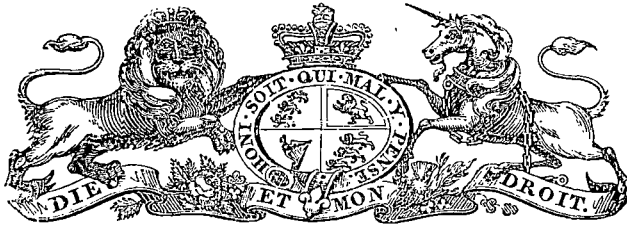


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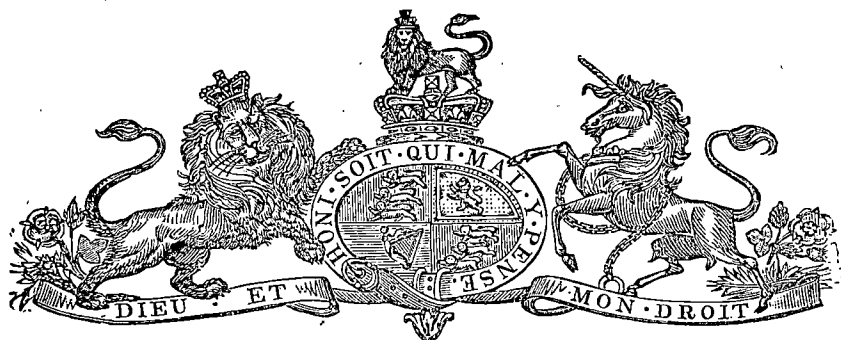
PARLIAMENT OF TASMANIA.

THE WARATAH-ZEEHAN RAILWAY BILL,
(PRIVATE):

REPORT FROM THE SELECT COMMITTEE, WITH MINUTES
OF THE PROCEEDINGS, EVIDENCE, AND APPENDICES.

Brought up by Mr. Fenton, and ordered by the House of Assembly to be printed,
August 8, 1895.

Cost of printing—£22.



SELECT COMMITTEE appointed, on Friday, the 19th July, to report on a Bill to authorise the Van Diemen's Land Company to construct and maintain a Railway from the Town of Waratah to the Town of Zeehan.

MEMBERS OF THE COMMITTEE :

MR. N. J. BROWN.
MR. W. HARTNOLL.
MR. HAMILTON.
MR. W. T. H. BROWN.

MR. URQUHART.
MR. VON STIEGLITZ.
MR. FENTON. (*Mover.*)

DAYS OF MEETING.

Tuesday, 23rd July, 1895 ; Wednesday, 24th July, 1895 ; Thursday, 25th July, 1895 ; Tuesday, 6th August, 1895 ; Wednesday, 7th August, 1895 ; Thursday, 8th August, 1895.

WITNESSES EXAMINED.

Mr. F. Belstead, Secretary for Mines ; Mr. A. Montgomery, Geological Surveyor ; Mr. R. Quiggin ; J. W. Norton-Smith, Manager Van Diemen's Land Company ; F. Back, Manager Government Railways.

R E P O R T.

YOUR Committee, having taken evidence in support of the allegations contained in the Preamble of the Bill, have the honor to report that the said Preamble has been proved to their satisfaction.

Your Committee having agreed that the Preamble should stand part of the Bill, then entered into consideration of the several Clauses, and made certain alterations, additions, and amendments, which are embodied in an amended Bill attached to this Report.

Your Committee have the honor to present the Bill, as amended, for the favourable consideration of your Honorable House.

C. B. M. FENTON, *Chairman.*

Committee Room, House of Assembly, 8th August, 1895.

MINUTES OF PROCEEDINGS.

No. 1.

TUESDAY, 23RD JULY, 1895.

The Committee met at 11.5 A.M.

Present.—Mr. W. T. H. Brown, Mr. Hamilton, Mr. Fenton, Mr. N. J. Brown.

The Chairman tabled the Petition praying for leave to introduce the Bill.

The Committee deliberated.

Ordered, That the Secretary for Mines and Mr. Quiggin be summoned to attend and give evidence before the Committee at 12 noon on Wednesday, the 24th instant.

That Mr. Montgomery, the Government Geological Surveyor, subject to the consent of the Hon. the Minister of Lands, be summoned to attend and give evidence before the Committee at 11.30 A.M. on Thursday, the 25th instant.

The Committee adjourned at 11.25 A.M. until 12 noon on Wednesday, 24th instant.

No. 2.

WEDNESDAY, 24TH JULY, 1895.

The Committee met at 12 noon.

Present.—Mr. W. T. H. Brown, Mr. N. J. Brown, Mr. Hamilton, Mr. Hartnoll, Mr. Von Stieglitz, and Mr. Fenton (Chairman.)

The Minutes of the last Meeting were read and confirmed.

Resolved, That Mr. R. Quiggin be admitted during the examination of witnesses.

The Chairman tabled a chart showing the route of the proposed line and sectional drawings of the same.

Mr. Frank Belstead, Secretary to the Mines Department, was called in and examined.

Mr. Belstead withdrew.

Mr. Robert Quiggin, Timber Merchant, Emu Bay, was called in and examined.

Mr. Quiggin withdrew.

Ordered, That Mr. F. Back, Manager of Government Railways, be summoned to attend and give evidence before the Committee at 11 A.M. on Thursday, the 25th instant.

The Committee adjourned at 1 P.M. until 11 A.M. on Thursday, the 25th instant.

No. 3.

THURSDAY, 25TH JULY, 1895.

The Committee met at 11 A.M.

Present.—Mr. W. T. H. Brown, Mr. Hartnoll, Mr. Hamilton, Mr. Von Stieglitz, Mr. N. J. Brown, Mr. Fenton, Mr. Urquhart.

The Minutes of the last Meeting were read and confirmed.

The Chairman laid upon the Table a Petition from the Mount Dundas and Zeehan Railway Company, Limited, against certain provisions of the Bill before the Committee, and praying that the Petitioners be heard by Counsel in support of the Petition. (Appendix B.)

Ordered, That the said Petitioners be heard by Counsel. (Mr. Hamilton.)

Ordered, That the Promoters of the Bill be heard by Counsel. (Mr. Von Stieglitz.)

The Chairman laid upon the Table a sketch plan of the North-Western Mineral Fields, Northern Division.

Resolved, That Mr. A. Montgomery, Geological Surveyor, be admitted during the examination of witnesses.

Mr. James Norton-Smith, Manager of the Van Diemen's Land Company, was examined.

The Committee adjourned at 1 P.M. until a date to be hereafter determined by the Chairman.

No. 4.

TUESDAY, 6TH AUGUST, 1895.

The Committee met at 12 noon.

Present.—Mr. J. Hamilton, Mr. N. J. Brown, Mr. Fenton (Chairman).

The Minutes of the last Meeting were read and confirmed.

Resolved, That Mr. Mackenzie be admitted during the examination of witnesses.

Mr. F. Back, Manager of Government Railways, was called in and examined.

Mr. Back withdrew.

The Committee adjourned at 1 P.M. until Wednesday, the 7th inst., at 12 noon.

No. 5.

WEDNESDAY, 7TH AUGUST, 1895.

The Committee met at 12 noon.

Present—Mr. Von Stieglitz, Mr. W. T. H. Brown, Mr. Hamilton, Mr. Hartnoll, Mr. N. J. Brown, Mr. Fenton (Chairman).

The Minutes of the last Meeting were read and confirmed.

The Committee then entered upon the consideration of the Bill.

The Preamble was agreed to.

Clauses 1 to 3 agreed to.

Clause 4, line 7—Amended by striking out the words “in or near the Town of Zeehan” and inserting the words “on the Emu Bay and Bischoff Railway to a point on the Mount Dundas and Zeehan Railway distant not more than one mile from the station on such Railway known as Leslie Junction,” and agreed to. (Mr. N. J. Brown).

Clause 5, lines 20 and 21—Amended by striking out the words “the junction of the said Railway with the Zeehan Railway and,” and agreed to. (Mr. Hartnoll).

Clauses 6 and 7 agreed to.

Clause 8 postponed.

The following new Clauses were read and inserted.

“14 A. It shall be lawful for the Company to connect the said Railway with the *Mount Dundas* and *Zeehan* Railway at the station on the last-mentioned Railway known as *Leslie Junction*, or at a point distant not more than One mile from such station to be mutually agreed upon, or to be decided in case of difference in the manner provided in Section Fourteen C, and to execute such works as may be necessary to connect the said Railway with such Railway, subjecting such Railway to as little damage or inconvenience as possible; and the Company shall be liable to pay compensation for any such damage, and such compensation shall be assessed in case of difference in the manner provided in Section Fourteen C.”

“14 B. It shall be lawful for all trains going along the said Railway to pass over and along and to use any part of the *Mount Dundas* and *Zeehan* Railway between the point where the two Railways shall junction and the Town of *Zeehan*, and also the works connected therewith, upon payment of reasonable tolls and compensation for so doing; and the amount of such tolls and compensation shall in case of difference be decided in the manner provided in Section Fourteen C.”

“14 C. When in any case the Company and the proprietors of the *Mount Dundas* and *Zeehan* Railway shall not be able to agree as to the mode in which the Company may exercise any of the powers conferred upon it by the last two preceding Sections, or upon the arrangements for conducting their joint traffic with safety to the public and to the advantage of each of the said parties, or in the event of any other dispute, questions, or differences arising between the said parties, then it shall be lawful for the General Manager of the Government Railways for the time being, upon the application of either of the parties, to decide the questions in dispute between them, and to order and determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either of the parties respectively.”

Clauses 9 to 43 agreed to.

Clause 44 (Minister may purchase Emu Bay and Mount Bischoff Railway) postponed.

The Committee adjourned at 1 P.M. till 11 A.M. on Thursday, the 8th instant.

No. 6.

THURSDAY, 8TH AUGUST, 1895.

The Committee met at 11 A.M.

Present—Mr. W. T. H. Brown, Mr. Von Stieglitz, Mr. Hamilton, Mr. N. J. Brown, Mr. Hartnoll, Mr. Fenton, (Chairman).

The Minutes of the last meeting were read and confirmed.

Clause 45 agreed to.

Clause 46 (Rates and Tolls), amended in lines 45 and 46 by striking out the words “and all other persons who” and inserting “and their wives” in lieu thereof (Mr. Hartnoll), and agreed to.

Clauses 47 to 49 agreed to.

Clause 50 (Protection of rights of first Lessee), amended by inserting the words “except with the consent of the Governor in Council” after the word “leave,” and agreed to. (Mr. Von Stieglitz.)

Clauses 51 to 76 agreed to.

Clause 77 (Upon completion of railway Minister may issue Grants to Company), amended by adding the following proviso, and agreed to (Mr. N. J. Brown):—

“VII. That in the event of the primary lease being resumed or forfeited in accordance with the provisions of this Act, every block of mineral land leased to the Company under this Act and not being worked by the Company at the time of the resumption or forfeiture of the primary lease shall revert to the Crown, subject to a preferential right of the Company to apply within Sixty days for a lease of the same, in accordance with the provisions of “The Mining Act, 1893.””

Clause 70 agreed to.

Clause 71 (Company to acquire right to mark off land for Grants), amended in line 26 by striking out the word “Grant” and inserting “Lease” in lieu thereof, and agreed to. (Mr. N. J. Brown.)

Clause 73—(Land to be marked off in the manner prescribed by the Regulations under “The Mining Act, 1893”)—Amended by striking out the word “rectangular” and inserting “square, or as near thereto as practicable,” and agreed to. (Mr. N. J. Brown.)

Clauses 76 to 85 agreed to.

Clause 86—(Power to assign and transfer rights, &c.)—Amended in line 11 by striking out the word “Minister” and inserting “Governor in Council” in lieu thereof; and by striking out all the words after Act, in line 20, to the end of the Clause, and agreed to. (Mr. Von Stieglitz.)

Clause 87 agreed to.

Clauses 88 to 102 agreed to.

Clause 103—(Mineral Land exempt from Tax)—Struck out. (Mr. Von Stieglitz.)

Clauses 104 to 109 agreed to.

Clause 110—(Company to deposit £5000)—Amended by striking out the word “three” and inserting “six” in lieu thereof.

Clause 25 amended by affixing the following new paragraph (Mr. N. J. Brown):—

“It shall be lawful for the Governor in Council, at any time it is shown to his satisfaction that the said railway is not maintained in a safe and efficient manner, to authorise the General Manager of Railways to stop the running of the said railway.”

Clause 44 (Minister may purchase Emu Bay and Mount Bischoff Railway) struck out, and the following new Clause inserted in lieu thereof:—

“44. If the said lessees shall, at any time before the resumption by the Minister of the land comprised in the said lease, purchase or acquire the *Emu Bay* and *Mount Bischoff* Railway, or if the said Railway and the *Emu Bay* and *Mount Bischoff* Railway should become the property of one company or owner, the Minister may, with the consent of Parliament, purchase the last-mentioned Railway, and all land, works, buildings, equipment, stores, stock, and appurtenances belonging thereto, upon giving to the said lessees Six months' notice in writing of his intention to so purchase the same, and such notice shall be given at the same time as the notice of the intention of the Minister to resume the land comprised in the said lease; and the purchase money shall be payable by the Minister upon the expiration of the said notice out of the moneys to be provided by Parliament for that purpose; and in case the Minister and the said lessees shall not agree upon the amount of such purchase money, the same shall be determined by arbitration in the manner provided in Sections Thirty-eight, Thirty-nine, and Forty.”

The draft Report was read and agreed to.

The Committee adjourned *sine die*.

EVIDENCE.

WEDNESDAY, 24TH JULY, 1895.

FRANCIS BELSTEAD, *called and examined.*

1. *By the Chairman.*—What is your name? Francis Belstead.
2. You are Secretary of Mines? Yes.
3. You are aware that there is a Bill now before Parliament to enable the Van Diemen's Land Company to construct a railway from Waratah to Zeehan? Yes.
4. I think I cannot do better than ask you to give us any information you may have in regard to that work, and the benefit it will be to the country? I think very highly indeed of the project.
5. Do you know the country between Waratah and Zeehan? No, but I am acquainted with it from Zeehan to the Pieman. Though I have no personal knowledge of the other part, I have had many descriptions of it, notably from the Report of Mr. Montgomery, who went through there at the instance of the Government and reported upon the country.
6. Have you that Report? Yes. Mr. Montgomery reported on that country on the 4th February, 1892, and his report is published in the Departmental Report for 1891-2. His report includes the country traversed by the proposed route of the Waratah-Zeehan Railway.
7. Does Mr. Montgomery in that report speak favourably of that country as a mineral country? Yes; in various parts of his report he speaks highly of that country as a mineral one, and a very promising one.
8. Would a railway through that country facilitate the development of its mineral resources? Yes, very largely: in fact, without a railway or a road, but a railway for preference, that country will lie for ever undeveloped.
9. *By Mr. Hartnoll.*—I think every dispassionate person will be seized of the fact that this railway will be of great usefulness in the development of that very large area of country; but there is one other matter I think Mr. Belstead could give us some information about, and that is Section 13 of the Bill, in regard to a grant of mineral lands. I would like to know whether, in the interests of the public, some mild safeguard could not be proposed so that this area of 3840 acres of mineral lands should not be completely blocked up? *Witness.*—Perhaps the labour covenants might be applied, of course not with the same stringency as they are applied under the Mineral Lands Act; but to some extent there should be some provision for the employment of labour on this land. I don't think I can answer a general question of that kind straight off—it is one that requires a certain amount of thought.
10. Have you looked into the matter at all? No, I have not done so critically, but I noted on the margin of the Bill kindly lent to me one or two points in that direction. I think certainly some provision should be inserted in the conditions upon which these grants are made, for the land to be worked in some way, for instance, some modified fulfilment of the labour covenants that exist on mineral leases. There is another point I notice: these sections are spoken of all through as grants. You only grant leases of the land upon which this railway is to run, but you grant these blocks in fee simple. Is that intended? *The Chairman.*—As far as I understand the Bill, it is intended to give grants. *The Witness.*—You see the Company only pay royalty in the event of minerals being found; so if they are not bound to work the land for minerals, these minerals may lie there for ever undiscovered and undeveloped.
11. *The Chairman.*—Will you forward us any suggestions you can make in the matter? Yes, I will be glad to do so.
12. *By Mr. Hamilton.*—Upon what conditions was the line to Mt. Bischoff constructed?—did the Company obtain any grants of land there? I am not at present in a position to say accurately anything about that. *Mr. Hartnoll.*—The conditions were nothing like this. This is a new departure, so far as the Colony is concerned.
13. *By Mr. Von Stieglitz.*—You would like time to consider the question? Yes, and at the request of the Chairman I will put in writing my views on the subject. I did not prepare myself for it, as I thought it would be travelling a little out of my course, and moreover, I only saw the Bill for the first time last-night.
14. *By Mr. W. T. H. Brown.*—As head of the Mines Department, you will look after the interests of the Colony as regards Section 13 of the Bill? Oh yes, certainly.

