this section shall be subject to the conditions in the last-preceding section contained.

Right of owners of adjoining land to apply to Parliament not prejudiced.

7. Nothing herein contained shall be deemed in any way to prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to the railway to apply for an Act to enable them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

Power to divert or alter roads.

8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company, their deputies, agent, 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.

9. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit ten 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 Court of competent jurisdiction.

Road repairs.

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

Owners crossing.

11. Until the Company shall have made the bridges or other proper communications, which they shall, under the provisions in this Act contained have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such lands

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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 or adjoining their respective lands solely for the purpose of occupying the said lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have in his arrangements with the Company received or agreed to receive compensation for or on account of any such communications instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

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

13. 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 Company, and their workmen and servants, to enter upon the land adjoining thereto at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the Company shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they 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 for any such works otherwise than is in this Act 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.

Leconfield Coal-mine Railway.

Construction of
bridges over roads.

14. 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 rail-
roads.

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

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet.

The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a public highway, and twenty-five feet if a parish road, and twelve feet if a private road.

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

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

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

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

17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved

Leconfield Coal-mine Railway.

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

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

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from the 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 been made, or as nearly so as may be. And the Company shall make all necessary water-courses and drains for the purpose of conveying water to the said watering-places. Watering places.

Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the 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.

19. The Company shall not be entitled by virtue of this Act to any mines of coal, ironstone, slate, or other minerals under any private land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the Company by virtue of this Act. Minerals not to pass.

20. 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 Penalty on persons omitting to fasten gates.

Leconfield Coal-mine Railway.

occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, recoverable before two Justices.

Owners of lands
traversed by railway
may work mines
under same.

21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands. Provided that the railway shall not be injured or interfered with by any such working of such mines or minerals.

Compensation clause.

22. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass, or any of them, and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or any of them 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 any 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.

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

Appointment of
umpire.

24. 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.

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25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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 "Leconfield Coal-mine Railway Act of 1889."

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.

31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the Company, 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.

32. The arbitrators shall deliver their award in writing to the Company who shall retain the same and shall forthwith, on demand, at their own expense furnish a copy thereof to the other party, and shall

Leconfield Coal-mine Railway.

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.

How compensation to be paid when any of parties under any disability.

33. If the person or persons through whose lands the railway shall pass, shall be under any disability or incapacity, or shall be entitled only to a partial or qualified interest in the said lands, or not entitled to dispose of the same absolutely for his or their own benefit, or shall be absent from this Colony, the amount of compensation to be paid by the Company as aforesaid shall be ascertained, and when so ascertained shall be paid into the Supreme Court of New South Wales to be applied for and obtained by the parties legally entitled thereto.

Submission may be made a rule of Court.

34. 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.

35. 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.

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

Compensation to be made for temporary occupation.

37. In every case where the Company 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, 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.

Sheriff authorized to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly.

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39. For the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects, it shall be lawful for the Company, subject to the provisions in this Act contained, 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, or to any resolution of any general meeting of shareholders, and such by-laws shall be reduced into writing, and shall have affixed thereto the common seal of the Company, and a copy of such by-laws shall be given to every officer and servant of the Company 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 Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

Company may make by-laws.

40. The production of a printed or written copy of the by-laws of the Company, having the common seal of the Company affixed thereto, shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

41. Nothing in this Act shall be deemed to authorize the Company to take or enter upon any lands belonging to the said Commissioners, 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 intercommunication between the railways without the previous consent in writing in every instance of the said Commissioners.

Lands belonging to Commissioners for Railways not to be taken.

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

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

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

"Government Railway Act of 1888" and "Public Works Act of 1888" not altered or repealed.

45. In this Act the word "Justices" shall mean Justices of the Peace in and for the Colony of New South Wales; and when any matter is authorized or required to be done by, or any penalty or forfeiture is recoverable before two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, or a Stipendiary or Police Magistrate, and the word "Owner" shall mean any person or corporation who, under the provisions of this Act is authorized to sell land to the Company.

Interpretation clause.

46. This Act may be cited as the "Leconfield Coal-mine Railway Act of 1889."

Short title.

Leconfield Coal-mine Railway.

SCHEDULE.

Commencing on the Great Northern Railway at the junction of the present Greta siding; and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal Company from W. Clift, to the southern side of the Great Northern Road; thence crossing that road, and proceeding north-westerly and northerly, running parallel to a subdivision fence through five hundred and thirty-six acres belonging to Edith Marianne Parnell, Charles Parnell, and Gerald Parnell; thence north-easterly to the northern boundary of said land; thence still north-easterly and easterly through R. Wyndham's four hundred and twenty-seven acres and one thousand two hundred and forty-nine acres crossing the Dalwood Road to the Leconfield tunnels. Also a branch line starting at a point on the above described line, distant about one thousand five hundred and seventy links west from its intersection with the western side of the Dalwood Road, and proceeding north-easterly through the Greta Coal Company's freehold of nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield; thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's seven hundred and ninety-two acres one rood held under mineral lease by the aforesaid Greta Coal Company.

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

CARRINGTON.

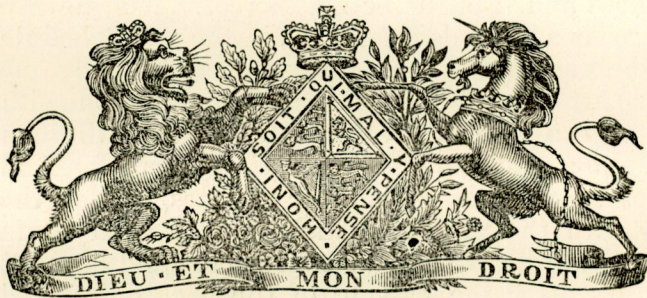
*Government House,
Sydney, 10th October, 1889.*

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

*Legislative Council Chamber,
Sydney, 10th July, 1889. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway; also a Branch Line in connection therewith.

WHEREAS the "Greta Coal Company (Limited)," a joint stock Preamble.
company duly registered under an Act of the Victorian
Parliament made and passed in the twenty-seventh year of Her present
Majesty Queen Victoria, number one hundred and ninety, and herein-
5 after designated the Company, have opened coal-mines and established
collieries on lands situate near Greta, in the county of Northumberland;
and in order to facilitate communication between the said coal-mines and
the Great Northern Railway the Company is desirous of constructing
a railway from their said coal-mines to the Great Northern Railway,
10 such railway to run through certain private lands and across the
Great Northern Road, as described or mentioned in the Schedule
to this Act, and a branch line also described or mentioned in the said
Schedule, both which railway and branch line are hereinafter termed
"the railway." And whereas the said coal-mines are likely to prove
15 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,

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consumption, steam navigation, and export as would result from the construction of the railway, and the traffic on the Great Northern Railway would be increased thereby. And it is desirable to authorize by Legislative enactment the construction and maintenance of the railway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

- 10 1. It shall be lawful for the Company to make and construct the railway from the Great Northern Railway, at a point near the Greta Station, across the lands and in the directions described in the Schedule to this Act, with power to effect a junction with the said Great Northern Railway in the same manner as if the last-mentioned
- 15 railway was a railway made under the provisions of the "Public Works Act of 1888," and subject to the terms, conditions, and restrictions enacted in the one hundred and twelfth section thereof. And to take and use so much of the roads and lands referred to in the said Schedule as may be required for the purposes of the railway, but so that the same
- 20 shall not occupy in any part thereof (except near the junction with the said Great Northern Railway) a greater space in breadth than sixty-six feet, including the supports and foundations thereof. And also to take and occupy three acres of land or any less area at the junction of the railway with the existing branch railway from Greta
- 25 Station. Provided that the railway shall be constructed and brought into use within three years after the passing of this Act. Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act. And the lands taken by and in pursuance hereof at the end of the said period of ninety-nine years, or if the
- 30 railway shall not be constructed and brought into use within three years after the passing of this Act, or if after its completion the railway shall cease to be used for one year continuously, then at the end of such respective periods shall become the absolute property of the several persons to whom the same belonged immediately before the
- 35 exercise by the Company of the powers hereby conferred, their heirs or assigns.
2. The Company, its successors and assigns, shall have all necessary rights of ingress and egress to and over and upon the adjacent lands, and all such other rights as are required for the
- 40 construction, repair, completion, maintenance and use of the said railway. Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of. And full compensation shall be made to the owners or occupiers of such lands for the loss, injury, and inconvenience sustained
- 45 by them respectively by reason of the exercise of such rights. The amount of such compensation, in case of any dispute about the same, shall be settled by arbitration in the manner hereinafter mentioned. 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
- 50 any road, whether carriage-road or horse-road, so as to render it impassable for, or dangerous, or inconvenient to the persons entitled to the use thereof, the Company shall before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted
- 55 road in a state as convenient as the road interfered with, or as nearly as may be. And the Company before they use the said lands 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 lands,

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

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

Leconfield Coal-mine Railway.

lands, 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
 5 the owners or occupiers of such roads and lands and the Company, as to the necessity for such fences and gates, then the Company shall put up and erect such fences and gates as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them.

3. The gauge of the railway shall be the Government standard
 10 gauge of four feet eight and a-half inches. Provided that pending the completion thereof during the period mentioned, it shall be lawful for the Company to construct and use a railway of the gauge of two feet nine inches. Gauge.

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

5. It shall be lawful for the owners or occupiers of the lands
 40 traversed by or adjoining or adjacent to the railway to lay down upon their own lands any collateral branches of railway to communicate with the railway for the purpose of bringing carriages to or from or upon the railway, and the Company shall, if required, at
 45 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 railway, and without inconvenience to the traffic thereupon, but this enactment
 50 shall be subject to the following restrictions and conditions (that is to say)—

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

55 The persons making or using such branch railways shall be subject to all by-laws and regulations of the Company from time to time made with respect to passing upon or crossing the railway and otherwise, and the persons making or using such
 branch

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branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

5 6. It shall be lawful for the owners or occupiers of the land Branch railways crossing railway. traversed by or adjoining or adjacent to the railway to lay down upon their own lands any railway, tramway, waggon, or other way for the purpose of working the mines and minerals underlying their said lands, under, across, and intersecting the railway in places where the
10 crossings can be made with safety to the public and without damage to the railway. And also to pass and repass, across, under, and at the points of intersection of the said railway, but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the railway and the other works of the Company. Provided that the
15 powers conferred by this section shall be subject to the conditions in the last-preceding section contained.

7. Nothing herein contained shall be deemed in any way to Right of owners of adjoining land to apply to Parliament not prejudiced. prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to the railway to apply for an Act to enable
20 them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

8. For the purposes and subject to the provisions hereinafter Power to divert or alter roads. contained it shall be lawful for the Company, their deputies, agent, servants, and workmen, and all other persons by them authorized and
25 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.

