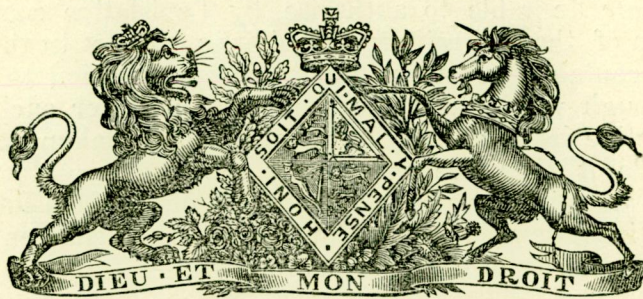


New South Wales.



ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

An Act to enable John Brown, William Brown, and Stephen Brown, of Newcastle, in the Colony of New South Wales, to construct a Railway from the Richmond Vale Coal-mines to the Minmi and Hexham Railway, constructed under the provisions of the Minmi and Hexham Railway Act of 1854. [Assented to, 20th October, 1900.]

WHEREAS John Brown, of Newcastle, in the Colony of New Preamble.
South Wales, William Brown, of Sydney, in the said Colony of New South Wales, and Stephen Brown, of Newcastle, in the said Colony of New South Wales, are the owners of coal-mines upon the lands situated in the parishes of Stanford, Mulbring, and Stockrington, in the county of Northumberland, near West Maitland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said John Brown, William Brown, and Stephen Brown, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to a line hereinafter called the Minmi and Hexham Railway, owned by them, and constructed under the

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the provisions of the Minmi and Hexham Railway Act of 1854; but as part of such proposed railway and sidings are 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 sidings, 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 and sidings, 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
and connect same
Minmi to Hexham
Railway.

1. It shall be lawful for the said promoters to make and construct a railway which shall be of the same gauge as the Government railways, namely, four feet eight and a half inches, from a point commencing in the lands of the promoters bearing about north-east twenty chains from south-west corner of portion seventy, in the parish of Stanford, county of Northumberland, bearing thence about north-east to a point about twenty chains from the north-east corner of the said portion; thence through Crown lands, lands of the promoters, Mrs. Legget, E. Biddulph, under public road, thence through lands of the promoters, George T. Palmer, Crown lands, William Price, across surveyed road, lands of Seaham Coal Company, across surveyed road, land of promoters, James Muir, promoters, public road, land of promoters, W. C. Wentworth, to a point on the Minmi and Hexham railway, and connecting therewith at about three and a half miles from the Great Northern 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 railways 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 promoters may require for their 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 Railways Construction and the Railway Commissioners.

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2. 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 promoters 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 promoters, and nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon; and the promoters shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repairs of the said road by cutting, embanking, sinking wells or otherwise: Provided that the said railway shall be constructed and brought into use within five years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for five years continuously, all the said lands, including Crown lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and the original owners thereof, their heirs and assigns respectively: Provided also that, if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of any road so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the promoters, before they use the said lands of the owners of the 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 them as aforesaid, put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands and the promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two justices of peace after inquiry shall deem necessary for the purposes aforesaid on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters for the public. Railways open to the public.
the

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the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of threepence per ton in respect of every ton of coal for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government supplying locomotive power; and all trucks when emptied shall be conveyed on their return free of charge: Provided always that it shall not be compulsory on the promoters to supply locomotive power unless the party seeking the transit 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 promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-penny per ton per mile in respect of every ton of goods for every transit, if the party seeking transit supply the locomotive power as well as the trucks and waggons: Provided that so long as the promoters shall be willing to supply locomotive power no other person shall use locomotive power on the line other than the 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 promoters shall be entitled to compensation for such damage, to be recovered either by action in the Supreme Court of New South Wales, or, if such damage do not exceed the sum of twenty pounds, summarily before two justices; and in estimating such damages the promoters shall be entitled, not only to compensation for the cost of repairing and restoring the railway, but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

Branch railways.

4. It shall be lawful for the owners or occupiers of the lands adjoining thereto or traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the said railway for the purpose of bringing carriages, trucks, and waggons to or from or upon the said railway, and the promoters shall, if required, at the expense of such owners or occupiers make openings in the rails and such additional lines of railway as may be necessary for effecting such communications in places where the communication can be made with safety to the public and without injury to the said railway and without inconvenience to the traffic thereupon, and the promoters shall not take any rate, 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 promoters shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any

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any inclined plane or bridge nor in any tunnel. The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters from time to time made with respect to passing upon or crossing the railway and otherwise; and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the promoters under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the promoters, their deputies, agents, servants, and workmen, and all other persons by them authorised and empowered, to divert or alter the course of any road or way crossing the railway, or to raise or sink any road or way in order the more conveniently to carry the same over or under or by the side of the railway: 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 hereafter be maintained and repaired by the promoters at their own expense and to the satisfaction of the said Commissioner for Roads.

Power to divert or alter the roads.

6. If the promoters do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, or if they fail to maintain all such diversions, alterations, crossings, and the approaches thereto, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted, 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 Commissioner for Roads, if a public road, and shall be applied for the purposes thereof, or, in case of a private road, the same shall be paid to the owner thereof; and every such penalty shall be recoverable with costs, by action in any of the superior courts.

Penalty for not substituting a road.

7. It shall be lawful for, and at the request of the Railway Commissioners compulsory upon, the said promoters from time to time and at all reasonable 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 established from time to time by the promoters for or in respect of all such passengers, goods, and live stock which shall be conveyed or transported upon such railway or any part thereof respectively; and the promoters are hereby authorised to make such by-laws and regulations, not inconsistent with this Act, and subject to the proposals 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

Right to carry passengers.

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shall be liable to a fine not exceeding ten pounds for each offence, to be recovered in a summary way before any two justices: Provided always that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, it shall and may be lawful for the Executive Council, 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.

8. If in the course of making the railway the promoters shall use or interfere with any road, they shall from time to time make good all damage done by them to such road to the satisfaction of the said Commissioner for Roads; and if any question shall arise as to the damage done to any such road by the promoters or as to the repair thereof by them, such questions shall be referred to the determination of two justices, and such justices may direct such repairs to be made in the state of the road in respect of damage done by the promoters, and within such period as they may think reasonable, and may impose on the promoters for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such justices shall seem fit; and any such penalty shall be paid to the said Commissioner for Roads, 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.

Owner's crossing.

9. Until the promoters shall have made the bridges or other proper communications, which they shall, under the provisions herein contained, have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such lands, and any other 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 arrangement with the promoters received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner, occupier, or those claiming under him shall not be entitled so to cross the railway.

Provisions in cases where roads are crossed on a level.

10. If the railway cross any public highway or parish road on a level the promoters shall erect or construct and at all times maintain to the satisfaction of the said Commissioner for Roads, cattle-steps or good and sufficient gates across such road on each side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such roads on both sides of the railway, except during the time when horses, cattle, carts, or carriages passing along the

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the same shall have to cross such railway, and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent cattle or horses passing along the road from entering upon the railway, and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein, to be recoverable before any two justices in a summary way: Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall be lawful for the promoters and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the promoters shall within forty-eight hours of such entry make a report to the Secretary for Public Works specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall after considering the said report certifying 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 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 manner hereinafter mentioned: And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

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

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

Construction of bridges over roads.

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

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The clear height of the arch from the surface of the road shall not be less than sixteen feet for space of twelve feet, if the arch be over the 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 Railway Commissioners and the Engineer-in-Chief for Railway Construction.

