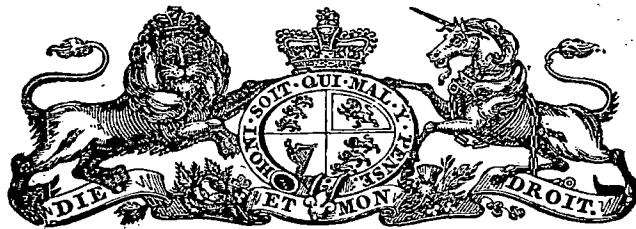


(No. 68.)



1897.

SESSION II.

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PARLIAMENT OF TASMANIA.

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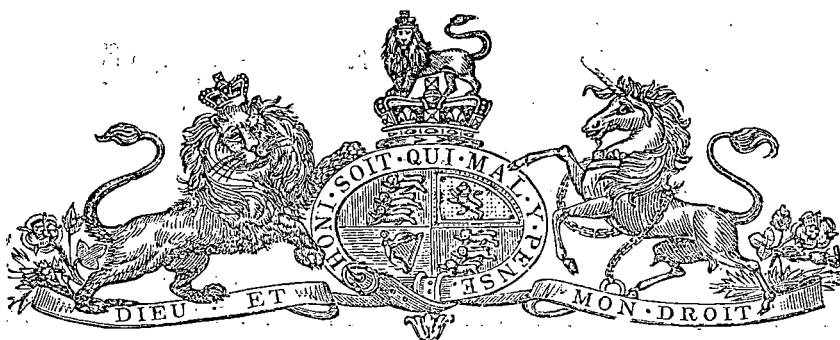
THE MOUNT LYELL AND MACQUARIE HARBOUR  
RAILWAY BILL, 1897, (PRIVATE):

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

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Brought up by Mr. Mulcahy, December 7, 1897, and ordered by the House of  
Assembly to be printed.

Cost of printing—£46 15s.



*SELECT COMMITTEE* appointed, on the 3rd day of November, 1897, to consider and report upon "*The Mount Lyell and Macquarie Harbour Railway Bill, 1897,*" (*Private*).

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MEMBERS OF THE COMMITTEE.

MR. BIRD.  
MR. W. H. T. BROWN.  
MR. HALL.

MR. HAMILTON.  
MR. M'WILLIAMS.  
MR. MULCAHY.

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DAYS OF MEETING.

Wednesday, November 10; Thursday, November 11; Friday, November 12; Wednesday, November 17;  
Thursday, November 18; Wednesday, December 1; Friday, December 3; Tuesday, December 7.

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WITNESSES EXAMINED.

Mr. James Patrick Madden; Mr. Herbert Stirling Muir; Mr. James Patrick Lonergan; Mr. F. Back, General Manager Tasmanian Government Railways; Mr. E. A. Counsel, Surveyor-General; Mr. W. H. Wallace, Acting Secretary for Mines.

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REPORT.

Your Committee having taken evidence in support of the allegations contained in the Preamble of the Bill, have the honour to report that the said Preamble has been proved to their satisfaction, subject to a certain Amendment which the Committee recommend.

Your Committee having agreed that the Preamble, as amended, should stand part of the Bill, then entered into consideration of the several Clauses, and have the honour to recommend certain further amendments and additions.

Your Committee have now the honour of submitting the Bill, with the Amendments and additions, to the favourable consideration of your Honourable House.

EDWARD MULCAHY, *Chairman.*

*Committee Room, 7th December, 1897.*

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## MINUTES OF PROCEEDINGS.

WEDNESDAY, NOVEMBER 10, 1897.

The Committee met at 11 o'clock.

*Present.*—Mr. Bird, Mr. W. H. T. Brown, and Mr. Mulcahy.

Mr. Mulcahy was appointed Chairman.

The Clerk read the Order of the House appointing the Committee.

An apology was received from Mr. Hamilton, who was unable to be present.

The Chairman laid the Petition praying for leave to bring in the Bill upon the Table. (Appendix A.)

*Resolved*, That Mr. J. P. Lonergan, Mr. J. P. Madden, and Mr. H. S. Muir, be admitted during the examination of witnesses.

*Resolved*, That the Petitioners be heard by Counsel.