Office of Mines, Hobart, 25th July, 1895.

SIR,

As desired by the Committee yesterday, I beg leave with respect to draw attention to certain points in this Bill which appear to me to require attention:

Clause 50.—If in line 40 after the word "lease" the words "except with the consent of the Governor in Council" were inserted, it would enable the first lessee under proper conditions to work any lode which might exist in this 100 feet, a provision which appears very necessary in such country as this line passes through, and especially considering the north and south trend of the more valuable lodes of the locality.

Clause 71 provides for *grants* to the Company of certain blocks of land. As the land upon which the line runs is *leased* only, it is suggested that these blocks should be leased in like manner, and not granted.

Clause 73 should in my opinion, require the blocks to be *square*, or as near thereto as practicable. It would be very detrimental to the mining industry for them to be simply rectangular in shape as now provided by the Bill.

Clause 77.—No provision is made in the Bill for the working of the blocks granted or leased to the Company. It is suggested that the land be made available to miners in some such way as is provided in Part IV. of "The Crown Lands Act, 1890," Sections 52 to 57, with a further provision that any person so mining shall pay to the primary lessee a royalty of not exceeding 10 per cent. upon all gold or minerals obtained from the land by such person.

Clause 96.—This clause appears to conflict with *Clause 13*, and appears to provide a loophole by which the Company may, instead of making the line right through to Zeehan, stop short at the Rosebery District. Is this desirable? I think it undesirable in the mining interest.

Clause 100 suggested that from the word "and" in line 17 to the end of the clause be struck out. The clause as it stands would debar any claim-holder who may construct a tramway to connect with the railway from picking up traffic *en route*. In my opinion such a restriction would be most undesirable: rather it is of advantage to encourage any person building a tramway to so build it as to render it of use to other claims besides his own.

These suggestions are respectfully submitted.

I have the honor to be,
Sir,

Your very obedient Servant,

F. BELSTEAD, *Secretary for Mines.*

The Chairman of the Select Committee Waratah-to-Zeehan Railway Bill.

ROBERT QUIGGIN, *called and examined.*

15. *By the Chairman*.—What is your name? Robert Quiggin.

16. Where do you reside? At Wynyard.

17. And what are you? I am a timber merchant.

18. You are aware there is a Bill before Parliament for the construction of a railway from Waratah to Zeehan? Yes.

19. Have you seen the Bill? Yes, I have read it.

20. I will ask you at once whether you consider the preamble of that Bill is correct where it states that this railway would be conducive to the benefit of the Country? I am firmly of opinion that a line from Waratah to Zeehan would be of very great benefit to the Country. There is a large extent of mineral land there that requires opening up, and I can see no hope of getting it opened up in any other way than by the Van Diemen's Land Company. I can well recollect, in years gone by, when the discovery was made at Mount Bischoff. Every effort was then made to induce the Government to construct a road to open up that country, and I along with others assisted in every way I could to that end, but failed. If it had not been for the Van Diemen's Land Company stepping in and building a tram-road at that time to Waratah, in all probability Mount Bischoff, as we call it, would not be a working mine to-day. It had been at work for some two or three years before the V. D. L. Company undertook to give them relief by constructing a line. At the time that line was constructed the Mt. Bischoff Company had a debit balance of £20,000 or more; I am not quite certain on the point, but I know it was a considerable sum. The agent of the V. D. L. Company, Mr. Norton-Smith, offered land through his company's property to any company or syndicate that would undertake to construct the line, and when all failed he recommended the work to his Company, and they did it. I have been interested in mining in that locality from the commencement, and I look kindly on the Company ever since for their action at that time. It has certainly been an unprofitable speculation; they have spent £160,000 for the construction of that line.

21. *By Mr. Nicholas Brown*.—But will not this line now proposed make that one more profitable? Yes, I should think so. We have a large extent of country between Waratah and Zeehan that this line would open up, at any rate for a distance of 10 miles on each side of the line. There is at least a million acres of land that this line will open up thoroughly.

22. Would not the country you refer to be equally well served by an extension of the Strahan-Zeehan Railway? Yes, I think so, with the exception of shipping. With the Strahan line you would not get the same facilities for shipping accommodation as you would at Burnie. I know Macquarie Harbour well, and it would not be possible, with any amount of money that the Colony would be likely to provide, to sufficiently improve it to make it any good for vessels of large tonnage. If a quarter of a million were spent on Macquarie Harbour, I think it would be even more dangerous than it is at present.

23. *By the Chairman*.—An extension of the Strahan-Zeehan line would open up the country? It would open up the country certainly, but you would not get the same shipping accommodation, that is the only difference. We want very different shipping accommodation from what we have now at Macquarie Harbour.

24. *By Mr. W. T. H. Brown.*—You think if you tried to improve Macquarie Harbour that you would merely make it worse? Yes, that is my opinion. The bar is now sheltered by Cape Sorell, and if you run out training walls, you would merely shift the bar further out to sea.

25. *By Mr. Nicholas Brown.*—No amount of money would make Macquarie Harbour equal to Burnie? I am not quite confident on the point. I have gone in and out of Macquarie Harbour many times. At Burnie we have a good harbour already, where any merchant ship afloat could come alongside at low water.

26. *By Mr. W. T. H. Brown.*—Will any of the minerals you open up go to Macquarie Harbour? It would depend on cost of transit. There is no doubt this line would largely increase our mining operations, and that is what we want to help our little colony along, because if mining is extended the agriculturalist will get the benefit of a home market for all his produce.

27. *By Mr. Von Stieglitz.*—Has not a preliminary survey been made from Waratah to Zeehan? I believe there has, but I have not been along it.

28. *By Mr. Hartnell.*—Would this proposed line tap the Mount Reid country? Certainly it would, and the Rosebery country too. I was speaking to Mr. Macdonald, the prospector of the Rosebery country, and he said this line was the very relief they required, and if they got that they would be all right.

29. *By Mr. Nicholas Brown.*—Is it not a fact that an extension of the Strahan-Zeehan Railway from Dundas eastward would afford all the accommodation that is required for Mount Reid and Rosebery? Yes, but we want a line across this little neck between Waratah and Zeehan for the passenger traffic. Many people would then come to see the country who would not now take the usual voyage to Strahan. Zeehan people would be able to get to Melbourne in 24 hours, or to make a trip to Launceston in 10 hours.

30. *By Mr. Von Stieglitz.*—How would it affect the present Government line from Zeehan? I don't know that it would affect it in any serious way, except to cause increased traffic down in that direction. The traffic on the Government line is now confined to that about Zeehan, while the proposed line would take in the traffic to the north of Zeehan. The principal traffic this line looks to getting is that from the mineral country opened up to the north of Zeehan. Supposing a little less traffic was occasioned, as far as the Government line was concerned, would it not be a great indirect benefit to the colony to have a large mining population spread over the face of the country? The country would not suffer if there was a little loss on the Government railway, but I do not anticipate any loss at all, because I fully believe there will be a large amount of extra passenger traffic.

31. *By Mr. Nicholas Brown.*—What is the general character of the country? There is a small bit of agricultural land, but that is all.

32. *By Mr. W. T. H. Brown.*—Is there any timber there that could be made use of? There is plenty of myrtle.

33. *By Mr. Von Stieglitz.*—Don't you look on myrtle country as agricultural? Yes, where there is chocolate soil, but there are many thousands of acres of myrtle growing on barren gravelly soil. On the North-west Coast we have good basaltic soil covered with myrtle.

34. *By Mr. Nicholas Brown.*—This block of agricultural land you speak of would be selected for mineral purposes? Probably it would. I certainly think very little of this country will be valuable for anything but minerals. There is no land there that is really worth selecting for agricultural purposes.

35. *By Mr. Von Stieglitz.*—What effect would this line have on the Town of Strahan? I do not see that it would have any effect. Strahan is depending entirely on the trade between Mount Lyell and Zeehan. This line cannot do Strahan any harm, and ought to do it good.

36. This line would be principally used for passenger traffic? Yes, and for transporting any minerals that may be discovered in the country to the north of Zeehan. With the Chairman's permission I would have no objection to giving my opinion on the subject of granting blocks of land. My opinion in reference to the concession asked by the Company is that it is just a nominal one, and hardly worth discussing. The Company are asking for 3840 acres of land in a country that is now valueless, and they are opening up about one million acres within 10 miles of the line. If this Bill passes through Parliament, nothing can be done until the Company raises the money. It would be generally known throughout Tasmania that the line was to be constructed, and before the Company could complete it prospectors would be all through the country, and any visible mineral land would be taken up. The Company would have to come in second. I will be one to send parties through that land as soon as it is known that the railway is to be constructed.

37. *By Mr. W. T. H. Brown.*—Has not the Company the same right to send prospectors through? Yes, but they will then have to pay for the land they take the same as any other individual.

38. *By Mr. Nicholas J. Brown.*—Don't you think the Company would be obliged to you or any one else who would equip prospecting parties? Most decidedly they would; their intention in running the road through is that the country may be opened up to give them work. The chances of the Company getting valuable mineral lands are reduced to a mere cypher by the country being thrown open to the prospector before they can select it. If the Company took up any land beforehand they would have to take it under the Mineral Lands Act.

39. *By Mr. Hartnell.*—I think if the Company got some advantage they would be entitled to it? I think so too, for what they have done in the past, as well as what they propose to do now.

40. They would be entitled to prior information, and I think they could be fairly expected to serve their own interests by seeing that they got that? They are not asking for that, and I am under the impression the agent of the Company will not take action in that direction; I think he will comply wholly and solely with the Act. I don't think the Company would go in for trying to get a lot of mineral leases along the line. If we could only get two or three good mines we would be well repaid as far as the

country is concerned. This country is valueless at the present time, and might as well be at the Cape of Good Hope.

41. *By Mr. Nicholas Brown.*—Won't it be a great concession to give a grant of land in perpetuity in a mineral country like this? It would be, providing the Colony received no benefit in return. There are thousands of acres even in a mineral country that are worthless, but if they got a good mine on the land it would be of value, but of that they have to stand their chance. They cannot go outside a strip of three miles on each side of the line, and that strip is the one the prospector will confine himself to, to be as near the line as possible.

42. *By Mr. W. T. H. Brown.*—What is about the length of the line? Mr. Norton-Smith informs me that it will be about 47 miles long.

43. *By Mr. Von Stieglitz.*—Would it not be a fair thing if the land is granted on the same terms as the Bischoff Company have theirs? If this Company is compelled to work the land under the Mineral Lands Act they would be a lot better without it.

44. *By Mr. Nicholas Brown.*—Supposing they had relief from the labour covenants? Well, I don't know; it would be for the Company to consider.

45. *By Mr. Von Stieglitz.*—Don't you think it would be a fair thing between the country and the Company? I hardly think so. I think on account of this large expenditure of money the Government might very well give the Company some concessions. I can safely say from what I have seen of this country it will give Tasmania a great help in years to come.

THURSDAY, 25TH JULY, 1895.

ALEXANDER MONTGOMERY, *called and examined.*

46. *By the Chairman.*—What is your name? Alexander Montgomery.

47. What are you? Inspector of Mines and Geological Surveyor.

48. Are you aware that there is a Bill before Parliament to authorise the Van Diemen's Land Company to construct a railway from Waratah to Zeehan? Yes, I have a copy of the Bill.

49. Do you know the country at all between Waratah and Zeehan? I have been twice between Waratah and the Pieman, over approximately the route of the line, and several times over the country between the Pieman and Zeehan.

50. Is it a mineral-bearing country? About 12 or 13 miles south of the Hellyer crossing the line gets on to mineral country. The first 12 or 13 miles of the line is all a basaltic country.

51. Do you think the construction of the railway would be a means of developing the minerals in that part of Tasmania? I think so, most decidedly.

52. Have you had this Bill in your hands? Yes, I have read through the Bill.

53. Is there anything in the conditions that you think objectionable or likely to cause loss to the country in any way?—I am more particularly referring to the grants of land in Section 13? In Section 13 I think it would be a benefit to the mining industry and the country generally if there were some provision made, as there seems to be none, for insisting on the ground being worked in some way. As I take it, the Bill would grant the Company certain blocks of mineral land in perpetuity, and they could make whatever terms they pleased as to mining upon it. I think it would be an improvement in the Bill if the terms upon which any persons could work on that mineral land were stated. I might suggest that some maximum royalty, for example, might be specified, that could be charged by the Company to those working under them.

54. It is proposed here that the Company should pay 2½ per cent. on their gross output: will you tell us what you think it would be fair for others mining under the Company to pay them as a royalty, or would you rather take time to consider the matter and let us have your opinions in writing? I hardly expected to be asked by the Committee in regard to these aspects of the Bill. I rather expected to be examined by the Committee as to the country passed through. The conditions of the Bill appear to be rather a matter for Parliament to consider than for me.

55. *By Mr. Hartnoll.*—I suppose you have a general idea of the probable route of this railway—I gathered from your remarks that so far as the line from Waratah to the Pieman is concerned there was no probability of mineral developments? You misunderstood me. This line shown on the large map between Waratah and Zeehan is the line proposed to be surveyed by the Government some years ago, running down the Huskisson River. The line that was surveyed later on by the Waratah-Zeehan syndicate went south from the Hellyer crossing and passed close to Mount Block. The surveyors found Mount Block was mapped slightly out of position, and the line went over the place where the top of it is shown on the map. Then it went down on to the Mackintosh and thence to just above the crossing of the Ring River. As far south as the southern boundary of the Surrey Hills block it runs over basaltic country, where any minerals that may exist are buried, but from there to the Mackintosh it runs through very likely mineral country.

56. And then from the Mackintosh is it not likely that the Company might serve some portions of the Mount Read district? Oh! certainly. It is probable that the Mount Read and Mount Murchison districts would be better served by this line than by even a tram into Zeehan.

57. Then I take it from the southern boundary of the Surrey Hills block right on to Zeehan there is a mineral belt of country? That is all very likely country.

58. Then is it proposed to junction with the Dundas and Zeehan Railway, and take running powers over their line? I don't think so. The surveys run alongside one another for some two or three miles just outside of Zeehan. There they diverge, the Mount Dundas line running east, and the other running north-east. There is a little bit of flat country outside Zeehan that both lines must go through. I don't think they can be prevented going alongside one another for a short distance.

59. The point I wished to have explained more especially is this--Would this line, if constructed, serve all the Mount Read and Mount Murchison districts better than it could possibly be served by running in from Mount Zeehan, as proposed to do with tramways? The construction of this railway and the proposed tramway scheme would have to be considered together, especially in view of Clause 96 of this Bill. It will be hard to come to any conclusion as to this tramway scheme without considering also the Waratah and Zeehan Railway.