Construction of
bridges over
railways.

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

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

The road over the bridges 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 always that every such bridge shall be erected to the satisfaction of the said Commissioner for Roads and the said Engineer-in-Chief for Railway Construction.

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

Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads but so, nevertheless, that such be not of less width in case of a public highway or parish road than twenty feet: Provided also, that if at any time after the construction of the railway, the
average

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average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the promoters shall be bound at their own expense to increase the width of the said bridge to such extent as they may be required by the said Commissioner for Roads, 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 :

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

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

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

Works for benefit of owners.

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

Gates, bridges, &c.

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

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be, and such works shall be made from time to time as the railway work proceeds.

Drains.

Also

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Watering-places.

Also proper watering-places for cattle, or compensation in lieu thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places. And such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore, and as if the railway had not been made, or nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places:

Provided always that the promoters shall not be required to make such accommodation works in such 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 of them.

Penalty on persons omitting to fasten gate.

15. If any person omit to shut and fasten any gate set up 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.

Minerals not to pass.

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

Appointment of arbitrators.

17. 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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitration in manner hereinafter mentioned, that is to say, unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred, and every appointment of an arbitrator shall be under the hand of such party; and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made. And after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate

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operate as a revocation. And if, for the space of fourteen days after any such dispute or other matter shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then, upon such failure, it shall be lawful for the Attorney-General, on application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final and conclusive.

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

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

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

21. 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.

22. If, where more than one arbitrator shall have been appointed, either of the arbitrators shall refuse or, for seven days neglect to act, the

Vacancy of arbitrator to be supplied.

Appointment of umpire.

Attorney-General to appoint umpire on neglect.

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

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

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the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

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

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

Powers of arbitrators to call for books, &c.

24. The said arbitrators, or their umpire, may call for the productions 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.

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

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

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 Richmond Vale Coal-mine Railway Act of 1900.

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.

Costs of arbitration, how to be borne.

26. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, in which case each party shall bear his own costs incidental to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount, in which case the whole costs shall be paid by the claimant: Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

Award to be delivered to the promoters.

27. The arbitrators shall deliver their award in writing to the promoters, who shall retain the same and shall forthwith on demand at their own expense furnish a copy thereof to the other party, and shall at all times on demand produce the said award and allow the same

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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.

28. 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.

29. 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.

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

31. In every case where the promoters shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required 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; and they shall from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent, to be fixed by two justices in case the parties differ, and shall also within six months after the completion of the railway pay to such owner or occupier, or deposit in a bank for the benefit of all parties interested, as the case may require, compensation 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 lands. Compensation to be made for temporary occupation.

32. It shall be lawful for the Secretary for Public Works, on behalf of the Government, at any time, by notice in writing, to require the said promoters to sell, and thereupon the said promoters 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 promoters 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. Power for Government to purchase railway.

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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 promoters 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.

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

Railway Commissioners may appoint inspectors.

34. The Railway 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 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 promoters, 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:—

- (1) He may enter and inspect the railway and all stations, works, buildings, offices, stock, plant and machinery belonging thereto.
- (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 promoters 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.
- (3) He may require and enforce the production of all books, papers, and documents of the promoters which he considers important for the said purpose.

(4)

Richmond Vale Coal-mine Railway.

- (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 promoters 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 promoters to carry any passengers upon the said railway.

Where, in or about the railway or any of the works or buildings ^{Accidents.} connected with such railway, or any buildings connected with such railway or any buildings or place, whether open or enclosed, occupied by the promoters, any of the following accidents takes place in the course of working, that is to say—

- (1) any accident attended with loss of life or personal injury to any person whomsóever ;
- (2) any collision where one of the trains is a passenger train ;
- (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 ;

the promoters shall send notice of such accidents and loss of life or personal injury (if any) occasioned thereby to the Railway Commissioners. Such notice shall be in such form and shall contain such particulars as the 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. 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 promoters liable for each offence to a penalty not exceeding twenty pounds.

35. It shall be lawful for the promoters at any time by any ^{Power to assign.} deed or instrument in writing to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon them by this Act to any person or persons or to any duly registered company, and upon any such transfer or assignment being signed or executed the person or persons or duly registered company in whose favour such transfer or assignment is made shall then stand in the place of the said promoters, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said promoters by this Act.

Richmond Vale Coal-mine Railway.

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

36. 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.

37. 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 promoters; the word "promoters" shall mean and include the said John Brown, William Brown, and Stephen Brown, and the survivors and survivor of them, and the heirs, executors, or administrators of such survivor or their or his assigns.

Lands belonging to the Railway Commissioners to be taken.

38. Nothing in this Act shall be deemed to authorise the said promoters 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.

Railway Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of Commissioners.

40. 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 promoters as the said Commissioners may deem reasonable for such services.

Short title.

41. This Act whenever cited, shall be sufficiently described as the "Richmond Vale Coal-mine Railway Act of 1900."

SCHEDULE.

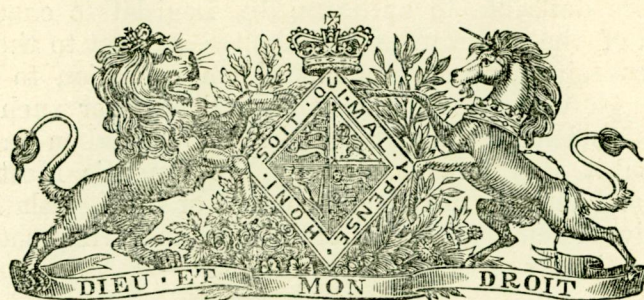
Commencing from a point in the lands of the promoters, bearing about north-east twenty chains from south-west corner of portion seventy in the parish of Stanford, county of Northumberland; bearing thence about north-east to a point about twenty chains from the north-east corner of the said portion, thence through Crown lands, lands of the promoters, Mrs. Leggett, E. Biddulph, under public road; thence through lands of the promoters, George T. Palmer, Crown lands, William Price, across surveyed road, lands of Seaham Coal Company, across surveyed road, land of the promoters, above surveyed road, land of the promoters, James Muir, promoters, public road, land of the promoters, W. C. Wentworth, to a point on the Minmi and Hexham Railway.

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

*Legislative Council Chamber,
Sydney, 17th October, 1900. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

An Act to enable John Brown, William Brown, and Stephen Brown, of Newcastle, in the Colony of New South Wales, to construct a Railway from the Richmond Vale Coal-mines to the Minmi and Hexham Railway, constructed under the provisions of the Minmi and Hexham Railway Act of 1854. [Assented to, 20th October, 1900.]

WHEREAS John Brown, of Newcastle, in the Colony of New South Wales, William Brown, of Sydney, in the said Colony of New South Wales, and Stephen Brown, of Newcastle, in the said Colony of New South Wales, are the owners of coal-mines upon the lands situated in the parishes of Stanford, Mulbring, and Stockrington, in the county of Northumberland, near West Maitland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said John Brown, William Brown, and Stephen Brown, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to a line hereinafter called the Minmi and Hexham Railway, owned by them, and constructed under the

Preamble.

Richmond Vale Coal-mine Railway.

the provisions of the Minmi and Hexham Railway Act of 1854; but as part of such proposed railway and sidings are 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 sidings, 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 and sidings, 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
and connect same
Minmi to Hexham
Railway.