Accordingly, Mr. M. W. Simmons appeared for the Committee in support of the Bill.

Mr. J. P. Madden, Legal Manager of the Company, was called in and examined.

Mr. Madden withdrew.

Mr. H. S. Muir, Mine Manager, was called in and examined.

Mr. Muir withdrew.

Mr. J. P. Lonergan, one of the Directors of the Company, was called in and examined.

Mr. Lonergan withdrew.

The Committee adjourned *sine die*.

THURSDAY, NOVEMBER 11, 1897.

The Committee met at 11 o'clock.

*Members present.*—Mr. Mulcahy (Chairman), Mr. Bird, Mr. W. H. T. Brown, and Mr. Hamilton.

The Minutes of last Meeting were read and confirmed.

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

Mr. Back withdrew.

*Ordered* That Mr. E. A. Counsel, Surveyor-General, and Mr. W. H. Wallace, Acting Secretary for Mines, be summoned to give evidence at 11 o'clock.

The Committee adjourned till 11 o'clock to-morrow.

FRIDAY, NOVEMBER 12, 1897.

The Committee met at 11 o'clock.

*Members present.*—Mr. Mulcahy (Chairman), Mr. Bird, Mr. W. H. T. Brown, Mr. Hall, and Mr. Hamilton.

The Minutes of last meeting were read and confirmed.

The Chairman laid upon the Table a letter from Mr. F. Back, General Manager of Railways, in further support of his evidence. (Appendix B.)

Mr. E. A. Counsel, Surveyor-General, was called in and examined.

Mr. Counsel withdrew.

Mr. W. H. Wallace, Acting Secretary for Mines, was called in and examined.

Mr. Wallace withdrew.

The Committee deliberated.

*Resolved*, That a case be prepared for the opinion of the Law Officers of the Crown as to certain provisions of the Bill. (Appendix C.)

The Committee adjourned till 11 o'clock on Wednesday next.

WEDNESDAY, NOVEMBER 17, 1897.

The Committee met at 11 o'clock.

*Members present.*—Mr. Mulcahy (Chairman), Mr. Bird, Mr. W. H. T. Brown, Mr. Hall, and Mr. M'Williams.

The Minutes of last meeting were read and confirmed.

An apology was received from Mr. Hamilton, who was unable to be present.

The Chairman read and handed in a letter from Mr. Lonergan and Mr. Madden, Acting Chairman and Legal Manager of the Company, in reference to the remarks of the General Manager of Government Railways contained in his letter of the 11th instant.

*Ordered*, That the said communication be printed. (Appendix E.)

The Chairman also submitted a letter from Messrs. Simmons, Crisp, & Simmons, covering letter from the Surveyor-General in regard to granting a mining easement or a Railway Act.

*Ordered*, That the said communications be printed. (Appendix F.)

*Resolved*, That Mr. J. P. Madden be recalled to give further evidence.

The Committee adjourned till 11 o'clock to-morrow.

THURSDAY, NOVEMBER 18, 1897.

The Committee met at 11 o'clock.

*Members present.*—Mr. Mulcahy (Chairman), Mr. Bird, Mr. W. H. T. Brown, Mr. Hall, and Mr. Hamilton.

The Minutes of last Meeting were read and confirmed.

Mr. Madden was recalled and further examined.

## V

Counsel read and handed in further opinion of counsel (Mr. N. E. Lewis) on the subject of granting a mining easement or Railway Act. (Appendix G.)

Resolved, That the Committee adjourn *sine die* to enable the Promoters to supply plan of rough survey of the proposed route of the railway.

The Committee adjourned *sine die*.

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WEDNESDAY, DECEMBER 1, 1897.

The Committee met at 11 o'clock.

*Members present.*—Mr. Mulcahy (Chairman), Mr. W. H. T. Brown, Mr. Hamilton, and Mr. M'Williams.

The Minutes of last Meeting were read and confirmed.

The Chairman presented a letter from Messrs. Simmons, Crisp, and Simmons, with regard to a plan of the rough survey of the route of the railway which the Committee desired to have, stating that the mine manager had been unable to obtain the required plan and report owing to the survey party that had commenced at the Kelly's Basin end being blocked by flooded rivers, but that every endeavour would be made to have the required information before the House for the second reading of the Bill.

