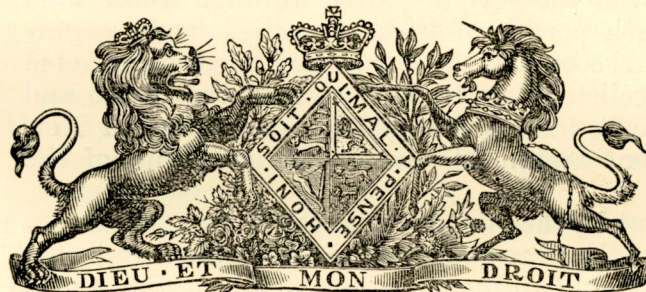


This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 30th November, 1900.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

An Act to enable Joseph Wood, of Newcastle, in the Colony of New South Wales, to construct a railway from the Aberdare Collieries to the Stanford Railway, authorised to be constructed under the provisions of the Stanford Coal-mine Railway Act of 1900.

WHEREAS Joseph Wood, of Newcastle, in the Colony of New South Wales, hereinafter designated the promoter, is desirous of opening coal-mines upon certain land situate in the parish of Cessnock, county of Northumberland, and Colony aforesaid, applied for as a mineral lease for coal-mining purposes by Henry John Adams on the twenty-seventh day of August, one thousand nine hundred, and in order to facilitate communication between such coal-mines and the Great Northern Railway the said promoter is desirous of constructing a railway from the said coal-mines to a line hereinafter called

c 101—A

Preamble.

Aberdare Collieries Railway.

called the Stanford Coal-mine Railway, authorised to be constructed under the provisions of the Stanford Coal-mine Railway Act of 1900 ; but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown, bodies
 5 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
 10 from the construction of the said proposed railway, and traffic on the Great Northern Railway would be increased thereby : It is therefore desirable 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 land
 15 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
 20 same, as follows :—

1. It shall be lawful for the said promoter to make and construct a railway which shall be of the same gauge as the Government Railway, namely four feet eight and a half inches, commencing at the south-west corner of portion eighteen, parish of Cessnock, county of
 25 Northumberland, within mineral lease of six hundred and forty acres, applied for by Henry John Adams on the twenty-seventh day of August, one thousand nine hundred, and running thence generally east-north-east through Crown lands to the west boundary of the northern moiety of Hebblewhite's land, thence about easterly through that land and
 30 Crown lands to a point on the Stanford Coal-mine Railway, in the parish of Stanford, about four and three-quarter miles from its junction with the East Greta Coal-mining Company's Railway, and which lands and route are particularly described in the Schedule hereto, such railway to be in the direction described in the Schedule, and to make and
 35 construct such loop-lines, stations, and sidings as may be necessary for the safe and convenient use of the railway to be constructed as afore-said, and to take and use so much of the said Crown lands, and so much of the lands of private persons mentioned in the Schedule, as the promoter may require for his said railway, loop-lines, stations, and
 40 sidings. The said railway shall be constructed in a proper and workmanlike manner to the satisfaction of the Engineer-in-Chief for Railway Construction and the Railway Commissioners.

2. The said railway shall be deemed to be a branch railway within the meaning of the fifth section of the Stanford Coal-mine
 45 Railway Act of 1900, and the promoter shall be deemed to be owner and occupier of the lands in the said section mentioned,

3.

Authority to
construct railway.

Application of
section 5 of
Stanford Coal-mine
Railway Act.

Aberdare Collieries Railway.

3. The ground and soil of so much of the site of the railway and sidings as passes over or includes the lands of the said owners of lands and over Crown lands respectively, together with such rights of ingress, egress, and regress upon the adjacent land as may be necessary for the making and repair of such railway, shall, so far as is necessary for the purpose of this Act be vested, by virtue of this Act and without the necessity of any conveyance, in the promoter for the purposes of the railway: Provided that no lands vested in the Railway Commissioners shall by virtue of this Act be vested in the promoter, and nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon, and the promoter shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repairs of the said road by cutting, embanking, sinking wells, or otherwise: Provided that the said railway, or a portion of the said railway not less than two miles in length, shall be constructed and brought into use within three years after the passing of this Act, and that in default thereof, or if after its completion the railway or the portion so constructed shall cease to be used for two years continuously all the said lands, including Crown lands, and all the said promoter's interest and estate therein, shall revert without any conveyance to the Crown and original owners thereof, their heirs and assigns, respectively; and if such portion only is so constructed within three years, so much of the said lands, including Crown lands, as are not used for the purposes of the portion so constructed, and the promoter's interest and estate in such last-mentioned lands, shall revert in manner aforesaid: Provided also that if in the exercise of the powers hereby granted it be found necessary to cross-cut through, sink, raise, or use any part of any road so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoter shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at his own expense maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the promoter, before using the said lands of the owners of land and the said Crown lands respectively for the purposes aforesaid, shall if required so to do separate the same by a sufficient fence from the land adjoining thereto, with such gates as may be required for the convenient occupation of such land, and shall also to all private roads used by him 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 promoter as to the necessity for

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

Aberdare Collieries Railway.

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

- 5 4. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoter for the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of three pence per ton in respect of every ton of coal for every transit, the person seeking transit supplying and
 10 loading his own trucks or on Government waggons, and the promoter or Government supplying locomotive power; and all trucks when emptied shall be conveyed on their return free of charge: Provided always that it shall not be compulsory on the promoter to supply locomotive power unless the party seeking the transit
 15 guarantee and bring one hundred tons at least during the twelve working hours, and give notice of the same at least twenty-four hours previously. The railway shall at all times be open to the public for the conveyance of coal and goods upon payment of a toll to the promoter for the conveyance of coal of a sum not exceeding one half-
 20 penny per ton per mile, with a minimum charge of two pence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-penny per ton per mile in respect of every ton of goods for every transit, if the party seeking transit supply the locomotive power as well as the trucks and waggons: Provided
 25 that so long as the promoter shall be willing to supply locomotive power, no other person shall use locomotive power on the line other than the Railway Commissioners: Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit, and supply locomotive power, the promoter shall be entitled
 30 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 promoter shall be entitled, not only to compensation for the cost of repairing and restoring the
 35 railway, but to the consequential damage (if any) sustained by reason of the suspension of transt or otherwise.

5. It shall be lawful for the owners or occupiers of the lands adjoining thereto or traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the
 40 said railway for the purpose of bringing carriages, trucks, and waggons to or from or upon the said railway, and the promoter 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
 45 with safety to the public and without injury to the said railway, and without

Railway open to the public.

Branch railways.

Aberdare Collieries Railway.

without inconvenience to the traffic thereupon, and the promoter shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person. The promoter
 5 shall not be bound to make any such openings in any place which he 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 promoter from time
 10 to time made, with respect to passing upon or crossing the railway and otherwise; and the persons making or using such branch railways shall be bound to construct, and from time to time as need may require, to renew the off set plates and switches, according to the most approved plan adopted by the promoters, under the direction of their
 15 engineer.

6. For the purposes and subject to the provisions hereinafter contained, it shall be lawful for the promoter, his deputies, agents, servants, and workmen, and all other persons by him authorised and empowered, to divert or alter the course of any road or way crossing
 20 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: Provided always that any such works shall be carried out to the satisfaction of the Commissioner for Roads, and all such diversions, alterations, and crossings, and the approaches thereto, shall thereafter
 25 be maintained and repaired by the promoter at his own expense, and to the satisfaction of the said Commissioner for Roads.

7. If the promoter do not cause another sufficient road to be so made before he interferes with any such existing road as aforesaid, or, if he fails to maintain all such diversions, alterations, crossings,
 30 and the approaches thereto, he shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted, or during which such diversions, alterations, crossings, or approaches shall remain in a state of disrepair, and such penalties shall be paid to the said Secretary for
 35 Public Works, 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.