1. It shall be lawful for the said promoters to make and construct a railway which shall be of the same gauge as the Government railways, namely, four feet eight and a half inches, from a point commencing in the lands of the promoters bearing about north-east twenty chains from south-west corner of portion seventy, in the parish of Stanford, county of Northumberland, bearing thence about north-east to a point about twenty chains from the north-east corner of the said portion; thence through Crown lands, lands of the promoters, Mrs. Legget, E. Biddulph, under public road, thence through lands of the promoters, George T. Palmer, Crown lands, William Price, across surveyed road, lands of Seaham Coal Company, across surveyed road, land of promoters, James Muir, promoters, public road, land of promoters, W. C. Wentworth, to a point on the Minmi and Hexham railway, and connecting therewith at about three and a half miles from the Great Northern 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 railways 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 promoters may require for their 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 Railways Construction and the Railway Commissioners.

Richmond Vale Coal-mine Railway.

2. 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 promoters 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 promoters, and nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon; and the promoters shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repairs of the said road by cutting, embanking, sinking wells or otherwise: Provided that the said railway shall be constructed and brought into use within five years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for five years continuously, all the said lands, including Crown lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and the original owners thereof, their heirs and assigns respectively: Provided also that, if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of any road so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with, or as nearly as may be. And the promoters, before they use the said lands of the owners of the 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 them as aforesaid, put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands and the promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two justices of peace after inquiry shall deem necessary for the purposes aforesaid on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters for the public. con- Railways open to the public.
the

Richmond Vale Coal-mine Railway.

the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of threepence per ton in respect of every ton of coal for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government supplying locomotive power; and all trucks when emptied shall be conveyed on their return free of charge: Provided always that it shall not be compulsory on the promoters to supply locomotive power unless the party seeking the transit 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 promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-penny per ton per mile in respect of every ton of goods for every transit, if the party seeking transit supply the locomotive power as well as the trucks and waggons: Provided that so long as the promoters shall be willing to supply locomotive power no other person shall use locomotive power on the line other than the 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 promoters shall be entitled to compensation for such damage, to be recovered either by action in the Supreme Court of New South Wales, or, if such damage do not exceed the sum of twenty pounds, summarily before two justices; and in estimating such damages the promoters shall be entitled, not only to compensation for the cost of repairing and restoring the railway, but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

Branch railways.

4. It shall be lawful for the owners or occupiers of the lands adjoining thereto or traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the said railway for the purpose of bringing carriages, trucks, and waggons to or from or upon the said railway, and the promoters shall, if required, at the expense of such owners or occupiers make openings in the rails and such additional lines of railway as may be necessary for effecting such communications in places where the communication can be made with safety to the public and without injury to the said railway and without inconvenience to the traffic thereupon, and the promoters shall not take any rate, 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 promoters shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any

Richmond Vale Coal-mine Railway.

any inclined plane or bridge nor in any tunnel. The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters from time to time made with respect to passing upon or crossing the railway and otherwise; and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the promoters under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the promoters, their deputies, agents, servants, and workmen, and all other persons by them authorised and empowered, to divert or alter the course of any road or way crossing the railway, or to raise or sink any road or way in order the more conveniently to carry the same over or under or by the side of the railway: 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 hereafter be maintained and repaired by the promoters at their own expense and to the satisfaction of the said Commissioner for Roads.

Power to divert or
alter the roads.

6. If the promoters do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, or if they fail to maintain all such diversions, alterations, crossings, and the approaches thereto, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted, 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 Commissioner for Roads, if a public road, and shall be applied for the purposes thereof, or, in case of a private road, the same shall be paid to the owner thereof; and every such penalty shall be recoverable with costs, by action in any of the superior courts.

Penalty for not
substituting a road.

7. It shall be lawful for, and at the request of the Railway Commissioners compulsory upon, the said promoters from time to time and at all reasonable 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 established from time to time by the promoters for or in respect of all such passengers, goods, and live stock which shall be conveyed or transported upon such railway or any part thereof respectively; and the promoters are hereby authorised to make such by-laws and regulations, not inconsistent with this Act, and subject to the proposals 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

Right to carry
passengers.

Richmond Vale Coal-mine Railway.

shall be liable to a fine not exceeding ten pounds for each offence, to be recovered in a summary way before any two justices: Provided always that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, it shall and may be lawful for the Executive Council, 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.

8. If in the course of making the railway the promoters shall use or interfere with any road, they shall from time to time make good all damage done by them to such road to the satisfaction of the said Commissioner for Roads; and if any question shall arise as to the damage done to any such road by the promoters or as to the repair thereof by them, such questions shall be referred to the determination of two justices, and such justices may direct such repairs to be made in the state of the road in respect of damage done by the promoters, and within such period as they may think reasonable, and may impose on the promoters for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such justices shall seem fit; and any such penalty shall be paid to the said Commissioner for Roads, 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.

Owner's crossing.

9. Until the promoters shall have made the bridges or other proper communications, which they shall, under the provisions herein contained, have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such lands, and any other 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 arrangement with the promoters received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner, occupier, or those claiming under him shall not be entitled so to cross the railway.

Provisions in cases where roads are crossed on a level.

10. If the railway cross any public highway or parish road on a level the promoters shall erect or construct and at all times maintain to the satisfaction of the said Commissioner for Roads, cattle-steps or good and sufficient gates across such road on each side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such roads on both sides of the railway, except during the time when horses, cattle, carts, or carriages passing along the

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the same shall have to cross such railway, and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent cattle or horses passing along the road from entering upon the railway, and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein, to be recoverable before any two justices in a summary way: Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

11. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway it shall be lawful for the promoters and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose, but in every such case the promoters shall within forty-eight hours of such entry make a report to the Secretary for Public Works specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall after considering the said report certifying 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 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 manner hereinafter mentioned: And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said railway.

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

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

Construction of bridges over roads.

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

The

Richmond Vale Coal-mine Railway.

The clear height of the arch from the surface of the road shall not be less than sixteen feet for space of twelve feet, if the arch be over the 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 Railway Commissioners and the Engineer-in-Chief for Railway Construction.

Construction of
bridges over
railways.

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

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

The road over the bridges 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 always that every such bridge shall be erected to the satisfaction of the said Commissioner for Roads and the said Engineer-in-Chief for Railway Construction.

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

Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads but so, nevertheless, that such be not of less width in case of a public highway or parish road than twenty feet : Provided also, that if at any time after the construction of the railway, the
average

Richmond Vale Coal-mine Railway.

average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the promoters shall be bound at their own expense to increase the width of the said bridge to such extent as they may be required by the said Commissioner for Roads, 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 :

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

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

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

Works for benefit of owners.

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

Gates, bridges, &c.

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

Fences.

Also, all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be, and such works shall be made from time to time as the railway work proceeds.

Drains.

Also

Richmond Vale Coal-mine Railway.

Watering-places.

Also proper watering-places for cattle, or compensation in lieu thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places. And such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore, and as if the railway had not been made, or nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places:

Provided always that the promoters shall not be required to make such accommodation works in such 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 of them.

Penalty on persons omitting to fasten gate.

15. If any person omit to shut and fasten any gate set up 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.

Minerals not to pass.

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

Appointment of arbitrators.

17. 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 promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitration in manner hereinafter mentioned, that is to say, unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred, and every appointment of an arbitrator shall be under the hand of such party; and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made. And after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate

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operate as a revocation. And if, for the space of fourteen days after any such dispute or other matter shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then, upon such failure, it shall be lawful for the Attorney-General, on application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final and conclusive.