9. If the Company do not cause another sufficient road to be so Penalty for not substituting a road. made before they interfere with any such existing road as aforesaid, they shall forfeit ten pounds for every day during which such substituted road shall not be made after the existing road shall have been
30 interrupted, and such penalty shall be paid to the trustees, commissioners, surveyor, or other persons having the management of such
35 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 Court of competent jurisdiction.

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

11. Until the Company shall have made the bridges or other Owners crossing. proper communications, which they shall, under the provisions in this Act contained have been required to make between lands inter-
60 sected and the railway, and no longer, the owners and occupiers of such lands

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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
 5 through or adjoining their respective lands solely for the purpose of occupying the said lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have in his arrangements with the Company received or agreed to receive
 10 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.

12. If the railway cross any public highway or parish road on
 a level, the Company shall erect, and at all times maintain good and
 15 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
 20 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,
 25 or carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein, recoverable before two Justices. Provided always that it shall be lawful for the said Commissioners in any case in which they shall be satisfied that it will be more conducive to the public safety that the
 30 gates or any level crossing over any such road shall be kept closed across the railway to order that such gates be kept so closed instead of across the road, and in such 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
 35 manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

13. 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 Company, and their workmen and servants, to
 40 enter upon the land adjoining thereto at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the Company shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or
 45 apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they 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,
 50 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
 55 manner hereinafter mentioned. And provided also that no land shall be taken for any such works otherwise than is in this Act provided with respect to the lands originally taken for the purpose of making the said railway.

Provisions in cases where roads are crossed on a level.

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

Leconfield Coal-mine Railway.

14. 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.

5 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.

10 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.

15 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.

20 15. 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 rail-roads.

25 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.

30 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.

35 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.

40 16. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available

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

45 width of such roads, but so nevertheless that such bridges be not of less width in case of a public highway or parish road than twenty-feet. Provided also that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof the Company

50 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.

55 17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved

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

Leconfield Coal-mine Railway.

preserved by the Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mean inclination of the road so to be crossed, or of the road so requiring to be altered, 5 or for which another road shall be substituted.

18. The Company shall make and at all times thereafter main-
tain the following works for the accommodation of the owners and
occupiers of lands adjoining the railway (that is to say) :—

10 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
15 such works shall be made forthwith after the part of the
railway passing over such lands shall have been laid out or
formed, or during the formation thereof.

All sufficient posts, rails, hedges, ditches, mounds, or other fences
for separating the land taken for the use of the railway from
the adjoining lands not taken, and protecting such lands
20 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 neces-
sary stiles, and such posts, rails, and other fences shall be
25 made forthwith after the taking of any such lands if the
owners thereof shall so require, and the said other works as
soon as conveniently may be.

Also all necessary arches, tunnels, culverts, drains, or other
30 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.

35 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 suffi-
40 ciently supplied with water as theretofore. And as if the
railway had not been made, or as nearly so as may be.
And the Company shall make all necessary water-courses
and drains for the purpose of conveying water to the said
watering-places.

45 Provided always that the Company shall not be required to make such
accommodation works in such a manner as would prevent or obstruct
the working or using of the 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
50 instead of the making them.

19. The Company shall not be entitled by virtue of this Act to
any mines of coal, ironstone, slate, or other minerals under any
private land whereof the surface is vested in them by virtue of this
Act, except only such parts thereof as shall be necessary to be dug
55 or carried away in the construction of the works hereby authorized.
And such mines shall not be deemed to vest in the Company by
virtue of this Act.

20. 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

Works for benefit of owners.

Gates, bridges, &c.

Fences.

Drains.

Watering-places.

Minerals not to pass.

Penalty on persons omitting to fasten gates.

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occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, recoverable before two Justices.

5 21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands. Provided that the railway shall not be injured or
10 interfered with by any such working of such mines or minerals.

Owners of lands traversed by railway may work mines under same.

22. If within twenty-eight days after the passing of this Act
the said persons through whose lands the railway shall pass, or any of them, and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said
15 parties or any of them, or for any damage that may be sustained by them or any of them 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
20 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 any arbitrator shall be under the hand of such party. And such appointment shall be delivered to the arbitrator
25 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
30 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
35 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.

40 23. 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
45 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
50 disability as aforesaid.

Vacancy of arbitrator to be supplied.

24. 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
55 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
60 referred to him shall be final.

Appointment of umpire.

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25. 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 to appoint an umpire on neglect.
 5 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.

26. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable, or shall refuse, or for 10 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.

27. If where more than one arbitrator shall have been 15 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.

28. If where more than one arbitrator shall have been 20 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 25 under their hands the matters referred to them shall be determined by the umpire to be so appointed as aforesaid.

29. The said arbitrators or their umpire may call for the pro- 30 duction 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.

30. Before any arbitrator or umpire shall enter into the con- 35 sideration 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 "Leconfield Coal-mine Railway Act of 1889."

40 Made and subscribed in the presence of

A.B.

And such declaration shall be annexed to the award when made; and 45 if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of misdemeanour.

31. All the costs of any such arbitration and incident thereto 50 to be settled by the arbitrators shall be borne by the Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount 55 awarded shall be one-fourth less than the amount offered by the Company, 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.

32. The arbitrators shall deliver their award in writing to the 60 Company who shall retain the same and shall forthwith, on demand, at their own expense furnish a copy thereof to the other party, and shall

Leconfield Coal-mine Railway.

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.

How compensation to be paid when any of parties under any disability.

33. If the person or persons through whose lands the railway shall pass, shall be under any disability or incapacity, or shall be entitled only to a partial or qualified interest in the said lands, or not entitled to dispose of the same absolutely for his or their own benefit, or shall be absent from this Colony, the amount of compensation to be paid by the Company as aforesaid shall be ascertained, and when so ascertained shall be paid into the Supreme Court of New South Wales to be applied for and obtained by the parties legally entitled thereto. 5 10

Submission may be made a rule of Court.

34. 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.

35. 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. 15

Compensation for temporary or permanent or recurring injuries.

36. The Company shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the Company of any of the matters and things hereby required to be performed by them or otherwise. 20 25

Compensation to be made for temporary occupation.

37. In every case where the Company 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, 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. 30 35 40

Sheriff authorized to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly. 55 60 39.

Leconfield Coal-mine Railway.

39. For the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects, it shall be lawful for the Company, subject to the provisions in this Act contained, 5 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, or to any resolution of any general meeting of shareholders, and such by-laws shall be reduced into writing, and shall have affixed thereto the 10 common seal of the Company, and a copy of such by-laws shall be given to every officer and servant of the Company 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- 15 three. Provided always that any by-laws of the Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.
40. The production of a printed or written copy of the by-laws of the Company, having the common seal of the Company affixed 20 thereto, shall be sufficient evidence of such by-laws in all proceedings under the same.
41. Nothing in this Act shall be deemed to authorize the Company to take or enter upon any lands belonging to the said Commissioners, or to alter or to interfere with the Great Northern 25 Railway, or any of the works thereof, further or otherwise than is necessary for making the junction and intercommunication between the railways without the previous consent in writing in every instance of the said Commissioners.
42. The said Commissioners shall from time to time erect such 30 signals and conveniences incident to the junction either upon their own lands or on the lands of the Company, and may from time to time appoint and remove such watchmen, switchmen, and other persons as may be necessary for the prevention of danger to, or interference with, the traffic at or near the junction, and in all cases at the expense of the 35 Company.
43. The working and management of such signals and conveniences wherever situate, shall be under the exclusive regulation of the said Commissioners.
44. Nothing herein contained shall alter, repeal, or otherwise 40 affect the "Government Railway Act of 1888" and the "Public Works Act of 1888."
45. In this Act the word "Justices" shall mean Justices of the Peace in and for the Colony of New South Wales; and when any matter is authorized or required to be done by, or any penalty or forfeiture is recoverable before two Justices, the expression "two 45 Justices" shall mean two Justices assembled and acting together in Petty Sessions, or a Stipendiary or Police Magistrate, and the word "Owner" shall mean any person or corporation who, under the provisions of this Act is authorized to sell land to the Company.
- 50 46. This Act may be cited as the "Leconfield Coal-mine Railway Act of 1889."

Company may make by-laws.

Evidence of by-laws.

Lands belonging to Commissioners for Railways not to be taken.

Commissioners may erect signals and appoint watchmen and switchmen.

Working of signals to be under regulations of Commissioners.

"Government Railway Act of 1888" and "Public Works Act of 1888" not altered or repealed.

Interpretation clause.

Short title.

Leconfield Coal-mine Railway.

SCHEDULE.

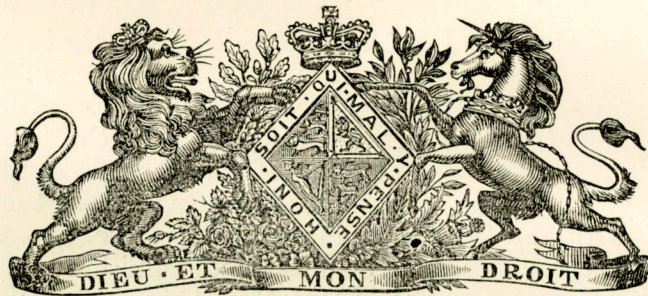
Commencing on the Great Northern Railway at the junction of the present Greta siding; and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal
5 Company from W. Clift, to the southern side of the Great Northern Road; thence crossing that road, and proceeding north-westerly and northerly, running parallel to a subdivision fence through five hundred and thirty-six acres belonging to Edith Marianne Parnell, Charles Parnell, and Gerald Parnell; thence north-easterly to the northern
10 boundary of said land; thence still north-easterly and easterly through R. Wyndham's four hundred and twenty-seven acres and one thousand two hundred and forty-nine acres crossing the Dalwood Road to the Leconfield tunnels. Also a branch line starting at a point on the above described line, distant about one thousand five hundred and seventy links west from its intersection with the western side of the Dalwood Road, and proceeding north-easterly through the Greta Coal Company's freehold of
15 nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield; thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's seven hundred and ninety-two acres one rood held under mineral lease by the aforesaid Greta Coal Company.

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

*Legislative Council Chamber,
Sydney, 10th July, 1889. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway; also a Branch Line in connection therewith.

