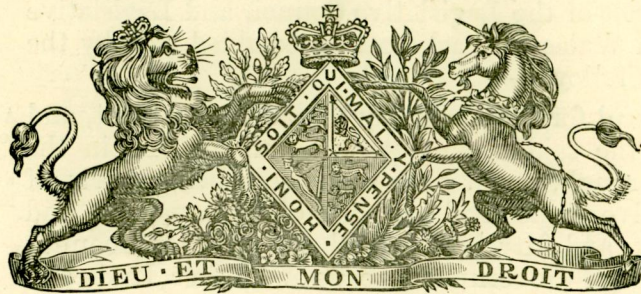


This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 30 June, 1898.* }

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

New South Wales.



ANNO SEXAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to authorise the construction of a Railway from land in the parish of Marangaroo to communicate and connect with the Great Western Railway.

WHEREAS William Hunter, of Lithgow, in the Colony of New South Wales, miner, John William Wilson, of Lithgow aforesaid, engineer, and William Wiley, of Glebe Point, near Sydney, in the said Colony, agent (trading as the Lithgow Co-operative Coal Company, and hereinafter designated "the Company"), are about to open coal-mines on lands situate, and being mining permit number one, in the parish of Marangaroo, in the county of Cook, and, in order to facilitate communication between the said coal-mines and colliery and the Great Western Railway, are desirous of constructing a railway from the said land to and to connect with the said Great Western Railway; but as part of such proposed railway is intended to be made upon and pass through lands in the said county believed to be the property of the Crown,

Lithgow Co-operative Coal Company Railway.

Crown, bodies corporate, and private persons respectively, the same cannot be made without legislative authority: And whereas the said coal-mines are likely to prove beneficial to the Colony, and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption, steam navigation, and export as would result from the construction of the said proposed railway, and the traffic on the Great Western Railway would be increased thereby, it is therefore advisable to authorise by legislative enactment the construction of the said railway, subject to the provisions hereinafter contained, upon payment of compensation to the several parties through whose lands the same shall pass for such portion of their respective lands as may be required to be taken and occupied thereby: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for the Company to make, construct, and maintain a railway from the said mining permit number one, in the parish of Marangaroo, through, upon, and over lands being parts of portions forty-one and five respectively, parish of Marangaroo, and parts of portions forty-five and fifty-three, parish of Lett, in the county of Cook, and also portions of Government roads and other lands and roads in the said parishes as more particularly described in the Schedule hereto, and to connect such railway with the Great Western Railway at or near the station at Lithgow aforesaid; and to use so much of the said roads and to take and use so much of the said lands as the Company may require for the purpose of such railway in the direction described in the said Schedule: Provided that it shall be lawful for the Company, in making the said railway, to deviate to the extent of not more than one chain on either side of the said direction: Provided also that the gauge of the said railway shall be the same as that of the Government Railways.

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

Gauge.

2. The said railway and all necessary bridges and causeways in connection therewith shall be in all respects constructed and at all times maintained in a proper and workmanlike manner as directed by and to the satisfaction of the Engineer-in-Chief for Railway Construction, and the Company shall at all times make, do, and supply all such repairs, alterations, additional works, things, and materials as in the opinion of the said Engineer-in-Chief shall be necessary for the proper and safe working of the said railway. And if the Company shall fail to make, do, or supply any such repairs, alterations, additional works, things, and materials within a reasonable time after being, by notice in writing under the hand of the said Engineer-in-Chief, required to make, do, or supply the same, the Governor, with the advice of the Executive Council, may declare the said railway to be closed until such

Construction, maintenance, and repair, &c., of railway.

Lithgow Co-operative Coal Company Railway.

such repairs, alterations, additional works, things, or materials shall have been made, done, or supplied as aforesaid. And if the Company cause or allow the said railway to be worked during such closure the Company shall be liable to a penalty not exceeding ten pounds for 5 each and every day the said railway is so worked.