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

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

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

21. 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.

22. If, where more than one arbitrator shall have been appointed, either of the arbitrators shall refuse or, for seven days neglect to act, the

Vacancy of arbitrator to be supplied.

Appointment of umpire.

Attorney-General to appoint umpire on neglect.

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

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

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the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

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

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

Powers of arbitrators to call for books, &c.

24. The said arbitrators, or their umpire, may call for the productions 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.

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

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

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 Richmond Vale Coal-mine Railway Act of 1900.

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.

Costs of arbitration, how to be borne.

26. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, in which case each party shall bear his own costs incidental to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount, in which case the whole costs shall be paid by the claimant: Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

Award to be delivered to the promoters.

27. The arbitrators shall deliver their award in writing to the promoters, who shall retain the same and shall forthwith on demand at their own expense furnish a copy thereof to the other party, and shall at all times on demand produce the said award and allow the same

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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.

28. 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.

29. 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.

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

31. In every case where the promoters shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required 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; and they shall from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent, to be fixed by two justices in case the parties differ, and shall also within six months after the completion of the railway pay to such owner or occupier, or deposit in a bank for the benefit of all parties interested, as the case may require, compensation 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 lands. Compensation to be made for temporary occupation.

32. It shall be lawful for the Secretary for Public Works, on behalf of the Government, at any time, by notice in writing, to require the said promoters to sell, and thereupon the said promoters 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 promoters 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. Power for Government to purchase railway.

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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 promoters 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.

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

Railway Commis-
sioners may appoint
inspectors.

34. The Railway 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 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 promoters, 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:—

- (1) He may enter and inspect the railway and all stations, works, buildings, offices, stock, plant and machinery belonging thereto.
- (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 promoters 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.
- (3) He may require and enforce the production of all books, papers, and documents of the promoters which he considers important for the said purpose.

(4)

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- (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 promoters 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 promoters to carry any passengers upon the said railway.

Where, in or about the railway or any of the works or buildings ^{Accidents.} connected with such railway, or any buildings connected with such railway or any buildings or place, whether open or enclosed, occupied by the promoters, any of the following accidents takes place in the course of working, that is to say—

- (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) 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 ;

the promoters shall send notice of such accidents and loss of life or personal injury (if any) occasioned thereby to the Railway Commissioners. Such notice shall be in such form and shall contain such particulars as the 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. 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 promoters liable for each offence to a penalty not exceeding twenty pounds.

35. It shall be lawful for the promoters at any time by any deed or instrument in writing to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon them by this Act to any person or persons or to any duly registered company, and upon any such transfer or assignment being signed or executed the person or persons or duly registered company in whose favour such transfer or assignment is made shall then stand in the place of the said promoters, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said promoters by this Act. ^{Power to assign.}

Richmond Vale Coal-mine Railway.

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

36. 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.

37. 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 promoters; the word "promoters" shall mean and include the said John Brown, William Brown, and Stephen Brown, and the survivors and survivor of them, and the heirs, executors, or administrators of such survivor or their or his assigns.

Lands belonging
to the Railway
Commissioners
to be taken.

38. Nothing in this Act shall be deemed to authorise the said promoters 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.

Railway
Commissioners may
erect signals and
appoint watchmen
and switchmen.

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

Working of signals
to be under
regulations of
Commissioners.

40. 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 promoters as the said Commissioners may deem reasonable for such services.

Short title.

41. This Act whenever cited, shall be sufficiently described as the "Richmond Vale Coal-mine Railway Act of 1900."

SCHEDULE.

Commencing from a point in the lands of the promoters, bearing about north-east twenty chains from south-west corner of portion seventy in the parish of Stanford, county of Northumberland; bearing thence about north-east to a point about twenty chains from the north-east corner of the said portion, thence through Crown lands, lands of the promoters, Mrs. Leggett, E. Biddulph, under public road; thence through lands of the promoters, George T. Palmer, Crown lands, William Price, across surveyed road, lands of Seaham Coal Company, across surveyed road, land of the promoters, above surveyed road, land of the promoters, James Muir, promoters, public road, land of the promoters, W. C. Wentworth, to a point on the Minmi and Hexham Railway.

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

*Government House,
Sydney, 20th October, 1900,*

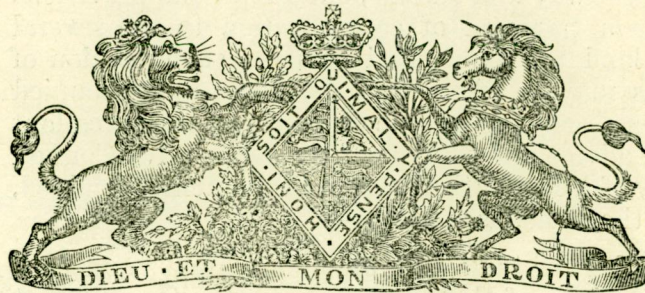
BEAUCHAMP,
Governor.

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, 12th September, 1900. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO QUARTO

VICTORIÆ REGINÆ.

An Act to enable John Brown, William Brown, and Stephen Brown, of Newcastle, in the Colony of New South Wales, to construct a Railway from the Richmond Vale Coal-mines to the Minmi and Hexham Railway, constructed under the provisions of the Minmi and Hexham Railway Act of 1854.

WHEREAS John Brown, of Newcastle, in the Colony of New South Wales, William Brown, of Sydney, in the said Colony of New South Wales, and Stephen Brown, of Newcastle, in the said Colony of New South Wales, are the owners of coal-mines upon the lands situated in the parishes of Stanford, Mulbring, and Stockrington, in the county of Northumberland, near West Maitland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said John Brown, William Brown, and Stephen Brown, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to a line hereinafter called the Minmi and Hexham Railway, owned by them, and constructed under

Preamble.

Richmond Vale Coal-mine Railway.

the provisions of the Minmi and Hexham Railway Act of 1854; but as part of such proposed railway and sidings are 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
 5 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
 10 result from the construction of the said proposed railway and sidings, 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 and sidings, 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
 15 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:—

20 1. It shall be lawful for the said promoters to make and construct a railway which shall be of the same gauge as the Government railways, namely, four feet eight and a half inches, from a point commencing in the lands of the promoters bearing about north-east
 25 twenty chains from south-west corner of portion seventy, in the parish of Stanford, county of Northumberland, bearing thence about north-east to a point about twenty chains from the north-east corner of the said portion; thence through Crown lands, lands of the promoters, Mrs. Legget, E. Biddulph, under public road, thence through lands of the promoters, George T. Palmer, Crown lands, William Price,
 30 across surveyed road, lands of Seaham Coal Company, across surveyed road, land of promoters, James Muir, promoters, public road, land of promoters, W. C. Wentworth, to a point on the Minmi and Hexham railway, and connecting therewith at about three and a half miles from the Great Northern Railway, and which lands and route are parti-
 35 cularly 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 railways to be constructed as aforesaid; and to take and use so much of the said Crown lands, and so much of the
 40 lands of private persons mentioned in the Schedule, as the promoters may require for their 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 Railways Construction and the Railway Commissioners.

Authority to
 construct railway
 and connect same
 Minmi to Hexham
 Railway.

Richmond Vale Coal-mine Railway.