60. If this railway were constructed from the 5-mile peg to where it junctions with the Zeehan and Dundas Railway, would it serve the tramway project that is now before Parliament to that extent? I should say so, but the whole thing requires surveying before anyone can say what could be done. Dealing with it in a general way as to which is the best route, it seems to me that crossing the Mackintosh opposite the Rosebery, running up to Mount Read and round the head of the Ring River, and then coming down to the low country, following to some extent the tramway, might be as good as any. If the railway is made from the Rosebery to Zeehan along the existing survey, and the whole line constructed, it is a question whether it would be worth while to construct the tramways at all. It would be better to put in short branch lines down the valleys of the Ring and Argent Rivers rather than make a separate tramway line into Zeehan. If the company's line stops at the Mackintosh, some tramways will no doubt be required, but if it is made right through to Zeehan, I do not see that any tramways will be required at all, other than short branches. Another place that this line would serve is the whole district of the upper Mackintosh. From the point where the line begins to come down from the high country it follows down a creek to the Mackintosh. Another creek leads from the line down to a little above the junction of the Sophia, and that appears to be the best route into the valley of the Mackintosh, which is all a mineral country. There is gold at the May Day, silver-lead in the Vale of Belvoir, and gold, copper, and other minerals in the vicinity of Cradle Mountain; there is a little tin about Granite Tor, and so on. All the basin of this river would be served by this line eventually. There have been a few mineral finds made there, but the country is too inaccessible to warrant their being worked at present.

61. *By Mr. W. T. H. Brown.*—The watershed would be to Zeehan? The watershed of the Mackintosh is separated from Zeehan by a high ridge.

62. But all the heavy traffic would go towards Zeehan? I think it is a question. From the Rosebery District, and the north end of Mount Read and Mount Murchison, to carry things to Zeehan I think is some 16 miles or thereabouts; and there is a difference of about 25 miles in favour of carrying minerals to Strahan. Against that you can put the nearness of Burnie to Melbourne, and its better harbour. The part of the country between Rosebery and Zeehan is the roughest part of the whole line; and it would probably be cheaper to construct a line from Rosebery to the Hellyer than from Rosebery to Zeehan.

63. *By Mr. N. J. Brown.*—Then, as regards railway communication with that part of the country we are speaking of, which we may call the Rosebery country, for the sake of brevity, a portion of the line from Zeehan to Dundas would not be of any service: that is to say, if a line were carried from the Rosebery country to connect with the Zeehan and Dundas line, it would have to connect at Zeehan? I am not sure of that, supposing the line were to go round the head of the Ring River instead of crossing it lower down.

64. *By Mr. Hartnoll.*—The construction of this line will not necessarily interfere with any large portion of the Zeehan and Dundas Railway? No.

65. And if the survey as far as the Argent River is adhered to, it will not interfere with the Zeehan and Dundas line to any appreciable extent? Yes, that is my opinion.

66. *By Mr. Hamilton.*—Would this new line in any way interfere with the Zeehan and Dundas line, or take their trade in any way? No, I don't think it would, except perhaps for a short distance in the flat land outside Zeehan, some two miles. They might be competitors for any minerals to be carried into Zeehan from the first two miles. The Nickel Prospecting Association is close to the Junction, and recently very good galena has been found near there also. This flat country has been very difficult to prospect on account of its swampy nature, but it appears to be as much a mineral country as the hilly parts.

67. *By Mr. Nicholas Brown.*—But this traffic would not be for the two miles only: would it not be for the whole length of the line to Strahan? I don't think so. It would be optional for mineral lessees to send their stuff either north or south.

68. Would it affect only two miles of the line from Strahan to Dundas, or would it affect the whole line—in other words, if the traffic was once put on the line at whatever point the two lines might junction, would it not be for the whole length of the line that got the traffic? No, I don't think it would. The opening up of this district by railway, whichever way the line went, would lead to settlement, and the traffic on the Strahan and Zeehan line would be very much increased. It is not to be supposed everything would go north, and those who found it cheaper to send south would do so. As to the country unavailable at present, the Strahan-Zeehan line does not get any benefit from it. If the proposed tramways were made there would be some benefit. As to the question whether it will be better to send north to Burnie or south to Strahan I do not give any opinion, as it is so much a question of freights and grades.

69. Would it not affect the traffic of the whole line from Dundas to Strahan? The difference in distance would suffice to send everything to Strahan, so far as Dundas is concerned, unless if the proposed

line came round the head of the Ring River, when it might junction with the Zeehan and Dundas line higher up.

70. *By the Chairman.*—If there is any further information you can give us on the subject we will be very pleased to have it? Most of the information I could give has already been given by me in my reports on the West Coast and the Route of the Waratah and Zeehan Railway, but if the Committee desires it, I can say something about the different finds along the line, which will give some little idea of the mineral country there. In the Huskisson River valley several finds of silver-lead have been made, but nothing has been done with them on account of their inaccessibility. The country down the Huskisson, after one gets off the basaltic plateau, and until one reaches the Pieman, is all the same country as Zeehan and Dundas. There are the same strata and the same intrusions of serpentine, which appears to be the mineralising feature of the field. It comes in on the Huskisson and also near the head of the Que River, and going from the latter down to the Mackintosh the country is all a likely one for minerals. In going through there I noticed in one or two places vein material, baryta and so on; that was on the track from the Que River to the head of the Sophia River. Close to the junction of the Sophia River there is a copper discovery somewhat similar to those on the Rosebery and Mount Read line, and a little higher up there is a discovery of silver-lead. At the Sophia River junction I noticed a quartz reef of a very likely looking character also. Then there is a large intrusion of volcanic rock, which stands in close connection with the Rosebery and Mount Read finds. It forms the eastern boundary of the Rosebery country, and runs up north nearly as far as the Que River. North of the Pieman and the Rosebery line there is a find I have not yet seen, but I understand the pyrites assayed very well for gold. A little further north again, on Meredith's track from the Huskisson to Waratah, there was a few years ago what is called "Strong's Rush," where a good deal of gold was found in a small area. So you will see there are very good indications of minerals all along the line between the Huskisson and Mackintosh rivers. There are extremely promising indications all along the line from Mt. Read northwards. Coming down the Ring River there are some very promising mines, and there is the old Ring River alluvial field, which has been worked out so far as the shallow ground is concerned, but not as regards the deeper ground. In my opinion the old Ring River ran north into the Pieman, as the alluvial steadily dips in this direction. There was a lot of good gold in it when it was left, but the miners were never able to get down into it on account of the impossibility of getting machinery, and the whole of the lower part of the deep lead remains untouched, and presumably it is the best part of it. Down the Ring River, again, we came into the Commonwealth and Gormanston Tin Country, where also a certain amount of gold is found with the tin. The country is only beginning to be prospected, but the indications are remarkably favourable. Going further on towards Zeehan, in fact all over the North Dundas field, there are an immense number of large gossan outcrops. Some of them no doubt will be barren underneath, but mining experience elsewhere warrants us in saying that under some of these outcrops there are large mineral finds to be made. The high esteem that field was held in a few years ago is to my mind quite justified. I have a great belief that the putting through of this line would open up a very important line of mineral country. When we remember the way the Zeehan field opened up after the line was put through, and the immense number of little lodes that were found, we are quite justified in believing that a great many more finds will be made in the Dundas district when the proposed line is constructed. It is the same line of country from Zeehan up to the Whyte River. There is a break in it, but the two fields are geologically identical, as also is the country in the vicinity of Waratah, outside the granite intrusion which produces the tin. In respect to Clause 96, I may say, on consideration, it struck me as being hardly clear enough when read in connection with Clause 5.

JAMES WILLIAM NORTON-SMITH, *called and examined.*

71. *By the Chairman.*—What is your name? James William Norton-Smith.

72. What are you? I am Manager of the Van Diemen's Land Company.

73. I will leave you to give any evidence you may think desirable? Well, the reason for our introducing this Bill was in a very great measure to benefit the Coast. The railway would do good to the Coast, on which we have ground. It would be the means of enabling the farmers to get their produce to market, and at the same time would do a great deal of good in opening up a big mineral district which at present is quite inaccessible. Mr. Montgomery has told you all about the mineral capabilities of the district, and he knows more on that subject than I do. It is from Mr. Montgomery's Report that I have learned the value of this district, and I think for many reasons it would be a great good to the country to get it opened up. At the present time the bulk of the beef that goes to Zeehan goes by the Coast, and by the time it gets there you may imagine it is pretty tough. It would be supplied in much better condition by this line, as there is a great loss of condition in getting it to Zeehan. The big district that this line would open up is at present quite unapproachable. With regard to Clause 96 of the Bill, I think that is principally what you will want to know about from me. The section is inserted for two reasons. Messrs. Millar and Reid went to England some three or four years ago and endeavoured to get a railway put through, but they failed to do so, and it might still be found impossible to raise money without some such proposal as this. The V. D. L. Company are strong enough to make a railway into that district without outside assistance, but they would not do the same amount of good as if they carried the line right through to Zeehan. We would be able to make the line as far as the Rosebery country; but then again this country has been talked of by the Government in connection with tramways, and it would be folly for us to run our railway alongside them.

74. *By Mr. N. J. Brown.*—What portion of the line would that form? About 47 miles is the total length of the line. The original survey into Zeehan from a point on the Emu Bay Railway was between 47 and 48 miles.

75. And what portion of that would be to the Rosebery? The line did not go through the Rosebery country then. The developments there have been made since this line was surveyed. In view of these further discoveries that have been made, the first thing I shall do after the Bill is passed will be to get out surveyors and see if we cannot cross the Mackintosh as suggested by Mr. Montgomery, so that we can supply the want of the Rosebery district, and the Hercules and Mount Reid. It will cause a detour of, it is impossible to say how much, but probably from three to five miles. There is one thing I wish to say now, and I desire to say it in Mr. Montgomery's presence, and that is that I believe it is impossible to get round into the end of the Zeehan and Dundas Railway. I think the country is altogether too broken to get the railway round to that high level. Of course Mr. Montgomery knows the district better than I do, and has received an engineering training, so I speak with some diffidence on the point; but looking at the country, it has always struck me that it would be impossible to get through there. I understood Mr. Montgomery to say that he thought it was possible to get round at that elevation. With regard to the survey, of course I know a little about that. Messrs. Miller and Reid's engineer was told to get the best line he could, and he runs along the Zeehan and Dundas line for two miles, and then branches off.

76. *By Mr. N. J. Brown.*—Would the difficulties of getting into Zeehan be very much increased by making the deviation you speak of from the present surveyed line in order to get into the Rosebery country? It will be a much more costly work to get round there, because the southern bank of the Mackintosh is very much rougher than the northern bank.

77. Then you may or may not abandon the intention you have of going into Zeehan at all? I don't know. It is a matter of our ability to raise the cash in England. The Van Diemen's Land Company could not go right through by itself without outside aid, but they could get into the Rosebery country on their own account without difficulty. If these tramways are made there will be no necessity for us to go on any further.

78. *By the Chairman.*—I take it that it is your wish to take the line through to Zeehan? Yes, it is the present intention of the Company, but I foresee a risk on account of the failure of Messrs. Millar and Reid to raise the money, and they had greater financial influence than most men in the colonies.

79. *By Mr. Hartnoll.*—Supposing Parliament authorises the construction of these tramways, and it has them completed about the time you are starting your works, you would abandon the idea of going beyond the Rosebery? That is my idea, and that is what I should advise the directors to do; that is to say, if the tramways are made into that district I should advise the directors not to continue our line any further than the Rosebery.

80. *By Mr. N. J. Brown.*—I think it was stated that the surveyed route would tap the line about eight miles north of Waratah? Rather more than that, but I don't consider the Van Diemen's Land Company are bound by the charts and maps produced at all. I should certainly examine well into the surveys before abandoning them, because I know that good men were sent over to make them. I think it is at 37 miles 37 chains 50 links from Burnie where the branch comes off.

81. *By Mr. Hartnoll.*—I suppose there is some good reason why the remaining eight miles is not surveyed? The reason is this; the Government some years ago authorised a survey from Bischoff to Zeehan, and sent out a party of surveyors. They had to come out on the Surrey Hills Block, just on the border, and went down the Huskisson, running along the western boundary of the Surrey Hills Block for a couple of miles, and thence practically following down the valley of the Huskisson. They got into heavy grades and rough country, and found the route almost impracticable. A large sum of money was spent there, and as far as both ends of the line are concerned, I don't think the surveys made for Millar and Reid can be improved upon. There was a small gap in Millar and Reid's survey where the route was not determined upon.

82. *By Mr. N. J. Brown.*—Are there any special clauses in the Bill you would like to call attention to? I don't think so. This Bill is practically the old Waratah-Zeehan Railway Bill with these land clauses added. I got these clauses inserted because I anticipated a difficulty in raising the money in England after the previous failure. With these grants I think there would always be a possibility of our getting hold of a piece of good ground, and it would assist in enabling us to float the Company in England. You will see there is a provision here that we should pay 2½ per cent. royalty. I made a calculation yesterday when Mr. Quiggin was giving his evidence, and found that if the Mt. Bischoff Company held their land on the same terms they would pay £3125 a year. There is very little in the concession we ask for. We know that people, especially English people, look upon leases with suspicion. I have heard it said that labour clauses should be inserted in connection with these grants. If they are so inserted, it would be better for the Company not to have the grants at all, but to send prospectors out and take the ground under the Mineral Lands Act when anything was found. Every prospector will have an opportunity of going along the line as it proceeds and pegging out ground, and the Company will only come in as second prospector. We are limited to three miles on each side of the line, and we cannot take any two blocks within two miles of each other. If this country was mine I would readily give 3840 acres to have it opened up without any royalty at all. It would be a magnificent bargain.

TUESDAY, 6TH AUGUST, 1895.

FREDERICK BACK, *called and examined.*83. *By the Chairman.*—What is your name? Frederick Back.

84. What are you? General Manager of Railways.

85. Are you aware that there is a Bill before Parliament to authorise the Van Diemen's Land Company to construct a railway from Waratah to Zeehan? Yes.

86. The preamble of that Bill sets forth "that it would be conducive to the benefit of the Colony that communication by railway should be established and maintained between Zeehan and Waratah." Do you consider that preamble is correct? I cannot say.

87. Is there any objection to it, or do you think it would be to the benefit of the Colony that this railway should be constructed? I cannot say, although I may have my private opinion about it.

88. Have you read the Bill? Yes.

89. Would the running of this railway have any effect on the traffic on the Government railway from Strahan to Zeehan? It is difficult to tell without more data than I have at present. Certainly, if they cut their rates lower than our rates it will injure us. Of course, without any knowledge of what the rates will be, it is impossible for me to say definitely. If we are forced to reduce our freight one penny per ton per mile on our present business it means a loss of £3000 a year, and every penny per ton per mile we reduce means the loss of another £3000 a year.

90. But the distance from Strahan to Zeehan is so much less than the distance from Zeehan to Emu Bay: do you think the Company could possibly cut down the rates to compete with you? I am talking very much in the dark, because I don't know what the line will cost to work or what the traffic will be; but if they have a fair volume of traffic, and the cost of working is not out of the way, they ought to be able to cut into us. It depends entirely on the amount of traffic and the rates they charge. I may say that our freight rates at present are 5·40 pence per mile, and the reduction of a penny would mean a loss of £3054 a year. We carried on our line last year 28,720 tons, and worked the line at 41·98 per cent. of earnings, and earned over and above working expenses £13,638. During 1894 we carried 21,024 tons of minerals, and in round numbers about 13,000 passengers. The balance was made up of various goods. Our line is only a short one, some 29 miles, and the Waratah line, as far as I can gather, will be about 80 miles to Burnie; consequently this Company could afford to carry at a lower rate per mile than we could. Really there is no data before me upon which I can give any definite information. All I can express is in the form of a suggestion—if certain things happen, certain results may be expected. That is to say, if this Company is able to carry a sufficient volume of traffic to enable them to cut their rates down, they will be able to compete severely against the Government Railway.