WHEREAS the "Greta Coal Company (Limited)," a joint stock Preamble.
company duly registered under an Act of the Victorian
Parliament made and passed in the twenty-seventh year of Her present
Majesty Queen Victoria, number one hundred and ninety, and herein-
5 after designated the Company, have opened coal-mines and established
collieries on lands situate near Greta, in the county of Northumberland;
and in order to facilitate communication between the said coal-mines and
the Great Northern Railway the Company is desirous of constructing
a railway from their said coal-mines to the Great Northern Railway,
10 such railway to run through certain private lands and across the
Great Northern Road, as described or mentioned in the Schedule
to this Act, and a branch line also described or mentioned in the said
Schedule, both which railway and branch line are hereinafter termed
"the railway." And whereas the said coal-mines are likely to prove
15 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,

Leconfield Coal-mine Railway.

consumption, steam navigation, and export as would result from the construction of the railway, and the traffic on the Great Northern Railway would be increased thereby. And it is desirable to authorize by Legislative enactment the construction and maintenance of the
 5 railway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

10 1. It shall be lawful for the Company to make and construct the railway from the Great Northern Railway, at a point near the
 Greta Station, across the lands and in the directions described in the
 Schedule to this Act, with power to effect a junction with the said
 Great Northern Railway in the same manner as if the last-mentioned
 15 railway was a railway made under the provisions of the "Public Works
 Act of 1888," and subject to the terms, conditions, and restrictions
 enacted in the one hundred and twelfth section thereof. And to take
 and use so much of the roads and lands referred to in the said Schedule
 as may be required for the purposes of the railway, but so that the same
 20 shall not occupy in any part thereof (except near the junction with
 the said Great Northern Railway) a greater space in breadth than
 sixty-six feet, including the supports and foundations thereof. And
 also to take and occupy three acres of land or any less area at the
 junction of the railway with the existing branch railway from Greta
 25 Station. Provided that the railway shall be constructed and brought
 into use within three years after the passing of this Act. Provided
 further that this authority shall not extend beyond ninety-nine years
 from the passing of this Act. And the lands taken by and in pursuance
 hereof at the end of the said period of ninety-nine years, or if the
 30 railway shall not be constructed and brought into use within three
 years after the passing of this Act, or if after its completion the rail-
 way shall cease to be used for one year continuously, then at the end
 of such respective periods shall become the absolute property of the
 several persons to whom the same belonged immediately before the
 35 exercise by the Company of the powers hereby conferred, their heirs or
 assigns.

2. The Company, its successors and assigns, shall have all
 necessary rights of ingress and egress to and over and upon the
 adjacent lands, and all such other rights as are required for the
 40 construction, repair, completion, maintenance and use of the said
 railway. Provided that the exercise of such rights shall be as little
 injurious to the said adjoining lands as the nature of the case will
 admit of. And full compensation shall be made to the owners or
 occupiers of such lands for the loss, injury, and inconvenience sustained
 45 by them respectively by reason of the exercise of such rights. The
 amount of such compensation, in case of any dispute about the same,
 shall be settled by arbitration in the manner hereinafter mentioned.
 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
 50 any road, whether carriage-road or horse-road, so as to render it im-
 passable for, or dangerous, or inconvenient to the persons entitled to the
 use thereof, the Company shall before the commencement of any such
 operations, cause a sufficient road to be made instead of any road
 interfered with, and shall at their own expense maintain such substi-
 55 tuted road in a state as convenient as the road interfered with, or as
 nearly as may be. And the Company before they use the said lands
 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
 lands,

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

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

Leconfield Coal-mine Railway.

lands, 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
 5 the owners or occupiers of such roads and lands and the Company, as to the necessity for such fences and gates, then the Company shall put up and erect such fences and gates as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them.

3. The gauge of the railway shall be the Government standard
 10 gauge of four feet eight and a-half inches. Provided that pending the completion thereof during the period mentioned, it shall be lawful for the Company to construct and use a railway of the gauge of two feet nine inches. Gauge.

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

40 5. It shall be lawful for the owners or occupiers of the lands traversed by or adjoining or adjacent to the railway to lay down upon their own lands any collateral branches of railway to communicate with the railway for the purpose of bringing carriages to or from or upon the railway, and the Company shall, if required, at
 45 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 railway, and without inconvenience to the traffic thereupon, but this enactment
 50 shall be subject to the following restrictions and conditions (that is to say)—

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere,
 55 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 Company from time to time made with respect to passing upon or crossing the railway and otherwise, and the persons making or using such
 branch

Leconfield Coal-mine Railway.

branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

5 6. It shall be lawful for the owners or occupiers of the land Branch railways crossing railway.
traversed by or adjoining or adjacent to the railway to lay down upon their own lands any railway, tramway, waggon, or other way for the purpose of working the mines and minerals underlying their said lands, under, across, and intersecting the railway in places where the
10 crossings can be made with safety to the public and without damage to the railway. And also to pass and repass, across, under, and at the points of intersection of the said railway, but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the railway and the other works of the Company. Provided that the
15 powers conferred by this section shall be subject to the conditions in the last-preceding section contained.

7. Nothing herein contained shall be deemed in any way to Right of owners of adjoining land to apply to Parliament not prejudiced.
prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to the railway to apply for an Act to enable
20 them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

8. For the purposes and subject to the provisions hereinafter Power to divert or alter roads.
contained it shall be lawful for the Company, their deputies, agent,
25 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.

9. If the Company do not cause another sufficient road to be so Penalty for not substituting a road.
made before they interfere with any such existing road as aforesaid, they shall forfeit ten pounds for every day during which such substituted road shall not be made after the existing road shall have been
30 interrupted, and such penalty shall be paid to the trustees, commissioners, surveyor, or other persons having the management of such
35 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 Court of competent jurisdiction.

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

11. Until the Company shall have made the bridges or other Owners crossing.
proper communications, which they shall, under the provisions in this Act contained have been required to make between lands inter-
60 sected and the railway, and no longer, the owners and occupiers of such lands

Leconfield Coal-mine Railway.

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
 5 through or adjoining their respective lands solely for the purpose of occupying the said lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have in his arrangements with the Company received or agreed to receive
 10 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.

12. If the railway cross any public highway or parish road on
 a level, the Company shall erect, and at all times maintain good and
 15 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
 20 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,
 25 or carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein, recoverable before two Justices. Provided always that it shall be lawful for the said Commissioners in any case in which they shall be satisfied that it will be more conducive to the public safety that the
 30 gates or any level crossing over any such road shall be kept closed across the railway to order that such gates be kept so closed instead of across the road, and in such 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
 35 manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

13. 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 Company, and their workmen and servants, to
 40 enter upon the land adjoining thereto at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the Company shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or
 45 apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they 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,
 50 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
 55 manner hereinafter mentioned. And provided also that no land shall be taken for any such works otherwise than is in this Act provided with respect to the lands originally taken for the purpose of making the said railway.

Provisions in cases where roads are crossed on a level.

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

Leconfield Coal-mine Railway.

14. 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.

5 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.

10 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.

15 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.

20 15. 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 rail-roads.

25 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.

30 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.

35 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.

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

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

55 17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved

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

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

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

10 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.

15 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.

20 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.

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

30 Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the 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.

35 19. The Company shall not be entitled by virtue of this Act to any mines of coal, ironstone, slate, or other minerals under any private land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized. And such mines shall not be deemed to vest in the Company by virtue of this Act.

40 20. 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

Works for benefit of owners.

Gates, bridges, &c.

Fences.

Drains.

Watering-places.

Minerals not to pass.

Penalty on persons omitting to fasten gates.

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occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, recoverable before two Justices.

5 21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands. Provided that the railway shall not be injured or
 10 interfered with by any such working of such mines or minerals.

Owners of lands traversed by railway may work mines under same.

22. If within twenty-eight days after the passing of this Act
 the said persons through whose lands the railway shall pass, or any of them, and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said
 15 parties or any of them, or for any damage that may be sustained by them or any of them 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
 20 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 any arbitrator shall be under the hand of such party. And such appointment shall be delivered to the arbitrator
 25 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
 30 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
 35 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.

40 23. 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
 45 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
 50 disability as aforesaid.

Vacancy of arbitrator to be supplied.

24. 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
 55 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
 60 referred to him shall be final.

Appointment of umpire.

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25. 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 to appoint an umpire on neglect.
 5 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.

26. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable, or shall refuse, or for In case of death of single arbitrator the matter to begin *de novo*.
 10 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.

27. If where more than one arbitrator shall have been If either arbitrator refuse to act the other to proceed *ex parte*.
 15 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.

28. If where more than one arbitrator shall have been If arbitrators fail to make their award within twenty-one days the matter to go to the umpire.
 20 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
 25 under their hands the matters referred to them shall be determined by the umpire to be so appointed as aforesaid.

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

30. Before any arbitrator or umpire shall enter into the con- Arbitrator or umpire to make a declaration for faithful discharge of duty.
 sideration of any matters referred to him he shall, in the presence of a Justice of the Peace, make and subscribe the following declaration
 35 (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 "Leconfield Coal-mine Railway Act of 1889."

40 Made and subscribed in the presence of

A.B.

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

45 31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company, unless Cost of arbitration how to be borne.
 the arbitrators shall award the same or a less sum than shall have been offered by the Company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators
 50 shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the Company, 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
 55 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.

32. The arbitrators shall deliver their award in writing to the Award to be delivered to the Company.
 Company who shall retain the same and shall forthwith, on demand, at their own expense furnish a copy thereof to the other party, and shall

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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.

How compensation to be paid when any of parties under any disability.

33. If the person or persons through whose lands the railway shall pass, shall be under any disability or incapacity, or shall be entitled only to a partial or qualified interest in the said lands, or not entitled to dispose of the same absolutely for his or their own benefit, or shall be absent from this Colony, the amount of compensation to be paid by the Company as aforesaid shall be ascertained, and when so ascertained shall be paid into the Supreme Court of New South Wales to be applied for and obtained by the parties legally entitled thereto. 5 10

Submission may be made a rule of Court.

34. 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.

35. 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. 15

Compensation for temporary or permanent or recurring injuries.

36. The Company shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the Company of any of the matters and things hereby required to be performed by them or otherwise. 20 25

Compensation to be made for temporary occupation.

37. In every case where the Company 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, 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. 30 35 40

Sheriff authorized to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly. 50 55 60 39.