3. The railway shall, when constructed, be open to the public ^{Railway open to the public.} use upon payment of a toll to the Company of a sum not exceeding threepence per ton per mile on freight for every transit, the party seeking transit supplying and loading and unloading his own trucks 10 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 of freight at least during the eight working 15 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 twopence per ton per mile on freight for every transit, if the party seeking transit supply the locomotive power as well as the trucks and waggons, and load and 20 unload the same, such toll to cover the return of empty trains: Provided that so long as the Company shall be willing to supply locomotive power no other person shall use locomotive power on the line.

4. Subject to the approval of the Governor and Executive ^{Branch railways.} Council, it shall be lawful for the owners or occupiers of the lands 25 traversed by the said 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 said railway, and the Company shall, if required, at the expense of 30 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 35 shall be subject to the following restrictions and conditions, that is to say,—

40 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.

45 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

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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 servants, and workmen, and all other persons by them authorised and empowered to enter into and upon the roads and lands hereinbefore referred to, and any roads and lands contiguous thereto, and to survey, take levels, and stake, or set out the same for the purpose of laying out the said railway and all other works connected therewith, and to
10 divert or alter the course of any road, way, or water-course crossing the railway, or to raise or sink any road, way, or water-course in order the more conveniently to carry the same over or under or by the side of the railway.

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

7. If in the course of making the railway the Company shall
25 use or interfere with any road they shall from time to time make good all damage done by them to such road, and if any question shall arise as to the damage done to any such road by the Company, or as to the repair thereof by them, such question shall be referred to the determination of two justices, and such justices may direct such
30 repairs to be made in respect of such 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 directions any penalty not exceeding five pounds per day as to such justices shall seem fit, and any such penalty shall be paid to the trustees, commissioners,
35 surveyor, or other persons 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 that the said justices shall have regard to and shall make full allowance for any tolls that may have been paid by the
40 Company on such road or street in the course of the using thereof.

8. 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 by the railway and no longer, the owners and occupiers of such lands and any
45 other persons whose right-of-way shall be affected by the want of such communications

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communications and their respective servants may at all times freely pass and repass with carriages, horses, and other animals directly but not otherwise across any part of the railway made in or through their respective lands solely for the purpose of occupying the same lands or
 5 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
 10 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.

9. It shall be lawful for the Company to use and employ steam or other motive power, and carriages, waggons, and trucks to be drawn thereby on the said railway, provided that it shall be lawful for the
 15 Railway Commissioners of New South Wales at all times to object to any rolling-stock used or intended to be used on the said railway, and if the Company shall use any rolling-stock after the same shall have been so objected to, the Company shall be liable to a penalty not exceeding ten pounds for each and every day the same shall be so
 20 used.

Motive power and rolling-stock.

Power to Railway Commissioners to object to rolling-stock.

Penalty.

10. 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
 25 purpose of repairing or preventing such accidents or slips, and to do such works thereon as may be necessary for that purpose; but in every such case the Company shall within forty-eight hours after such entry make a report to the said Railway Commissioners specifying the nature of such accident or slip or apprehended accident or slip, and of the
 30 works necessary, in the opinion of the Company or their engineer, to be done, and such powers shall cease and determine if the said Railway Commissioners shall after considering the said report certify by writing, addressed to and served upon the Company, that the exercise of such powers is not necessary for the public safety:
 35 Provided that such works shall be as little injurious to the said adjoining lands as the nature of the accident or slip or apprehended accident or slip will admit of, and shall be executed with all reasonable despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained
 40 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 arbitration in the manner hereinafter mentioned: And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for
 45 the purpose of making the railway.

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

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

Works for benefit of owners.

5 Such and so many 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 during the formation thereof :

Gates, bridges, &c.

10 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.

15 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 laying 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.

20 Provided always that the Company shall not be required to make any 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 compensation instead of the making them.

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

Penalty on persons omitting to fasten gates.