91. If a mineral country is opened up and worked in consequence of the construction of this railway, would not that add to the receipts on the Strahan and Zeehan line? Of course it would, if additional work is brought to us.

92. Would it not be reasonable to suppose that some of that extra traffic would find its way to your line? Of course; but it all becomes a matter of rates, not only of railway rates, but of sea freights also, and all these things are unknown quantities.

93. During the construction of this railway would your revenue be likely to benefit in any way? It depends entirely on which way they work their traffic.

94. Would they not be likely to work it from both ends? It is quite possible, but we can only surmise that they would do so.

95. In that case your revenue would benefit? Yes, for the time being.

96. *By Mr. N. J. Brown.*—From your knowledge of the country and the present condition of financial affairs generally, do you think it would be to the advantage of the Colony to allow a private company to construct the line, always bearing in mind the fact that a clause is inserted in this Bill giving the Government power to purchase? Looking at it from the Colony's point of view, I have no doubt that it is desirable that the whole of the mineral lands of the country should be opened up. You cannot open it by roads, so you must have railways and tramways, and sooner than see the country locked up by want of roads I would allow the Company to make this railway.

97. Always with the right on the part of the Government to purchase it when desired? Yes, that and other conditions would be necessary, certainly.

98. What other conditions besides would you suggest? There are matters of detail that it is necessary to incorporate in this Bill in regard to the arrangements for the interchange of traffic, running powers, and so on; the Minister of my Department has sent me the Bill to report upon, but I have not had any time to do so up to the present.

99. When could you give the Committee your notes on the Bill? I can do it to-morrow. I will try and get them through to-morrow. I feel that I am now in a very unsatisfactory way, because there is not sufficient data before me to enable me to give any decided opinion about this railway. As a colonist I feel very strongly that the construction of a railway through that district would be of the greatest benefit to the country; but when you ask me how far the construction of that railway will affect the Government railway, I am in a difficulty for the reason that there is not sufficient data to go upon. I am clearly of opinion that if the line could be cheaply constructed and cheaply worked, and if there is a large volume of traffic, they will become serious competitors.

100. *By the Chairman.*—Could not the Government railway, with a length of 29 miles, compete with a railway 80 miles long, no matter how cheaply goods were carried on the latter? Under ordinary

conditions I should say "yes" at once; but it must be borne in mind that the bad harbour at Strahan is a big factor in the business, as it necessitates everything being carried in small vessels of light draught, and transhipment. Apart from that we are able to charge a high rate on our line, and to pay good interest. We can reduce our rate, and probably keep the traffic, but we can only do so at a considerable loss of revenue. The loss would be on the present traffic £3000 a year for every penny per ton per mile we reduced it.

101. *By Mr. N. J. Brown.*—Do you not think that the construction of this line will be the means of opening up and developing this country, and will not that be a compensating advantage? As a colonist I think the work will be of national benefit, but as Manager of the Government Railways I am bound to say that I think this line will be a competitor. There is no doubt the country has been kept back by the want of roads or other means of communication. As you cannot make roads there, there must be some railway plan followed out.

102. How would this railway affect the traffic on the proposed tramway to Dundas, which has been recommended to Parliament by Ministers? I cannot say until I see the surveys, it is so very uncertain as to the exact route. It may become a question whether or not the tram would not serve part of the district for some years to come just as well as the railway.

103. You refer to what we call the Rosebery district? Yes.

104. Do you think the tramway would provide that district with all it required in the way of communication? I think so. The tram it is proposed to construct will be capable of carrying 100,000 tons a year, four times as much as we carry on our railway now, or, to be well within the mark, I will say three times as much.

105. As regards the carriage of ore, that district would be equally well served by this tramway as it would by the construction of this line of railway? I cannot say definitely unless I know something of the route. It is quite possible to make the tramway useful in opening up one part of the country while the railway opens up another.

106. Because of the broken nature of the country? Yes.

107. In other words, they may be both necessary for the development of the resources of that country? Yes, they may both be advantageous.

108. *By Mr. Hamilton.*—Do you think it quite possible that the tramway will answer all purposes of haulage in Rosebery, Hercules, and Mount Read District? I should think so.

109. In that case there will be no need for this railway? I would not like to go as far as that, because without the surveys or data it is impossible for me to form any definite opinion.

110. I think I understood you to say that the deep-water facilities and the avoidance of transhipment might possibly divert the trade to Emu Bay instead of to Strahan? I would not go quite as far as that. If we want our railway to survive we will have to reduce the rates. At present the Government have a monopoly, and are able to charge a rate which gives them a good return.

111. Is that rate a fair and reasonable one? Yes, I think it is. The country has been developed well under that rate. If you look at the incidence of the rate you will find it fair. The line was a speculative line more or less, and the rates we charge are very little more than a third of the minimum rate proposed by those interested in mining to be the rate, when the Government was asked to construct the Railway.

112. Do you think that the success of the Strahan-Zeehan line would be in danger by the construction of this Waratah-Zeehan line? I have no data upon which to say anything more than I have already said.

The Committee then adjourned.

*Tasmanian Government Railway,
General Manager's Office, Hobart, 7th August, 1895.*

SIR,

I HAVE the honor to acknowledge receipt of your instructions to report upon the Bill to authorise the Van Diemen's Land Company to construct a railway from Waratah to Zeehan.

It is difficult without sufficient data to say what the effect would be on the Government Railway of a competing line between Waratah and Zeehan, or, as it will be, between Emu Bay and Zeehan. If the line be completed between Emu Bay and Zeehan I consider it probable that it will compete with the Government railway for traffic, as the facilities for shipping at Emu Bay will have to be taken into consideration. If the gradients of the line are not too severe the line should be worked cheaply, and if a large body of traffic is dealt with I am of opinion that we should have to reduce our rates between Zeehan and Strahan to prevent losing traffic. Based on our present traffic a reduction of 1*d.* per ton per mile on the Strahan-Zeehan Line would mean a loss of £3000 per annum. It is possible that we might have to reduce 3*d.* per ton per mile, which on the present traffic would mean a loss of £9000 per annum, and the loss would increase as the fields developed.

It becomes a question, I think, as to whether the interests of the Government railway might not be conserved by permitting the line to be constructed through to Rosebery or thereabouts, connection being made from Zeehan by the light trams, a proposal for which is now before Parliament. If this were done the whole of the country would be opened up, the revenue of the Government railway conserved, and competition at possibly cut-throat rates be prevented.

With regard to the Bill, I would suggest that in the preamble, line 7, after the word "Zeehan" the words "from Waratah to some point between Waratah and Zeehan" be inserted.

Part 1, title and interpretation, last Section but one, 7th line from bottom of page—See note to Section 8, part 3.

Part 2, Section 4, line 7—Insert same words as proposed in preamble.

Section 5, lines 20 to 29—Provision should be made for the Company to pay for the use of any portion of the Government lines, stations, staff, signals, &c. ; the amount to be fixed by agreement, or pending this, by arbitration under the Land Clauses Act.

Part 3, Leases for branch lines, Section 8—Distance or length of branch lines, I think, should be defined, otherwise the Company would have power to make a line to Hobart or Launceston, or to any other place in the Colony.

Section 17. I recommend that a fixed charge be made for the inspection by Government, and that the charge be inserted in the Bill. I think a charge at the rate of £300 per annum during the period of construction would be a fair thing.

Part 6, Section 25, after line 25.—The Minister should have the power to stop the Railway running if he is of opinion it is not maintained in a safe and efficient manner.

Section 31.—Minister should have power to take running powers as well as to grant them ; such running powers to be paid for by either party by mutual agreement, failing which by arbitration.

Part 8, Section 37.—I recommend that the Minister appoint an officer to certify to all construction charges, and that for the purposes of this Section of the Act only vouchers so certified by the Government officer should be allowed as a charge to construction.

In the same section I observe the amount of compensation upon resumption by the Crown is set forth as the actual cost of construction, plus 20 per cent. A fairer thing seems to me to be the actual cost of construction plus a sum based upon the aggregate profits of the three years preceding the date of the resumption by the Crown.

Section 41.—Certification of accounts by the officer appointed as proposed in amendment to Section 37,

Part 15, Section 85.—I suggest that the lessees should be approved by the Minister.

Part 18, Section 99.—After the word " railway " in line 3 of the Section I recommend the insertion of the words " or tramways."

Another section should be embodied authorising the exchange or hire by either party of locomotives rolling stock, or other plant ; payment to be made by agreement, or failing this by arbitration under the Land Clauses Act.

I have the honor to be,

Sir,

Your obedient Servant,

FRED. BACK, *General Manager.*

The Honorable the Minister for Railways, Hobart.

APPENDIX A.

To the Honorable the Speaker and Members of the House of Assembly of Tasmania, in Parliament assembled.

The humble Petition of the Van Diemen's Land Company,

SHEWETH :

1. That within three months previously to the presentation of this Petition notice of the intention of your Petitioners to apply for a Private Bill was published, as by the Standing Rules and Orders of your Honorable House, and is prescribed as follows; that is to say :—

In the *Hobart Gazette* on the fourth, eleventh, eighteenth, and twenty-fifth days of the month of June, one thousand eight hundred and ninety-five; in the *Mercury*, a public newspaper published in Hobart, on the fourth, eleventh, eighteenth, and twenty-fifth days of the month of June, one thousand eight hundred and ninety-five; in the *Zeehan and Dundas Herald*, a newspaper published in the District affected by the Bill, on the fourth, eleventh, eighteenth, and twenty-fifth days of the month of June, one thousand eight hundred and ninety-five: which said notice contained a true statement of the general objects of the Bill as hereinafter set forth.

2. That the general objects of the said Bill are as follows :—

To enable the said Van Diemen's Land Company to construct upon land held under a lease from the Crown a railway from a point in or near the Town of Waratah to a point in or near the Town of Zeehan, and also such extensions and branches and deviations of and to such railway as may be authorised by the Parliament of Tasmania :

To construct, maintain, work, and repair the said railway and all such extensions, branches, and deviations, together with all proper and convenient rails, crossings, bridges, roads, ways, culverts, tunnels, embankments, junctions, sidings, stations, buildings, telegraphs, and other works and conveniences connected therewith or convenient for the purposes thereof :

To provide for the construction of the said railway and works in a substantial manner, with a gauge of three feet six inches, and with a grade not greater than one in forty, and with curves not less than five chains radius :

To purchase, take, lease, or otherwise acquire any land, timber, stone, or other material for the purposes of the said railway and the works and appurtenances thereof, and to provide for the incorporation of "The Lands Clauses Act," (21 Victoria, No. 11), or so much thereof as may be necessary with the said Bill, and otherwise for the purchase, taking, or acquisition of any such land, timber, stone, or other material :

To construct and work the said railway and the said extensions, branches, and deviations over public roads and streets :

To demand and take tolls and charges for the carriage of passengers and goods upon such railway, and the said extensions, branches, and deviations :

To provide for the due working and management of the said railway and the said extensions, branches, and deviations, and works, and to make By-laws and Rules in relation thereto, and to the traffic and business thereof, and to provide for the infliction of penalties upon persons infringing the provisions of the said Bill, By-laws, or Rules :

To borrow money for the purpose of the said undertaking, either without security or upon security of the assets of the said undertaking or any portion thereof, or otherwise howsoever :

To give and obtain running powers over other railways and tramways :

To provide for the sale of the said railway, and the said extensions, branches, and deviations, and the lands and works connected therewith, to any person, company, or corporation :

To provide for the sale of the said railway, and the said extensions, branches, and deviations, and the lands and works connected therewith, to the Government of Tasmania, at such time and upon such terms as may be determined by the said Bill :

To provide for the issue to the said Company of grants of so many blocks of mineral land, and of such area, as Parliament shall approve, subject to the payment of royalties upon the value of all ores, minerals, and metals obtained therefrom.

The said Bill will also contain all clauses usual in Bills of a like nature, or deemed proper for enabling the said Company to construct and maintain and work the said railway, and all other matters and things which the said Company may deem necessary or proper in reference to the said railway, extensions, deviations, and branches.

Your Petitioners therefore humbly pray for leave to introduce the said Bill.

And your Petitioners will ever pray.

Dated this twenty-eighth day of June, one thousand eight hundred and ninety-five.

THE VAN DIEMEN'S LAND COMPANY,
by their Attorney, J. W. NORTON-SMITH.

APPENDIX B.

The Honorable the Speaker and Members of the House of Assembly.

The humble Petition of the Mount Dundas and Zeehan Railway Company, Limited,
RESPECTFULLY SHOWETH :

1. That your Petitioners have, under the powers granted to them by Parliament, expended a sum of over £70,000 in constructing, equipping, and maintaining a railway from Zeehan to Dundas.

2. Such undertaking has proved a great benefit to Dundas and the surrounding districts, but has resulted in a serious loss to the petitioning Company.

3. A private Bill is now before Parliament, under which it is proposed that the Van Diemen's Land Company should be authorised to construct a railway from Waratah to the Town of Zeehan.

4. Your Petitioners are informed that it is proposed to construct such line for some miles along the railway already constructed by your Petitioners, and this will undoubtedly interfere with the traffic on your Petitioners' line, unless the powers granted to the Van Diemen's Land Company should be limited to junctioning with your Petitioners' railway and to obtaining running powers over the same.

Your Petitioners therefore pray that they may be heard by Counsel in the protection of their interests.

And your Petitioners will ever pray.

H. SIMPSON, *Agent in Tasmania for the Mount Dundas
and Zeehan Railway Company, Limited.*

[59 VICT.] *V.D.L. Co.'s Waratah-Zeehan Railway.*

As amended in Select Committee.

A

B I L L

TO

Authorise “The *Van Diemen's Land Company*” to construct and maintain a Railway from the Town of *Waratah* to the Town of *Zeehan*. A.D. 1895.

WHEREAS “The *Van Diemen's Land Company*” is desirous of acquiring the right to construct, maintain, and work a Railway from the Town of *Waratah* to the Town of *Zeehan* : PREAMBLE.

And whereas it would be conducive to the benefit of the Colony of *Tasmania* that communication by Railway should be established and maintained between the said Town of *Waratah* and the said Town of *Zeehan* by the said Company, upon the terms and conditions hereinafter mentioned :

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act is divided into Eighteen Parts, as follows :—

Division of Act.

Part I.—Title and Interpretation.

Part II.—The Primary Lease.

Part III.—Leases for Branch Lines.

Part IV.—Acquisition of Land.

Part V.—Construction of Railway.

[*Private.*]

15

* * The words proposed to be struck out are enclosed in brackets [] ; those to be inserted, in parentheses ().

V.D.L. Co.'s Waratah-Zeehan Railway. [59 Vict.]

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Part VI.—Maintenance of Railway.	
Part VII.—Power to enter adjoining Lands.	
Part VIII.—Resumption of Primary Lease, and Purchase of Railway.	
Part IX.—Levy and Recovery of Tolls, Fares, &c.	5
Part X.—Prior Leases.	
Part XI.—Accommodation Works.	
Part XII.—Compensation.	
Part XIII.—Grant of Mineral Lands.	
Part XIV.—Forfeiture of Primary Lease.	10
Part XV.—Power to assign or mortgage.	
Part XVI.—Telegraphs and Telephones.	
Part XVII.—By-laws.	
Part XVIII.—Miscellaneous.	

PART I.

TITLE AND INTERPRETATION.

Short title.

2 This Act may be cited for all purposes as “The *Van Diemen's Land Company's Waratah and Zeehan Railway Act.*” 15

Interpretation.