8. It shall be lawful for, and at the request of the Railway
 40 Commissioners compulsory upon, the said promoter, from time to time and at all times, to carry passengers, goods, and live stock upon the said railway or any part thereof respectively, and to make, demand, take, receive, and recover such tolls or dues for carrying the same at such rates per mile or other scale of charges as shall be
 45 established from time to time by the promoter for or in respect of all such

Power to divert or alter roads.

Penalty for not substituting a road.

Right to carry passengers.

Aberdare Collieries Railway.

such passengers, goods, and live stock which shall be conveyed or transported upon such railway or any part thereof respectively; and the promoter is hereby authorised to make such by-laws and regulations, not inconsistent with this Act, and subject to the approval of
 5 the Railway Commissioners, as may be necessary for the regulation of such traffic, and such by-laws or regulations shall be binding upon all persons using or travelling upon the said railway, and any persons offending against such by-laws or regulations shall be liable to a fine not exceeding five pounds for each offence, to be recovered in a
 10 summary way before any two justices: Provided always, that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, it shall be lawful for the Executive Council on the petition of any person to reduce the said rates, tolls, or dues, and to revise them in such manner as may
 15 seem most proper and advisable.

9. If, in the course of making the railway, the promoter shall use or interfere with any road, he shall from time to time make good all damage done by him to such road to the satisfaction of the said Secretary for Public Works; and if any question shall arise as to the
 20 damage done to any such road by the promoter, or as to the repair thereof by him, such questions shall be referred to the determination of two justices, and such justices may direct such repairs to be made in the state of such road in respect of damage done by the promoter, and within such period as they may think reasonable, and may impose
 25 on the promoter 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 said Secretary for Public Works, 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.

30 10. Until the promoter shall have made the bridges or other proper communications which he 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 person whose right-of-way shall be affected by the want
 35 of such communications, and their respective servants, may at all times freely pass and repass with carriages, horses, and other animals directly but not otherwise across any part of the railway made in or through their respective lands solely for the purpose of occupying the same lands, or for the exercise of such right-of-way and so as not to
 40 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 promoter, 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
 45 him, shall not be entitled so to cross the railway.

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11. If the railway cross any public highway or parish road on a level, the promoter shall erect or construct and at all times maintain to the satisfaction of the said Secretary for Public Works cattle-stops or good and sufficient gates across such road on each side of the railway 5 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 10 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 15 exceeding forty shillings for every default therein, to be recoverable before any two justices in a summary way: Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be 20 kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed 25 with respect to the gates being kept closed across the road.

Provisions in cases where roads are crossed on a level.

12. 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 promoter and his workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the 30 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 promoter 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 35 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, or for the repair or maintenance of the line: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident 40 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 arbitration in the 45 manner hereinafter mentioned: And provided, also, that no land shall be

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

Aberdare Collieries Railway.

be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

5 **13.** 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.

10 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.

15 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.

20 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 :

25 Provided always that every such bridge shall be erected to the satisfaction of the Secretary for Public Works and the said Engineer-in-Chief for Railway Construction.

30 **14.** Every bridge erected for carrying any road over the railway shall be built in conformity with the following regulations (that is to say) :— Construction of bridges over railways.

35 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.

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

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

Provided

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Provided always that every such bridge shall be erected to the satisfaction of the said Secretary for Public Works and the said Engineer-in-Chief for Railway Construction.

5 width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width herein-
before prescribed for bridges over or under the railway, the width of
such bridges need not be greater than such average available width of
such roads, but so, nevertheless, that such bridges be not of less width
10 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 promoter shall
be bound at his own expense to increase the width of the said bridge
15 to such extent as he may be required by the said Secretary for Public
Works, 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.

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

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

30 15. The promoter 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.

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

40 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
45 necessary gates made to open towards such adjoining lands and

Fences.

Aberdare Collieries Railway.

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.

5 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.

10 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 promoter shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places :

15 Provided always that the promoter 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.

20 **16.** 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 a sum not exceeding five pounds, to be recoverable in a summary way before any two justices.

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

40 **18.** If, within ninety days after the passing of this Act, the said persons through whose lands the railway shall pass or any of them and the promoter 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,

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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
 5 appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred. And every appointment of an arbitrator shall be under the hand of such party. And such appointment shall be delivered to the arbitrator or arbitrators, and
 10 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
 15 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, on application of the party who has himself
 20 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.

19. If, before the matter so referred shall be determined, any
 25 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,
 30 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.

20. Where more than one arbitrator shall have been appointed,
 35 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
 40 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.

21. If in either of the cases aforesaid the arbitrators shall
 45 arbitration neglect to appoint an umpire, it shall be lawful for the Attorney-General, to appoint umpire on neglect.

Attorney-General,
 Attorney-General to
 appoint umpire on
 neglect.

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Attorney-General, 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.

5 **22.** If when a single arbitrator shall have been appointed, such arbitrator shall die or become incapable, or shall refuse, or for four-
 10 teen 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 matter to begin de novo.

15 **23.** 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.

20 **24.** 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.

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

Powers of arbitrators to call for books, &c.

30 **26.** 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.

35 I, 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 Aberdare Collieries Railway Act of 1900.

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

Penalty for misconduct.

45 **27.** All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoter, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoter, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall

Costs of arbitration how to be borne.

be

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be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount offered, 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
5 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.

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

Award to be delivered to the promoters.

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

Submission may be made a rule of court.

30. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

Award not void through error in form.

20 31. The promoter 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
25 which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoter of any of the matters and things hereby required to be performed by them or otherwise.

Compensation for temporary or permanent or recurring injuries.

32. In every case where the promoter shall take temporary possession of lands by virtue of the powers hereby granted it shall be
30 incumbent on him within one month after his entry upon such lands, upon being required to do so, 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 taking possession of such lands,
35 and he shall also from time to time during his occupation of the said lands pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent to be fixed by two justices in case the parties differ, and shall also within six months after the completion of the railway pay to such owner or occupier or deposit in a
40 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 taken from such
45 lands.

Compensation to be made for temporary occupation.

Aberdare Collieries Railway.

33. It shall be lawful for the Secretary for Public Works, on behalf of the Government, at any time by notice in writing to require the said promoter to sell, and thereupon the said promoter shall sell to the Government the said railway upon the terms of paying the then value (exclusive of any allowance for compensation for compulsory sale) of the said railway, and all lands, buildings, works, materials, and plant of the said promoter suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the Lands for Public Purposes Acquisition Act for settling cases of disputed compensation and subject to the terms and conditions therein contained; and when any such sale shall have been made to the said Government, the said railway, lands, buildings, works, materials, plant, and premises shall vest in the Railway Commissioners, who shall have all the rights, powers, and authorities of the said promoter in respect of the said railway so sold: Provided that the sum to be paid by way of purchase shall in no case exceed the total cost of the construction of the railway and related works, land, and buildings.

Power for Government to purchase railway.

34. For the purpose of regulating the conduct of the officers and servants of the promoter, and for providing for the due management of the affairs of the promoter in all respects, it shall be lawful for the promoter, subject to the provisions herein mentioned, from time to time to make such by-laws and regulations as he shall think fit: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act; and such by-laws shall be reduced into writing, and shall have affixed thereto the name of the promoter, and a copy of such by-laws shall be given to every officer and servant of the promoter 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 promoter relating to penalties must be first approved of by the Executive Council and published in the Government Gazette.

Company may make by-laws.

35. The production of the Gazette containing such by-laws of the promoter shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

36. Nothing in this Act shall be deemed to authorise the said promoter 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, without the previous consent in writing in every instance of the Railway Commissioners.

Lands belonging to the Railway Commissioners not to be taken.