2. 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 promoters for the purposes of the railway: Provided that no lands vested in the Railway Commis-
 10 sioners shall by virtue of this Act be vested in the promoters, and nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon; and the promoters shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and
 15 repairs of the said road by cutting, embanking, sinking wells or otherwise: Provided that the said railway shall be constructed and brought into use within five years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for five years continuously, all the said lands, including
 20 Crown lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and the original owners thereof, their heirs and assigns respectively: Provided also that, if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of any road
 25 so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted road in a state as convenient as the
 30 road interfered with, or as nearly as may be. And the promoters, before they use the said lands of the owners of the 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
 35 convenient occupation of such land, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands
 40 and the promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two justices of peace after inquiry shall deem necessary for the purposes aforesaid on application being made to them.

3. The railway shall be open to the public use for the con- Railways open to the
 45 veyance of coal and goods upon payment of a toll to the promoters for public.
 the

Richmond Vale Coal-mine Railway.

the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of threepence per ton in respect of every ton of coal for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters
5 or Government supplying locomotive power; and all trucks when emptied shall be conveyed on their return free of charge: Provided always that it shall not be compulsory on the promoters to supply locomotive power unless the party seeking the transit guarantee and bring
10 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 promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a
15 minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-penny per ton per mile in respect of every ton of goods for every transit, if the party seeking transit supply the locomotive power as well as the trucks and waggons: Provided that so long as the promoters shall be willing to supply locomotive power no other person shall use
20 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 promoters shall be entitled to compensation for such damage, to be recovered either by action in the Supreme Court of New South
25 Wales, or, if such damage do not exceed the sum of twenty pounds, summarily before two justices; and in estimating such damages the promoters shall be entitled, not only to compensation for the cost of repairing and restoring the railway, but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

30 4. It shall be lawful for the owners or occupiers of the lands Branch railways. adjoining thereto or traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the said railway for the purpose of bringing carriages, trucks, and waggons to or from or upon the said railway, and the promoters
35 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 communications in places where the communication can be made with safety to the public and without injury to the said railway and without inconvenience to the traffic
40 thereupon, and the promoters shall not take any rate, 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 promoters shall not be bound to make any such
41 openings in any place which they shall have set apart for any specific
45 purpose with which such communication would interfere, nor upon
any

Richmond Vale Coal-mine Railway.

any inclined plane or bridge nor in any tunnel. The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters from time to time made with respect to passing upon or crossing the railway and otherwise; and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the promoters under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the promoters, their deputies, agents, servants, and workmen, and all other persons by them authorised and empowered, to divert or alter the course of any road or way crossing the railway, or to raise or sink any road or way in order the more conveniently to carry the same over or under or by the side of the railway: 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 hereafter be maintained and repaired by the promoters at their own expense and to the satisfaction of the said Commissioner for Roads.

Power to divert or alter the roads.

6. If the promoters do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, or if they fail to maintain all such diversions, alterations, crossings, and the approaches thereto, they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted, 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 Commissioner for Roads, if a public road, and shall be applied for the purposes thereof, or, in case of a private road, the same shall be paid to the owner thereof; and every such penalty shall be recoverable with costs, by action in any of the superior courts.

Penalty for not substituting a road.

7. It shall be lawful for, and at the request of the Railway Commissioners compulsory upon, the said promoters from time to time and at all reasonable 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 established from time to time by the promoters for or in respect of all such passengers, goods, and live stock which shall be conveyed or transported upon such railway or any part thereof respectively; and the promoters are hereby authorised to make such by-laws and regulations, not inconsistent with this Act, and subject to the proposals 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

Right to carry passengers.

Richmond Vale Coal-mine Railway.

shall be liable to a fine not exceeding ten pounds for each offence, to be recovered in a summary way before any two justices: Provided always that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, 5 it shall and may 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.

8. If in the course of making the railway the promoters shall use or interfere with any road, they shall from time to time make 10 good all damage done by them to such road to the satisfaction of the said Commissioner for Roads; and if any question shall arise as to the damage done to any such road by the promoters or as to the repair thereof by them, such questions shall be referred to the determination of two justices, and such justices may direct such repairs to be made 15 in the state of the road in respect of damage done by the promoters, and within such period as they may think reasonable, and may impose on the promoters for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such justices shall seem fit; and any such penalty shall be paid to the said Commissioner for Roads, if a 20 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.

9. Until the promoters shall have made the bridges or other proper communications, which they shall, under the provisions herein contained, have been required to make between lands intersected and 25 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 30 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 arrangement with the promoters received or agreed to receive com- 35 pensation for or on account of any such communications, instead of the same being formed, such owner, occupier, or those claiming under him shall not be entitled so to cross the railway.

10. If the railway cross any public highway or parish road on a level the promoters shall erect or construct and at all times maintain 40 to the satisfaction of the said Commissioner for Roads, cattle-steps or good and sufficient gates across such road on each side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such roads on both sides of the railway, except 45 during the time when horses, cattle, carts, or carriages passing along the

Road repairs.

Owner's crossing.

Provisions in cases where roads are crossed on a level.

Richmond Vale Coal-mine Railway.

the same shall have to cross such railway, and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent cattle or horses passing along the road from entering upon the railway, and the person entrusted with the care of
 5 such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty not exceeding forty shillings for every default therein, to be recoverable before any two justices in a summary way: Provided always that it shall be lawful for the Secretary for Public Works in
 10 any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway except when engines
 15 or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

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

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

45 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

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

Construction of bridges over roads.

Richmond Vale Coal-mine Railway.

5 The clear height of the arch from the surface of the road shall not be less than sixteen feet for space of twelve feet, if the arch be over the main road, and fifteen feet for a space of ten feet if over a public carriage road ; and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet, the clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private road.

10 The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a public highway, one foot in twenty feet if over a parish road, and one foot in sixteen feet if over a private road, not being a tramroad or railroad ; or if the same be a tramroad or railroad, the descent shall not be greater than the ruling gradient of such tramroad or rail-
15 road : Provided always that every such bridge shall be erected to the satisfaction of the Railway Commissioners and the Engineer-in-Chief for Railway Construction.

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

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

25 The road over the bridges 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.

30 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 :

35 Provided always that every such bridge shall be erected to the satisfaction of the said Commissioner for Roads and the said Engineer-in-Chief for Railway Construction.

40 Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads but so, nevertheless, that such be not of less width in case of a public highway or parish road than twenty feet : Provided
45 also, that if at any time after the construction of the railway, the average

Construction of bridges over railways.

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

Richmond Vale Coal-mine Railway.

average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the promoters shall be bound at their own expense to increase the width of the said bridge to such extent as they may be required by the said Commissioner for
 5 Roads, 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 :

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

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

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

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

40 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
 45 so as may be, and such works shall be made from time to time as the railway work proceeds.

Also

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- 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 nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places:
- 15
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- 45
- Watering-places.
- Penalty on persons omitting to fasten gate.
- Minerals not to pass.
- Appointment of arbitrators.
- operate

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operate as a revocation. And if, for the space of fourteen days after any such dispute or other matter shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such
 5 arbitrator, then, upon such failure, it shall be lawful for the Attorney-General, on application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determina-
 10 tion of such single arbitrator shall be final and conclusive.

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

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

20. If in either of the cases aforesaid the arbitrators shall refuse
 or, for seven days after request of either party to such arbitration,
 neglect to appoint an umpire it shall be lawful for the Attorney-
 35 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.