30 13. The Company shall not be entitled to any mines of coal, iron, stone, slate, or other minerals under any private lands vested in them by virtue of this Act, except only such parts thereof as shall be necessary

Minerals not to pass.

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necessary to be dug or carried away in the construction of the works hereby authorised. And such mines shall not be deemed to vest in the Company.

14. Before proceeding with the construction of the said railway
5 or any section thereof, the Company shall give notice of the lands (including Crown lands) proposed to be taken and used for the purposes of the said railway. Such notice shall be given to the owners of such lands, and shall state—

Compensation for resumptions, &c.

- 10 (1) the particulars of the lands proposed to be so taken and used ;
(2) that the Company are willing to treat as to the compensation to be made to such owners for such lands and the damage (if any) sustained or to be sustained by them by the exercise of the powers conferred by this Act ;
15 (3) that such owners are required to forthwith deliver to the Company particulars of their respective estates or interests in such lands, and of the claims made by them in respect thereof, and such other particulars, and in such form as may be prescribed by such notice, together with an abstract of their title to such lands.

20 15. All notices required to be served by the Company upon the owners of such lands shall be served either personally upon such owners or left at their usual place of abode in New South Wales :
Provided that if any such owners shall be absent from the Colony or cannot be found after reasonable inquiry, such notices shall be left
25 with the occupier (if any) of such lands, or if there be no such occupier shall be affixed upon some conspicuous part of such lands, and a copy thereof published by and at the expense of the Company once a week, for four consecutive weeks, in the New South Wales Government Gazette, and in a newspaper published at Lithgow, and shall also be
30 posted and kept posted at the post-office nearest to the lands to which such notices refer for a period of one month.

Service of notice on owners of lands.

16. If within sixty days after the passing of this Act the
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
35 be paid by the Company for the said lands belonging to the said persons 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 arbitration in manner hereinafter
40 mentioned, that is to say :—Unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred. And every appointment of an arbitrator shall be in writing under the hand of such party. And
45 such appointment shall be delivered to the arbitrator or arbitrators,
and

Compensation clause.

Appointment of arbitrators.

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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 the party who has appointed an arbitrator may 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 arbitrator shall be final and conclusive.

17. If before the matter so referred shall be determined any arbitrator appointed by either party shall die, or become incapable, or refuse, or for fourteen days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place. And if for the space of seven days after notice in writing from the other party for that purpose he fail to do so the remaining or other arbitrator or 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.

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

Appointment of umpire.

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

Attorney-General to appoint umpire on neglect.

20. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable, or shall refuse, or for fourteen days neglect to act before he shall have made his award, the matters referred

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

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referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such arbitrator had not been appointed.

21. If when more than one arbitrator shall have been appointed
5 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.

22. If when more than one arbitrator shall have been appointed,
10 and when neither of them shall die, 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
15 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.

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

Powers of arbitrators to call for books, &c.

24. Before any arbitrator or umpire shall enter into the con-
sideration of any matters referred to him, he shall in the presence of
a justice of the peace, make and subscribe the following declaration,
25 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 Lithgow Co-operative Coal Company Railway Act
30 of 1897.

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
35 act contrary thereto, he shall be guilty of misdemeanour.

Penalty for misconduct.

25. 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
40 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 claimed, in which case the whole costs shall be paid by the claimant: Provided that if

Cost of arbitration, how to be borne.

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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.

- 5 **26.** The arbitrator, arbitrators, or umpire shall deliver their or his 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
10 or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after such award shall have been published, and the party claiming payment shall have made a good title to the said lands or to the interest claimed by him therein to the satisfaction of the Company.
- 15 **27.** The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties. Award to be delivered to the Company.
- 28.** 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. Submission may be made a rule of Court.
- 20 **29.** 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 for all other damage, loss, costs, charges, and inconvenience which
25 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. Award not void through error in form.
- 30.** In every case where the Company shall take temporary possession of lands by virtue of the powers hereby granted it shall be
30 incumbent on them within three months 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 and damaged or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by
35 reason of such entry, 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
40 occupier, or deposit in the bank for the benefit of all parties interested as the case may require compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise as regards the said lands of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things
45 taken from such lands. Compensation to be made for temporary occupation.