37. The said Railway Commissioners may from time to time erect such signals and conveniences incident to such junction, either upon their own lands or on the lands of the promoter, and appoint and

Commissioners may erect signals and appoint watchmen and switchmen.

Aberdare Collieries Railway.

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 promoter.

5 **38.** The working and management of such signals and con-
 veniences, wherever situate, shall be under the exclusive regulation
 of the Railway Commissioners, and such sum may be charged to the
 promoter as the said Commissioners may deem reasonable for such
 services.

Working of signals
 to be under regula-
 tions of Commis-
 sioners.

10 **39.** The said Commissioners may from time to time appoint
 any person to be inspector for the purpose of inspecting the railway
 and of making any inquiry with respect to the condition of the works,
 or into the cause of any accident, provided that no person so appointed
 shall exercise any powers of interference in the affairs of the promoter ;
 15 and every inspector under this Act shall, for the purpose of any
 inspection or inquiry which he is directed by the Railway Commissioners
 to make or conduct, have the following powers, that is to say :—

Railway
 Commissioners
 may appoint
 inspectors.

20 (1) He may enter and inspect the railway and all the stations,
 works, buildings, offices, stock, plant, and machinery
 belonging thereto.

25 (2) He may, by summons under his hand, require the attendance
 of any person who is engaged in the management, service, or
 employment of the promoter, 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
 purpose as he thinks fit to make.

30 (3) He may require and enforce the production of all books,
 papers, and documents of the promoter which he considers
 important for the said purpose.

35 (4) If, after any such inspection, the Railway Commissioners
 deem the railway to be unsafe for the carriage of passengers,
 they may by notice in writing require the promoter to
 desist from carrying passengers until any repairs or alterations
 mentioned in the notice are effected, and thereupon, and until
 the requirements of such notice have been complied with, it
 shall not be lawful for the promoter to carry any passengers
 upon the said railway.

40 Where, in or about the railway, or any of the works or buildings
 connected with such railway, or any buildings connected with such
 railway, or any building or place, whether open or enclosed, occupied
 by the promoter, any of the following accidents take place in the
 course of working, that is to say :—

Accidents.

45 (1) Any accident attended with loss of life or personal injury to
 any person whomsoever.

(2) Any collision where one of the trains is a passenger train.

(3)

Aberdare Collieries Railway.

(3) Any passenger train or any part of a passenger train accidentally leaving the rails.

5 (4) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused or 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 Railway Commissioners.

The promoter shall send notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to the Railway
10 Commissioners.

Such notice shall be in such form and shall contain such particulars as the Railway Commissioners may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

15 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.

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

25 **40.** It shall be lawful for the promoter at any time, by any deed or instrument in writing, to assign and transfer the rights, powers, privileges, benefits, and advantages conferred upon him 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
30 or assignment is made shall then stand in the place of the said promoter, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said promoter by this Act. Power to assign.

35 **41.** Nothing herein contained shall alter, repeal, or otherwise affect the Public Works Act of 1888, or the Government Railways Act of 1888, or any Act amending the same. Public Works and Government Railways Acts of 1888 not altered or repealed.

42. In this Act the word "justices" shall mean justices of the peace in and for the Territory of New South Wales; and when any matter shall be authorised or required to be done by two justices, the expression "two justices" shall mean two justices assembled and acting
40 together in petty sessions or a stipendiary or police magistrate; the word "owner" shall mean any person who under the provisions of this Act would be able to sell land to the promoter; and the word "promoter" shall mean and include the said Joseph Wood, his heirs, executors, or administrators, and assigns. Interpretation clause.

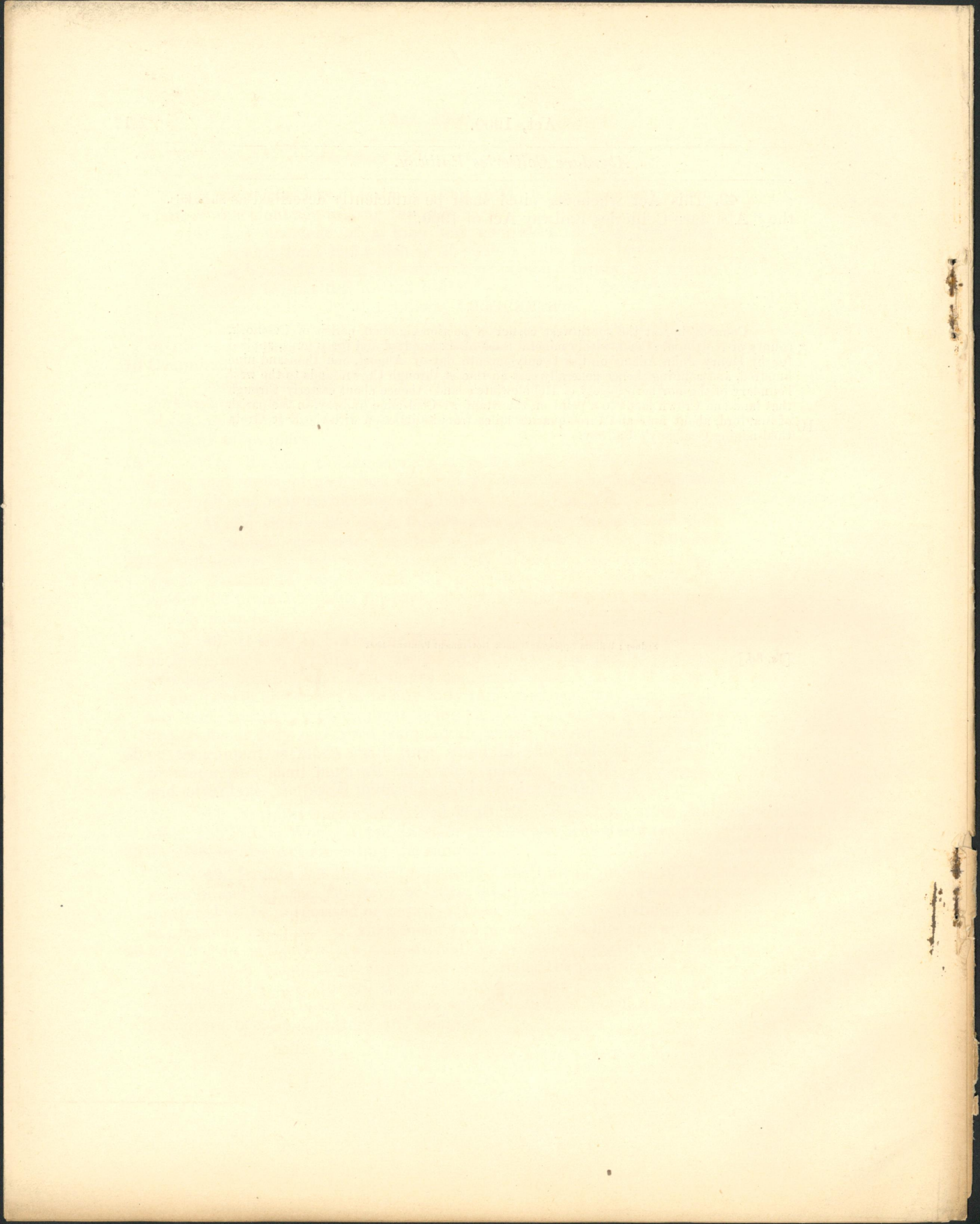
43.

Aberdare Collieries Railway.

43. This Act whenever cited shall be sufficiently described as Short title.
the "Aberdare Collieries Railway Act of 1900."

SCHEDULE.

5 Commencing at the south-west corner of portion eighteen, parish of Cessnock,
county of Northumberland, within mineral lease of six hundred and forty acres, applied
for by Henry John Adams on the twenty-seventh day of August, one thousand nine
hundred, and running thence generally east-north-east through Crown lands to the west
boundary of the northern moiety of Hebblewhite's land; thence about easterly through
10 that land and Crown lands to a point on the Stanford Coal-mine railway, in the parish
of Stanford, about four and three-quarter miles from its junction with the East Greta
Coal-mining Company's Railway.