21. If, when a single arbitrator shall have been appointed, such
 40 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.

22. If, where more than one arbitrator shall have been appointed,
 45 either of the arbitrators shall refuse or, for seven days neglect to act,
 the

Vacancy of arbitrator
to be supplied.

Appointment of
umpire.

Attorney-General to
appoint umpire on
neglect.

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

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

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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.

23. If, where more than one arbitrator shall have been appointed
5 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
10 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.

24. The said arbitrators, or their umpire, may call for the pro-
ductions of any documents in the possession or power of either party
15 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.

25. Before any arbitrator or umpire shall enter into the con-
sideration of any matters referred to him he shall in presence of a
justice of peace make and subscribe the following declaration, that is
20 to say—

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

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 Richmond Vale Coal-mine Railway Act of 1900.

25 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.

26. All the costs of any such arbitration and incident thereto to
30 be settled by the arbitrators shall be borne by the promoters unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters, in which case each party shall bear his own costs incidental to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions, unless the amount
35 awarded shall be one-fourth less than the amount, in which case the whole costs shall be paid by the claimant: Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer
40 shall be the amount of costs to be paid.

Costs of arbitration, how to be borne.

27. The arbitrators shall deliver their award in writing to the promoters, who shall retain the same and shall forthwith on demand at their own expense furnish a copy thereof to the other party, and shall at all times on demand produce the said award and allow the
same

Award to be delivered to the promoters.

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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.

28. 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.

29. 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.

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

31. In every case where the promoters shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required 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; and they shall from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent, to be fixed by two justices in case the parties differ, and shall also within six months after the completion of the railway pay to such owner or occupier, or deposit in a bank for the benefit of all parties interested, as the case may require, compensation 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 lands. Compensation to be made for temporary occupation.

32. It shall be lawful for the Secretary for Public Works, on behalf of the Government, at any time, by notice in writing, to require the said promoters to sell, and thereupon the said promoters 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 promoters 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. Power for Government to purchase railway.

Richmond Vale Coal-mine Railway.

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 promoters 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.

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

34. The Railway 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 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 promoters, 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:—

- (1) He may enter and inspect the railway and all stations, works, buildings, offices, stock, plant and machinery belonging thereto.
- (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 promoters 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.
- (3) He may require and enforce the production of all books, papers, and documents of the promoters which he considers important for the said purpose.

(4)

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- 5 (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 promoters 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 promoters to carry any passengers upon the said railway.

10 Where, in or about the railway or any of the works or buildings ^{Accidents.} connected with such railway, or any buildings connected with such railway or any buildings or place, whether open or enclosed, occupied by the promoters, any of the following accidents takes place in the course of working, that is to say—

- 15 (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) any passenger train or any part of a passenger train accidentally leaving the rails ;
 20 (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 promoters shall send notice of such accidents and loss of life or
 25 personal injury (if any) occasioned thereby to the Railway 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. The Railway Commissioners may from time to
 30 time by order direct that notice of any class of accidents shall be sent to them by telegraph, and may revoke any such order. While such order is in force notice of every accident of the class to which the order relates shall be sent to the Railway Commissioners by telegraph immediately after the accident takes place. Failure to comply with
 35 the provisions of this section shall render the promoters liable for each offence to a penalty not exceeding twenty pounds.

35. It shall be lawful for the promoters at any time by any ^{Power to assign.} deed or instrument in writing to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon them
 40 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 promoters, and shall have all the rights, powers,
 45 benefits, privileges, and advantages conferred upon the said promoters by this Act. **36.**

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36. 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 Act of 1888 not altered or repealed.

37. 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 promoters; the word "promoters" shall mean and include the said John Brown, William Brown, and Stephen Brown, and the survivors and survivor of them, and the heirs, executors, or administrators of such survivor or their or his assigns.

Interpretation clause.

38. Nothing in this Act shall be deemed to authorise the said promoters 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 to be taken.

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

Railway Commissioners may erect signals and appoint watchmen and switchmen.

40. 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 promoters as the said Commissioners may deem reasonable for such services.

Working of signals to be under regulations of Commissioners.

41. This Act whenever cited, shall be sufficiently described as the "Richmond Vale Coal-mine Railway Act of 1900."

Short title.

SCHEDULE.

Commencing from a point in the lands of the promoters, bearing about north-east twenty chains from south-west corner of portion seventy in the parish of Stanford, county of Northumberland; bearing thence about north-east to a point about twenty chains from the north-east corner of the said portion, thence through Crown lands, lands of the promoters, Mrs. Leggett, E. Biddulph, under public road; thence through lands of the promoters, George T. Palmer, Crown lands, William Price, across surveyed road, lands of Seaham Coal Company, across surveyed road, land of the promoters, above surveyed road, land of the promoters, James Muir, promoters, public road, land of the promoters, W. C. Wentworth, to a point on the Minmi and Hexham Railway.

Legislative Council.

1900.

A BILL

To enable John Brown, William Brown, and Stephen Brown, of Newcastle, in the Colony of New South Wales, to construct a Railway from the Richmond Vale Coal-mines to the Minmi and Hexham Railway, constructed under the provisions of the Minmi and Hexham Railway Act of 1854.

(As amended and agreed to in Select Committee.)

WHEREAS John Brown, of Newcastle, in the Colony of New South Wales, William Brown, of Sydney, in the said Colony of New South Wales, and Stephen Brown, of Newcastle, in the said Colony of New South Wales, are the owners of coal-mines upon the lands situated in the parishes of Stanford, Mulbring, and Stockrington, in the county of Northumberland, near West Maitland, and in order to facilitate communication between the said coal-mines and the Great Northern Railway, the said John Brown, William Brown, and Stephen Brown, hereinafter designated the promoters, are desirous of constructing a railway from their said coal-mines to a line hereinafter called the Minmi and Hexham Railway, owned by them, and constructed under the

c 36—

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

the provisions of the Minmi and Hexham Railway Act of 1854; but as part of such proposed railway and sidings are 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 5 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 sidings, and traffic on the Great Northern Railway would be increased thereby, 10 it is therefore desirable to authorise by Legislative enactment the construction of the said railway and sidings, 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 15 thereby: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Authority to
construct railway
and connect same
Minmi to Hexham
Railway.

1. It shall be lawful for the said promoters to make and con- 20 struct a railway which shall be of the same gauge as the Government railways, namely, four feet eight and a half inches, from a point commencing in the lands of the promoters bearing about north-east twenty chains from south-west corner of portion seventy, in the parish of Stanford, county of Northumberland, bearing thence about north- 25 east to a point about twenty chains from the north-east corner of the said portion; thence through Crown lands, lands of the promoters, Mrs. Legget, E. Biddulph, under public road, thence through lands of the promoters, George T. Palmer, Crown lands, William Price, across surveyed road, lands of Seaham Coal Company, across surveyed 30 road, land of promoters, James Muir, promoters, public road, land of promoters, W. C. Wentworth, to a point on the Minmi and Hexham railway, and connecting therewith at about three and a half miles from the Great Northern Railway, and which lands and route are particularly described in the Schedule hereto, such railway to be in the 35 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 railways 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 promoters 40 may require for their 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 Railways Construction and the Railway Commissioners.