Ordered, That the solicitors of the Promoters be informed that the Committee is unable to proceed with their deliberations until the plan and report of at least the first ten miles of the proposed railway from the mine through Gormanston and down the King River valley is in their hands.

The Committee adjourned *sine die*.

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FRIDAY, DECEMBER 3, 1897.

The Committee met at 10 o'clock.

*Members present.*—Mr. Mulcahy, Mr. W. H. T. Brown, Mr. Hamilton, Mr. M'Williams, and Mr. Bird.

The Minutes of last Meeting were read and confirmed.

The Chairman read and handed in a letter from Messrs. Simmons, Crisp, and Simmons, embodying copy of telegram sent to Mr. Muir, the Mine Manager, and reply received with reference to the desire of the Committee to have plan and report before considering the Bill. (Appendix H.)

A Motion was made and the Question was put—That the consideration of the Bill be postponed until the plan and report is received. (Mr. M'Williams.)

It passed in the Negative.

The Committee entered upon the consideration of the Bill.

Preamble.

Amendment made, line 5, after "mentioned," by striking out "and to generate and supply Electricity for light or motive power."

Preamble, as amended, agreed to.

Clause 1 agreed to.

Clause 2 postponed.

Clause 3.

Amendments made :—

Page 2, line 33, after "roads," by striking out "streets and reserves."

Page 2, line 45, after "road," by striking out "street or reserve."

Clause, as amended, agreed to.

Clause 4.

Amendments made :—

Page 2, line 50, after "aforesaid," by striking out "or in or near to the Town of Gormanston."

Page 2, line 53, after "One," by inserting "and a half."

Page 2, line 54, after "than," by striking out "Twenty-eight," and inserting "Forty."

Clause, as amended, agreed to.

Clause 5 disagreed to.

Clause 6 agreed to.

Clause 7.

Amendments made :—

Page 3, line 15, after "roads," by striking out "streets."

Page 3, line 20, after "Act," by striking out "Provided always, that the Company may from time to time submit such plans and sections as are above mentioned for portions of the said Railway, and may commence the construction of any portion in respect of which such plans and sections have been deposited with the Minister and approved by him."

Page 3, line 25, after "Provided," by striking out "further."

Clause, as amended, agreed to.

Clause 8 agreed to.

Clause 9—

Amendment made, page 3, line 86, after "appoint," by inserting "at the cost of the Company."

Clause, as amended, agreed to.

Clause 10 agreed to.

Clause 11—

Amendment made, page 4, line 17, after "exceeding," by inserting "Five."

Clause as amended, agreed to.

Clauses 12 to 17 agreed to.

Clause 18—

Amendment made, page 6, line 41, after "substituted," by adding "Provided further, that plans for all bridges over roads or streets shall be submitted to and approved by the Minister before construction."

Clause, as amended, agreed to.

Clauses 19 to 23 agreed to.

Clause 24—

Amendment made, page 8, line 1, after "shall," by inserting "not at any time exceed the tolls, rates, fares, and charges then in operation on the Government Line from Strahan to Zeehan."

Clause, as amended, agreed to.

Clauses 25 and 26 agreed to.

## Clause 27—

Amendment made, page 8, line 26, after "Railway" by adding "Provided always, that all such vehicles shall be furnished with automatic brakes, and shall be approved by the Minister."

Clause, as amended, agreed to.

Clauses 28 to 35 agreed to.

## Clause 36—

## Amendments made—

Page 9, line 46, before "roads," by striking out "streets."

Page 10, line 12, after "the," by striking out "supply of locomotives, or for generating electricity, or for other purposes," and inserting "purpose of working the said Railway."

Page 10, line 27, after "powers," by adding "Provided also that the plans of such wharves, piers, and docks shall be submitted to the Marine Board of Strahan or other public body governing Macquarie Harbour, and that such wharves, piers, and docks shall be vested in and subject to the said Marine Board or public body."

Clause, as amended, agreed to.

Clauses 37 to 53 agreed to.

## Clause 54—

Amendment made, page 14, line 18, after "after," by inserting "two years from."

Clause, as amended, agreed to.

Clauses 55 to 63 agreed to.