Legislative Council.

1900.

A BILL

To enable Joseph Wood, of Newcastle, in the Colony of New South Wales, to construct a railway from the Aberdare Collieries to the Stanford Railway, authorised to be constructed under the provisions of the Stanford Coal-mine Railway Act of 1900.

(As agreed to in Select Committee.)

WHEREAS Joseph Wood, of Newcastle, in the Colony of New South Wales, hereinafter designated the promoter, is desirous of opening coal-mines upon certain land situate in the parish of Cessnock, county of Northumberland, and Colony aforesaid, applied for as a mineral lease for coal-mining purposes by Henry John Adams on the twenty-seventh day of August, one thousand nine hundred, and in order to facilitate communication between such coal-mines and the Great Northern Railway the said promoter is desirous of constructing a railway from the said coal-mines to a line hereinafter called

5

c 101—A

Preamble.

called the Stanford Coal-mine Railway, authorised to be constructed under the provisions of the Stanford Coal-mine Railway Act of 1900; but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown, bodies corporate, and private persons respectively, the same cannot be made without legislative authority: And whereas the said coal-mines are likely to prove beneficial to the Colony, and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption, steam navigation, and export, as would result from the construction of the said proposed railway, and traffic on the Great Northern Railway would be increased thereby: It is therefore desirable 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 land the same shall pass for such portion of their respective lands as may be required to be taken and occupied thereby: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Authority to
construct railway.

1. It shall be lawful for the said promoter to make and construct a railway which shall be of the same gauge as the Government Railway, namely four feet eight and a half inches, commencing at the south-west corner of portion eighteen, parish of Cessnock, county of Northumberland, within mineral lease of six hundred and forty acres, applied for by Henry John Adams on the twenty-seventh day of August, one thousand nine hundred, and running thence generally east-north-east through Crown lands to the west boundary of the northern moiety of Hebblewhite's land, thence about easterly through that land and Crown lands to a point on the Stanford Coal-mine Railway, in the parish of Stanford, about four and three-quarter miles from its junction with the East Greta Coal-mining Company's Railway, and which lands and route are particularly described in the Schedule hereto, such railway to be in the direction described in the Schedule, and to make and construct such loop-lines, stations, and sidings as may be necessary for the safe and convenient use of the railway to be constructed as aforesaid, and to take and use so much of the said Crown lands, and so much of the lands of private persons mentioned in the Schedule, as the promoter may require for his said railway, loop-lines, stations, and sidings. The said railway shall be constructed in a proper and workmanlike manner to the satisfaction of the Engineer-in-Chief for Railway Construction and the Railway Commissioners.

Application of
section 5 of
Stanford Coal-mine
Railway Act.

2. The said railway shall be deemed to be a branch railway within the meaning of the fifth section of the Stanford Coal-mine Railway Act of 1900, and the promoter shall be deemed to be owner and occupier of the lands in the said section mentioned.

3.

3. The ground and soil of so much of the site of the railway and sidings as passes over or includes the lands of the said owners of lands and over Crown lands respectively, together with such rights of ingress, egress, and regress upon the adjacent land as may be necessary
5 for the making and repair of such railway, shall, so far as is necessary for the purpose of this Act be vested, by virtue of this Act and without the necessity of any conveyance, in the promoter for the purposes of the railway: Provided that no lands vested in the Railway Commissioners shall by virtue of this Act be vested in the promoter,
10 and nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon, and the promoter shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the
15 formation and repairs of the said road by cutting, embanking, sinking wells, or otherwise: Provided that the said railway, or a portion of the said railway not less than two miles in length, shall be constructed and brought into use within three years after the passing of this Act, and that in default thereof, or if after its completion the railway
20 or the portion so constructed shall cease to be used for two years continuously all the said lands, including Crown lands, and all the said promoter's interest and estate therein, shall revert without any conveyance to the Crown and original owners thereof, their heirs and assigns, respectively; and if such portion only is so constructed within
25 three years, so much of the said lands, including Crown lands, as are not used for the purposes of the portion so constructed, and the promoter's interest and estate in such last-mentioned lands, shall revert in manner aforesaid: Provided also that if in the exercise of the powers hereby granted it be found necessary to cross-cut through,
30 sink, raise, or use any part of any road so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoter shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at his own expense maintain such substituted road in a state as convenient as the road interfered with, or as
35 nearly as may be. And the promoter, before using the said lands of the owners of land and the said Crown lands respectively for 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
40 may be required for the convenient occupation of such land, and shall also to all private roads used by him 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
45 occupiers of such roads and lands and the promoter as to the necessity for

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

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

Railway open to the public.

4. The railway shall be open to the public use for the conveyance 5 of coal and goods upon payment of a toll to the promoter for the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of three pence per ton in respect of every ton of coal for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the pro- 10 moter or Government supplying locomotive power; and all trucks when emptied shall be conveyed on their return free of charge: Provided always that it shall not be compulsory on the promoter to supply locomotive power unless the party seeking the transit guarantee and bring one hundred tons at least during the twelve 15 working hours, and give notice of the same at least twenty-four hours previously. The railway shall at all times be open to the public for the conveyance of coal and goods upon payment of a toll to the promoter for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of two pence per ton 20 in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-penny per ton per mile in respect of every ton of goods for every transit, if the party seeking transit supply the locomotive power as well as the trucks and waggons: Provided that so long as the promoter shall be willing to supply locomotive 25 power, no other person shall use locomotive power on the line other than the Railway Commissioners: Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit, and supply locomotive power, the promoter shall be entitled to compensation for such damage, to be recovered either by action in 30 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 promoter 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 35 of the suspension of transt or otherwise.

Branch railways.

5. It shall be lawful for the owners or occupiers of the lands adjoining thereto or traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the said railway for the purpose of bringing carriages, trucks, and waggons 40 to or from or upon the said railway, and the promoter 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 45 without

without inconvenience to the traffic thereupon, and the promoter shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person. The promoter
 5 shall not be bound to make any such openings in any place which he 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 promoter from time
 10 to time made, with respect to passing upon or crossing the railway and otherwise; and the persons making or using such branch railways shall be bound to construct, and from time to time as need may require, to renew the off set plates and switches, according to the most approved plan adopted by the promoters, under the direction of their
 15 engineer.

6. For the purposes and subject to the provisions hereinafter ^{Power to divert or alter roads.} contained, it shall be lawful for the promoter, his deputies, agents, servants, and workmen, and all other persons by him authorised and empowered, to divert or alter the course of any road or way crossing
 20 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: Provided always that any such works shall be carried out to the satisfaction of the Commissioner for Roads, and all such diversions, alterations, and crossings, and the approaches thereto, shall thereafter
 25 be maintained and repaired by the promoter at his own expense, and to the satisfaction of the said Commissioner for Roads.

7. If the promoter do not cause another sufficient road to be ^{Penalty for not substituting a road.} so made before he interferes with any such existing road as aforesaid, or, if he fails to maintain all such diversions, alterations, crossings,
 30 and the approaches thereto, he shall forfeit *twenty* pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted, or during which such diversions, alterations, crossings, or approaches shall remain in a state of disrepair, and such penalties shall be paid to the said Secretary for
 35 Public Works, 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.

