

1903.

A BILL

To enable Reginald Wyndham, of Branxton, in the State of New South Wales, gentleman, or his assigns, to construct a railway from the Leconfield Coal-mine to the Great Northern Railway ; also a branch line in connection therewith.

WHEREAS Reginald Wyndham is possessed of or entitled to Preamble.
certain coal-mines and collieries which have been established
on lands, situate near Greta, in the county of Northumberland: And
in order to facilitate communication between the said coal-mines and
5 the Great Northern Railway the said Reginald Wyndham is desirous of
constructing a railway from the said coal-mines to the Great Northern
Railway, such railway to run through certain private lands and across
the Great Northern Road, as described or mentioned in the Schedule
to this Act, and a branch line also described or mentioned in the said
10 Schedule, both which railway and branch line are hereinafter termed
“the railway”: And whereas by an Act called the Leconfield Coal-
mine Railway Act of 1889, a company called the “Greta Coal Company
(Limited),”

(Limited),” was empowered to make and construct a railway on the same terms and in the same manner and under and subject to the same conditions as are set out in this Act, and it was therein provided that if the said railway should not have been constructed and brought into use within three years after the passing of the said Act, the land taken by and in pursuance of the said Act should become the absolute property of the several persons to whom the same belonged immediately before the exercise by the said company of the powers thereby conferred: And whereas the said railway was not constructed within the time limited by the said Act, and the said Act has consequently become void and of no effect: And whereas the said coal-mines are likely to prove beneficial to the State, 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 railway, and the traffic on the Great Northern Railway would be increased thereby: And it is desirable to authorise by Legislative enactment the construction and maintenance of the railway, subject to the provisions hereinafter contained: Be it therefore enacted by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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

1. It shall be lawful for the said Reginald Wyndham or his assigns to make and construct the railway from the Great Northern Railway, at a point near the Greta station, across the lands and in the directions described in the Schedule to this Act, with power to effect a junction with the said Great Northern Railway in the same manner as if the last-mentioned railway was a railway made under the provisions of the Public Works Act of 1900, and subject to the terms, conditions, and restrictions enacted in the one hundred and forty-fifth section thereof: And to take and use so much of the roads and lands referred to in the said Schedule as may be required for the purposes of the railway, but so that the same shall not occupy in any part thereof (except near the junction with the said Great Northern Railway) a greater space in breadth than sixty-six feet, including the supports and foundations thereof: And also to take and occupy three acres of land or any less area at the junction of the railway with the existing branch railway from Greta station: Provided that the railway shall be constructed and brought into use within three years after the passing of this Act: Provided further that this authority shall not extend beyond ninety-nine years from the passing of this Act: And the lands taken by and in pursuance hereof at the end of the said period of ninety-nine years, or if the railway shall not be constructed and brought into use within three years after the passing of this Act, or if after its completion the railway shall cease to be used for one year continuously, then at the

the end of such respective periods shall become the absolute property of the several persons to whom the same belonged immediately before the exercise by the said Reginald Wyndham or his assigns of the powers hereby conferred, their heirs or assigns.

- 5 2. The said Reginald Wyndham or his assigns shall have all necessary rights of ingress and egress to and over and upon the adjacent lands, and all such other rights as are required for the construction, repair, completion, maintenance and use of the said railway: Provided that the exercise of such right shall be as little
10 injurious to the said adjoining lands as the nature of the case will admit of. And full compensation shall be made to the owners or occupiers of such lands for the loss, injury, and inconvenience sustained by them respectively by reason of the exercise of such rights. The
15 amount of such compensation, in case of any dispute about the same, shall be settled by arbitration in the manner hereinafter mentioned: Provided also that if in the exercise of the powers hereby granted, it be found necessary to cross-cut through, sink, raise, or use any part of
20 any road, whether carriage-road or horse-road, so as to render it impassable for, or dangerous, or inconvenient to the persons entitled to the use thereof, the said Reginald Wyndham or his assigns 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 said
25 Reginald Wyndham or his assigns before they use the said lands for any of the purposes aforesaid shall, if required so to do, separate the same by a sufficient fence from the land adjoining thereto, with such gates as may be required for the convenient occupation of such lands, and shall also to all private roads used by them as aforesaid
30 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 said Reginald Wyndham or his assigns, as to the necessity of such fences and gates,
35 then the said Reginald Wyndham or his assigns shall put up and erect such fences and gates as any two justices shall deem necessary for the purposes aforesaid, on application being made to them.