3 In the construction and for the purposes of this Act the following terms, if not inconsistent with the context or subject-matter, shall have the respective meanings hereby assigned to them :—

“Crown Lands” or “Crown Land,” as used in connection with 20 or in reference to the primary lease hereinafter mentioned, shall mean any lands in the Colony which are or may become vested in the Crown, and which are not and have not been dedicated to any public use, and includes all lands of the Crown which are or may be occupied for 25 pastoral or mining or other purposes under any lease or licence issued or applied for in pursuance of any Act of Parliament of this Colony :

“Person” includes “Company”:

“The Company” means “The *Van Diemen's Land Company*” 30 mentioned in the Preamble to this Act :

“Company” includes every company, association, partnership, or firm, whether corporate or unincorporate, and wheresoever and howsoever incorporated, associated, or formed, which carries on business in this Colony : 35

“The primary lease” means the lease made under Section Four of this Act, or any renewal thereof :

“Land previously leased” means land comprised in any lease or licence issued in pursuance of any Act of Parliament of this Colony : 40

“The first lessee” means any “person” entitled to occupy any “land previously leased :”

“The Commissioner” shall mean any one of the Commissioners of Mines for *Tasmania* :

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“Minister” shall mean the Minister of Lands and Works for A.D. 1895.
the time being :

5 “The said railway” or “the railway” shall mean the railway mentioned in the Section next hereinafter contained, and any branch line or lines of railway which may at any time be constructed under the authority of this Act or of any lease which may be issued thereunder :

“Road or street” or “public road or street” shall include any railway or tramway.

PART II.

THE PRIMARY LEASE.

10 4 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to “The *Van Diemen’s Land Company*,” for a term of Thirty years, at a nominal rental, and in accordance with the provisions of this Act, a primary lease of any Crown Land not exceeding one chain in width, for the construction and maintenance and
15 working of a railway from a point in or near the Town of *Waratah* to a point [in or near the Town of *Zeehan*,] (on the *Emu Bay and Bischoff* Railway to a point on the Mount *Dundas* and *Zeehan* Railway distant not more than One mile from the station on such Railway known as *Leslie Junction*,) and also such area of Crown Land
20 for all stations, sidings, crossings, side-cuttings, cuttings, embankments, spoil-banks, and ballast, and other conveniences in connection with the said railway as may be proper, subject to such covenants, terms, and conditions as to the Governor in Council may seem fit.

Lease may be granted for purpose of constructing railway.



5 The primary lease, in addition to providing for the construction and maintenance of the said railway in accordance with the stipulations and conditions hereinafter contained, and in accordance with such other conditions and stipulations not inconsistent with this Act as the Governor in Council may deem necessary for securing the efficient construction, maintenance, and working of the said railway, shall
25 provide—

Conditions and stipulations of lease.

- i. For [the junction of the said railway with “The *Zeehan Railway*,” and] the passage over or along the said railway of any engines, carriages, waggons, or other vehicles of
35 “The *Zeehan Railway*,” or for the haulage of such engines, carriages, waggons, and vehicles respectively, and for the conveyance of goods and passengers over the said railway in any such carriages, waggons, or other vehicles as aforesaid, in accordance with the terms and conditions of any agreement that may from time to time be made
40 between the Minister and the Company in that behalf :
- ii. That the Company shall properly fence the said railway in all places in which they shall be required by adjoining proprietors, or by the Minister, to do so :
- 45 iii. That the Company shall carry on the said railway all mails which the Postmaster-General shall require them to carry thereon, for such reasonable compensation as may from time to time be agreed upon by them and the Postmaster-General :



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- iv. For a renewal from time to time of the said lease for a further term not exceeding Twenty-one years, upon and subject to all the conditions herein prescribed, and all the provisions of this Act:
- v. That in the event of any of the contingencies hereinafter 5 mentioned the said lease shall be forfeited, viz.:—
 - (a) If any of the covenants or conditions contained in the said lease and to be performed or observed by the Company are not all duly performed and observed :
 - (b) If the construction of the railway is not commenced in a 10 *bond fide* manner within Twelve months from the date of this Act :
 - (c) If the said railway is not completed, fully equipped, and ready for traffic, to the satisfaction of the Governor in Council, within Two years and Six Months from 15 the date of this Act, or within such further time as the Governor in Council may see fit to allow :
 - (d) If the said railway is not at any time during the continuance of the said lease, without reasonable cause, properly and efficiently maintained and worked in 20 accordance with the provisions of this Act :
 - (e) If the Company do not provide and maintain engines and rolling stock sufficient for the conveyance of passengers and the tonnage which may be offered for carriage on the said railway. 25

Effect of lease.

6 The primary lease shall operate and take effect as a licence to the Company to do all things that may from time to time be necessary to construct, maintain, and work the said railway, but shall not confer any right or title to occupy or use any portion of the land therein comprised for any other purpose whatsoever, and shall not confer any 30 right or title to any minerals.

Minister may renew lease.

7 It shall be lawful for the Minister, with the consent of the Governor in Council, from time to time at or after the expiration of the primary lease to grant a renewal thereof to the Company for a further term not exceeding Twenty-one years, upon and subject to all the 35 conditions herein prescribed and all the provisions of this Act, so far as the same may be applicable.

PART III.

LEASES FOR BRANCH LINES.

Minister may grant lease for branch line of railway.

8—(1.) The Minister may from time to time, with the consent of the Governor in Council, grant to the Company for the unexpired residue of the term of the said lease a lease of any piece of Crown land not exceeding 40 One chain in width, for the construction thereon of such branch lines of railway from the said railway to such termini as may be determined upon by the Company and approved by the Governor in Council, and also such area of Crown land for all stations, sidings, crossings, side-cuttings, cuttings, embankments, and conveniences in connection with 45 the said branch lines of railway as may be necessary or proper.

(2.) Any such lease as last aforesaid shall be subject to all the provisions of this Act so far as the same may be applicable, and shall contain

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such of the provisions and stipulations hereby required to be contained in the primary lease as the Governor in Council may think necessary or applicable to such branch lines, and shall be renewable in like manner with the primary lease. A.D. 1895.

PART IV.

ACQUISITION OF LAND BY THE COMPANY.

5 9 The Company may purchase, acquire, and take such other land as may be necessary for the purposes of constructing the said railway or any such branch railway as is hereinbefore mentioned; and all the costs, expenses, and charges of so purchasing, acquiring, and taking such other land, and the cost of all buildings or other works constructed on the same, shall be included in the cost of construction work mentioned in Section Thirty-seven. Power to purchase land.

10 10 For the purpose of enabling the Company to purchase, acquire, and take other land as hereinbefore provided; or any material required for the construction of the said railway, *The Lands Clauses Act* shall, except as hereby varied, be incorporated with this Act; but there shall not be incorporated with this Act Sections Eight and Nine of the said *The Lands Clauses Act*. *The Lands Clauses Act* incorporated. 21 Vict. No. 11.

In the construction of this Act and the said incorporated Act this Act shall be deemed to be the Special Act, and the Company shall be deemed to be the "Promoters of the undertaking."

25 11 The power hereinbefore conferred upon the said Company to purchase and take land under the provisions of *The Lands Clauses Act* shall not enable them to purchase, acquire, or take any public road or street, but the Governor in Council may, by the primary lease or at any time thereafter, grant to the Company the power to construct the said railway across or under or over any specified public road or street, subject to such conditions as may be thought fit, and the Company shall thereupon have power to construct the said railway across any such public road or street. Power to cross roads and streets.

30 12 In any case where land or material is required for the purposes of such railway, if the Company or its assigns, before any steps are taken under *The Lands Clauses Act*, tenders to the person entitled to receive the same compensation for severance and otherwise for such land or material, then if such person refuses to accept the same and to convey the land so required, or to permit the same to be used or material taken, as the case may be, and a reference to arbitration takes place under *The Lands Clauses Act*, and the arbitrators or umpire award a sum not exceeding the amount of compensation so tendered, all the costs of the reference, arbitration, and award shall be paid by such person, and such payment may be enforced by action in any Court of competent jurisdiction on a count for money paid at the request of such person. Cost of arbitration, how to be borne.

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PART V.

CONSTRUCTION OF THE RAILWAY.

Length, gauge,
grade, &c., of
railway

13 The said railway shall be constructed and worked from a terminus to be approved by the Governor in Council in or near the Town of *Waratah* to a terminus to be approved by the Governor in Council [in or near the Town of *Zeehan*,] (on the *Mount Dundas* and *Zeehan* Railway distant not more than One mile from the station on such 5 Railway known as *Leslie Junction*,) and shall have a gauge of Three feet Six inches, with curves of a radius of not less than Five chains, and steel rails of not less than Forty-three pounds to the yard, and a grade not steeper than One in Forty.

Railway to be
constructed in
substantial
manner, &c.

14 The said railway shall be constructed in a substantial manner 10 fit for the carriage of vehicles at a rate of not less than Fifteen miles per hour with a load of not less than Four tons upon each axle of every vehicle, and shall be maintained and worked by the Company, in accordance with the provisions of this Act and subject thereto, to the satisfaction of the Governor in Council or such officer as the Governor 15 in Council may appoint.



(14 A) It shall be lawful for the Company to connect the said Railway with the *Mount Dundas* and *Zeehan* Railway at the station on the last-mentioned Railway known as *Leslie Junction*, or at a point distant not more than One mile from such station to be mutually agreed upon, or 20 to be decided in case of difference in the manner provided in Section Fourteen **C**, and to execute such works as may be necessary to connect the said Railway with such Railway, subjecting such Railway to as little damage or inconvenience as possible; and the Company shall be liable to pay compensation for any such damage, and such compensation 25 shall be assessed in case of difference in the manner provided in Section Fourteen **C**.)



(14 B) It shall be lawful for all trains going along the said Railway to pass over and along and to use any part of the *Mount Dundas* and *Zeehan* Railway between the point where the two Railways shall 30 junction and the Town of *Zeehan*, and also the works connected therewith, upon payment of reasonable tolls and compensation for so doing; and the amount of such tolls and compensation shall in case of difference be decided in the manner provided in Section Fourteen **C**.)



(14 C) When in any case the Company and the proprietors of the 35 *Mount Dundas* and *Zeehan* Railway shall not be able to agree as to the mode in which the Company may exercise any of the powers conferred upon it by the last two preceding Sections, or upon the arrangements for conducting their joint traffic with safety to the public and to the advantage of each of the said parties, or in the event of any other 40 dispute, questions, or differences arising between the said parties, then it shall be lawful for the General Manager of the Government Railways for the time being, upon the application of either of the parties, to decide the questions in dispute between them, and to order and determine whether the whole or what proportion of the expenses 45

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attending on such arrangements shall be borne by either of the parties **A.D. 1895.**
respectively.)

15 Before the said Company shall commence to construct the railway they shall deposit with the Minister a copy of the working plan and sections of such railway, showing the route thereof and the private and Crown lands and mineral leases to be traversed by the said railway or which shall be contiguous thereto when the same is constructed, and the proposed method of dealing with any roads, streets, or tramways affected; and the Minister may require such alterations as he thinks necessary to be made in such plan and section so deposited with him as aforesaid in order to bring the same into accordance with the provisions of this Act: Provided always, that the Company may submit the plans and sections above referred to from time to time for portions of the line instead of for the whole line and before commencing construction of such portion: Provided further, that all detailed plans of any of the works, together with specifications under which the same are to be executed, shall also be lodged with the Minister as the construction of the said railway proceeds. And the Company shall construct the railway in accordance with the plans, sections, and specifications so deposited with the Minister, and thereafter approved of by him, with such alterations therein as he may have approved or required to be made.

Before commencing to construct railway, Company to deposit plans with the Minister.

16 The Company may from time to time during the construction of the said railway make such alterations in the plans, sections, and specifications thereof deposited with the Minister as aforesaid as the Minister may from time to time approve.

Company may make alterations in plans.

17 The Governor in Council may from time to time appoint one or more officers to inspect the said railway during the construction thereof, and it shall be lawful for every officer so appointed for the purpose aforesaid from time to time to enter upon the said railway during the construction thereof and to inspect the manner in which the same is being constructed, and the condition and state of repair thereof; and the Minister, upon the report of any such officer as aforesaid, may require the Company to make such additions or repairs to the said railway as may be necessary to make the said railway comply with the plans, sections, and specifications thereof approved of by the Minister or to ensure the safety of the said railway; and the Company shall, within such time as the Minister shall require, make all such additions or repairs to the said railway as the Minister shall so require as aforesaid.

Railway may be inspected during construction.

18 Where the said railway crosses any private or occupation road on a level the Company shall allow Twelve feet of the said railway for the same; and the Company may from time to time make and maintain other private level crossings or occupation roads when and at such places as the Company may think fit, and shall allow Twelve feet of the said railway for all such roads; and in all such cases the Company shall likewise erect and maintain good and sufficient field-gates, set and placed in the line of the fence on each side of the said railway, and all such field-gates shall also be opened and shut by the person and persons using and passing through the same as soon as he and the carriage, cattle, or other animals under his care have passed through the same.

Crossing of private roads.

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Penalty for
injuring any road
or street.

19 The said railway shall, so far as possible, be so made as not to unreasonably or unnecessarily impede, injure, prevent, or interrupt any ordinary or rightful traffic upon any public road or street, and so as not to increase the cost of making, maintaining, repairing, and upholding the same: Provided always, that if at any time complaint 5 shall be made to a Justice of the Peace by or on behalf of the person in whom any such road or street is vested, or under whose control the same may be, that the provisions of this Section are being infringed by the Company, it shall be lawful for any Two Justices of the Peace in Petty Sessions assembled, at any time before the completion of the 10 works complained of as in contravention of this Section, to make such order upon the Company for securing due compliance by them with the provisions hereof as such Justices may deem necessary. In default of compliance with such order, the Company shall be liable to pay to the person by or on whose behalf the complaint is made a penalty not 15 exceeding the sum of Five Pounds for each such default, and also to pay to such person the cost, to be assessed and determined by any Two Justices in Petty Sessions assembled, of remedying every such impediment, injury, prevention, or interruption as in this Section mentioned; and all such penalties and costs shall be recoverable in the mode pre- 20 scribed by *The Magistrates Summary Procedure Act*.

Company to
repair damages.

20 The Company shall from time to time make good, repair, and amend all damage which may be done by them to or upon any public road or street in, through, over, or along which the said railway is constructed; and in case of their refusal or neglect so to do after reasonable 25 notice given, and upon such repairs or amendments being effected by or on behalf of the person in whom the said public road or street is vested, or under whose control the same may be, the cost of such repairs or amendments shall be assessed and determined, and may be recovered by or on behalf of such person, in like manner with the costs mentioned 30 in the next preceding Section.

Roads to be
crossed on a
level.

21 Whenever its course is over or along any public road or street, the railway shall be laid at or about the general level of such road or street; and the Company may, with the consent of the local authority having control of such road or street, alter and improve the levels of 35 such road or street: Provided, that all expenses incurred in the reformation of such road or street so altered and improved shall be borne by the Company unless otherwise agreed upon.

Before roads
interfered with
others to be
substituted.

22 If in the exercise of the powers hereby granted it be found necessary to crosscut through, raise, sink, or use any part of any road, 40 whether carriage road or horse road, either public or private, so as to render it impassable for or dangerous to, or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the Company shall before operations are commenced cause a sufficient road to be made instead of the road to be interfered with, and shall at 45 their own expense maintain such substituted road for a period of One year in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Bridges how to
be constructed
over any road.

23 Every bridge to be erected for the purpose of carrying the railway over any road shall be built in conformity with the following 50 regulations; namely:—

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The width of the arch shall be such as to have thereunder a clear space of not less than Thirty feet if the arch be over a main road, and of Twenty feet if over a cross or by road, and of Twelve feet if over a private road. A.D. 1895.

- 5 The clear height of the arch from the surface of the road shall be not less than Sixteen feet for a space of Twelve feet if the arch be over a main road, and Fifteen feet for a space of Ten feet if over a cross or by road, and in each of such cases the clear height of the spring 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 to be 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 main road, One foot in Twenty feet if over a cross or by road, and One foot in Sixteen feet if over a private road not being a tramroad, or if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad.