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39. For the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects, it shall be lawful for the Company, subject to the provisions in this Act contained, 5 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, or to any resolution of any general meeting of shareholders, and such by-laws shall be reduced into writing, and shall have affixed thereto the 10 common seal of the Company, and a copy of such by-laws shall be given to every officer and servant of the Company 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- 15 three. Provided always that any by-laws of the Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.
40. The production of a printed or written copy of the by-laws of the Company, having the common seal of the Company affixed 20 thereto, shall be sufficient evidence of such by-laws in all proceedings under the same.
41. Nothing in this Act shall be deemed to authorize the Company to take or enter upon any lands belonging to the said Commissioners, or to alter or to interfere with the Great Northern 25 Railway, or any of the works thereof, further or otherwise than is necessary for making the junction and intercommunication between the railways without the previous consent in writing in every instance of the said Commissioners.
42. The said Commissioners shall from time to time erect such 30 signals and conveniences incident to the junction either upon their own lands or on the lands of the Company, and may from time to time appoint and remove such watchmen, switchmen, and other persons as may be necessary for the prevention of danger to, or interference with, the traffic at or near the junction, and in all cases at the expense of the 35 Company.
43. The working and management of such signals and conveniences wherever situate, shall be under the exclusive regulation of the said Commissioners.
44. Nothing herein contained shall alter, repeal, or otherwise 40 affect the "Government Railway Act of 1888" and the "Public Works Act of 1888."
45. In this Act the word "Justices" shall mean Justices of the Peace in and for the Colony of New South Wales; and when any matter is authorized or required to be done by, or any penalty or 45 forfeiture is recoverable before two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, or a Stipendiary or Police Magistrate, and the word "Owner" shall mean any person or corporation who, under the provisions of this Act is authorized to sell land to the Company.
- 50 46. This Act may be cited as the "Leconfield Coal-mine Railway Act of 1889."

Company may make by-laws.

Evidence of by-laws.

Lands belonging to Commissioners for Railways not to be taken.

Commissioners may erect signals and appoint watchmen and switchmen.

Working of signals to be under regulations of Commissioners.

"Government Railway Act of 1888" and "Public Works Act of 1888" not altered or repealed.

Interpretation clause.

Short title.

Leconfield Coal-mine Railway.

SCHEDULE.

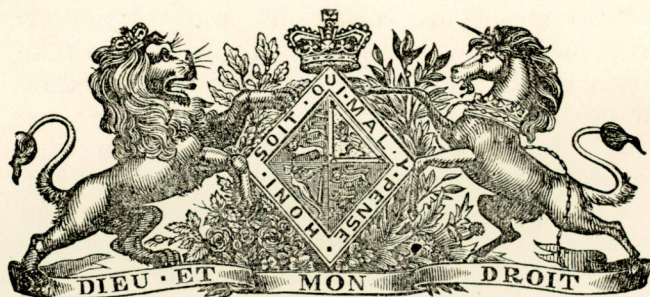
Commencing on the Great Northern Railway at the junction of the present Greta siding; and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal Company from W. Clift, to the southern side of the Great Northern Road; thence crossing that road, and proceeding north-westerly and northerly, running parallel to a subdivision fence through five hundred and thirty-six acres belonging to Edith Marianne Parnell, Charles Parnell, and Gerald Parnell; thence north-easterly to the northern boundary of said land; thence still north-easterly and easterly through R. Wyndham's four hundred and twenty-seven acres and one thousand two hundred and forty-nine acres crossing the Dalwood Road to the Leconfield tunnels. Also a branch line starting at a point on the above described line, distant about one thousand five hundred and seventy links west from its intersection with the western side of the Dalwood Road, and proceeding north-easterly through the Greta Coal Company's freehold of nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield; thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's seven hundred and ninety-two acres one rood held under mineral lease by the aforesaid Greta Coal Company.

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

*Legislative Council Chamber,
Sydney, July, 1889. }*

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway; also a Branch Line in connection therewith.

WHEREAS the "Greta Coal Company (Limited)," a joint stock Preamble.
company duly registered under an Act of the Victorian
Parliament made and passed in the twenty-seventh year of Her present
Majesty Queen Victoria, number one hundred and ninety, and herein-
5 after designated the Company, have opened coal-mines and established
collieries on lands situate near Greta, in the county of Northumberland;
and in order to facilitate communication between the said coal-mines and
the Great Northern Railway the Company is desirous of constructing
a railway from their said coal-mines to the Great Northern Railway,
10 such railway to run through certain private lands and across the
Great Northern Road, as described or mentioned in the Schedule
to this Act, and a branch line also described or mentioned in the said
Schedule, both which railway and branch line are hereinafter termed
"the railway." And whereas the said coal-mines are likely to prove
15 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,

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consumption, steam navigation, and export as would result from the construction of the railway, and the traffic on the Great Northern Railway would be increased thereby. And it is desirable to authorize by Legislative enactment the construction and maintenance of the
 5 railway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

- 10 1. It shall be lawful for the Company to make and construct the railway from the Great Northern Railway, at a point near the Greta Station, across the lands and in the directions described in the Schedule to this Act, with power to effect a junction with the said
 15 Great Northern Railway in the same manner as if the last-mentioned railway was a railway made under the provisions of the "Public Works Act of 1888," and subject to the terms, conditions, and restrictions enacted in the one hundred and twelfth section thereof. And to take and use so much of the roads and lands referred to in the said Schedule as may be required for the purposes of the railway, but so that the same
 20 shall not occupy in any part thereof (except near the junction with the said Great Northern Railway) a greater space in breadth than sixty-six feet, including the supports and foundations thereof. And also to take and occupy three acres of land or any less area at the junction of the railway with the existing branch railway from Greta
 25 Station. Provided that the railway shall be constructed and brought into use within three years after the passing of this Act. Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act. And the lands taken by and in pursuance hereof at the end of the said period of ninety-nine years, or if the
 30 railway shall not be constructed and brought into use within three years after the passing of this Act, or if after its completion the railway shall cease to be used for one year continuously, then at the end of such respective periods shall become the absolute property of the several persons to whom the same belonged immediately before the
 35 exercise by the Company of the powers hereby conferred, their heirs or assigns.
2. The Company, its successors and assigns, shall have all necessary rights of ingress and egress to and over and upon the adjacent lands, and all such other rights as are required for the
 40 construction, repair, completion, maintenance and use of the said railway. Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of. And full compensation shall be made to the owners or occupiers of such lands for the loss, injury, and inconvenience sustained
 45 by them respectively by reason of the exercise of such rights. The amount of such compensation, in case of any dispute about the same, shall be settled by arbitration in the manner hereinafter mentioned. 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
 50 any road, whether carriage-road or horse-road, so as to render it impassable for, or dangerous, or inconvenient to the persons entitled to the use thereof, the Company shall before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted
 55 road in a state as convenient as the road interfered with, or as nearly as may be. And the Company before they use the said lands 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
 lands,

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

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

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lands, 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
 5 the owners or occupiers of such roads and lands and the Company, as to the necessity for such fences and gates, then the Company shall put up and erect such fences and gates as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them.

3. The gauge of the railway shall be the Government standard
 10 gauge of four feet eight and a-half inches. Provided that pending the completion thereof during the period mentioned, it shall be lawful for the Company to construct and use a railway of the gauge of two feet nine inches. Gauge.

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

40 5. It shall be lawful for the owners or occupiers of the lands Branch railways. traversed by or adjoining or adjacent to the railway to lay down upon their own lands any collateral branches of railway to communicate with the railway for the purpose of bringing carriages to or from or upon the railway, and the Company shall, if required, at
 45 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 railway, and without inconvenience to the traffic thereupon, but this enactment
 50 shall be subject to the following restrictions and conditions (that is to say)—

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere,
 55 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 Company from time to time made with respect to passing upon or crossing the railway and otherwise, and the persons making or using such
 branch

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branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

- 5 6. It shall be lawful for the owners or occupiers of the land traversed by or adjoining or adjacent to the railway to lay down upon their own lands any railway, tramway, waggon, or other way for the purpose of working the mines and minerals underlying their said lands, under, across, and intersecting the railway in places where the crossings can be made with safety to the public and without damage to the railway. And also to pass and repass, across, under, and at the points of intersection of the said railway, but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the railway and the other works of the Company. Provided that the powers conferred by this section shall be subject to the conditions in the last-preceding section contained.
- 10 7. Nothing herein contained shall be deemed in any way to prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to the railway to apply for an Act to enable them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.
- 15 8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company, their deputies, agent, 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.
- 20 9. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit ten 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; and 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 Court of competent jurisdiction.
- 25 10. If in the course of making the railway the Company shall use or interfere with any road they shall from time to time make good all damage done by them to such road, and if any question shall arise as to the damage done to any such road by the Company, or as to the repair thereof by them, such question will be referred to the determination of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such Justices shall seem fit; and any such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the Company, if a public road, and be applied for the purposes of such road, or, if a private road, the same shall be paid to the owner thereof. Provided always the said Justices shall have regard to and shall make full allowance for any tolls that may have been paid by the Company on such road in the course of the using thereof.
- 30 11. Until the Company shall have made the bridges or other proper communications, which they shall, under the provisions in this Act contained have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such lands

Branch railways crossing railway.

Right of owners of adjoining land to apply to Parliament not prejudiced.

Power to divert or alter roads.

Penalty for not substituting a road.

Road repairs.

Owners crossing.

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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
 5 through or adjoining their respective lands solely for the purpose of occupying the said lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have
 10 in his arrangements with the Company received or agreed to receive compensation for or on account of any such communications instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

12. If the railway cross any public highway or parish road on a level, the Company shall erect, and at all times maintain good and
 15 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
 20 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,
 25 or carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein, recoverable before two Justices. Provided always that it shall be lawful for the said Commissioners in any case in which they shall be satisfied that it will be more conducive to the public safety that the
 30 gates or any level crossing over any such road shall be kept closed across the railway to order that such gates be kept so closed instead of across the road, and in such 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
 35 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.

13. 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 Company, and their workmen and servants, to
 40 enter upon the land adjoining thereto at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the Company shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or
 45 apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they 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,
 50 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
 55 manner hereinafter mentioned. And provided also that no land shall be taken for any such works otherwise than is in this Act 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.

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14. 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.

5 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.

10 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.

15 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.

20 15. 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 rail-roads.

25 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.

30 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.

35 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.

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

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

55 17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved

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

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preserved by the Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mean inclination of the road so to be crossed, or of the road so requiring to be altered, 5 or for which another road shall be substituted.

18. The Company shall make and at all times thereafter main- Works for benefit of
tain the following works for the accommodation of the owners and owners.
occupiers of lands adjoining the railway (that is to say) :—

10 Such and so many convenient gates, bridges, arches, culverts, and Gates, bridges, &c.
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
15 such works shall be made forthwith after the part of the
railway passing over such lands shall have been laid out or
formed, or during the formation thereof.

All sufficient posts, rails, hedges, ditches, mounds, or other fences Fences.
for separating the land taken for the use of the railway from
the adjoining lands not taken, and protecting such lands
20 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 neces-
sary stiles, and such posts, rails, and other fences shall be
25 made forthwith after the taking of any such lands if the
owners thereof shall so require, and the said other works as
soon as conveniently may be.

Also all necessary arches, tunnels, culverts, drains, or other Drains.
passages either over or under, or by the sides of the railway,
30 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.

35 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 suffi-
40 ciently supplied with water as theretofore. And as if the
railway had not been made, or as nearly so as may be.
And the Company shall make all necessary water-courses
and drains for the purpose of conveying water to the said
watering-places.