8. It shall be lawful for, and at the request of the Railway ^{Right to carry passengers.} Commissioners compulsory upon, the said promoter, from time to time and at all times, to carry passengers, goods, and live stock upon the said railway or any part thereof respectively, and to make, demand, take, receive, and recover such tolls or dues for carrying the same at such rates per mile or other scale of charges as shall be
 45 established from time to time by the promoter for or in respect of all such

such passengers, goods, and live stock which shall be conveyed or transported upon such railway or any part thereof respectively; and the promoter is hereby authorised to make such by-laws and regulations, not inconsistent with this Act, and subject to the approval of the Railway Commissioners, as may be necessary for the regulation of such traffic, and such by-laws or regulations shall be binding upon all persons using or travelling upon the said railway, and any persons offending against such by-laws or regulations shall be liable to a fine not exceeding *five* pounds for each offence, to be recovered in a summary way before any two justices: Provided always, that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, it shall be lawful for the Executive Council on the petition of any person to reduce the said rates, tolls, or dues, and to revise them in such manner as may seem most proper and advisable.

Road repairs.

9. If, in the course of making the railway, the promoter shall use or interfere with any road, he shall from time to time make good all damage done by him to such road to the satisfaction of the said Secretary for Public Works; and if any question shall arise as to the damage done to any such road by the promoter, or as to the repair thereof by him, such questions shall be referred to the determination of two justices, and such justices may direct such repairs to be made in the state of such road in respect of damage done by the promoter, and within such period as they may think reasonable, and may impose on the promoter 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 said Secretary for Public Works, 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.

Owners' crossing.

10. Until the promoter shall have made the bridges or other proper communications which he 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 person whose right-of-way shall be affected by the want of such communications, and their respective servants, may at all times freely pass and repass with carriages, horses, and other animals directly but not otherwise across any part of the railway made in or through their respective lands solely for the purpose of occupying the same lands, or for the exercise of such right-of-way and so as not to obstruct the passage along the railway, or to damage the same. Nevertheless if the owner or occupier of any such lands have, in his arrangements with the promoter, 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.

11.

11. If the railway cross any public highway or parish road on a level, the promoter shall erect or construct and at all times maintain to the satisfaction of the said Secretary for Public Works cattle-stops or good and sufficient gates across such road on each side of the railway 5 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 10 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 15 exceeding *forty* shillings for every default therein, to be recoverable before any two justices in a summary way: Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be 20 kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed 25 with respect to the gates being kept closed across the road.

12. 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 promoter and his workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the 30 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 promoter 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 35 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, or for the repair or maintenance of the line: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident 40 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 arbitration in the 45 manner hereinafter mentioned: And provided, also, that no land shall be

Provisions in cases where roads are crossed on a level.

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

be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

Construction of
bridges over roads.

13. 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) :— 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

Provided always that every such bridge shall be erected to the satisfaction of the Secretary for Public Works and the said Engineer-in-Chief for Railway Construction.

Construction of
bridges over
railways.

14. Every bridge erected for carrying any road over the railway shall be built in conformity with the following regulations (that is to say) :— 30

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. 35

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. 40

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 : 45

Provided

Provided always that every such bridge shall be erected to the satisfaction of the said Secretary for Public Works and the said Engineer-in-Chief for Railway Construction.

5 width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads, but so, nevertheless, that such bridges be not of less width
 10 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 promoter shall
 15 to such extent as he may be required by the said Secretary for Public Works, 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.

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

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

30 15. The promoter 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.

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

40 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
 45 necessary gates made to open towards such adjoining lands and

Fences.

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. 5

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 10 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 15 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 promoter shall make all necessary watercourses and 20 drains for the purpose of conveying water to the said watering-places:

Provided always that the promoter 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 25 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 gate.

16. 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 30 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 a sum not exceeding *five* pounds, to be recoverable in a summary way before any two justices.

Minerals not to pass.

17. The promoter shall not be entitled to any minerals under 35 any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised. And such mines shall not be deemed to vest in the said promoter.

Compensation clause.

18. If, within ninety days after the passing of this Act, the 40 said persons through whose lands the railway shall pass or any of them and the promoter 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,

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
5 appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred. And every appointment of an arbitrator shall be under the hand of such party. And such
10 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
15 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, on application of the party who has himself
20 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.

19. If, before the matter so referred shall be determined, any
25 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,
30 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.

20. Where more than one arbitrator shall have been appointed,
35 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
40 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.

21. If in either of the cases aforesaid the arbitrators shall
45 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,
Attorney-General to appoint umpire on neglect.

Attorney-General, on the application of either party to such arbitration, to appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this Act shall be final.

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

22. 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. 5

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

23. 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. 10

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

24. 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. 15

Powers of arbitrators to call for books, &c.

25. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which he or they 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. 20

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

26. 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— 30

I, 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 Aberdare Collieries Railway Act of 1900. 35

Made and subscribed in the presence of

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 a misdemeanour. 40

Costs of arbitration how to be borne.

27. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoter, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoter, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be 45

be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount offered, 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
5 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.

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

Award to be delivered to the promoters.

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

Submission may be made a rule of court.

30. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for
irregularity or error in matter of form.

Award not void through error in form.

31. The promoter shall make compensation and satisfaction to
20 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
25 which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoter of any of the matters and things hereby required to be performed by them or otherwise.

Compensation for temporary or permanent or recurring injuries.

32. In every case where the promoter shall take temporary
30 possession of lands by virtue of the powers hereby granted it shall be incumbent on him within one month after his entry upon such lands, upon being required to do so, 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 taking possession of such lands,
35 and he shall also from time to time during his occupation of the said lands pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent to be fixed by two justices in case the parties differ, and shall also within six months after the completion of the railway pay to such owner or occupier or deposit in a
40 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 taken from such
45 lands.

Compensation to be made for temporary occupation.

Power for Govern-
ment to purchase
railway.

33. It shall be lawful for the Secretary for Public Works, on behalf of the Government, at any time by notice in writing to require the said promoter to sell, and thereupon the said promoter shall sell to the Government the said railway upon the terms of paying the then value (exclusive of any allowance for compensation for compulsory sale) of the said railway, and all lands, buildings, works, materials, and plant of the said promoter suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the Lands for Public Purposes Acquisition Act for settling cases of disputed compensation and subject to the terms and conditions therein contained; and when any such sale shall have been made to the said Government, the said railway, lands, buildings, works, materials, plant, and premises shall vest in the Railway Commissioners, who shall have all the rights, powers, and authorities of the said promoter in respect of the said railway so sold: Provided that the sum to be paid by way of purchase shall in no case exceed the total cost of the construction of the railway and related works, land, and buildings.

Company may make
by-laws.

34. For the purpose of regulating the conduct of the officers and servants of the promoter, and for providing for the due management of the affairs of the promoter in all respects, it shall be lawful for the promoter, subject to the provisions herein mentioned, from time to time to make such by-laws and regulations as he shall think fit: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act; and such by-laws shall be reduced into writing, and shall have affixed thereto the name of the promoter, and a copy of such by-laws shall be given to every officer and servant of the promoter 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 promoter relating to penalties must be first approved of by the Executive Council and published in the Government Gazette.

Evidence of by-laws.

35. The production of the Gazette containing such by-laws of the promoter shall be sufficient evidence of such by-laws in all proceedings under the same.

Lands belonging to
the Railway
Commissioners
not to be taken.

36. Nothing in this Act shall be deemed to authorise the said promoter 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, without the previous consent in writing in every instance of the Railway Commissioners.

Commissioners may
erect signals and
appoint watchmen
and switchmen.

37. The said Railway Commissioners may from time to time erect such signals and conveniences incident to such junction, either upon their own lands or on the lands of the promoter, and appoint
and

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 promoter.

5 **38.** The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the Railway Commissioners, and such sum may be charged to the promoter as the said Commissioners may deem reasonable for such services.

Working of signals to be under regulations of Commissioners.