And every bridge erected for carrying any road over the railroad shall be built in conformity with the following regulations ; that is to say :—

- 20 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 main road, and Twenty-five feet if it be a cross or by 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, and One foot in Twenty feet if a cross or by road, and One foot in Sixteen feet 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.

- 30 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 the 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 main road or cross or by road than Twenty feet : Provided also, that if at any time after the construction of the railway the average available width of any such land shall be increased beyond the width of such bridge or on either side thereof, the Company shall be bound at their own expense to increase the width of the said bridge to such extent as they may be reasonably 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 :
45 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 required to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the Company, then they may carry any such road over or under the railway, or may construct or alter any such substituted road at an inclination not steeper than the said mean inclination of the road so to be crossed, or
50 of the road so requiring to be altered, or for which another road shall be substituted.

[*Private.*]

A.D. 1895.

Railway not to be
used until En-
gineer certifies.

24 No part of the said railway shall be opened for public traffic until the Engineer-in-Chief or such officer as the Minister may appoint has certified that such part of the said railway has been efficiently constructed, and all the rolling stock to be used thereon is in good and efficient condition and repair, and may be safely used for public traffic 5 thereon.

PART VI.

MAINTENANCE OF THE RAILWAY.

Railway to be
kept in proper
repair.

25 After the said railway is completed the Company shall properly and efficiently maintain and work the said railway; and the Governor in Council may from time to time appoint one or more officers to inspect the said railway and to report upon the state and condition of repair thereof and the manner in which the same is being maintained 10 and worked; and it shall be lawful for every officer so appointed for the purpose aforesaid from time to time to enter upon the said railway and to inspect the same and all the rolling stock thereof, and the manner in which the said railway is being worked; and the Minister may, upon the report of any such officer as aforesaid, require the 15 Company to make such repairs to the said railway and such repairs or additions to the rolling stock thereof as may be necessary to ensure the safety of the said railway or of the passengers travelling thereon, or the efficient maintenance and working of the said railway in accordance with the provisions of this Act and the stipulations and conditions of 20 the primary lease; and the Company shall, within such time as the Minister shall require, make all such repairs and additions to the said railway and the rolling stock thereof as the Minister shall so require as aforesaid.



(It shall be lawful for the Governor in Council if at any time it is 25 shown to his satisfaction that the said railway is not maintained in a safe and efficient manner, to authorise the General Manager of Railways to stop the running of the said railway).

Gates to be
erected where
roads are crossed
on a level.

26 Where the said railway crosses any public road or street on a level, the Company shall erect, and at all times maintain, good and 30 sufficient gates across such road or street on each side of the said 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 road or street on each side of the said railway where the same shall communicate therewith, and the Com- 35 pany shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such road or street on both sides of the said railway, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross the said railway; and such gates shall be of such dimensions and so con- 40 structed as when closed to fence in the said railway and prevent cattle or horses passing along the road from entering upon the said railway, and the persons 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 of Forty Shillings for 45 every default therein:

Provided always, that it shall be lawful for the Minister, in any case in which the Governor in Council may be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road or street should be kept closed across the said railway, 50 to order that such gates shall be kept so closed instead of across the road or street, and in such case such gates shall be kept constantly

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closed across the said railway, except when engines or carriages passing along the said railway shall have occasion to cross such road or street, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the roads or streets. A.D. 1895.

- 5 **27** Notwithstanding anything hereinbefore contained, it shall be lawful for the Company, with the consent of the Minister, to make and use cattle-guards instead of gates in any place where the railway crosses any public street or road; and such cattle-guards shall be so made and maintained as to effectually prevent the straying of horses, cattle, sheep, 10 or other animals from such street or road to the railway: Provided that any such street or road be not thereby decreased in width at the crossing, and that the railway be securely fenced at such points. Cattle-guards may be used in place of gates.

- 28** In every case in which the Company shall make and use cattle-guards instead of gates in any place where the railway crosses 15 any public street or road, they shall erect a notice-board on each side of the said railway at every such crossing warning travellers as to passing trains, and whenever any train is approaching such crossing the engine-whistle shall be sounded: Provided that the rate of speed of a train while passing any such crossing on any street in a Town shall in 20 no case exceed Five miles per hour. Measure of precaution to be adopted.

- 29** The Company may from time to time for the purposes of this Act fell timber and use and carry away the same, and dig and use clay, stone, and other material upon any Crown land comprised in the primary lease or in the vicinity of the railway, and may fell all timber which 25 in the opinion of the Company it may be necessary to remove for the safe working of the said railway, notwithstanding anything contained in Section Six of this Act: Provided that, in the case of any land previously leased, full compensation shall be made to all parties interested in such land for the damage done under this Section, 30 and such compensation shall be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation. Materials from Crown lands.

- 30** It shall be lawful for the Minister, with the consent of Parliament, from time to time to enter into an agreement with the Company whereby the Minister shall undertake either to maintain and work 35 the said railway, or to maintain or work the same, and to provide all locomotives, carriages, wagons, and other rolling stock necessary for that purpose, together with the requisite staff of officers and men as may be necessary, subject to such terms and conditions as may be mutually agreed upon by the Minister and the Company. Minister may agree to maintain and work railway.

- 40 **31** It shall be lawful for the Minister, with the consent of the Governor in Council, from time to time to grant to the Company, upon such terms and conditions, and for such periods, as the Minister, with the consent of the Governor in Council, shall think fit, running powers over, along, and upon any railway belonging to the Government of 45 *Tasmania*. Minister may grant running powers.

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PART VII.

POWER TO ENTER UPON ADJOINING LANDS.

Materials from
private land.

32 The Company, for the purpose of constructing, repairing, and maintaining the said railway, may, after Seven days' notice to the owner or occupier, enter upon any uncultivated land, and may fell, carry away, and use indigenous timber, except when the same is used for ornament or shelter to any dwelling-house, and may also dig, 5 quarry, carry away, and use clay, stone, or other material, and may place and deposit upon any such land any materials, waste, or spoil : Provided that full compensation for taking any of such materials, or for depositing any such materials, waste, or spoil as in this Section mentioned shall be made to all parties interested for the damage thereby 10 sustained.

Construction of
works.

33 Subject to the provisions of this Act, it shall be lawful for the Company, for the purpose of constructing, maintaining, and working the said railway, to execute any of the following works; that is to say,—

To enter upon any lands to survey and take the levels of the same : 15

To make or construct upon, across, under, or over any lands, streets, roads, rivers, creeks, or other waters such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, culverts, drains, arches, cuttings, fences, and other works as the Company may think proper : 20

To divert or alter, as well temporarily as permanently, the course of any streams of water, roads, streets, or ways, or raise or sink the level of any such roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as the Company may think proper : 25

To make drains or conduits into, through, or under any lands adjoining the said railway, for the purpose of conveying water from or to the said railway :

To draw water from any stream or river in the vicinity of the railway for the supply of locomotives and other purposes at such elevation as may be necessary to secure a fall into any railway tank by natural gravitation :

To erect and construct such houses, warehouses, good-sheds, offices, and other buildings, yards, stations, wharfs, engines, machinery, and apparatus, and other works and conveniences, 35 as the Company may think proper :

To, from time to time, alter, repair, or discontinue the before-mentioned works, or any of them, and substitute others in their stead :

To do all other acts necessary for making, maintaining, altering, 40 or repairing and working the said railway :

Provided that in the exercise of the above-mentioned powers the Company shall do as little damage as can be, and shall make full compensation in manner hereinafter and in any Act incorporated herewith provided to all parties interested for all damage by them sustained by 45 reason of the exercise of such powers.

Company to
separate the lands
before using them.

34 Before using any fenced or otherwise enclosed lands for any of the purposes aforesaid, the Company shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto with such gates or cattle-guards as may be required by 50

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the said owner or occupier for the convenient occupation of such lands, and shall also erect across all private roads used by them as aforesaid such fences and gates or cattle-guards as may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads; and in
 5 case of any difference between the owners or occupiers of such roads and lands and the Company as to the proper kind of fences and gates or cattle-guards to be erected, the Company shall erect such fences and gates or cattle-guards as any Two Justices shall deem necessary for the purposes aforesaid, on application being made to them by either party: Provided
 10 that due notice of any such application shall be given to the other party, who shall have an opportunity of being present at the hearing thereof.

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35 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 Company and its workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Company shall within Forty-eight hours after such entry make a
 20 report to the Minister 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 Minister shall after considering the said report certify that their exercise is not necessary for the public safety: Provided, that such works shall be as little
 25 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, injury, or inconvenience sustained by them respectively by reason of such works, the amount of
 30 which compensation in case of any dispute about the same shall be settled in the same manner as cases of disputed compensation in other cases under this Act: 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
 35 railway.

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

PART VIII.

RESUMPTION OF PRIMARY LEASE AND PURCHASE OF RAILWAY.

36 It shall be lawful for the Minister, with the consent of Parliament, at any time after the expiration of Twenty-one years from the date of the primary lease, or at any time after any renewal of the primary lease, to give the Company notice of the intention of the Crown to resume
 40 the land comprised in the primary lease at the expiration of Six months after the date of such notice, and to take and acquire the permanent way, rolling stock, and equipment of the said railway, and all land and buildings belonging thereto, and to compensate the Company as hereinafter provided.
 45 Until such resumption or any forfeiture of the primary lease shall have taken place, all the rights, powers, privileges, benefits, concessions, advantages, and liabilities conferred or imposed upon the Company by this Act or by the primary lease shall, notwithstanding any such notice given by the Minister as aforesaid, continue in force in like
 50 manner and to the like effect as if such notice had not been given.

Minister may resume land upon notice.

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Compensation
upon resumption
of land comprised
in lease.

37 The amount of compensation to be paid to the Company upon the resumption by the Crown of the land comprised in the primary lease shall be the actual cost of the construction work (exclusive of any Promoters' expenses) with an amount added equal to Twenty per centum on such cost of construction, and the value of all equipment, rolling stock, appliances, goods, and chattels of the Company used or intended for use on or in connection with the said railway. 5

Provided that if at the time of such resumption the said railway shall not be in good and efficient repair and condition, and sufficient in all respects for the traffic thereof, then the sum necessary to put the said railway in such repair and condition as aforesaid shall be deducted from the sum that would otherwise be payable to the said lessees as such compensation, and in case of dispute shall be settled by arbitration as hereinafter provided. 10

If Governor and
lessees cannot
agree, may
proceed to
arbitration.

38 In the event of the Governor in Council and the Company not agreeing upon the sum to be paid to the Company upon the resumption by the Crown of the land comprised in the said lease, the question shall be referred to the determination of Five arbitrators, Two of whom shall be appointed by the Governor in Council, and Two of whom shall be appointed by the Company, and the Fifth arbitrator shall be appointed by the Four other arbitrators. 15 20

If Company fail
to appoint
arbitrators.

39 If the Company fail or refuse to appoint Two arbitrators for the purpose aforesaid within a period of Three months after having received notice in writing from the Minister so to do, it shall be lawful for the Governor in Council to appoint Two arbitrators to act with the Two arbitrators appointed by the Governor in Council, and such Four arbitrators shall appoint a Fifth arbitrator, and the Five arbitrators so appointed shall determine the price or sum to be paid by the Crown upon the resumption of the land comprised in the said lease. 25

Vacancy in
arbitrators.

40 If any vacancy shall occur among the arbitrators before they have fixed such price or sum as aforesaid, such vacancy shall be filled up by the appointment of another arbitrator by the same authority by which the arbitrator whose place has become vacant was appointed. 30

Accounts of cost
of construction to
be submitted to
Auditor-General.

41 For the purpose of ascertaining the actual cost of the construction work under this Act, the Company shall, upon completion of the said railway, and thereafter from year to year, submit to the Auditor-General accounts and proper vouchers of all construction works; and upon computing the amount of compensation to be paid to the Company in the event of the land comprised in the primary lease and the works connected and used therewith being resumed, the amount of the accounts as passed by the Auditor-General shall be deemed to be the actual cost of the construction of the railway. 35 40

Accounts of con-
struction
subject to
52 Vict. No. 43.

42 The accounts of the Company in and about the construction of the railway shall be subject to all the provisions of "The Audit Act, 1888," in the same manner in all respects as if such accounts had been specifically mentioned therein. 45

New construction
works to be
approved by
Governor in
Council.

43 Upon the railway being completed and opened for traffic no new works of construction in connection with the railway shall be commenced or carried out without the consent of the Governor in Council, and in the event of such works being carried out without such 50

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consent such works shall not be deemed construction work for the purpose of computing the amount of compensation upon the resumption or forfeiture of the primary lease as aforesaid. A.D. 1895.


44 If the said lessees shall, at any time before the resumption by the Minister of the land comprised in the said lease, purchase or acquire the *Emu Bay* and *Mount Bischoff* Railway, or if the said Railway and the *Emu Bay* and *Mount Bischoff* Railway should become the property of one company or owner, the Minister may, with the consent of Parliament, purchase the last-mentioned Railway, and all land, works, buildings, equipment, stores, stock, and appurtenances belonging thereto, upon giving to the said lessees Six months' notice in writing of his intention to so purchase the same, and such notice shall be given at the same time as the notice of the intention of the Minister to resume the land comprised in the said lease; and the purchase money shall be payable by the Minister upon the expiration of the said notice out of moneys to be provided by Parliament for that purpose; and in case the Minister and the said lessees shall not agree upon the amount of such purchase money, the same shall be determined by arbitration in the manner provided in Sections Thirty-eight, Thirty-nine, and Forty. Minister may purchase *Emu Bay* and *Mount Bischoff* Railway.

PART IX.

LEVY AND RECOVERY OF TOLLS AND FARES, &c.

45 It shall be lawful for the Company to use and employ locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and to carry and convey upon the railway all such passengers, goods, and things of every kind, and live stock of every kind as shall be offered for that purpose, and to make and sue for such charges in respect thereof as hereinafter specified: Provided, that all such tolls be at all times charged equally to all persons and after the same rate in respect to all passengers, goods, things, cattle, and live stock as aforesaid of the like number or quantity, on carriages of the same description and conveyed or propelled by a like carriage or engine passing only over the same portion of the line of railway under the same circumstances; and no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular person travelling upon or using the railway. Authority to employ locomotive engines, carriages, and other locomotive powers, &c.

46 It shall be lawful for the Company from time to time to demand, take, collect, levy, and make such reasonable tolls, rates, fares, and charges for the carriage and conveyance of passengers, goods, merchandise, live stock, chattels, and other things of every description, over and along the said railway, as may from time to time be fixed by any By-law to be made as hereinafter mentioned; but such tolls, rates, fares, and charges for the carriage and conveyance of passengers shall not at any time exceed Four-pence per mile for First-class passengers, and Three-pence per mile for Second-class passengers, and for the carriage and conveyance of goods and merchandise not less than a ton in quantity shall not at any time exceed Nine-pence per ton per mile; and for the carriage and conveyance of live stock shall not at any time exceed Three Shillings per ordinary truck per mile. Rates and tolls.

Provided, that Members of the Parliament of *Tasmania*, and [all other persons who] (their wives) shall hold for the time being a free pass upon the railways belonging to the Government of *Tasmania*, shall be entitled to travel free on the said line. 

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Rates and tolls
may be recovered.

47 In case default is made in payment of any money due and payable under the authority of this Act in respect of the carriage or conveyance of any passenger or any goods, merchandise, live stock, chattels, or other things of every description, or the demurrage or storage of any goods, merchandise, live stock, chattels, or other things of every description, the same may be recovered by the Company in a summary way before any Justice of the Peace; and it shall be lawful for the Company to detain the goods, merchandise, live stock, chattels, and other things of every description in respect of which such money is payable until the same shall have been fully paid and satisfied; and also if such goods, merchandise, or other things have been detained during a period of not less than Six months, to sell the same or so much thereof as may be necessary by public auction to be duly advertised, and to apply the proceeds in or towards satisfying the money so due and payable. 15

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

48 Nothing in this Act contained shall extend to charge or make liable the Company further or in any other case than where according to the laws of this Colony stage-coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but, on the contrary, they shall at all times be entitled to the benefit of every such protection and privilege. 20

Penalty for
bringing
dangerous goods
on the railway.