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31. 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
5 be absent from the said 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 said Supreme Court, to be applied for and obtained by the parties legally entitled thereto.
32. If in any case in which according to the provisions of this
10 Act the Company is authorised 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
15 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
20 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
25 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.
33. At any time, after two years from the commencement of this Act, the Governor, with the advice of the Executive Council, may,
30 if he think fit, purchase such tramway, upon giving to the company six months notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the company, the amounts shall be ascertained by assessment in terms of the Lands for Public Purposes Acquisition Act: Provided that the
35 cost of resumption shall not exceed by ten per centum the original cost of construction: Provided further that on such resumption taking place, the lands on which the tramway has been constructed shall be held to have reverted to the Crown.
34. The said Railway Commissioners shall have running powers
40 over the said railway to enable them to obtain supplies of any coal, wood, stone, gravel, clay, or other material that may be required by the Railway Department for its own use: Provided that for such privilege the said department shall pay the company at the rate of one half-penny per ton per mile on such material, and that the weight of
45 engines used by the Railway Commissioners and their speed be not greater than that used or approved of by the company. 35.
- How compensation to be paid when any of parties under any disability.
- Sheriff authorised to give possession of certain lands.
- Power of purchase of tramway by Government.
- Running powers over tramway to Railway Commissioners.

Lithgow Co-operative Coal Company Railway.

35. It shall be lawful for the Company at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon them by this Act to any person or persons, or to any duly registered company, and upon any such transfer or assignment being signed or executed the person or persons, or duly registered company in whose favour such transfer or assignment is made shall then stand in the place of the company, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the company by this Act. Power to assign.
36. The hire and charges to be made under this Act by the company shall be in such terms and amounts, and shall be paid to such persons upon or near to the tramway, or in such manner and under such regulations as the company shall by notice appoint. Hire to be paid as described by the said company.
37. 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, and such by-laws shall be reduced into writing, and shall be duly executed by 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 Governor and Executive Council, and shall be published in the New South Wales Government Gazette. Company may make by-laws.
38. The production of the Government Gazette containing a printed copy of the by-laws of the Company purporting to be duly executed by the Company, and approved as aforesaid, shall be sufficient evidence of such by-laws in all proceedings under the same. Evidence of by-laws.
39. Nothing in this Act shall be deemed to authorise the said Company to take or enter upon any lands belonging to the Railway Commissioners of New South Wales, or to alter or to interfere with the Great Western Railway or any of the works thereof, save and except so far as may be necessary to connect the railway with the Great Western Railway and maintain such connection. Lands belonging to Railway Commissioners not to be taken.
40. For the purpose of effecting communication between the railway authorised by this Act and the Great Western Railway, the one hundred and twelfth section of the Public Works Act shall apply, and the Railway Commissioners shall be deemed the Constructing Authority thereunder. Application of one hundred and twelfth section of Public Works Act.