Site of railway shall be vested in the Reginald Wyndham or his assigns without conveyance.

3. The gauge of the railway shall be the Government standard Gauge. gauge of four feet eight and a half inches: Provided that pending
40 the completion thereof during the period mentioned, it shall be lawful for the said Reginald Wyndham or his assigns to construct and use a railway of the gauge of two feet nine inches.

4. The railway shall be open to the public use upon payment of a toll to the said Reginald Wyndham or his assigns of a sum not
45 exceeding twopence per ton per mile, in respect of every ton of goods for

Railway shall be open to the public.

for every transit, the party seeking transit supplying and loading his own trucks or waggons, and the said Reginald Wyndham or his assigns 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 said Reginald Wyndham or his assigns to supply locomotive power. The railway shall at all times be open to the public upon payment of a toll to the said Reginald Wyndham or his assigns of a sum not exceeding three half-pence per ton per mile in respect of every ton of goods for every transit, if the party seeking transit supply the locomotive power as well as the trucks and waggons: Provided that so long as the said Reginald Wyndham or his assigns shall be willing to supply locomotive power, no other person shall use locomotive power on the line, other than the Railway Commissioners of New South Wales: Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit, and supply locomotive power, the said Reginald Wyndham or his assigns shall be entitled to compensation for such damage, to be recovered either by action in the Supreme Court of New South Wales, or if such damage do not exceed the sum of twenty pounds, before two justices; and in estimating such damage, the said Reginald Wyndham or his assigns 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.

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

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

The persons making or using such branch railways shall be subject to all by-laws and regulations 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

require, to renew the off-set plates and switches according to the most approved plan adopted by the said Reginald Wyndham or his assigns under the direction of an engineer appointed by him or them.

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

Branch railways crossing railway.

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

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

8. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the said Reginald Wyndham or his
25 assigns, his or their deputies, agent, 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.

Power to divert or alter roads.

- 30 9. If the said Reginald Wyndham or his assigns do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit ten pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted, and such penalty shall be
35 paid to the trustees, commissioners, surveyor, or other persons having the management of such road, if a public road, and shall be applied for the purposes thereof, or in case of a private road, the same shall be paid to the owner thereof; and every such penalty shall be recoverable with costs by action in any court of competent jurisdiction.

Penalty for not substituting a road.

- 40 10. If in the course of making the railway the said Reginald Wyndham or his assigns shall use or interfere with any road they shall from time to time make good all damage done by them to such road, and if any question shall arise as to the damage done to any such road by the said Reginald Wyndham or his assigns, or as to the
repair

Road repairs.

repair thereof by them, such question will be referred to the determination of two justices, and such justices may direct such repairs to be made in the state of such road in respect of damage done by the said Reginald Wyndham or his assigns, and within such period as they may think reasonable, and may impose on the said Reginald Wyndham 5 or his assigns for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such justices shall seem fit; and any such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the said Reginald Wyndham or his assigns, if a public road, and be applied for the 10 purposes of such road, or, if a private road, the same shall be paid to the owner thereof: Provided always the said justices shall have regard to and shall make full allowance for any tolls that may have been paid by the said Reginald Wyndham or his assigns on such road in the course of the using thereof. 15

Owners crossing.

11. Until the said Reginald Wyndham or his assigns shall have made the bridges or other proper communications, which they shall, under the provisions in this Act contained, have been required to make between lands intersected and the railway, and no longer, the owners and occupiers of such lands and any other persons whose right-of-way 20 shall be affected by the want of such communications and their respective servants may at all times freely pass and repass with carriages, horses, and other animals, directly, but not otherwise, across any part of the railway made in or through or adjoining their respective lands solely for the purpose of occupying the said lands, or for the 25 exercise of such right-of-way, and so as not to obstruct the passage along the railway, or to damage the same, nevertheless, if the owner or occupier of any such lands have in his arrangements with the said Reginald Wyndham or his assigns received or agreed to receive compensation for or on account of any such communications instead of 30 the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.

Provisions in cases where roads are crossed on a level.

12. If the railway cross any public highway or parish road on a level, the said Reginald Wyndham or his assigns shall erect, and at all times maintain good and sufficient gates across such road on each 35 side of the railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such roads on both sides of the railway, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway, and such gates 40 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,

cattle, carts, or carriages shall have passed through the same, under a penalty not exceeding *forty* shillings for every default therein, recoverable before two justices: Provided always that it shall be lawful for the said Commissioners, in any case in which they shall be
5 satisfied that it will be more conducive to the public safety that the gates or any level crossing over any such road shall be kept closed across the railway, to order that such gates be kept so closed instead of across the road, and in such case such gates shall be kept constantly closed across the railway, except when engines or carriages passing
10 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.

13. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said railway, it
15 shall be lawful for the said Reginald Wyndham or his assigns, 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 said Reginald Wyndham or his
20 assigns shall within forty-eight hours after such entry make a report to the said Commissioners specifying the nature of such accident, or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if they shall, after considering the said report, certify that their exercise is not necessary for the public safety :
25 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
30 by reason of such works, the amount of which compensation in case of any dispute about the same shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken for any such works otherwise than is in this Act provided with respect to the lands originally taken for the purpose of making
35 the said railway.

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

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

Construction of bridges over roads

40 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.

45 The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be over a main road, and fifteen feet for a space of ten feet

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.

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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.

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Construction of
bridges over
railroads.

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

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

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

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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.

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

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

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17. Provided also that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be preserved to be altered, or for which another road shall be substituted shall be 5 steeper than the inclination hereinbefore required to be preserved by the said Reginald Wyndham or his assigns, then the said Reginald Wyndham or his assigns 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 10 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.

18. The said Reginald Wyndham or his assigns 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 15 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 20 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 25 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 30 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 35 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 40 so as may be, and such works shall be made from time to time as the railway works proceed.

Drains.

Also proper watering-places for cattle, or compensation in lieu thereof where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be 45 deprived of access to their former watering-places, and such watering-places

Watering-places.

watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore. And as if the railway had not been made, or as nearly so as may be. And the said Reginald Wyndham or his assigns shall make all necessary watercourses and drains for the purpose of 5 conveying water to the said watering-places :

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

Minerals not to pass.

19. The said Reginald Wyndham or his assigns shall not be entitled by virtue of this Act to any mines of coal, ironstone, slate, or other minerals under any private land whereof the surface is vested in 15 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 Reginald Wyndham or his assigns by virtue of this Act.

Penalty on persons omitting to fasten gates.

20. If any person omit to shut and fasten any gate set up at 20 either side of the railway for the accommodation of the owners or occupiers of the adjoining lands so soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding *ten* pounds, recoverable before two justices. 25

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

21. Anything herein contained to the contrary notwithstanding, the owners of the lands adjoining or traversed by the railway shall have all rights, liberties, and powers which shall be necessary and proper for the beneficial working of the mines and minerals under the said lands : Provided that the railway shall not be injured or 30 interfered with by any such working of such mines or minerals.

Compensation clause.

22. If within twenty-eight days after the passing of this Act the said persons, through whose lands the railway shall pass, or any of them, and the said Reginald Wyndham or his assigns shall not agree as to the amount of compensation to be paid by them for the 35 said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or any of them by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned (that is to say). 40 Unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred. And every appointment of any arbitrator shall be under the hand of such party. And such appointment shall be delivered to 45 the

Appointment of arbitrators.

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,
5 nor shall the death of either party operate as a revocation. And if for the space of fourteen days after any such dispute or other matter shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure
10 it shall be lawful for the Attorney-General for the time being of the said State, on the application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties. And such arbitrator may proceed to hear and determine the matters which shall be in dispute. And in such case the award
15 or determination of such single arbitrator shall be final and conclusive.

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

Vacancy of arbitrator to be supplied.

24. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands, an umpire
30 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
35 place, and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire.

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

Attorney-General to appoint an umpire on neglect.

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

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

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.

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

27. If where more than one arbitrator shall have been appointed 5 either of the arbitrators shall refuse, or for seven days neglect to act, the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

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

28. If where more than one arbitrator shall have been appointed 10 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 15 the matters referred to them shall be determined by the umpire to be so appointed as aforesaid.

Powers to arbitrators to call for books, &c.

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

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

I, A.B. do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Leconfield Coal-mine Railway Act of 1889. 30

Made and subscribed in the presence of

A.B.

Penalty for misconduct.

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of misdemeanour. 35

Cost of arbitration how to be borne.

31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the said Reginald Wyndham or his assigns, unless the arbitrators shall award the same or a less sum than shall have been offered by the said Reginald Wyndham or his assigns, in which case each party shall bear his own costs incident 40 to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions unless the amount awarded shall be one-fourth less than the amount offered by the said Reginald Wyndham or his assigns, in which case the whole costs shall be paid by the claimant; Provided that if either party shall be dissatisfied with the 45 costs

costs allowed by the arbitrators as aforesaid the costs may be taxed by the prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

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

Award to be delivered to the said Reginald Wyndham or his assigns.