49 No person shall be entitled to carry, or to require to be carried, upon the railway, any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any goods which in the judgment of any person employed on the railway may be of a dangerous nature; and if any person sends by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other person employed as aforesaid with whom the same are left at the time of so sending, he shall forfeit a sum of not less than Two Pounds nor more than Twenty Pounds for every such offence; and it shall be lawful for the person to whom the same is tendered to refuse to take any parcel suspected to contain goods of a dangerous nature, or he may require the same to be opened to ascertain the fact. 35

PART X.

PRIOR LEASES.

Protection to
rights of first
lessee.

50 If the primary lease comprises any land previously leased, then the primary lease shall not affect the rights of the first lessee, except so far as may be necessary for carrying out the objects of the primary lease, and the first lessee may accordingly exercise all powers conferred upon him in respect of the land previously leased: Provided that he shall not carry on any mining operations within One hundred feet of the surface of any land comprised in the said lease, (except with the consent of the Governor in Council) nor in such a way as to endanger or inconvenience the works of the Company. 40

Settlement of
disputes.

Should any dispute arise between any persons under this Section the same shall be decided by the Commissioner, who shall have power to decide what, if anything, shall be done or shall not be done by any person, and what damages and costs, if any, shall be paid by any person. 45

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51 Before entering upon any land previously leased for the purpose of constructing any portion of the said Railway, the Company shall serve upon the first lessee a notice describing with all reasonable accuracy, by means of a plan or otherwise, the proposed course, direction, or situation of the said railway.

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Notice of intention to make railway.

52 The Company may, for the purpose merely of surveying and taking levels, after giving not less than Twenty-four hours' nor more than Seven days' notice to the first lessee, enter upon any land of the first lessee which may be comprised in the said lease without the previous consent of any person.

The Company may enter after notice.

53 In any case in which a notice is required to be served on the first lessee under this Act, the same shall be deemed to be duly served if such notice is served upon the person in charge of or occupying the land in respect of which such notice is given, or, if there be no person in charge of or occupying such land, then such notice shall be deemed duly served upon proof of the same having been posted in some conspicuous place on the said land.

How notice may be served.

54 Before any work shall be constructed under the authority of this Act through, over, or upon any land previously leased, the first lessees shall be paid by the Company such compensation (if any) as shall be determined by agreement between the first lessee and the Company; and if such compensation shall not be fixed by agreement within One month after the service of the notice mentioned in Section Fifty-one, then such compensation (if any) shall be determined by the Commissioner.

Compensation to first lessees.

Provided always, that compensation shall not be payable to any person in respect of any land applied for or occupied under any lease or licence, and being within One chain of the centre of any proposed line of railway under this Act which, either before or after the passing of this Act, shall have been or shall hereafter be surveyed for the purposes of such line of railway, if such application or occupation shall have been made or taken place during or after such survey.

55 In estimating the compensation (if any) to be paid to the first lessee, regard shall be had only to the damage (if any) to be sustained by the first lessee by reason of the severing of the lands occupied by the Company from the other lands of the first lessee, or otherwise injuriously affecting such other lands or buildings or mining works by the exercise of the powers given to the Company by the primary lease. The Commissioner shall not be bound to award any sum for damage unless in his opinion substantial damage shall have been sustained.

Compensation how estimated.

56 In case of non-payment of any sum of money awarded by the Commissioner under this Act within such period as the Commissioner shall at any time appoint, the Commissioner shall, for the purpose of enforcing payment of such sum, have and may exercise all the powers conferred upon a Justice of the Peace by *The Magistrates Summary Procedure Act*.

Commissioner may exercise power conferred on Justices.

57 The Commissioner shall have and may exercise, for the purpose of procuring and enforcing the attendance of persons and witnesses, and for hearing and determining any matter brought before him under this Act, all the powers conferred upon a Justice of the Peace by *The* [Private]

Power to enforce attendance of witnesses.

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A.D. 1895. *Magistrates Summary Procedure Act*; and such Commissioner may award and order that one party shall pay to the other party such costs and expenses as to such Commissioner shall seem just and reasonable; and the amount thereof shall be recoverable in the same manner as costs ordered by a Justice of the Peace to be paid may be recovered under the said Act.

Appeal. **58** Either party to any proceeding before the Commissioner under this Act may at any time within Twenty days after the Commissioner has given his decision thereon appeal to the Supreme Court, or a Judge thereof, against the decision of the Commissioner, and such Court or Judge may make any Order as to the costs of such appeal, and by and to whom the same are to be paid.

PART XI.

ACCOMMODATION WORKS.

Gates, bridges, &c. **59** The Company shall make, and at all times thereafter maintain, the following works for the accommodation of the owners and occupiers of lands adjoining the railway; that is to say:— 15

Such and so many convenient gates, cattle-guards, 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; 20

Fences. Also 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 thereout 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 in the case of any fenced or otherwise enclosed land, 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; 30

Drains. Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the railway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be; and such works shall be made from time to time as the railway works proceed; 40

Watering-places. Also proper watering-places for cattle 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 as sufficiently supplied with water as theretofore, and as if the railway had not been made, or as nearly so as may be; and the Company shall make all necessary water-courses and drains for the purpose of conveying water to the said watering places: 50

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

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60 If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining thereof, the same shall be determined by Two Justices of the Peace; and such Justices shall also appoint the time within which such works shall be commenced and executed by the Company.

Differences as to accommodation works to be settled by Justices.

61 If for Twenty-eight days next after the time appointed by such Justices for the commencement of any such works the Company shall fail to commence such works, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs, and the reasonable expenses thereof shall be repaid to the party by whom the same shall have been so executed; and if there be any dispute about such expenses, the same shall be settled by Two Justices: Provided always, that no such owner or occupier or other person shall obstruct or injure the railway, or any of the works connected therewith, for a longer time, nor use them in any other manner, than is unavoidably necessary for the execution or repair of such accommodation works.

Execution of works by owners on default by the Company.

62 If any of the owners or occupiers of lands affected by such railway shall consider the accommodation works made by the Company, or directed by such Justices to be made by the Company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Company, or in case of difference as shall be authorised by Two Justices of the Peace.

Power to owners of land to make additional accommodation works.

63 If the Company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of their Engineer, and according to plans and specifications to be submitted to and approved by such Engineer.

Such works to be constructed under the superintendence of the Company's engineer.

64 The Company shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the railway after the expiration of the prescribed period, or if no period be prescribed, after Two years from the completion of the works and the opening of the railway for public use.

Accommodation works not to be required after Two years.

65 Until the Company shall have made the bridges or other proper communications which, under the provisions herein contained, the Company is required to make between lands intersected by the railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses, and other animals, directly, but not otherwise, across the part of the railway made in or through their respective lands, solely for the purpose of occupying the

Owners to be allowed to cross until accommodation works are made.

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

Penalty on
persons omitting
to fasten gates.

66 If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands as 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.

PART XII

COMPENSATION.

Compensation
how determined.

67 Whenever by this Act compensation is directed to be made by the Company to any persons whose interests are affected by the exercise of any of the powers hereby conferred, such compensation shall, except in cases hereinbefore specially provided for, be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

In estimating
compensation to
be paid for land
taken for railway,
benefit to owner
to be considered.

68 In estimating the amount of compensation for severance or otherwise to be paid to any person for or in respect of land or material taken or used for the purposes of the said railway, the arbitrators or umpire shall take into consideration the benefit that is likely to accrue to the person to whom such land or material belongs by reason of the construction of such railway, and the arbitrators or umpire, in awarding compensation to be paid for or in respect of such land or material, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the arbitrators or umpire that the benefit likely to accrue to the person through whose land such railway is about to be taken is equal to or greater than the loss he will sustain by reason of the taking or using of his land or material for such railway, the arbitrators or umpire shall award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid.

Dissatisfied party
may appeal to a
Judge of the
Supreme Court.

69 If either party is dissatisfied with the award of the arbitrators or the umpire appointed to determine the amount of compensation to be paid to any person whose interests are affected by the exercise of any of the powers conferred upon the Company by this Act, and the amount of compensation awarded by the arbitrators or umpire exceeds One hundred Pounds, the dissatisfied party may appeal as hereinafter provided from the award of the arbitrators or the umpire to a Judge of the Supreme Court, and the amount of the compensation in every such case shall thereupon be fixed by a Judge of the Supreme Court in the manner hereinafter provided.

Procedure upon
appeal.

70 If the dissatisfied party desires to appeal from the award of the arbitrators or umpire he shall, within Fourteen days after the delivery to him of such award or a copy thereof, give notice in writing to the other party of his intention to appeal, and shall, within One month after the service of such notice upon the opposite party, prosecute such

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appeal in accordance with the rules made by the Judges for conducting appeals under "The Main Line Railway Amendment Act, No. 2," so far as such rules are applicable, and the amount of compensation to be paid in any such case shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as he sees fit to impose; and the Judge may also in his discretion make an order as to the party by whom the costs of the appeal shall be borne: Provided, that a Judge of the Supreme Court may, upon what he shall deem sufficient cause, allow an appeal to be prosecuted after the expiration of the time hereinbefore allowed for that purpose; but no appeal shall be allowed after the expiration of Three months after the service of notice of intention to appeal.

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PART XIII.

[GRANTS] (LEASES) OF MINERAL LAND.

71 Upon the deposit of the plans, specifications, and sections of the said railway with the Minister as hereinbefore provided, the Company shall acquire the right to mark off in the manner hereinafter prescribed so many of such blocks of land as are hereinafter mentioned, not exceeding Twelve, as the said Company shall from time to time select along the line of the railway in the manner hereinafter directed, and to apply for [grants] (leases) thereof in accordance with the provisions in that behalf contained in this Act.



Company to acquire right to mark off land for [grants] (leases).



72 Every block of land marked off by the Company under the authority of this Act, shall be of such area not exceeding Three hundred and twenty acres as the Company shall determine, and shall be selected within a distance of Three miles from either side of the line of the said Railway, and at a distance not less than Two miles from any other block of land marked off by the Company under the authority of this Act.

Area of blocks to be selected, &c.

73 Every block of land marked off by the Company under the authority of this Act shall be marked off in the manner prescribed by the Regulations made under "The Mining Act, 1893," and shall be [rectangular] (square or as near thereto as practicable) in shape with the boundary lines, running to the cardinal points whenever practicable.

Land to be marked off in the manner prescribed by Regulations under "The Mining Act, 1893."

74 Nothing in this Act contained shall be held to empower the Company to mark off under the authority of this part of this Act any land reserved for a town or any portion of the esplanade reserved along the bank of any river.

Land reserved for towns or esplanade not available for selection by the Company.

75 Every application by the Company for a [grant] (lease) of any block of land marked off under the authority of this Act shall be made as nearly as possible in the form prescribed by the Regulations made under "The Mining Act, 1893," and shall be deposited with the Minister within Thirty days after the land has been marked off.

Applications for [grants] (leases).


76 After a block of land has been marked off by the Company under the authority of this part of this Act, it shall not be lawful for any other person to mark off, or enter upon, or to occupy or select such block of land or any portion thereof under the provisions of any other Act relating to the disposal or occupation of Crown lands or otherwise during the pendency of the application of the Company for a grant

Land marked off by the Company to be protected during pendency of application for a [grant] (lease)



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thereof; and any person who shall mark off or enter upon or occupy such block of land or any part thereof contrary to the provisions of this Act shall forfeit and pay to the Company a penalty not exceeding Twenty Pounds.

* (lease)
Upon completion of railway Minister may issue [grants] (leases) to the Company.

77 Upon the completion and opening of the said railway for traffic, it shall be lawful for the Governor to issue to the Company a [grant]* of each block of land duly marked off and applied for under the provisions of this Act, upon the terms and conditions following; that is to say:—

* (leased)


i. That the Company shall keep a correct and complete record of all minerals obtained from every block of land [granted]* to the Company under the provisions of this Act. 10

ii. That the Company shall furnish to the Minister twice at least in every year a full and correct return of all minerals obtained from every block of land granted to the Company under the provisions of this Act. 15


* (leased)

iii. That the Company shall pay to the Minister for the use of Her Majesty royalties upon all minerals obtained from every block of land [granted]* to the Company under the provisions of this Act, at the rate of Two and a half per centum of the gross value thereof on the ground. 20

iv. That the said royalties shall be paid twice at least in every year.

* (leased)

v. That the Governor may from time to time appoint such person or persons as he thinks fit with full power and authority to enter upon any block of land [granted]* to the Company under the provisions of this Act, and to ascertain what use the Company is making of the said block of land, or any portion thereof, and what mining or other operations are being conducted thereon. 25

* (leased)

vi. That for the purpose of ascertaining whether any and what royalties are payable in respect of any minerals obtained from any block of land [granted]* to the Company under the provisions of this Act, or from any portion thereof, the Governor may from time to time appoint such person or persons as he thinks fit with full power to enter into any of the offices of the Company, and to examine and audit all books of account of the Company. 30 35



(vii. That in the event of the primary lease being resumed or forfeited in accordance with the provisions of this Act, every block of mineral land leased to the Company under this Act and not being worked by the Company at the time of the resumption or forfeiture of the primary lease, shall revert to the Crown subject to a preferential right of the Company to apply within Sixty days for a lease of the same in accordance with the provisions of "The Mining Act, 1893.") 40

PART XIV.

FORFEITURE OF THE PRIMARY LEASE.

If Company guilty of breaches of lease or of Act, the Attorney-General may

78 If the Company shall be guilty, without reasonable cause, of any breach of any of the conditions, provisions, or stipulations of the primary lease, or of any of the provisions of this Act, and such breach shall continue after reasonable notice shall have been given by the 45

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Governor in Council to the Company to put an end to or remedy the same, the Attorney-General may, when and so often as any such breaches may happen, apply to the Supreme Court for a Rule calling upon the Company to show cause, on a day to be mentioned in such Rule, why the primary lease should not be declared forfeited upon such grounds as may be set forth in such Rule; and such Rule may be served upon the Company or any other person having the management of the affairs of the Company in *Tasmania*, either personally or by leaving the same at the last known place of business of the Company in *Tasmania*, and, being so served or left as aforesaid, such Rule shall be deemed for all purposes to have been duly served on the Company, as the case may be.

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move Supreme Court to declare lease forfeited.

79 If on the hearing of such Rule the Court shall be satisfied, either by affidavit or otherwise, that the Company has been guilty, without reasonable cause, of any of the breaches of the conditions, provisions, or stipulations in the primary lease or of this Act set forth in the said Rule, and that any such breach has continued after such reasonable notice as is mentioned in the immediately preceding Section has been given, the said Court may, and is hereby authorised and empowered, to order and declare such lease to be forfeited, and thereupon (except as hereinafter mentioned) such lease shall become absolutely null and void.

Supreme Court may declare lease forfeited, or may order Company to pay a sum of money to Treasurer.

Provided, that the Court upon the hearing of any such Rule may, if it shall consider that the justice of the case would be met by so doing, instead of ordering the forfeiture of the said lease as aforesaid, order said Court may consider reasonable by way of penalty for the breach the Company to pay to the Treasurer such a sum of money as the of any of the conditions, provisions, or stipulations of the primary lease or of this Act. And the said Court may also make such Order as to the costs of the proceedings as it may think fit; and any Order so to be made for the payment of any sum of money or costs as aforesaid may be enforced in the same manner as may for the time being be provided for the enforcement of decrees and orders of the said Court in its Equitable Jurisdiction.