10 **39.** The said Commissioners may from time to time appoint any person to be inspector for the purpose of inspecting the railway and of making any inquiry with respect to the condition of the works, or into the cause of any accident, provided that no person so appointed shall exercise any powers of interference in the affairs of the promoter ;
15 and every inspector under this Act shall, for the purpose of any inspection or inquiry which he is directed by the Railway Commissioners to make or conduct, have the following powers, that is to say :—

Railway Commissioners may appoint inspectors.

20 (1) He may enter and inspect the railway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto.

25 (2) He may, by summons under his hand, require the attendance of any person who is engaged in the management, service, or employment of the promoter, 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 purpose as he thinks fit to make.

30 (3) He may require and enforce the production of all books, papers, and documents of the promoter which he considers important for the said purpose.

35 (4) If, after any such inspection, the Railway Commissioners deem the railway to be unsafe for the carriage of passengers, they may by notice in writing require the promoter to desist from carrying passengers until any repairs or alterations mentioned in the notice are effected, and thereupon, and until the requirements of such notice have been complied with, it shall not be lawful for the promoter to carry any passengers upon the said railway.

40 Where, in or about the railway, or any of the works or buildings connected with such railway, or any buildings connected with such railway, or any building or place, whether open or enclosed, occupied by the promoter, any of the following accidents take place in the course of working, that is to say :—

Accidents.

45 (1) Any accident attended with loss of life or personal injury to any person whomsoever.

(2) Any collision where one of the trains is a passenger train.

(3)

- (3) Any passenger train or any part of a passenger train accidentally leaving the rails.
- (4) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused or 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 Railway Commissioners. 5

The promoter shall send notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to the Railway Commissioners. 10

Such notice shall be in such form and shall contain such particulars as the Railway Commissioners may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

The Railway Commissioners may, from time to time by order, 15 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 the accident takes 20 place. Failure to comply with the provisions of this section shall render the promoter liable for each offence to a penalty not exceeding *twenty* pounds.

Power to assign.

40. It shall be lawful for the promoter at any time, by any deed or instrument in writing, to assign and transfer the rights, powers, 25 privileges, benefits, and advantages conferred upon him 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 said 30 promoter, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said promoter by this Act.

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

41. Nothing herein contained shall alter, repeal, or otherwise affect the Public Works Act of 1888, or the Government Railways Act of 1888, or any Act amending the same. 35

Interpretation clause.

42. In this Act the word "justices" shall mean justices of the peace in and for the Territory of New South Wales; and when any matter shall be authorised or required to be done by two justices, the expression "two justices" shall mean two justices assembled and acting together in petty sessions or a stipendiary or police magistrate; the 40 word "owner" shall mean any person who under the provisions of this Act would be able to sell land to the promoter; and the word "promoter" shall mean and include the said Joseph Wood, his heirs, executors, or administrators, and assigns.

43.

43. This Act whenever cited shall be sufficiently described as Short title.
the "Aberdare Collieries Railway Act of 1900."

SCHEDULE.

Commencing at the south-west corner of portion eighteen, parish of Cessnock,
5 county of Northumberland, within mineral lease of six hundred and forty acres, applied
for by Henry John Adams on the twenty-seventh day of August, one thousand nine
hundred, and running thence generally east-north-east through Crown lands to the west
boundary of the northern moiety of Hebblewhite's land; thence about easterly through
that land and Crown lands to a point on the Stanford Coal-mine railway, in the parish
10 of Stanford, about four and three-quarter miles from its junction with the East Greta
Coal-mining Company's Railway.

Sydney: William Applegate Gullick, Government Printer.—1900.

[1s. 3d.]

c 101—B

Legislative Council.

—
1900.

A BILL

To enable Joseph Wood, of Newcastle, in the Colony of New South Wales, to construct a railway from the Aberdare Collieries to the Stanford Railway, authorised to be constructed under the provisions of the Stanford Coalmine Railway Act of 1900.

WHEREAS Joseph Wood, of Newcastle, in the Colony of New South Wales, hereinafter designated the promoter, is desirous of opening coal-mines upon certain land situate in the parish of Cessnock, county of Northumberland, and Colony aforesaid, applied for as a mineral lease for coal-mining purposes by Henry John Adams on the twenty-seventh day of August, one thousand nine hundred, and in order to facilitate communication between such coal-mines and the Great Northern Railway the said promoter is desirous of constructing a railway from the said coal-mines to a line hereinafter called

c 101—A

called the Stanford Coal-mine Railway, authorised to be constructed under the provisions of the Stanford Coal-mine Railway Act of 1900; but as part of such proposed railway is intended to be made upon and pass through land believed to be the property of the Crown, bodies corporate, and private persons respectively, the same cannot be made 5 without legislative authority: And whereas the said coal-mines are likely to prove beneficial to the Colony, and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption, steam navigation, and export, as would result from the construction of the said proposed railway, and traffic on the 10 Great Northern Railway would be increased thereby: It is therefore desirable 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 land the same shall pass for such portion of their respective lands as may 15 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:— 20

Authority to
construct railway.

1. It shall be lawful for the said promoter to make and construct a railway which shall be of the same gauge as the Government Railway, namely four feet eight and a half inches, commencing at the south-west corner of portion eighteen, parish of Cessnock, county of Northumberland, within mineral lease of six hundred and forty acres, 25 applied for by Henry John Adams on the twenty-seventh day of August, one thousand nine hundred, and running thence generally east-north-east through Crown lands to the west boundary of the northern moiety of Hebblewhite's land, thence about easterly through that land and Crown lands to a point on the Stanford Coal-mine Railway, in the parish 30 of Stanford, about four and three-quarter miles from its junction with the East Greta Coal-mining Company's Railway, and which lands and route are particularly described in the Schedule hereto, such railway to be in the direction described in the Schedule, and to make and construct such loop-lines, stations, and sidings as may be necessary for 35 the safe and convenient use of the railway to be constructed as aforesaid, and to take and use so much of the said Crown lands, and so much of the lands of private persons mentioned in the Schedule, as the promoter may require for his said railway, loop-lines, stations, and sidings. The said railway shall be constructed in a proper and work- 40 manlike manner to the satisfaction of the Engineer-in-Chief for Railway Construction and the Railway Commissioners.

Application of
section 5 of
Stanford Coal-mine
Railway Act.

2. The said railway shall be deemed to be a branch railway within the meaning of the fifth section of the Stanford Coal-mine Railway Act of 1900, and the promoter shall be deemed to be owner and 45 occupier of the lands in the said section mentioned.

3.

3. The ground and soil of so much of the site of the railway and sidings as passes over or includes the lands of the said owners of lands and over Crown lands respectively, together with such rights of ingress, egress, and regress upon the adjacent land as may be necessary for the making and repair of such railway, shall, so far as is necessary for the purpose of this Act be vested, by virtue of this Act and without the necessity of any conveyance, in the promoter for the purposes of the railway: Provided that no lands vested in the Railway Commissioners shall by virtue of this Act be vested in the promoter, and nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon, and the promoter shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repairs of the said road by cutting, embanking, sinking wells, or otherwise: Provided that the said railway, or a portion of the said railway not less than two miles in length, shall be constructed and brought into use within three years after the passing of this Act, and that in default thereof, or if after its completion the railway or the portion so constructed shall cease to be used for two years continuously all the said lands, including Crown lands, and all the said promoter's interest and estate therein, shall revert without any conveyance to the Crown and original owners thereof, their heirs and assigns, respectively; and if such portion only is so constructed within three years, so much of the said lands, including Crown lands, as are not used for the purposes of the portion so constructed, and the promoter's interest and estate in such last-mentioned lands, shall revert in manner aforesaid: Provided also that if in the exercise of the powers hereby granted it be found necessary to cross-cut through, sink, raise, or use any part of any road so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoter shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at his own expense maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the promoter, before using the said lands of the owners of land and the said Crown lands respectively for the purposes aforesaid, shall if required so to do separate the same by a sufficient fence from the land adjoining thereto, with such gates as may be required for the convenient occupation of such land, and shall also to all private roads used by him 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 promoter as to the necessity for

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

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

Railway open to the public.