2. 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 5 for the purpose of this Act be vested by virtue of this Act and without the necessity of any conveyance in the promoters for the purposes of the railway: Provided that no lands vested in the Railway Commissioners shall by virtue of this Act be vested in the promoters, and 10 nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon; and the promoters shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and 15 repairs of the said road by cutting, embanking, sinking wells or otherwise: Provided that the said railway shall be constructed and brought into use within five years after the passing of this Act, and that in default thereof, or if after its completion, the said railway shall cease to be used for five years continuously, all the said lands, including 20 Crown lands, and all the said promoters' interest and estate therein shall revert without any conveyance to the Crown and the original owners thereof, their heirs and assigns respectively: Provided also that, if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of any road 25 so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, the promoters shall, before the commencement of any such operations, cause a sufficient road to be made instead of any road interfered with, and shall at their own expense maintain such substituted road in a state as convenient as the 30 road interfered with, or as nearly as may be. And the promoters, before they use the said lands of the owners of the 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 35 convenient occupation of such land, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands 40 and the promoters as to the necessity for such fences and gates, then the said promoters shall put up and erect such fences and gates as any two justices of peace after inquiry shall deem necessary for the purposes aforesaid on application being made to them.

3. The railway shall be open to the public use for the conveyance of coal and goods upon payment of a toll to the promoters for the Railways open to the public.
the

the conveyance of coal of a sum not exceeding one penny per ton per mile, with a minimum charge of threepence per ton in respect of every ton of coal for every transit, the person seeking transit supplying and loading his own trucks or on Government waggons, and the promoters or Government supplying locomotive power; and all trucks when emptied shall be conveyed on their return free of charge: Provided always that it shall not be compulsory on the promoters to supply locomotive power unless the party seeking the transit 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 promoters for the conveyance of coal of a sum not exceeding one half-penny per ton per mile, with a minimum charge of twopence per ton in respect of every ton of coal for every transit, and for goods of a sum not exceeding one penny half-penny per ton per mile in respect of every ton of goods for every transit, if the party seeking transit supply the locomotive power as well as the trucks and waggons: Provided that so long as the promoters shall be willing to supply locomotive power no other person shall use locomotive power on the line other than the 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 promoters shall be entitled to compensation for such damage, to be recovered either by action in the Supreme Court of New South Wales, or, if such damage do not exceed the sum of twenty pounds, summarily before two justices; and in estimating such damages the promoters shall be entitled, not only to compensation for the cost of repairing and restoring the railway, but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

Branch railways.

4. It shall be lawful for the owners or occupiers of the lands adjoining thereto or traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the said railway for the purpose of bringing carriages, trucks, and waggons to or from or upon the said railway, and the promoters shall, if required, at the expense of such owners or occupiers make openings in the rails and such additional lines of railway as may be necessary for effecting such communications in places where the communication can be made with safety to the public and without injury to the said railway and without inconvenience to the traffic thereupon, and the promoters shall not take any rate, 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 promoters shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere, nor upon any

any inclined plane or bridge nor in any tunnel. The persons making or using such branch railways shall be subject to all by-laws and regulations of the promoters from time to time made with respect to passing upon or crossing the railway and otherwise; and the persons
 5 making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the promoters under the direction of their engineer.

5. For the purposes and subject to the provisions hereinafter
 10 contained it shall be lawful for the promoters, their deputies, agents, servants, and workmen, and all other persons by them authorised and empowered, to divert or alter the course of any road or way crossing the railway, or to raise or sink any road or way in order the more conveniently to carry the same over or under or by the side of the
 15 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 hereafter be maintained and repaired by the promoters at their own expense and to the satisfaction of the said Commissioner for Roads.

Power to divert or alter the roads.

20 6. If the promoters do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, or if they fail to maintain all such diversions, alterations, crossings, and the approaches thereto, they shall forfeit *twenty* pounds for every day during which such substituted road shall not be made
 25 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 Commissioner for Roads, if a public road, and shall be applied for the purposes thereof, or, in case of a private road, the same shall be paid
 30 to the owner thereof; and every such penalty shall be recoverable with costs, by action in any of the superior courts.

Penalty for not substituting a road.

7. It shall be lawful for, ~~but not~~ and at the request of the
Railway Commissioners compulsory upon, the said promoters from
 time to time and at all reasonable times, to carry passengers, goods,
 35 and live stock upon the said railway or any part thereof respectively, and to make, demand, take, receive and recover such tolls or dues for carrying the same at such rates per mile or other scale of charges as shall be established from time to time by the promoters for or in respect of all such passengers, goods, and live stock which shall be
 40 conveyed or transported upon such railway or any part thereof respectively; and the promoters are hereby authorised to make such by-laws and regulations, not inconsistent with this Act, and subject to the proposals of the **Railway Commissioners**, as may be necessary
 45 shall be binding upon all persons using or travelling upon the said railway; and any persons offending against such by-laws or regulations shall

Right to carry passengers.

shall be liable to a fine not exceeding *ten* pounds for each offence, to be recovered in a summary way before any two justices : Provided always that if the rates, tolls, or dues that may be established as aforesaid under and by virtue of this Act shall be found excessive, it shall and may be lawful for the Executive Council, on the petition 5 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.

8. If in the course of making the railway the promoters shall use or interfere with any road, they shall from time to time make good all damage done by them to such road to the satisfaction of the 10 said Commissioner for Roads; and if any question shall arise as to the damage done to any such road by the promoters or as to the repair thereof by them, such questions shall be referred to the determination of two justices, and such justices may direct such repairs to be made in the state of the road in respect of damage done by the promoters, 15 and within such period as they may think reasonable, and may impose on the promoters for not carrying into effect such repairs any penalty not exceeding *ten* pounds per day as to such justices shall seem fit; and any such penalty shall be paid to the said Commissioner for Roads, if a public road, and be applied for the purposes of such road, or if a 20 private road the same shall be paid to the owner thereof.

Owner's crossing.

9. Until the promoters shall have made the bridges or other proper communications, which they shall, under the provisions herein contained, have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such lands, 25 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 30 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 arrangement with the promoters received or agreed to receive compensation for or on account of any such communications, instead of the 35 same being formed, such owner, occupier, or those claiming under him shall not be entitled so to cross the railway.

Provisions in cases where roads are crossed on a level.

10. If the railway cross any public highway or parish road on a level the promoters shall erect or construct and at all times maintain to the satisfaction of the said Commissioner for Roads, cattle-steps or 40 good and sufficient gates across such road on each side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such roads on both sides of the railway, except during the time when horses, cattle, carts, or carriages passing along 45 the

the same shall have to cross such railway, and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent cattle or horses passing along the road from entering upon the railway, and the person entrusted with the care of
 5 such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty not exceeding *forty* shillings for every default therein, to be recoverable before any two justices in a summary way: Provided always that it shall be lawful for the Secretary for Public Works in
 10 any case in which he shall be satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed instead of across the road, and in case such gates shall be kept constantly closed across the railway except when engines
 15 or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

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

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

45 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

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

Construction of bridges over roads.

The clear height of the arch from the surface of the road shall not be less than sixteen feet for space of twelve feet, if the arch be over the 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 said **Railway** Commissioners and the said Engineer-in-Chief for Railway Construction.

Construction of
bridges over
railways.

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

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

The road over the bridges 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 always that every such bridge shall be erected to the satisfaction of the said Commissioner for Roads and the said Engineer-in-Chief for Railway Construction.