45 Provided always that the Company shall not be required to make such
accommodation works in such a manner as would prevent or obstruct
the working or using of the 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
50 instead of the making them.

19. The Company shall not be entitled by virtue of this Act to Minerals not to pass.
any mines of coal, ironstone, slate, or other minerals under any
private land whereof the surface is vested in them by virtue of this
Act, except only such parts thereof as shall be necessary to be dug
55 or carried away in the construction of the works hereby authorized.
And such mines shall not be deemed to vest in the Company by
virtue of this Act.

20. If any person omit to shut and fasten any gate set up at Penalty on persons
either side of the railway for the accommodation of the owners or omitting to fasten
occupiers gates.

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occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, recoverable before two Justices.

5 21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands. Provided that the railway shall not be injured or
 10 interfered with by any such working of such mines or minerals.

Owners of lands traversed by railway may work mines under same.

22. If within twenty-eight days after the passing of this Act
 the said persons through whose lands the railway shall pass, or any of them, and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said
 15 parties or any of them, or for any damage that may be sustained by them or any of them 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
 20 shall concur in the appointment of a single arbitrator, each party,

Compensation clause.

Appointment of arbitrators.

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 any arbitrator shall be under the hand of such party. And such appointment shall be delivered to the arbitrator
 25 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
 30 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
 35 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.

40 23. 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
 45 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
 50 disability as aforesaid.

Vacancy of arbitrator to be supplied.

24. 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
 55 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
 60 referred to him shall be final.

Appointment of umpire.

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25. 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 to appoint an umpire on neglect.
 5 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.

26. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable, or shall refuse, or for In case of death of single arbitrator the matter to begin *de novo*.
 10 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.

27. If where more than one arbitrator shall have been If either arbitrator refuse to act the other to proceed *ex parte*.
 15 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.

28. If where more than one arbitrator shall have been If arbitrators fail to make their award within twenty-one days the matter to go to the umpire.
 20 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
 25 under their hands the matters referred to them shall be determined by the umpire to be so appointed as aforesaid.

29. The said arbitrators or their umpire may call for the pro- Powers to arbitrators to call for books, &c.
 30 duction 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.

30. Before any arbitrator or umpire shall enter into the con- Arbitrator or umpire to make a declaration for faithful discharge of duty.
 35 sideration 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 "Leconfield Coal-mine Railway Act of 1889."

40 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.

45 31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators
 50 shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the Company, 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
 55 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.

32. The arbitrators shall deliver their award in writing to the Award to be delivered to the Company.
 Company who shall retain the same and shall forthwith, on demand, at their own expense furnish a copy thereof to the other party, and shall

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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.

How compensation to be paid when any of parties under any disability.

33. If the person or persons through whose lands the railway shall pass, shall be under any disability or incapacity, or shall be entitled only to a partial or qualified interest in the said lands, or not entitled to dispose of the same absolutely for his or their own benefit, or shall be absent from this Colony, the amount of compensation to be paid by the Company as aforesaid shall be ascertained, and when so ascertained shall be paid into the Supreme Court of New South Wales to be applied for and obtained by the parties legally entitled thereto. 5 10

Submission may be made a rule of Court.

34. 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.

35. 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. 15

Compensation for temporary or permanent or recurring injuries.

36. The Company shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the Company of any of the matters and things hereby required to be performed by them or otherwise. 20 25

Compensation to be made for temporary occupation.

37. In every case where the Company 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, 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. 30 35 40

Sheriff authorized to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly. 55 60 39.

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39. For the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects, it shall be lawful for the Company, subject to the provisions in this Act contained, 5 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, or to any resolution of any general meeting of shareholders, and such by-laws shall be reduced into writing, and shall have affixed thereto the 10 common seal of the Company, and a copy of such by-laws shall be given to every officer and servant of the Company 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- 15 three. Provided always that any by-laws of the Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.
40. The production of a printed or written copy of the by-laws of the Company, having the common seal of the Company affixed 20 thereto, shall be sufficient evidence of such by-laws in all proceedings under the same.
41. Nothing in this Act shall be deemed to authorize the Company to take or enter upon any lands belonging to the said Commissioners, or to alter or to interfere with the Great Northern 25 Railway, or any of the works thereof, further or otherwise than is necessary for making the junction and intercommunication between the railways without the previous consent in writing in every instance of the said Commissioners.
42. The said Commissioners shall from time to time erect such 30 signals and conveniences incident to the junction either upon their own lands or on the lands of the Company, and may from time to time appoint and remove such watchmen, switchmen, and other persons as may be necessary for the prevention of danger to, or interference with, the traffic at or near the junction, and in all cases at the expense of the 35 Company.
43. The working and management of such signals and conveniences wherever situate, shall be under the exclusive regulation of the said Commissioners.
44. Nothing herein contained shall alter, repeal, or otherwise 40 affect the "Government Railway Act of 1888" and the "Public Works Act of 1888."
45. In this Act the word Justices shall mean Justices of the Peace in and for the Colony of New South Wales; and when any matter is authorized or required to be done by, or any penalty or 45 forfeiture is recoverable before two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, or a Stipendiary or Police Magistrate, and the word "Owner" shall mean any person or corporation who, under the provisions of this Act is authorized to sell land to the Company.
- 50 46. This Act may be cited as the "Leconfield Coal-mine Railway Act of 1889."

Company may make by-laws.

Evidence of by-laws.

Lands belonging to Commissioners for Railways not to be taken.

Commissioners may erect signals and appoint watchmen and switchmen.

Working of signals to be under regulations of Commissioners.

"Government Railway Act of 1888" and "Public Works Act of 1888" not altered or repealed.

Interpretation clause.

Short title.

Leconfield Coal-mine Railway.

SCHEDULE.

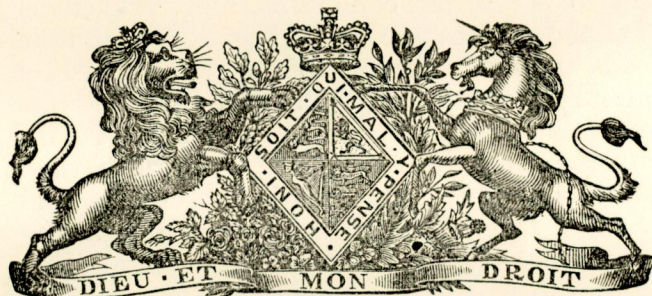
Commencing on the Great Northern Railway at the junction of the present Greta siding; and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal
5 Company from W. Clift, to the southern side of the Great Northern Road; thence crossing that road, and proceeding north-westerly and northerly, running parallel to a subdivision fence through five hundred and thirty-six acres belonging to Edith Marianne Parnell, Charles Parnell, and Gerald Parnell; thence north-easterly to the northern boundary of said land; thence still north-easterly and easterly through R. Wyndham's
10 four hundred and twenty-seven acres and one thousand two hundred and forty-nine acres crossing the Dalwood Road to the Leconfield tunnels. Also a branch line starting at a point on the above described line, distant about one thousand five hundred and seventy links west from its intersection with the western side of the Dalwood Road, and proceeding north-easterly through the Greta Coal Company's freehold of
15 nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield; thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's seven hundred and ninety-two acres one rood held under mineral lease by the aforesaid Greta Coal Company.

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

*Legislative Council Chamber,
Sydney, July, 1889. }*

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

An Act to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway; also a Branch Line in connection therewith.

WHEREAS the "Greta Coal Company (Limited)," a joint stock Preamble.
company duly registered under an Act of the Victorian
Parliament made and passed in the twenty-seventh year of Her present
Majesty Queen Victoria, number one hundred and ninety, and herein-
5 after designated the Company, have opened coal-mines and established
collieries on lands situate near Greta, in the county of Northumberland;
and in order to facilitate communication between the said coal-mines and
the Great Northern Railway the Company is desirous of constructing
a railway from their said coal-mines to the Great Northern Railway,
10 such railway to run through certain private lands and across the
Great Northern Road, as described or mentioned in the Schedule
to this Act, and a branch line also described or mentioned in the said
Schedule, both which railway and branch line are hereinafter termed
"the railway." And whereas the said coal-mines are likely to prove
15 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,

Leconfield Coal-mine Railway.

consumption, steam navigation, and export as would result from the construction of the railway, and the traffic on the Great Northern Railway would be increased thereby. And it is desirable to authorize by Legislative enactment the construction and maintenance of the
 5 railway, subject to the provisions hereinafter contained. Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

10 1. It shall be lawful for the Company to make and construct the railway from the Great Northern Railway, at a point near the Greta Station, across the lands and in the directions described in the Schedule to this Act, with power to effect a junction with the said
 15 Great Northern Railway in the same manner as if the last-mentioned railway was a railway made under the provisions of the "Public Works Act of 1888," and subject to the terms, conditions, and restrictions enacted in the one hundred and twelfth section thereof. And to take and use so much of the roads and lands referred to in the said Schedule
 20 as may be required for the purposes of the railway, but so that the same shall not occupy in any part thereof (except near the junction with the said Great Northern Railway) a greater space in breadth than sixty-six feet, including the supports and foundations thereof. And also to take and occupy three acres of land or any less area at the
 25 junction of the railway with the existing branch railway from Greta Station. Provided that the railway shall be constructed and brought into use within three years after the passing of this Act. Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act. And the lands taken by and in pursuance hereof at the end of the said period of ninety-nine years, or if the
 30 railway shall not be constructed and brought into use within three years after the passing of this Act, or if after its completion the railway shall cease to be used for one year continuously, then at the end of such respective periods shall become the absolute property of the several persons to whom the same belonged immediately before the
 35 exercise by the Company of the powers hereby conferred, their heirs or assigns.

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

2. The Company, its successors and assigns, shall have all necessary rights of ingress and egress to and over and upon the
 40 adjacent lands, and all such other rights as are required for the construction, repair, completion, maintenance and use of the said railway. Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of. And full compensation shall be made to the owners or occupiers of such lands for the loss, injury, and inconvenience sustained
 45 by them respectively by reason of the exercise of such rights. The amount of such compensation, in case of any dispute about the same, shall be settled by arbitration in the manner hereinafter mentioned. 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
 50 any road, whether carriage-road or horse-road, so as to render it impassable for, or dangerous, or inconvenient to the persons entitled to the use thereof, the Company shall before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted
 55 road in a state as convenient as the road interfered with, or as nearly as may be. And the Company before they use the said lands 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
 lands,

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

Leconfield Coal-mine Railway.

lands, 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
 5 the owners or occupiers of such roads and lands and the Company, as to the necessity for such fences and gates, then the Company shall put up and erect such fences and gates as any two Justices shall deem necessary for the purposes aforesaid, on application being made to them.