4. The railway shall be open to the public use for the conveyance 5
of coal and goods upon payment of a toll to the promoter for the
conveyance of coal of a sum not exceeding one penny per ton per mile,
with a minimum charge of three pence per ton in respect of every ton
of coal for every transit, the person seeking transit supplying and
loading his own trucks or on Government waggons, and the pro- 10
moter or Government supplying locomotive power; and all trucks
when emptied shall be conveyed on their return free of charge:
Provided always that it shall not be compulsory on the promoter
to supply locomotive power unless the party seeking the transit
guarantee and bring one hundred tons at least during the twelve 15
working hours, and give notice of the same at least twenty-four hours
previously. The railway shall at all times be open to the public for
the conveyance of coal and goods upon payment of a toll to the
promoter for the conveyance of coal of a sum not exceeding one half-
penny per ton per mile, with a minimum charge of two pence per ton 20
in respect of every ton of coal for every transit, and for goods of a sum
not exceeding one penny half-penny per ton per mile in respect of
every ton of goods for every transit, if the party seeking transit supply
the locomotive power as well as the trucks and waggons: Provided
that so long as the promoter shall be willing to supply locomotive 25
power, no other person shall use locomotive power on the line other
than the Railway Commissioners: Provided that if the railway
shall be damaged by parties who shall themselves use the railway for
transit, and supply locomotive power, the promoter shall be entitled
to compensation for such damage, to be recovered either by action in 30
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 promoter 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 35
of the suspension of transt or otherwise.

Branch railways.

5. It shall be lawful for the owners or occupiers of the lands
adjoining thereto or traversed by the said railway to lay down upon their
own lands any collateral branches of railway to communicate with the
said railway for the purpose of bringing carriages, trucks, and waggons 40
to or from or upon the said railway, and the promoter 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 45
without

without inconvenience to the traffic thereupon, and the promoter shall not take any rate or toll or other moneys for the passing of any passengers, coal, and goods, or other things along any branch so to be made by any such owner or occupier or other person. The promoter
 5 shall not be bound to make any such openings in any place which he 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 promoter from time
 10 to time made, with respect to passing upon or crossing the railway and otherwise; and the persons making or using such branch railways shall be bound to construct, and from time to time as need may require, to renew the off set plates and switches, according to the most approved plan adopted by the promoters, under the direction of their
 15 engineer.

6. For the purposes and subject to the provisions hereinafter contained, it shall be lawful for the promoter, his deputies, agents, servants, and workmen, and all other persons by him authorised and empowered, to divert or alter the course of any road or way crossing
 20 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: Provided always that any such works shall be carried out to the satisfaction of the Commissioner for Roads, and all such diversions, alterations, and crossings, and the approaches thereto, shall thereafter
 25 be maintained and repaired by the promoter at his own expense, and to the satisfaction of the said Commissioner for Roads.

7. If the promoter do not cause another sufficient road to be so made before he interferes with any such existing road as aforesaid, or, if he fails to maintain all such diversions, alterations, crossings,
 30 and the approaches thereto, he shall forfeit *twenty* pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted, or during which such diversions, alterations, crossings, or approaches shall remain in a state of disrepair, and such penalties shall be paid to the said Secretary for
 35 Public Works, 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.

8. It shall be lawful for, and at the request of the Railway Commissioners compulsory upon, the said promoter, from time to
 40 time and at all times, to carry passengers, goods, and live stock upon the said railway or any part thereof respectively, and to make, demand, take, receive, and recover such tolls or dues for carrying the same at such rates per mile or other scale of charges as shall be
 45 established from time to time by the promoter for or in respect of all such

Power to divert or alter roads.

Penalty for not substituting a road.

Right to carry passengers.

such passengers, goods, and live stock which shall be conveyed or transported upon such railway or any part thereof respectively; and the promoter is hereby authorised to make such by-laws and regulations, not inconsistent with this Act, and subject to the approval of the Railway Commissioners, as may be necessary for the regulation of such traffic, and such by-laws or regulations shall be binding upon all persons using or travelling upon the said railway, and any persons offending against such by-laws or regulations shall be liable to a fine not exceeding *five* pounds for each offence, to be recovered in a summary way before any two justices: Provided always, that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, it shall be lawful for the Executive Council on the petition of any person to reduce the said rates, tolls, or dues, and to revise them in such manner as may seem most proper and advisable.

Road repairs.

9. If, in the course of making the railway, the promoter shall use or interfere with any road, he shall from time to time make good all damage done by him to such road to the satisfaction of the said Secretary for Public Works; and if any question shall arise as to the damage done to any such road by the promoter, or as to the repair thereof by him, such questions shall be referred to the determination of two justices, and such justices may direct such repairs to be made in the state of such road in respect of damage done by the promoter, and within such period as they may think reasonable, and may impose on the promoter 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 said Secretary for Public Works, 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.

Owners' crossing.

10. Until the promoter shall have made the bridges or other proper communications which he 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 person whose right-of-way shall be affected by the want of such communications, and their respective servants, may at all times freely pass and repass with carriages, horses, and other animals directly but not otherwise across any part of the railway made in or through their respective lands solely for the purpose of occupying the same lands, or for the exercise of such right-of-way and so as not to obstruct the passage along the railway, or to damage the same. Nevertheless if the owner or occupier of any such lands have, in his arrangements with the promoter, 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.

11.

11. If the railway cross any public highway or parish road on a level, the promoter shall erect or construct and at all times maintain to the satisfaction of the said Secretary for Public Works cattle-stops or good and sufficient gates across such road on each side of the railway 5 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 10 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 15 exceeding *forty* shillings for every default therein, to be recoverable before any two justices in a summary way: Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be 20 kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed 25 with respect to the gates being kept closed across the road.

12. 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 promoter and his workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the 30 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 promoter 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 35 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, or for the repair or maintenance of the line: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident 40 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 arbitration in the 45 manner hereinafter mentioned: And provided, also, that no land shall be

Provisions in cases where roads are crossed on a level.

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

be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

Construction of
bridges over roads.

13. 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 :

Provided always that every such bridge shall be erected to the satisfaction of the Secretary for Public Works and the said Engineer-in-Chief for Railway Construction.

Construction of
bridges over
railways.

14. 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 :

Provided

Provided always that every such bridge shall be erected to the satisfaction of the said Secretary for Public Works and the said Engineer-in-Chief for Railway Construction.

5 width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width herein-
before prescribed for bridges over or under the railway, the width of
such bridges need not be greater than such average available width of
such roads, but so, nevertheless, that such bridges be not of less width
10 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 promoter shall
be bound at his own expense to increase the width of the said bridge
15 to such extent as he may be required by the said Secretary for Public
Works, 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.

20 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
promoter, then the promoter may carry any such road over or under
25 the railway, or may construct such altered or substituted road at an
inclination not steeper than the said mesne inclination of the road so
to be crossed, or of the road so requiring to be altered, or for which
another road shall be substituted.

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

30 15. The promoter 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.

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

40 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
45 necessary gates made to open towards such adjoining lands
and

Fences.

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 10 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 15 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 promoter shall make all necessary watercourses and 20 drains for the purpose of conveying water to the said watering-places:

Provided always that the promoter 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 25 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 gate.

16. 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 30 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 a sum not exceeding *five* pounds, to be recoverable in a summary way before any two justices.

Minerals not to pass.

17. The promoter shall not be entitled to any minerals under 35 any land whereof the surface is vested in them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised. And such mines shall not be deemed to vest in the said promoter.

Compensation clause.