80 The said Court may from time to time adjourn the hearing of any such Rule to show cause as aforesaid, and may give to the Company such time as to the Court may seem reasonable for the purpose of enabling the Company to file such affidavits as may be considered necessary in opposition to the ground set forth in the said Rule, and any affidavits that may have been filed in support thereof, and may also allow further time to the Attorney-General to file any affidavits in reply as to the Court may seem expedient; and the said Court may also, if it shall see fit, direct the truth of the grounds set forth in the said Rule to be decided otherwise than by affidavit, and for that purpose may direct one or more issue or issues to be tried by a jury in the like manner as issues directed by the Court in its Equitable Jurisdiction are tried.

Court may adjourn the hearing, and may grant time to file affidavits;

and may order issues to be tried by a Jury.

81 If the said Court shall order the primary lease to be forfeited as hereinbefore mentioned, it shall nevertheless be lawful for the Governor, with the advice of the Executive Council, on the Address of both Houses of Parliament, to waive such forfeiture upon the payment of such sum or sums of money, and upon such other terms and conditions as by such address may be suggested; and upon payment of such sum or sums of

If Court order lease to be forfeited, Governor in Council may waive same upon Address of Parliament.

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money, and compliance by the Company with such other terms and conditions as aforesaid, the primary lease shall be of the like force and effect as if such Order of the Court had not been made.

Compensation to
Company upon
forfeiture.

82 The Minister may, with the consent of Parliament, upon such forfeiture as aforesaid make to the Company fair and reasonable compensation for all construction work of the Company under the authority of this Act or of the primary lease, and for the rolling stock, equipment, goods, and chattels of the Company used or intended for use in connection with the said railway according to the value thereof at the time of such forfeiture, and such compensation shall in case of difference or dispute be determined in like manner as is provided in Sections Thirty-eight, Thirty-nine, and Forty. Provided that in no case shall such compensation exceed the amount actually paid by the Company for such construction work, rolling stock, equipment, goods, and chattels, nor the value of the same at the time of such forfeiture.

Upon resumption,
&c. railway vested
in Minister.

83 Upon the resumption of the land comprised in the primary lease as hereinbefore provided, or upon the forfeiture of the said lease, the railway constructed by the Company, and all the right, title, and interest of the Company, and of any person or persons claiming, by, through, or under the Company in and to the said railway and all works connected or used therewith, and all lands granted to or acquired by the Company under the authority of this Act, and all the rights, privileges, powers, and advantages whatsoever affecting or appurtenant to the said railway which may be invested in, held, enjoyed, or possessed by or conferred on the Company, shall, without the necessity of any transfer or connecting title other than this Act, be transferred to and become vested in the Minister freed and discharged from all claims and demands of any person whomsoever in all respects in the same manner as the Company or such other person or persons held, possessed, enjoyed, used, and exercised the same.

PART XV.

COMPANY MAY ASSIGN OR MORTGAGE, &c.

Company may
raise money by
mortgage.

84 Subject to the provisions of this Act, the Company may, from time to time, issue Debentures or give and execute mortgages or other charges upon the said railway or its equipment, or any branch line, or the tolls, rates, fares, and charges on any such railway or branch line, for the purpose of securing the payment of any sum or sums of money borrowed or raised by the Company for the purposes of this Act, or of the said railway, or for securing the payment of any dividends or interest; and such Debentures, mortgages, or charges may be in such form, and contain such powers and provisions as the Company may deem expedient.

Company may
let tolls, &c.

85 It shall be lawful for the Company from time to time, with the consent of the Governor in Council, to let the said railway and the said tolls, rates, fares, and charges; together with all or any equip-

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ment or rolling stock of the Company ; and during the continuance of any such letting the person to whom the same shall be let, or the persons or person by him appointed, are hereby empowered to demand, levy, and take the said tolls, rates, fares, and charges, and to use the said equipment and rolling stock, and to manage the railway and works of the Company in like manner, and shall have the like remedies and rights, and be subject to the like liabilities in respect of the same, as the Company would have been empowered, or would have had, and would have been subject to, but for such letting.

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- 10 **86** It shall be lawful for the Company, with the consent of the [Minister,]* at any time, by deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, concessions, and advantages conferred upon the Company by this Act or by the primary lease to any person or persons or to any duly incorporated Company ;
 15 and upon such transfer or assignment being signed or executed, the person or persons or duly incorporated Company in whose favour such transfer or assignment is made shall then stand in the place of the Company, and shall have all the liabilities, rights, powers, privileges, benefits, concessions, and advantages conferred upon the Company by
 20 this Act.

Power to assign
and transfer
rights, &c.
*(Governor in
Council)



- [Every such deed or instrument in writing as aforesaid shall be exempt from the provisions of any law now or hereafter in force imposing Stamp Duty upon deeds or instruments in writing conveying, transferring, or assigning any real or personal property in *Tasmania*.]

[Transfer exempt
from Stamp
Duty.]



- 25 **87**—(1.) If the Company should at any time transfer or assign to any Company formed or incorporated in any country or place beyond this Colony, and which is not registered in *Tasmania* under *The Companies Act*, 1869, the rights, powers, privileges and concessions granted by the primary lease or by this Act, then such Company shall, before
 30 commencing to construct the said railway, register with the Registrar of Companies under the said Act the name and place of abode or business of the person appointed by such Company to carry on the business of the Company in *Tasmania*, and also the situation of the Office of such Company ; and the person so registered shall be deemed to be the Agent
 35 of such Company, and such Office shall for all purposes be the Registered Office of such Company.

If lease trans-
ferred to foreign
Company such
Company to have
registered Office.

- (2.) Upon such registration such Company may sue and be sued in its corporate name in *Tasmania*, and the liability of and proceedings against such Company shall be in the same manner as if such Company
 40 had been duly registered in *Tasmania* under the provisions of *The Companies Act*, 1869.

- (3.) Sections Forty-three, Forty-four, Forty-five, and Forty-six of *The Companies Act*, 1869, shall be incorporated with this Act, and shall
 45 apply to any such Company aforesaid in the same manner and to the like effect as if such Company had been duly registered under the said Act.

[*Private.*]

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PART XVI.

COMPANY MAY ERECT TELEGRAPHS AND TELEPHONES.

Company may
construct
Telegraphs, &c.

88 The Company may construct, maintain, and work and use for its own profit along the route of the said railway, and along the route of any branch line of railway which the Company is by this Act authorised to construct, one or more lines of Electric Telegraph and Telephones, or any electrical works or machinery for the generation 5 and transmission of electricity as a motive power; but Government messages shall have priority on such lines of Telegraph and Telephones, if required; and subject to the use of such lines of Telegraph and Telephones by the Company, and to the priority (if claimed) of Govern- 10 ment messages, such lines of Telegraph and Telephones shall be open for receiving and sending messages by all persons without preference or favour, and at the same rates as those charged for like Messages on Government lines of Telegraph and Telephones: Provided that the Minister may at any time, with the consent of the Governor in Council, prohibit the Company from using such lines of Telegraph or Telephones 15 for profit.

Government may
affix wires.

89 The Government may affix telegraphic and telephonic wires upon any posts erected by the Company along the route of the said railway or along the route of any branch line of railway which the Company is by this Act authorised to construct, and maintain and use 20 such wires for the purposes of telegraphic and telephonic communication.

PART XVII.

BY-LAWS.

Power to make
By-laws.

90 It shall be lawful for the Company from time to time to make such By-laws for regulating its affairs and the management of the said railway, and of any railway which may be purchased by the Com- 25 pany, or worked in connection therewith, and the buildings and works connected therewith, and for fixing the tolls, rates, fares, and charges for the carriage and conveyance of passengers, goods, merchandise, chattels, live stock, and other things of any description thereon, as they may think fit, and for all purposes which are usually comprised in the 30 By-laws of any railway company; and it shall be lawful for the Company to repeal, alter, or amend any such By-laws from time to time: Provided that such By-laws shall not be repugnant to the provisions of this Act or to the said lease; and such By-laws shall be in writing under the hand of the Company, and, if affecting other persons than 35 its own officers and servants, and not being By-laws fixing such tolls, rates, fares, and charges as aforesaid, shall be subject to the approval of the Governor in Council, and be published as hereinafter is provided.

By-laws may be
enforced by
penalties.

91 The Company, by the By-laws so to be made by it, may, 40 subject to the approval of the Governor in Council, impose such reasonable penalties as it may think fit, not exceeding Twenty Pounds, for each breach of such By-laws or any of them.

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92 All such By-laws relating to other persons than the servants and officers employed upon the said railway, not being tables of the charges for the conveyance of passengers, goods, merchandise, chattels, live stock, and other things thereon, shall be published in the *Gazette*; and 5 all such By-laws shall be printed in legible letters and exhibited in some conspicuous place in the principal office of the railway, and at every station on the said railway, and be open to inspection without fee or reward; and in case any person wilfully obliterates any of the letters or figures thereon, or wilfully prevents the same being in- 10 spected at some reasonable time, he shall for every such offence be liable to a penalty not exceeding Five Pounds.

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By-laws to be published.

93 All By-laws made according to the provisions of this Act, when so published and put up, shall be binding upon and observed by all parties, and shall be sufficient warrant for all persons acting under the 15 same.

By-laws to be binding.

94 The production of a copy of the said By-laws purporting to have been made as aforesaid shall be accepted as proof thereof in all proceedings in any Court of Law or Equity in which the existence or validity of any such By-laws shall be in question; and *prima facie* 20 evidence of any such By-laws may be given in all Courts of Justice and in all legal proceedings whatsoever by the production of a copy of the *Gazette* purporting to contain any such By-laws.

Proof of By-laws.

95 All By-laws made by the Company under this Act shall be laid before both Houses of Parliament within Fourteen days of the making 25 thereof if Parliament is in Session, and if not, then within Fourteen days after the commencement of the next Session.

By-laws to be laid before Parliament.

PART XVIII.

MISCELLANEOUS.

96 Notwithstanding anything hereinbefore contained, the Company may construct, in accordance with the provisions of this Act, so much only of the said railway as shall connect the Town of *Waratah* with a 30 terminus to be approved by the Governor in Council, in or near to the *Rosebery* District; and upon the completion and opening for traffic of such portion of the said railway as aforesaid, the Governor may issue to the Company [grants] (leases) of Six blocks of land, in accordance with the provisions of Part XIII. of this Act.

Company may construct only portion of railway.



97 Except as is in the immediately preceding Section otherwise provided, all the provisions of this Act shall apply to such portion as aforesaid of the said railway as fully and effectually as if the Company had been authorised by this Act to construct such portion only of the said railway.

Provisions of Act to apply.

98 If the Company shall at any time purchase any line or any portion of any line of railway, and convert the same into a portion of the railway which the Company is by this Act authorised to construct as aforesaid, the line or portion of line of railway so purchased and converted by the Company as aforesaid shall be deemed to have been 45 constructed by the Company under the authority of this Act, and to

Company may purchase other railways to form part of railway constructed under this Act.

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This Act not to prevent Minister constructing railway. **99** Nothing contained in this Act, or in any lease issued hereunder, shall be deemed to prevent the Minister of Lands and Works from constructing any line of railway which Parliament may at any time hereafter authorise in the vicinity of or adjacent to the said line of railway. 5

Minister may refuse to grant Mining Easement under 57 Vict. No. 24 within Ten miles of railway. **100** Notwithstanding anything contained in "The Mining Act, 1893," or in any other Act, the Minister may refuse to grant to any applicant any Mining Easement to construct and use any tramway in, through, or upon any Crown lands within a distance of Ten miles of any part of the said railway except upon such conditions as to the construction and working of such tramway as the Minister may think fit to impose; but this Section shall not apply to any application for a mining easement to construct and use any tramway which shall be *bona fide* used only for the more convenient and advantageous working of any section of mineral land held or occupied by the applicant, and not in any way for carrying goods or passengers for hire, or for carrying metals or minerals from or to any land held or occupied by any person other than the applicant, or for carrying metals or minerals obtained from any land held or occupied by any person other than the applicant. 15 20

Company to have all powers of this Act before (lease) [grant] issued. **101** Until the primary lease shall be issued the Company shall have all the rights, powers, privileges, benefits, concessions, advantages, and liabilities conferred or imposed upon it by this Act so far as the same shall be necessary for the survey and construction of the said railway. 25

Penalty for damage to instruments, railway, &c. **102** If any person shall wilfully interfere with, move, injure, or damage any poles, stakes, marks, or instruments used by the Company, or its agents, servants, or workmen, for the purpose of surveying or marking out the line of the railway or otherwise in connection therewith; or if any person shall wilfully do or commit any damage, injury, or spoil, or any nuisance to or upon the said railway or other roads or ways, or to or upon any other works of or belonging to the Company, such person shall for every such offence forfeit and pay to the Company a sum not exceeding Twenty Pounds over and above the damages occasioned thereto. 35

[Mineral land exempt from Land Tax.] **103** The Company shall not be liable to the payment of any Land Tax in respect of any block of land granted to the Company under the authority of Part XIII. of this Act, and from which the Company shall raise or extract any minerals in respect of which royalties shall be payable under the provisions of this Act. 40

Company's Attorney may act for Company. **104** The Company's duly appointed Attorney for *Tasmania* may, in the name and on behalf of the Company, perform and do all acts and things which the Company is by this Act authorised to perform or do, and for that purpose may execute and deliver and sign all deeds and documents necessary or incidental to the performance or doing of any such act or thing as aforesaid. 45

Notices to be served on Attorney. **105** All notices by this Act required or directed to be served on the Company shall be served on the Company's duly appointed Attorney in *Tasmania*.

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106 In the event of any dispute, question, or difference arising between the Company and the Minister, or any official to whom any powers are given by this Act, in regard to any of the powers hereby conferred upon the Minister or such official, or the manner in which any such power should be exercised, the same may be settled summarily by a Judge of the Supreme Court.

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Settlement of certain disputes.

107 All offences against this Act or by any By-law made in pursuance of this Act shall be heard and determined, and all orders shall be made, and all penalties and sums of money imposed or made payable by this Act or any such By-law, shall be recovered in a summary way in the mode prescribed by *The Magistrates Summary Procedure Act*, and all penalties received by virtue of any such By-law shall be paid to the Company.

Offences to be dealt with summarily.

19 Vict. No. 8.

108 Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act or any such By-law, which is recoverable in a summary manner, may, unless otherwise expressly provided, appeal against the same in the mode prescribed by *The Appeals Regulation Act*.

Appeal from penalties.

19 Vict. No. 10.


109 The Judges of the Supreme Court may from time to time make, alter, and rescind Regulations for the following purposes:—

Regulations.

- I. For prescribing the form of any notice required by this Act, and the mode of service thereof, and the persons upon whom the same may be served:
- II. For prescribing the mode in which proceedings shall be taken before the Commissioner, and for regulating the practice and procedure before him, and for the fees to be paid thereon:
- III. For prescribing the mode in which appeals shall be brought before the Supreme Court or a Judge thereof:
- IV. For determining the person or persons whose receipt for compensation money, or whose signature to any agreement for compensation, shall be binding.

(Six)

110 The Company shall, within [Three]* months after the passing of this Act, place at interest on fixed deposit the sum of Five thousand Pounds, in the name of the Treasurer of the Colony, in some bank in Hobart to be approved by the said Treasurer, and shall deliver to the Treasurer the deposit receipt for such sum.

 Company to deposit £5000.

The Company shall be entitled to the interest on such deposit of Five thousand Pounds during the period it remains in the name of the Treasurer in such bank as aforesaid.

The Treasurer shall transfer or deliver the said deposit receipt to the Company as soon as the Minister shall report to him that the said railway has been constructed to the extent of Five miles in accordance with the provisions of this Act, and shall do any act reasonably required to enable the Company to obtain payment of the said deposit.

If the said railway shall not be so constructed to the extent of Five miles with due expedition to the satisfaction of the Minister, the said sum of Five thousand Pounds and all interest accruing thereon shall be absolutely forfeited to Her Majesty and shall become part of the Consolidated Revenue Fund of the Colony.