3. The gauge of the railway shall be the Government standard Gauge.
 10 gauge of four feet eight and a-half inches. Provided that pending the completion thereof during the period mentioned, it shall be lawful for the Company to construct and use a railway of the gauge of two feet nine inches.

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

5. It shall be lawful for the owners or occupiers of the lands Branch railways.
 40 traversed by or adjoining or adjacent to the railway to lay down upon their own lands any collateral branches of railway to communicate with the railway for the purpose of bringing carriages to or from or upon the railway, and the Company shall, if required, at
 45 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 railway, and without inconvenience to the traffic thereupon, but this enactment
 50 shall be subject to the following restrictions and conditions (that is to say)—

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any inclined plane or bridge, nor in any tunnel.
 55

The persons making or using such branch railways shall be subject to all by-laws and regulations of the Company from time to time made with respect to passing upon or crossing the railway and otherwise, and the persons making or using such branch

Leconfield Coal-mine Railway.

branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

5 6. It shall be lawful for the owners or occupiers of the land traversed by or adjoining or adjacent to the railway to lay down upon their own lands any railway, tramway, waggon, or other way for the purpose of working the mines and minerals underlying their said lands, under, across, and intersecting the railway in places where the
10 crossings can be made with safety to the public and without damage to the railway. And also to pass and repass, across, under, and at the points of intersection of the said railway, but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the railway and the other works of the Company. Provided that the
15 powers conferred by this section shall be subject to the conditions in the last-preceding section contained.

Branch railways crossing railway.

7. Nothing herein contained shall be deemed in any way to prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to the railway to apply for an Act to enable
20 them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

Right of owners of adjoining land to apply to Parliament not prejudiced.

8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company, their deputies, agent,
25 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 9. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit ten 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, commis-
35 sioners, 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 Court of competent jurisdiction.

Penalty for not substituting a road.

40 10. If in the course of making the railway the Company shall use or interfere with any road they shall from time to time make good all damage done by them to such road, and if any question shall arise as to the damage done to any such road by the Company, or as to the repair thereof by them, such question will be referred to the determina-
45 tion of two Justices, and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company, and within such period as they may think reasonable, and may impose on the Company for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such Justices shall
50 seem fit; and any such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the Company, if a public road, and be applied for the purposes of such road, or, if a private road, the same shall be paid to the owner thereof. Provided always the said Justices shall have regard to and shall make
55 full allowance for any tolls that may have been paid by the Company on such road in the course of the using thereof.

Road repairs.

11. Until the Company shall have made the bridges or other proper communications, which they shall, under the provisions in this Act contained have been required to make between lands inter-
60 sected and the railway, and no longer, the owners and occupiers of such lands

Owners crossing.

Leconfield Coal-mine Railway.

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
 5 through or adjoining their respective lands solely for the purpose of occupying the said lands, or for the exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have in his arrangements with the Company received or agreed to receive
 10 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.

12. If the railway cross any public highway or parish road on a level, the Company shall erect, and at all times maintain good and
 15 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
 20 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,
 25 or carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein, recoverable before two Justices. Provided always that it shall be lawful for the said Commissioners in any case in which they shall be satisfied that it will be more conducive to the public safety that the
 30 gates or any level crossing over any such road shall be kept closed across the railway to order that such gates be kept so closed instead of across the road, and in such 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
 35 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.

13. 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 Company, and their workmen and servants, to
 40 enter upon the land adjoining thereto at any time whatsoever, for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the Company shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or
 45 apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they 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,
 50 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
 55 manner hereinafter mentioned. And provided also that no land shall be taken for any such works otherwise than is in this Act 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.

Leconfield Coal-mine Railway.

14. 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.

5 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.

10 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.

15 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.

20 15. 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.

25 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.

30 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.

35 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.

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

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

55 17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved

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

Leconfield Coal-mine Railway.

preserved by the Company, then the Company may carry any such road over or under the railway, or may construct such altered or substituted road at an inclination not steeper than the said mean inclination of the road so to be crossed, or of the road so requiring to be altered, 5 or for which another road shall be substituted.

18. The Company shall make and at all times thereafter main- Works for benefit of
tain the following works for the accommodation of the owners and owners.
occupiers of lands adjoining the railway (that is to say) :—

10 Such and so many convenient gates, bridges, arches, culverts, and Gates, bridges, &c.
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
15 such works shall be made forthwith after the part of the
railway passing over such lands shall have been laid out or
formed, or during the formation thereof.

All sufficient posts, rails, hedges, ditches, mounds, or other fences Fences.
for separating the land taken for the use of the railway from
the adjoining lands not taken, and protecting such lands
20 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 neces-
sary stiles, and such posts, rails, and other fences shall be
25 made forthwith after the taking of any such lands if the
owners thereof shall so require, and the said other works as
soon as conveniently may be.

Also all necessary arches, tunnels, culverts, drains, or other Drains.
30 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.

35 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 suffi-
40 ciently supplied with water as theretofore. And as if the
railway had not been made, or as nearly so as may be.
And the Company shall make all necessary water-courses
and drains for the purpose of conveying water to the said
watering-places.

45 Provided always that the Company shall not be required to make such
accommodation works in such a manner as would prevent or obstruct
the working or using of the 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
50 instead of the making them.

19. The Company shall not be entitled by virtue of this Act to Minerals not to pass.
any mines of coal, ironstone, slate, or other minerals under any
private land whereof the surface is vested in them by virtue of this
Act, except only such parts thereof as shall be necessary to be dug
55 or carried away in the construction of the works hereby authorized.
And such mines shall not be deemed to vest in the Company by
virtue of this Act.

20. If any person omit to shut and fasten any gate set up at Penalty on persons
either side of the railway for the accommodation of the owners or omitting to fasten
occupiers gates.

Leccnfield Coal-mine Railway.

occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds, recoverable before two Justices.

5 21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands. Provided that the railway shall not be injured or
 10 interfered with by any such working of such mines or minerals.

Owners of lands traversed by railway may work mines under same.

22. If within twenty-eight days after the passing of this Act
 the said persons through whose lands the railway shall pass, or any of them, and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said
 15 parties or any of them, or for any damage that may be sustained by them or any of them 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
 20 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 any arbitrator shall be under the hand of such party. And such appointment shall be delivered to the arbitrator
 25 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
 30 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
 35 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.

40 23. 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
 45 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
 50 disability as aforesaid.

Vacancy of arbitrator to be supplied.

24. 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
 55 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
 60 referred to him shall be final.

Appointment of umpire.

Leconfield Coal-mine Railway.

25. 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 to appoint an umpire on neglect. 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.

26. 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*.

27. 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*.

28. 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.

29. 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 to arbitrators to call for books, &c.

30. 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 "Leconfield Coal-mine Railway Act of 1889." 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.

31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company, unless the arbitrators shall award the same or a less sum than shall have been offered by the Company, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the Company, 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.

32. The arbitrators shall deliver their award in writing to the Company who shall retain the same and shall forthwith, on demand, at their own expense furnish a copy thereof to the other party, and shall Award to be delivered to the Company.

Leconfield Coal-mine Railway.

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.

How compensation to be paid when any of parties under any disability.

33. If the person or persons through whose lands the railway shall pass, shall be under any disability or incapacity, or shall be entitled only to a partial or qualified interest in the said lands, or not entitled to dispose of the same absolutely for his or their own benefit, or shall be absent from this Colony, the amount of compensation to be paid by the Company as aforesaid shall be ascertained, and when so ascertained shall be paid into the Supreme Court of New South Wales to be applied for and obtained by the parties legally entitled thereto. 5 10

Submission may be made a rule of Court.

34. 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.

35. 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. 15

Compensation for temporary or permanent or recurring injuries.

36. The Company shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the Company of any of the matters and things hereby required to be performed by them or otherwise. 20 25

Compensation to be made for temporary occupation.

37. In every case where the Company 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, 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. 30 35 40

Sheriff authorized to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of the undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly. 45 50 55 60 39.

Leconfield Coal-mine Railway.

39. For the purpose of regulating the conduct of the officers and servants of the Company, and for providing for the due management of the affairs of the Company in all respects, it shall be lawful for the Company, subject to the provisions in this Act contained, 5 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, or to any resolution of any general meeting of shareholders, and such by-laws shall be reduced into writing, and shall have affixed thereto the 10 common seal of the Company, and a copy of such by-laws shall be given to every officer and servant of the Company 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- 15 three. Provided always that any by-laws of the Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.
40. The production of a printed or written copy of the by-laws of the Company, having the common seal of the Company affixed 20 thereto, shall be sufficient evidence of such by-laws in all proceedings under the same.
41. Nothing in this Act shall be deemed to authorize the Company to take or enter upon any lands belonging to the said Commissioners, or to alter or to interfere with the Great Northern 25 Railway, or any of the works thereof, further or otherwise than is necessary for making the junction and intercommunication between the railways without the previous consent in writing in every instance of the said Commissioners.
42. The said Commissioners shall from time to time erect such 30 signals and conveniences incident to the junction either upon their own lands or on the lands of the Company, and may from time to time appoint and remove such watchmen, switchmen, and other persons as may be necessary for the prevention of danger to, or interference with, the traffic at or near the junction, and in all cases at the expense of the 35 Company.
43. The working and management of such signals and conveniences wherever situate, shall be under the exclusive regulation of the said Commissioners.
44. Nothing herein contained shall alter, repeal, or otherwise 40 affect the "Government Railway Act of 1888" and the "Public Works Act of 1888."
45. In this Act the word Justices shall mean Justices of the Peace in and for the Colony of New South Wales; and when any matter is authorized or required to be done by, or any penalty or 45 forfeiture is recoverable before two Justices, the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, or a Stipendiary or Police Magistrate, and the word "Owner" shall mean any person or corporation who, under the provisions of this Act is authorized to sell land to the Company.
- 50 46. This Act may be cited as the "Leconfield Coal-mine Railway Act of 1889."

Company may make by-laws.

Evidence of by-laws.

Lands belonging to Commissioners for Railways not to be taken.

Commissioners may erect signals and appoint watchmen and switchmen.

Working of signals to be under regulations of Commissioners.

"Government Railway Act of 1888" and "Public Works Act of 1888" not altered or repealed.

Interpretation clause.

Short title.

Leconfield Coal-mine Railway.

SCHEDULE.