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41. The said Railway Commissioners shall, from time to time, at the expense of the Company, erect such signals and conveniences incident to the aforesaid communication, either upon their own lands or on the lands of the Company, and may from time to time appoint
5 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.
42. The erection, working, and management of such signals
10 and conveniences, wherever situate, shall be under the exclusive regulation of the said Railway Commissioners; but all costs, charges, wages, and expenses incidental or arising thereout shall be defrayed by the Company.
43. Nothing herein contained shall alter, repeal, or otherwise
15 affect the Government Railways Act of 1888 and the Public Works Act of 1888.
44. The Company shall, at the request of the Railway Commissioners, from time to time and at all times, carry passengers and live stock upon the said railway or any part thereof respectively,
20 and be at liberty to demand, take, receive, and recover such tolls and dues for carrying the same at such rates per mile or other scale of charges as shall be established from time to time by the said Railway Commissioners for or in respect of all such passengers and live stock which shall be so carried as aforesaid. The Company
25 is hereby authorised to make such by-laws and regulations as may be deemed necessary for regulating such traffic, and for enforcing and recovering such tolls and dues; and such by-laws and regulations, upon approval by the Governor and Executive Council, shall, after publication in the Gazette, be binding upon all persons using or
30 travelling upon the said railway. Any person offending against such by-laws or regulations shall be liable to a fine not exceeding ten pounds for each offence, to be recovered in a summary way before any two justices of the peace assembled and acting together in petty sessions.
45. Nothing in this Act contained shall extend to, charge, or
35 make liable the Company, when acting as carriers, further or in any other case than when, according to the laws of the said Colony, stage-coach proprietors or common carriers would be liable, nor shall extend in any degree to deprive the Company of the protection or privilege which
40 stage-coach proprietors or common carriers may be entitled to, but, on the contrary, the Company shall at all times be entitled to the benefit of every such protection and privilege.
46. The said Railway Commissioners may, from time to time,
45 appoint any person to be inspector, for the purpose of inspecting the said railway and of making any inquiry with respect to the condition
of

Railway Commissioners may erect signals and appoint watchmen and switchmen.

Working of signals to be under regulations of Railway Commissioners.

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

Right to carry passengers.

Company not to be liable to a greater extent than common carriers.

Railway Commissioners may appoint inspectors.

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of the works thereof or into the cause of any accident thereon, provided that no person so appointed shall exercise any powers of interference in the affairs of the company. Every inspector under this Act shall, for the purpose of any inspection or inquiry which he is
5 directed by the Railway Commissioners to make or conduct, have the following powers, that is to say :—

- (i) He may enter and inspect the said railway, and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto or used in connection therewith.
- 10 (ii) He may, by summons under his hand, require the attendance of any person who is engaged in the management, service, or employment of the said company, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said
15 purpose as he thinks fit to make.
- (iii) He may require and enforce the production of all books, papers, and documents of the company which he considers important for the said purpose.

47. Whenever in or about the said railway, or any of the works
20 or buildings connected therewith, or any building or place, whether open or enclosed, occupied by the company for working such railway, any of the following accidents take place in the course of such working, that is to say :—

- (i) Any accident attended with loss of life or personal injury to
25 any person whomsoever ;
- (ii) any collision where one of the trains is a passenger train ;
- (iii) any passenger train, or any part of a passenger train, accidentally leaving the rails ;
- 30 (iv) any accident of a kind not comprised in the foregoing descriptions, but which is of such kind as to have caused, or to be likely to cause, loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the said Railway Commissioners ;

the company shall send notice of such accident and of the loss of life
35 or personal injury (if any) occasioned thereby to the Railway Commissioners. Such notice shall be in such form and shall contain such particulars as the said Railway Commissioners may from time to time direct, and shall be sent by the earliest practicable post after any such accident takes place.

40 48. The Railway Commissioners may from time to time by
order direct that notice of any class of accidents shall be sent to them by telegraph, and may revoke any such order. While such order is in force notice of every accident of the class to which the order relates shall be sent to the Railway Commissioners by telegraph immediately
after

Accidents.

Notice of accidents.

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after the accident takes place. Failure to comply with the provisions of this section shall render the company liable for each such offence to a penalty not exceeding twenty pounds. Penalty.

5 **49.** It shall at all times be lawful for the Crown to make any road through, over, under, or across the said railway, or the land used therewith, without paying or being liable to pay any compensation therefor to the company, provided that in making any such road as little interference as possible with the said railway, or the working thereof, shall be made. Crown may make roads.