18. If, within ninety days after the passing of this Act, the 40 said persons through whose lands the railway shall pass or any of them and the promoter 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,

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
 5 appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred. And every appointment of an arbitrator shall be under the hand of such party. And such appointment shall be delivered to the arbitrator or arbitrators, and
 10 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
 15 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, on application of the party who has himself
 20 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.

19. If, before the matter so referred shall be determined, any
 25 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,
 30 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.

20. Where more than one arbitrator shall have been appointed,
 35 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
 40 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.

21. If in either of the cases aforesaid the arbitrators shall
 45 arbitration neglect to appoint an umpire, it shall be lawful for the Attorney-General, to appoint umpire on neglect.

Attorney-General,

Attorney-General, on the application of either party to such arbitration, to appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this Act shall be final.

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

22. 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. 5

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

23. 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. 10

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

24. 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. 15

Powers of arbitrators to call for books, &c.

25. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which he or they 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. 20

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

26. 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— 30

I, 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 Aberdare Collieries Railway Act of 1900. 35

Made and subscribed in the presence of

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 a misdemeanour. 40

Costs of arbitration how to be borne.

27. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoter, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoter, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be 45

be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount offered, 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
5 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.

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

Award to be delivered to the promoters.

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

Submission may be made a rule of court.

30. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for
irregularity or error in matter of form.

Award not void through error in form.

31. The promoter shall make compensation and satisfaction to
20 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
25 which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said promoter of any of the matters and things hereby required to be performed by them or otherwise.

Compensation for temporary or permanent or recurring injuries.

32. In every case where the promoter shall take temporary
30 possession of lands by virtue of the powers hereby granted it shall be incumbent on him within one month after his entry upon such lands, upon being required to do so, 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 taking possession of such lands,
35 and he shall also from time to time during his occupation of the said lands pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent to be fixed by two justices in case the parties differ, and shall also within six months after the completion of the railway pay to such owner or occupier or deposit in a
40 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 taken from such
45 lands.

Compensation to be made for temporary occupation.

Power for Govern-
ment to purchase
railway.

33. It shall be lawful for the Secretary for Public Works, on behalf of the Government, at any time by notice in writing to require the said promoter to sell, and thereupon the said promoter shall sell to the Government the said railway upon the terms of paying the then value (exclusive of any allowance for compensation for compulsory sale) of the said railway, and all lands, buildings, works, materials, and plant of the said promoter suitable to and used by them for the purposes of the said railway, such value in case of difference to be ascertained by arbitration in the manner provided by the Lands for Public Purposes Acquisition Act for settling cases of disputed compensation and subject to the terms and conditions therein contained; and when any such sale shall have been made to the said Government, the said railway, lands, buildings, works, materials, plant, and premises shall vest in the Railway Commissioners, who shall have all the rights, powers, and authorities of the said promoter in respect of the said railway so sold: Provided that the sum to be paid by way of purchase shall in no case exceed the total cost of the construction of the railway and related works, land, and buildings. 5 10

Company may make
by-laws.

34. For the purpose of regulating the conduct of the officers and servants of the promoter, and for providing for the due management of the affairs of the promoter in all respects, it shall be lawful for the promoter, subject to the provisions herein mentioned, from time to time to make such by-laws and regulations as he shall think fit: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act; and such by-laws shall be reduced into writing, and shall have affixed thereto the name of the promoter; and a copy of such by-laws shall be given to every officer and servant of the promoter 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 promoter relating to penalties must be first approved of by the Executive Council and published in the Government Gazette. 20 25 30

Evidence of by-laws.

35. The production of the Gazette containing such by-laws of the promoter shall be sufficient evidence of such by-laws in all proceedings under the same. 35

Lands belonging to
the Railway
Commissioners
not to be taken.

36. Nothing in this Act shall be deemed to authorise the said promoter 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, without the previous consent in writing in every instance of the Railway Commissioners. 40

Commissioners may
erect signals and
appoint watchmen
and switchmen.

37. The said Railway Commissioners may from time to time erect such signals and conveniences incident to such junction, either upon their own lands or on the lands of the promoter, and appoint 45
and

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 promoter.

5 **38.** The working and management of such signals and conveniences, wherever situate, shall be under the exclusive regulation of the Railway Commissioners, and such sum may be charged to the promoter as the said Commissioners may deem reasonable for such services.

Working of signals to be under regulations of Commissioners.

10 **39.** The said Commissioners may from time to time appoint any person to be inspector for the purpose of inspecting the railway and of making any inquiry with respect to the condition of the works, or into the cause of any accident, provided that no person so appointed shall exercise any powers of interference in the affairs of the promoter ;

15 and every inspector under this Act shall, for the purpose of any inspection or inquiry which he is directed by the Railway Commissioners to make or conduct, have the following powers, that is to say :—

Railway Commissioners may appoint inspectors.

20 (1) He may enter and inspect the railway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto.

25 (2) He may, by summons under his hand, require the attendance of any person who is engaged in the management, service, or employment of the promoter, 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 purpose as he thinks fit to make.

30 (3) He may require and enforce the production of all books, papers, and documents of the promoter which he considers important for the said purpose.

35 (4) If, after any such inspection, the Railway Commissioners deem the railway to be unsafe for the carriage of passengers, they may by notice in writing require the promoter to desist from carrying passengers until any repairs or alterations mentioned in the notice are effected, and thereupon, and until the requirements of such notice have been complied with, it shall not be lawful for the promoter to carry any passengers upon the said railway.

40 Where, in or about the railway, or any of the works or buildings connected with such railway, or any buildings connected with such railway, or any building or place, whether open or enclosed, occupied by the promoter, any of the following accidents take place in the course of working, that is to say :—

Accidents.

45 (1) Any accident attended with loss of life or personal injury to any person whomsoever.

(2) Any collision where one of the trains is a passenger train.

(3)

- (3) Any passenger train or any part of a passenger train accidentally leaving the rails.
- (4) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused or 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 Railway Commissioners. 5

The promoter shall send notice of such accident and of the loss of life or personal injury (if any) occasioned thereby to the Railway Commissioners. 10

Such notice shall be in such form and shall contain such particulars as the Railway Commissioners may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

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. 15

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 the accident takes place. Failure to comply with the provisions of this section shall render the promoter liable for each offence to a penalty not exceeding *twenty* pounds. 20

Power to assign.

40. It shall be lawful for the promoter at any time, by any deed or instrument in writing, to assign and transfer the rights, powers, privileges, benefits, and advantages conferred upon him 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 said promoter, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said promoter by this Act. 25 30

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

41. Nothing herein contained shall alter, repeal, or otherwise affect the Public Works Act of 1888, or the Government Railways Act of 1888, or any Act amending the same. 35

Interpretation clause.

42. In this Act the word "justices" shall mean justices of the peace in and for the Territory of New South Wales; and when any matter shall be authorised or required to be done by two justices, the expression "two justices" shall mean two justices assembled and acting together in petty sessions or a stipendiary or police magistrate; the word "owner" shall mean any person who under the provisions of this Act would be able to sell land to the promoter; and the word "promoter" shall mean and include the said Joseph Wood, his heirs, executors, or administrators, and assigns. 40

43. This Act whenever cited shall be sufficiently described as Short title.
the "Aberdare Collieries Railway Act of 1900."

SCHEDULE.

Commencing at the south-west corner of portion eighteen, parish of Cessnock,
5 county of Northumberland, within mineral lease of six hundred and forty acres, applied
for by Henry John Adams on the twenty-seventh day of August, one thousand nine
hundred, and running thence generally east-north-east through Crown lands to the west
boundary of the northern moiety of Hebblewhite's land; thence about easterly through
that land and Crown lands to a point on the Stanford Coal-mine railway, in the parish
10 of Stanford, about four and three-quarter miles from its junction with the East Greta
Coal-mining Company's Railway.

Sydney : William Applegate Gullick, Government Printer.—1900.