Commencing on the Great Northern Railway at the junction of the present Greta siding; and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal Company from W. Clift, to the southern side of the Great Northern Road; thence crossing that road, and proceeding north-westerly and northerly, running parallel to a subdivision fence through five hundred and thirty-six acres belonging to Edith Marianne Parnell, Charles Parnell, and Gerald Parnell; thence north-easterly to the northern boundary of said land; thence still north-easterly and easterly through R. Wyndham's 5
10 four hundred and twenty-seven acres and one thousand two hundred and forty-nine acres crossing the Dalwood Road to the Leconfield tunnels. Also a branch line starting at a point on the above described line, distant about one thousand five hundred and seventy links west from its intersection with the western side of the Dalwood Road, and proceeding north-easterly through the Greta Coal Company's freehold of 15
nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield; thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's seven hundred and ninety-two acres one rood held under mineral lease by the aforesaid Greta Coal Company.

VICTORIÆ 1889.

A BILL to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway.

WHEREAS the Greta Coal Company Limited a joint stock company duly registered Preamble under an Act of the Victorian Parliament made and passed in the twenty-seventh year of Her present Majesty Queen Victoria No. 190 and hereinafter designated the Company have opened coal-mines and established collieries on lands situate near Greta in the county of Northumberland and in order to facilitate communication between the said coal-mines and the Great Northern Railway the said company is desirous of constructing a railway from their said coal-mines to the Great Northern Railway such proposed railway to run through certain private lands and across the Great Northern Road as described or mentioned in the schedule hereto And whereas the said coal-mines are likely to prove beneficial to the Colony and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption steam navigation and export as would result from the construction of the said proposed railway and the traffic on the Great Northern Railway would be increased thereby And it is desirable to authorize by Legislative enactment the construction and maintenance of the said proposed railway subject to the provisions hereinafter contained Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative

Leconfield Coal-mine Railway.

Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

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

1. It shall be lawful for the said Company to make and construct a railway from the Great Northern Railway at a point near the Greta Station across the lands and by the lines described in the schedule to this Act with power to effect a junction with the said Great Northern Railway in accordance with section 112 of the Public Works Act of 1888 And to take and use so much of the roads and lands referred to in the said schedule as may be required for the purposes of such railway but so that the same shall not occupy in any part thereof (except near the junction with the said Great Northern Railway a greater space in breadth than sixty-six feet including the supports and foundations thereof And also that the said Company take and occupy three acres of land or any less area at the junction of the said railway with the branch railway from Greta Station Provided that the said railway shall be constructed and brought into use within one year after the passing of this Act Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act And the lands taken by and in pursuance hereof shall at the end of the said period of ninety-nine years become the absolute property of the several persons to whom the same belonged immediately before the exercise by the said Company of the powers hereby conferred their heirs or assigns.

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

2. The said Company its successors and assigns shall have all necessary rights of ingress and egress to and over and upon the adjacent lands and all such other rights as are required for the construction repair completion maintenance and use of the said railway Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of And full compensation shall be made to the owners or occupiers of such lands for the loss injury and inconvenience sustained by them respectively by reason of the exercise of such rights The amount of such compensation in case of any dispute about the same shall be settled by arbitration in the manner hereinafter mentioned Provided also that if in the exercise of the powers hereby granted it be found necessary to crosscut through sink raise or use any part of any road whether carriage road or horse road so as to render it impassable for or dangerous or inconvenient to the persons entitled to the use thereof the Company shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly as may be And the Company before they use the said lands 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 lands and shall also to all private roads used by them as aforesaid put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads and in case of any difference between the owners or occupiers of such roads and lands and the Company as to the necessity for such fences and gates then the said Company shall put up and erect such fences and gates as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

Gauge.

3. The gauge of the said railway shall be two feet Provided always that it shall be lawful for the Company to increase the gauge of the said railway so that the same shall be equal to that of the Great Northern Railway when and so soon as it shall seem fit to the said Company to do so.

Railway shall be open to the public.

4. The railway shall be open to the public use upon payment of a toll to the Company of a sum not exceeding fourpence per ton per mile in respect of every ton of goods for every transit the party seeking transit supplying and loading his own trucks or waggons and the Company supplying locomotive power and all trucks when emptied shall be conveyed on their return free of charge Provided always that it shall not be compulsory on the Company to supply locomotive power unless the party seeking transit guarantee and bring one hundred tons at least during the twelve working hours and give notice of same at least twenty-four hours previously The

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railway shall at all times be open to the public upon payment of a toll to the Company of a sum not exceeding threepence per ton per mile in respect of every ton of goods for every transit if the party seeking transit supply the locomotive power as well as the trucks and waggons. Provided that so long as the Company shall be willing to supply locomotive power no other person shall use locomotive power on the line. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power the Company shall be entitled to compensation for such damage to be recovered either by action in the Supreme Court of New South Wales or if such damage do not exceed the sum of twenty pounds summarily before two Justices and in estimating such damage the Company shall be entitled not only to compensation for the cost of repairing and restoring the railway but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

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

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere nor upon any 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 Company from time to time made with respect to passing upon or crossing the railway and otherwise and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

6. It shall be lawful for the owners or occupiers of the land traversed by or adjoining or adjacent to the said railway to lay down upon their own lands any railway tramway waggon or other way for the purpose of working the mines and minerals underlying their said lands under across and intercepting the railway hereby authorised to be constructed in places where the crossings can be made with safety to the public and without damage to the last mentioned railway. And also to pass and repass across under and at the points of intersection of the said railway but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the said railway and the other works of the Company. Provided that the powers conferred by this section shall be subject to the conditions in the last preceding section contained.

7. Nothing herein contained shall be deemed in any way to prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to said railway to apply for an Act to enable them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company their deputies agent servants and workmen and all other persons by them authorised and empowered to divert or alter the course of any road

Power to divert or alter roads.

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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 roads.

9. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid they shall forfeit 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.

Road repairs.

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

Owners crossing.

11. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between lands intersected and the railway and no longer the owners and occupiers of such lands and any other persons whose right-of-way shall be affected by the want of such communications and their respective servants may at all times freely pass and re-pass with carriages horses and other animals directly but not otherwise across any part of the railways made in or through or adjoining 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 Company received or agreed to receive compensation for or on account of any such communications instead of the same being formed such owner or occupier or those claiming under him shall not be entitled so to cross the railway.

Provisions in cases where roads are crossed on a level.

12. If the railway cross any public highway or parish road on a level the Company shall erect and at all times maintain good and sufficient gates across such road on each side of the railway where the same shall communicate therewith and shall employ proper persons to open and shut such gates and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses cattle carts or carriages passing along the same shall have to cross such railway and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent cattle or horses passing along the road from entering upon the railway and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses cattle, carts or carriages shall have passed through the same under a penalty not exceeding forty shillings for every default therein Provided always that it shall be lawful for the 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 be kept so closed instead of across the road and in such 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.

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13. 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 Company and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents and to do such works as may be necessary for the purpose but in every such case the Company shall within forty-eight hours after such entry make a report to the 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 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.

14. 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.

15. 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 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.

16. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway the width of such bridges need not be greater than such average available width of such roads but so nevertheless that such bridges be not of less width in case of a public highway or parish road than twenty feet Provided also that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof the

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

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Company shall be bound at their own expense to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road not exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the railway.

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

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

Works for benefit of owners.

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

Gates bridges &c.

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

Fences.

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.

Drains.

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

Watering places.

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

Provided always that the Company shall not be required to make such accommodation works in such 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.

19. 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.

20. Anything herein contained to the contrary notwithstanding the owners of

Leconfield Coal-mine Railway.

the lands adjoining or traversed by the said railway shall have all rights liberties and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands Provided that the said Railway shall not be injured or interfered with by any such working of such mines or minerals.

21. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass or any of them and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties or any of them or for any damage that may be sustained by them or him by reason of the execution of the 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 any 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

22. 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.

23. 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.

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

Attorney-General to appoint an umpire on neglect.

25. 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*.

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

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

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

27. 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.

Powers to arbitrators to call for books &c.

28. 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.

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

29. 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 "Leconfield Coal-mine Railway Act"

Made and subscribed in the presence of

A.B.

Penalty for misconduct.

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.

Cost of arbitration how to be borne.

30. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company unless the arbitrators shall award the same or a less sum than shall have been offered by the Company in which case each party shall bear his own costs incident to the arbitration and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the said Company 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 Company.

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

Submission may be made a rule of Court.

32. 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

33. 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.

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

Compensation to be made for temporary occupation.

35. In every case where the Company shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within one

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month after their entry upon such lands upon being required so to do to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of their lands and they shall also from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands as the case may require a rent to be fixed by two Justices in case the parties differ and shall also within six months after the completion of the railway pay to such owner and occupier or deposit in 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.

36. For the purpose of regulating the conduct of the officers and servants of the Company and for providing for the due management of the affairs of the Company in all respects it shall be lawful for the Company 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 or to any resolution of any general meeting of shareholders and such by-laws shall be reduced into writing and shall have affixed thereto the common seal of the Company and a copy of such by-laws shall be given to every officer and servant of the Company 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 Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

Company may make by-laws.

37. The production of a printed or written copy of the by-laws of the Company having the common seal of the Company affixed thereto shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

38. Nothing in this Act shall be deemed to authorise the said Company to take or enter upon any lands belonging to the Railway Commissioners 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 Railway Commissioners.

Lands belonging to Commissioners for Railways not to be taken.

39. 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 Company and may from time to time appoint and remove such watchmen switchmen and other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction and in all cases at the expense of the Company.

Commissioners may erect signals and appoint watchman and switchmen.

40. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the Railway Commissioners.

Working of signals to be under regulations of Commissioners.

41. Nothing herein contained shall alter repeal or otherwise affect "The Government Railway Act of 1887."

Government Railway Act of 1887 not altered or repealed.

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

Interpretation clause.

43. This Act shall be deemed and taken to be a Public Act and the same whenever cited shall be sufficiently described as the "Leconfield Coal-mine Railway Act of 1889."

Short title

Leconfield Coal-mine Railway.

THE SCHEDULE HEREINBEFORE REFERRED TO.

COMMENCING on the Great Northern Railway at the junction of the present Greta Siding and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal Company from W. Clift to the southern side of the Great Northern Road thence crossing that road and proceeding north-westerly and northerly running parallel to a subdivision fence through 536 acres belonging to Edith Marianne Parnell Charles Parnell and Gerald Parnell thence north-easterly to the northern boundary of said land thence still north-easterly and easterly through R. Wyndham's 427 acres and 1,249 acres crossing the Dalwood Road to the Leconfield tunnels.

Also a branch line starting at a point on the above described line distant about 1570 links west from its intersection with the western side of the Dalwood Road and proceeding north-easterly through the Greta Coal Company's Freehold of nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's 792 acres 1 rood held under mineral lease by the aforesaid Greta Coal Company.

VICTORIÆ 1889.

A BILL to enable a Company called the "Greta Coal Company (Limited)" to construct a Railway from the Leconfield Coal-mine to the Great Northern Railway.