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

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

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

Submission may be made a rule of court.

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

Award not void through error in form.

35 **36.** The said Reginald Wyndham or his assigns 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
40 temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Reginald Wyndham or his assigns of any of the matters and things hereby required to be performed by them or otherwise.

Compensation for temporary or permanent or recurring injuries.

45 **37.** In every case where the said Reginald Wyndham or his assigns shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of their lands, and they shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands as the case may require, a rent to be fixed
by two justices in case the parties differ, and shall also within six months

Compensation to be made for temporary occupation.

months after the completion of the railway pay to such owner or occupier, or deposit in a bank for the benefit of all parties interested, as the case may require, compensation of all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise as regards the said lands of the powers hereby granted, 5 including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

Sheriff authorised to give possession of certain lands.

38. If in any case in which, according to the provisions of this Act, the said Reginald Wyndham or his assigns are authorised to enter upon and take possession of any lands required for the purpose of the 10 undertaking, the owner or occupier of any such lands, or any other person, refuse to give up the possession thereof, or hinder the said Reginald Wyndham or his assigns from entering upon or taking possession of the same, it shall be lawful for the said Reginald Wyndham or his assigns to issue its warrant to the sheriff to deliver possession of 15 the same to the person appointed in such warrant to receive the same, and upon receipt of such warrant the sheriff shall deliver possession of any such lands accordingly, and the cost accruing by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession, and the amount 20 of such costs shall be deducted and retained by the said Reginald Wyndham or his assigns from the compensation, if any, then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such 25 compensation, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose, he shall issue his warrant accordingly.

The said Reginald Wyndham or his assigns may make by-laws.

39. For the purpose of regulating the conduct of the officers and servants of the said Reginald Wyndham or his assigns, and for 30 providing for the due management of the affairs of the said Reginald Wyndham or his assigns in all respects, it shall be lawful for the said Reginald Wyndham or his assigns, subject to the provisions in this Act contained, from time to time to make such by-laws and regulations as he or they shall think fit: Provided that such by-laws be not 35 repugnant to the laws of the State or to the provisions of this Act, and such by-laws shall be reduced into writing, and shall be signed by the said Reginald Wyndham or his assigns, and a copy of such by-laws shall be given to every officer and servant of the said Reginald Wyndham or his assigns affected thereby, and such by-laws may 40 specify a maximum and minimum penalty for any breach thereof, such penalty to be proceeded for and recovered under the provisions of the Act Number twenty-seven of one thousand nine hundred and two: Provided always that any by-laws of the said Reginald Wyndham or his assigns relating to penalties must be first approved of by the 45 Attorney-General of the State for the time being.

40. The production of a printed or written copy of the said by-laws executed by the said Reginald Wyndham or his assigns shall be sufficient evidence of such by-laws in all proceedings under the same.

Evidence of by-laws.

5 41. Nothing in this Act shall be deemed to authorise the said Reginald Wyndham or his assigns to take or enter upon any lands belonging to the said commissioners, or to alter or to interfere with the Great Northern Railway, or any of the works thereof, further or otherwise than is necessary for making the junction and inter-
10 communication between the railways without the previous consent in writing in every instance of the said commissioners.

Lands belonging to Commissioners for Railways not to be taken.

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

Commissioners may erect signals and appoint watchmen and switchmen.

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

Working of signals to be under regulations of commissioners.

44. Nothing herein contained shall alter, repeal, or otherwise affect the Government Railway Act of 1901 and the Public Works
25 Act of 1900.

Government Railway Act of 1901 and Public Works Act of 1900 not altered or repealed.

45. In this Act, the word "justices" shall mean justices of the peace in and for the State of New South Wales; and when any matter is authorised or required to be done by, or any penalty or forfeiture is recoverable before two justices, the expression "two justices" shall
30 mean two justices assembled and acting together in petty sessions, or a stipendiary or police magistrate, and the word "owner" shall mean any person or corporation who, under the provisions of this Act is authorised to sell land to the said Reginald Wyndham or his assigns.

Interpretation clause.

46. This Act may be cited as the "Leconfield Coal-mine
35 Railway Act of 1903."

Short title.

SCHEDULE.

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