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

Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of such bridges need not be greater than such average available width of such roads but so, nevertheless, that such be not of less width in case of a public highway or parish road than twenty feet: Provided also, that if at any time after the construction of the railway, the average

average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the promoters shall be bound at their own expense to increase the width of the said bridge to such extent as they may be **required by the** said Commissioner for
 5 Roads, 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 :

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

14. The promoters shall make and at all times thereafter Works for benefit of owners. maintain the following works for the accommodation of the owners
 20 and occupiers of lands adjoining the railway, that is to say :—

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

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

Also, all necessary arches, tunnels, culverts, drains, or other Drains. passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly
 45 so as may be, and such works shall be made from time to time as the railway work proceeds. **Also**

Watering-places.

Also proper watering-places for cattle, or compensation in lieu thereof, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places. And such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore, and as if the railway had not been made, or nearly so as may be. And the said promoters shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places:

Provided always that the promoters shall not be required to make such accommodation works in such 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 of them.

Penalty on persons omitting to fasten gate.

15. If any person omit to shut and fasten any gate set up 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.

Minerals not to pass.

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

Appointment of arbitrators.

17. If, within ~~twenty-eight~~ *ninety* days after the passing of this Act, the said persons through whose lands the railway shall pass, or any of them, and the promoters shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by them or him by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitration in manner hereinafter mentioned, that is to say, unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred, and every appointment of an arbitrator shall be under the hand of such party; and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made. And after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party

operate

operate as a revocation. And if, for the space of fourteen days after any such dispute or other matter shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such
 5 arbitrator, then, upon such failure, it shall be lawful for the Attorney-General, on application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination
 10 of such single arbitrator shall be final and conclusive.

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

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

20. If in either of the cases aforesaid the arbitrators shall refuse
 or, for seven days after request of either party to such arbitration,
 neglect to appoint an umpire it shall be lawful for the Attorney-
 35 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.

21. If, when a single arbitrator shall have been appointed, such
 40 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.

22. If, where more than one arbitrator shall have been appointed,
 45 either of the arbitrators shall refuse or, for seven days neglect to act,
 the

Vacancy of arbitrator to be supplied.

Appointment of umpire.

Attorney-General to appoint umpire on neglect.

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

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

the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

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

23. If, where more than one arbitrator shall have been appointed and where neither of them shall refuse or neglect to act as aforesaid, 5 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 10 to be so appointed as aforesaid.

Powers of arbitrators to call for books, &c.

24. The said arbitrators, or their umpire, may call for the productions 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 15 administer the oaths necessary for that purpose.

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

25. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall in presence of a justice of peace make and subscribe the following declaration, that is to say— 20

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 Richmond Vale Coal-mine Railway Act of 1900.

Made and subscribed in the presence of 25

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.

Costs of arbitration, how to be borne.

26. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the promoters unless the 30 arbitrators shall award the same or a less sum than shall have been offered by the promoters, in which case each party shall bear his own costs incidental to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount, in which case the 35 whole costs shall be paid by the claimant: Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid. 40

Award to be delivered to the promoters.

27. The arbitrators shall deliver their award in writing to the promoters, who shall retain the same and shall forthwith on demand at their own expense furnish a copy thereof to the other party, and shall at all times on demand produce the said award and allow the same

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.

28. 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.

29. 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.

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

31. In every case where the promoters shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required 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; and they shall from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands, as the case may require, a rent, to be fixed by two justices in case the parties differ, and shall also within six months after the completion of the railway pay to such owner or occupier, or deposit in a bank for the benefit of all parties interested, as the case may require, compensation 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 lands. Compensation to be made for temporary occupation.

32. It shall be lawful for the Secretary for Public Works, on behalf of the Government, at any time, by notice in writing, to require the said promoters to sell, and thereupon the said promoters 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 promoters 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. Power for Government to purchase railway.

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 promoters 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

Company may make by-laws.

33. For the purpose of regulating the conduct of the officers and servants of the promoters, and for providing for the due management of the affairs of the promoters in all respects, it shall be lawful for the promoters, subject to the provisions herein mentioned, from time to time to make such by-laws and regulations as they shall think fit, provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act; and such by-laws shall be reduced into writing, and shall have affixed thereto the names of the promoters, and a copy of such by-laws shall be given to every officer and servant of the promoters affected thereby, and such by-laws may specify a maximum and minimum penalty for any breach thereof, such penalty to be proceeded for and recovered under the provisions of the Act eleventh and twelfth Victoria, chapter forty-three: Provided always that any by-laws of the said promoters relating to penalties must be first approved by the Executive Council and published in the Government Gazette; and the productions of the Gazette containing such by-laws of the promoters shall be sufficient evidence of such by-laws in all proceedings under the same. 10 15 20 25

Railway Commissioners may appoint inspectors.

34. The said Railway 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 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 promoters, 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:— 30

- (1) He may enter and inspect the railway and all stations, works, buildings, offices, stock, plant and machinery belonging thereto. 35
- (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 promoters 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. 40
- (3) He may require and enforce the production of all books, papers, and documents of the promoters which he considers important for the said purpose. 45

(4)

- 5 (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 promoters 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 promoters to carry any passengers upon the said railway.

10 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 buildings or place, whether open or enclosed, occupied by the promoters, any of the following accidents takes place in the course of working, that is to say—

- 15 (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) any passenger train or any part of a passenger train accidentally leaving the rails ;
 20 (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 promoters shall send notice of such accidents and loss of life or personal injury (if any) occasioned thereby to the Railway Commissioners. Such notice shall be in such form and shall contain such particulars as the 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. 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 35 the provisions of this section shall render the promoters liable for each offence to a penalty not exceeding *twenty* pounds.

35. It shall be lawful for the promoters at any time by any deed or instrument in writing to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon them 40 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 promoters, and shall have all the rights, powers, 45 benefits, privileges, and advantages conferred upon the said promoters by this Act.

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

Interpretation clause.

36. 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.

37. 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 promoters; the word **10** "promoters" shall mean and include the said John Brown, William Brown, and Stephen Brown, and the survivors and survivor of them, and the heirs, executors, or administrators of such survivor or their or his assigns.

Lands belonging to the Railway Commissioners to be taken.

38. Nothing in this Act shall be deemed to authorise the said **15** promoters 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.

Railway Commissioners may erect signals and appoint watchmen and switchmen.

39. The said Railway Commissioners may from time to time **20** erect such signals and conveniences incident to such junction either upon their own lands or on the lands of the promoters, and appoint and remove such watchmen, switchmen, and other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction, and in all cases at the expense of the **25** promoters.

Working of signals to be under regulations of Commissioners.

40. 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 promoters as the said Commissioners may deem reasonable for such **30** services.

Short title.

41. This Act whenever cited, shall be sufficiently described as the "Richmond Vale Coal-mine Railway Act of 1900."

SCHEDULE.

Commencing from a point in the lands of the promoters, bearing about north-east **35** twenty chains from south-west corner of portion seventy in the parish of Stanford, county of Northumberland; bearing thence about north-east to a point about twenty chains from the north-east corner of the said portion, thence through Crown lands, lands of the promoters, Mrs. Leggett, E. Biddulph, under public road; thence through lands of the promoters, George T. Palmer, Crown lands, William Price, across surveyed road, **40** lands of Seaham Coal Company, across surveyed road, land of the promoters, above surveyed road, land of the promoters, James Muir, promoters, public road, land of the promoters, W. C. Wentworth, to a point on the Minmi and Hexham Railway.