WHEREAS the Greta Coal Company Limited a joint stock company duly registered Preamble
under an Act of the Victorian Parliament made and passed in the twenty-seventh year of Her present Majesty Queen Victoria No. 190 and hereinafter designated the Company have opened coal-mines and established collieries on lands situate near Greta in the county of Northumberland and in order to facilitate communication between the said coal-mines and the Great Northern Railway the said company is desirous of constructing a railway from their said coal-mines to the Great Northern Railway such proposed railway to run through certain private lands and across the Great Northern Road as described or mentioned in the schedule hereto And whereas the said coal-mines are likely to prove beneficial to the Colony and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption steam navigation and export as would result from the construction of the said proposed railway and the traffic on the Great Northern Railway would be increased thereby And it is desirable to authorize by Legislative enactment the construction and maintenance of the said proposed railway subject to the provisions hereinafter contained Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative

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Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

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

1. It shall be lawful for the said Company to make and construct a railway from the Great Northern Railway at a point near the Greta Station across the lands and by the lines described in the schedule to this Act with power to effect a junction with the said Great Northern Railway in accordance with section 112 of the Public Works Act of 1888 And to take and use so much of the roads and lands referred to in the said schedule as may be required for the purposes of such railway but so that the same shall not occupy in any part thereof (except near the junction with the said Great Northern Railway a greater space in breadth than sixty-six feet including the supports and foundations thereof And also that the said Company take and occupy three acres of land or any less area at the junction of the said railway with the branch railway from Greta Station Provided that the said railway shall be constructed and brought into use within one year after the passing of this Act Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act And the lands taken by and in pursuance hereof shall at the end of the said period of ninety-nine years become the absolute property of the several persons to whom the same belonged immediately before the exercise by the said Company of the powers hereby conferred their heirs or assigns.

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

2. The said Company its successors and assigns shall have all necessary rights of ingress and egress to and over and upon the adjacent lands and all such other rights as are required for the construction repair completion maintenance and use of the said railway Provided that the exercise of such rights shall be as little injurious to the said adjoining lands as the nature of the case will admit of And full compensation shall be made to the owners or occupiers of such lands for the loss injury and inconvenience sustained by them respectively by reason of the exercise of such rights The amount of such compensation in case of any dispute about the same shall be settled by arbitration in the manner hereinafter mentioned Provided also that if in the exercise of the powers hereby granted it be found necessary to crosscut through sink raise or use any part of any road whether carriage road or horse road so as to render it impassable for or dangerous or inconvenient to the persons entitled to the use thereof the Company shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly as may be And the Company before they use the said lands 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 lands and shall also to all private roads used by them as aforesaid put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads and in case of any difference between the owners or occupiers of such roads and lands and the Company as to the necessity for such fences and gates then the said Company shall put up and erect such fences and gates as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

Gauge.

3. The gauge of the said railway shall be two feet Provided always that it shall be lawful for the Company to increase the gauge of the said railway so that the same shall be equal to that of the Great Northern Railway when and so soon as it shall seem fit to the said Company to do so.

Railway shall be open to the public.

4. The railway shall be open to the public use upon payment of a toll to the Company of a sum not exceeding fourpence per ton per mile in respect of every ton of goods for every transit the party seeking transit supplying and loading his own trucks or waggons and the Company supplying locomotive power and all trucks when emptied shall be conveyed on their return free of charge Provided always that it shall not be compulsory on the Company to supply locomotive power unless the party seeking transit guarantee and bring one hundred tons at least during the twelve working hours and give notice of same at least twenty-four hours previously The

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railway shall at all times be open to the public upon payment of a toll to the Company of a sum not exceeding threepence per ton per mile in respect of every ton of goods for every transit if the party seeking transit supply the locomotive power as well as the trucks and waggons. Provided that so long as the Company shall be willing to supply locomotive power no other person shall use locomotive power on the line. Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power the Company shall be entitled to compensation for such damage to be recovered either by action in the Supreme Court of New South Wales or if such damage do not exceed the sum of twenty pounds summarily before two Justices and in estimating such damage the Company shall be entitled not only to compensation for the cost of repairing and restoring the railway but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

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

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere nor upon any 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 Company from time to time made with respect to passing upon or crossing the railway and otherwise and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

6. It shall be lawful for the owners or occupiers of the land traversed by or adjoining or adjacent to the said railway to lay down upon their own lands any railway tramway waggon or other way for the purpose of working the mines and minerals underlying their said lands under across and intercepting the railway hereby authorised to be constructed in places where the crossings can be made with safety to the public and without damage to the last mentioned railway. And also to pass and repass across under and at the points of intersection of the said railway but not so as unnecessarily to obstruct or interfere with the proper and convenient working of the said railway and the other works of the Company. Provided that the powers conferred by this section shall be subject to the conditions in the last preceding section contained.

7. Nothing herein contained shall be deemed in any way to prejudice the right of the owners or occupiers of lands traversed by or adjoining or adjacent to said railway to apply for an Act to enable them to construct a railway from their said lands to the Great Northern Railway for the purpose of beneficially working and developing the mines and minerals underlying their said lands.

8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company their deputies agent servants and workmen and all other persons by them authorised and empowered to divert or alter the course of any road

Power to divert or alter roads.

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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.

9. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid they shall forfeit 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.

Road repairs.

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

Owners crossing.

11. Until the Company shall have made the bridges or other proper communications which they shall under the provisions herein contained have been required to make between lands intersected and the railway and no longer the owners and occupiers of such lands and any other persons whose right-of-way shall be affected by the want of such communications and their respective servants may at all times freely pass and re-pass with carriages horses and other animals directly but not otherwise across any part of the railways made in or through or adjoining 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 Company received or agreed to receive compensation for or on account of any such communications instead of the same being formed such owner or occupier or those claiming under him shall not be entitled so to cross the railway.

Provisions in cases where roads are crossed on a level.

12. If the railway cross any public highway or parish road on a level the Company shall erect and at all times maintain good and sufficient gates across such road on each side of the railway where the same shall communicate therewith and shall employ proper persons to open and shut such gates and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses cattle carts or carriages passing along the same shall have to cross such railway and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent cattle or horses passing along the road from entering upon the railway and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses cattle, carts or carriages shall have passed through the same under a penalty not exceeding forty shillings for every default therein Provided always that it shall be lawful for the 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 be kept so closed instead of across the road and in such 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.

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13. 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 Company and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents and to do such works as may be necessary for the purpose but in every such case the Company shall within forty-eight hours after such entry make a report to the 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 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.

14. 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.

15. 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 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.

16. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway the width of such bridges need not be greater than such average available width of such roads but so nevertheless that such bridges be not of less width in case of a public highway or parish road than twenty feet Provided also that if at any time after the construction of the railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof the

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

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Company shall be bound at their own expense to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road not exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the railway.

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

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

Works for benefit of owners.

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

Gates bridges &c.

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

Fences.

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.

Drains.

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

Watering places.

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

Provided always that the Company shall not be required to make such accommodation works in such 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.

19. 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.

20. Anything herein contained to the contrary notwithstanding the owners of

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the lands adjoining or traversed by the said railway shall have all rights liberties and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands Provided that the said Railway shall not be injured or interfered with by any such working of such mines or minerals.

21. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass or any of them and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties or any of them or for any damage that may be sustained by them or him by reason of the execution of the 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 any 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.

22. 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.

23. 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.

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

25. 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.

Compensation clause

Appointment of arbitrators

Vacancy of arbitrator to be supplied.

Appointment of umpire.

Attorney-General to appoint an umpire on neglect.

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

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

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

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

27. 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.

Powers to arbitrators to call for books &c.

28. 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.

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

29. 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 "Leconfield Coal-mine Railway Act"

Made and subscribed in the presence of

A.B.

Penalty for misconduct.

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.

Cost of arbitration how to be borne.

30. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company unless the arbitrators shall award the same or a less sum than shall have been offered by the Company in which case each party shall bear his own costs incident to the arbitration and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the said Company 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 Company.

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

Submission may be made a rule of Court.

32. 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

33. 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.

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

Compensation to be made for temporary occupation.

35. In every case where the Company shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within one

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month after their entry upon such lands upon being required so to do to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of their lands and they shall also from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands as the case may require a rent to be fixed by two Justices in case the parties differ and shall also within six months after the completion of the railway pay to such owner and occupier or deposit in 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.

36. For the purpose of regulating the conduct of the officers and servants of the Company and for providing for the due management of the affairs of the Company in all respects it shall be lawful for the Company 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 or to any resolution of any general meeting of shareholders and such by-laws shall be reduced into writing and shall have affixed thereto the common seal of the Company and a copy of such by-laws shall be given to every officer and servant of the Company 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 Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being.

Company may make by-laws.

37. The production of a printed or written copy of the by-laws of the Company having the common seal of the Company affixed thereto shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

38. Nothing in this Act shall be deemed to authorise the said Company to take or enter upon any lands belonging to the Railway Commissioners 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 Railway Commissioners.

Lands belonging to Commissioners for Railways not to be taken.

39. 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 Company and may from time to time appoint and remove such watchmen switchmen and other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction and in all cases at the expense of the Company.

Commissioners may erect signals and appoint watchman and switchmen.

40. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the Railway Commissioners.

Working of signals to be under regulations of Commissioners.

41. Nothing herein contained shall alter repeal or otherwise affect "The Government Railway Act of 1887."

Government Railway Act of 1887 not altered or repealed.

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

Interpretation clause.

43. This Act shall be deemed and taken to be a Public Act and the same whenever cited shall be sufficiently described as the "Leconfield Coal-mine Railway Act of 1889."

Short title

Leconfield Coal-mine Railway.

THE SCHEDULE HEREINBEFORE REFERRED TO.

COMMENCING on the Great Northern Railway at the junction of the present Greta Siding and proceeding thence along the said siding in a north-westerly direction (including the said siding and all its branches) through lands leased by the Greta Coal Company from W. Clift to the southern side of the Great Northern Road thence crossing that road and proceeding north-westerly and northerly running parallel to a subdivision fence through 536 acres belonging to Edith Marianne Parnell Charles Parnell and Gerald Parnell thence north-easterly to the northern boundary of said land thence still north-easterly and easterly through R. Wyndham's 427 acres and 1,249 acres crossing the Dalwood Road to the Leconfield tunnels.

Also a branch line starting at a point on the above described line distant about 1570 links west from its intersection with the western side of the Dalwood Road and proceeding north-easterly through the Greta Coal Company's Freehold of nineteen acres two roods twenty-three perches to the southern side of the road from Branxton to Leconfield thence crossing that road and proceeding in a northerly and north-westerly direction to R. Wyndham's 792 acres 1 rood held under mineral lease by the aforesaid Greta Coal Company.