10 **50.** Unless the railway hereby authorised shall be completed and brought into use within two years from the passing of this Act, or within such extended time as the Governor and Executive Council may allow, the rights and privileges hereby conferred on the Company shall cease. If the railway hereby authorised shall cease to be worked
15 as a railway by the Company for twelve calendar months, the land, site, and permanent way thereof, shall, on proclamation by the Governor, with the advice of the Executive Council, vest in and become the absolute property of the Crown, without making any allowance or compensation or paying any consideration in respect
20 thereof to the Company. Penalty for not carrying out work.

51. In this Act the words "the Company" shall mean and include the said William Hunter, John William Wilson, and William Wiley, their heirs, executors, administrators, and assigns, and the word "justices" shall mean justices of the peace in and for the Colony
25 of New South Wales; and when any matter is authorised 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
30 corporation who under the provisions of this Act is authorised to sell land to the Company. Interpretation clause.

52. This Act whenever cited shall be sufficiently described as the "Lithgow Co-operative Coal Company Railway Act of 1898." Short title.

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SCHEDULE.

All that piece or parcel of land, being parts of portions 41 and 5, parish of Marangaroo, and portions 45 and 53, parish of Lett, county of Cook, in the Colony of New South Wales: Commencing at the south-west corner of M.P. 1, parish of Marangaroo; and bounded thence by the south boundary of M.P. 1 bearing $88^{\circ} 36' 1,140.5$ links; thence by part of the western boundaries of portions 89 and 5 bearing $180^{\circ} 1,027$ links; thence by a line bearing $154^{\circ} 19' 1,450$ links; thence by a curve of 1,025 links radius for 486 links, its chord bearing $167^{\circ} 53' 30''$; thence by a line bearing $181^{\circ} 30' 411$ links; thence by a curve of 975 links radius for 341 links, its chord bearing $171^{\circ} 28'$; thence by a line bearing $161^{\circ} 26' 648.8$ links; thence by a line bearing $71^{\circ} 26' 25$ links; thence by a curve of 1,050 links radius for 175 links; its chord bearing $156^{\circ} 39' 30''$; thence by a line bearing $171^{\circ} 0' 1,584$ links; thence by a line bearing $261^{\circ} 0' 25$ links; thence by a curve of 2,025 links radius for 372 links, its chord bearing $155^{\circ} 58' 30''$; thence by a line bearing $181^{\circ} 31' 1,676$ links; thence by a curve of 775 links radius for 566 links, its chord bearing $150^{\circ} 36' 30''$; thence by a line bearing $139^{\circ} 39' 30' 867$ links; thence by a curve of 775 links radius for 656 links, its chord bearing $115^{\circ} 24' 30''$; thence by the railway fence bearing $245^{\circ} 57'$ about 110 links; thence by a curve of 825 links radius for 585 links, its chord bearing $295^{\circ} 24' 30''$; thence by a line bearing $319^{\circ} 39' 30' 867$ links; thence by a curve of 825 links radius for 602 links, its chord bearing $336^{\circ} 36' 30''$; thence by a line bearing $1^{\circ} 31' 1,676$ links; thence by a curve of 1,975 links radius for 362 links, its chord bearing $335^{\circ} 58' 30''$; thence by a line bearing $261^{\circ} 0' 25$ links; thence by a line bearing $351^{\circ} 1,584$ links; thence by a curve of 950 links radius for 159 links, its chord bearing $336^{\circ} 39' 30''$; thence by a line bearing $71^{\circ} 26' 25$ links; thence by a line bearing $341^{\circ} 26' 648.8$ links; thence by a curve of 1,025 links radius for 359 links, its chord bearing $351^{\circ} 28'$; thence by a line bearing $1^{\circ} 30' 411$ links; thence by a curve of 975 links radius for 462 links, its chord bearing $347^{\circ} 53' 30''$; thence by a line bearing $334^{\circ} 19' 1,346$ links to western boundary of portion 5; thence by part of that boundary bearing $180^{\circ} 215$ links to a creek; and thence by that creek upwards, to point of commencement.