## Clause 64—

## Amendments made:—

Page 16, line 8, after "for" by striking out "any of the purposes of this Act," and inserting "the purpose of working the Railway."

Page 16, line 23, after "Section" by striking out "and used by them for any purpose other than working the said Railway."

Clause, as amended, agreed to.

Clauses 65 to 68 agreed to.

Clause 69 disagreed to.

## Clause 70.

Amendment made, page 17, line 28, after "machinery" by inserting "used for the purpose of working such Railway."

Clause, as amended, agreed to.

Clause 71 agreed to.

Clauses 72 to 91 disagreed to.

Clause 92 agreed to.

Clauses 93 to 95 disagreed to.

Clauses 96 to 99 agreed to.

## Clause 100—

Amendment made, page 23, line 9, after "assigns," by inserting "with the consent of the Governor in Council."

Clause, as amended, agreed to.

Clauses 101 and 102 agreed.

## Clause 103—

## Amendments made:—

Page 23, line 51, after "within," by striking out "Eighteen," and inserting "Twelve."

Page 24, line 1, after "of," by striking out "Four," and inserting "Three."

Page 24, line 2, after "Act," by striking out "Provided always, that for the purposes of this section 'commencing the construction' shall include the preparation of the necessary survey of the line of Railway."

Clause, as amended, agreed to.

Clauses 104 to 106 agreed to.

## Clause 107—

## Amendments made:—

Page 24, line 21, after "within," by striking out "Six," and inserting "Two."

Page 24, line 22, after "of," by striking out "Five hundred," and inserting "One thousand."

Page 24, line 26, after "of," by striking out "Five hundred," and inserting "One thousand."

Page 24, line 35, after "of," by striking out "Five hundred," and inserting "One thousand."

Clause, as amended, agreed to.

The Committee adjourned.

## TUESDAY, DECEMBER 7, 1897.

The Committee met at 11 o'clock.

*Members present.*—Mr. Mulcahy (Chairman), Mr. W. H. T. Brown, Mr. Bird, and Mr. Hamilton.

The Minutes of the last Meeting were read and confirmed.

The Chairman handed in General Report and Estimate of cost of construction of the line. (Appendix I.)

The Chairman also laid upon the Table tracing showing route of trial survey, also tracing of longitudinal sections of same.

The Committee again entered upon consideration of Bill.

Postponed Clause 2.

Amendment made, page 2, line 6, by striking out "'Local Authority' shall mean the Municipal Council or Town Board having jurisdiction in any Municipality or Town in which the Company may propose to apply or put in force any of the provisions of this Act."

Clause 2, as amended, agreed to.

Clause 36 reconsidered.

## Amendments made—

Page 10, line 4, after "water," by inserting "or."

Same line, after "roads," by striking out "streets or ways."

Page 10, line 5, after "roads," by striking out "streets or ways."

Clause, as amended, agreed to.

New Clause A (Railway to be constructed equal to a certain rate of speed, &c.), brought up, and read 1<sup>o</sup> (to follow Clause 6).

**A.** The said railway shall be constructed in a substantial manner so that those portions of it which shall be used without the assistance of a third or rack rail shall have a grade not steeper than 1 in 30, and shall be fit for the

carriage of locomotives with a weight of not less than eight tons on each axle, at a rate of not less than twelve miles per hour. And those portions of the said railway which shall be used with the assistance of a third or rack rail shall have a grade not steeper than 1 in 10, and shall be fit for the carriage of locomotives as aforesaid at a rate of not less than four miles per hour. And the whole of the said railway shall be maintained and worked in accordance with the provisions of the said Act, and to the satisfaction of the Minister or such Officer as he may from time to time appoint to inspect the said railway.

Read 2<sup>o</sup>, and made part of the Bill (to follow Clause 6).

New Clauses B to I brought up, and read 1<sup>o</sup>.

**B** 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 this Act, or earlier if the Company shall so agree, to give the Company notice of the intention of the Crown to purchase the said railway 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.

**C** The amount of compensation to be paid to the Company upon the purchase by the Crown of the said railway shall be the actual cost of the construction work, 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.

Provided that if at the time of such purchase 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 Company as such compensation, and in case of dispute shall be settled by arbitration as hereinafter provided.

**D** In the event of the Governor in Council and the Company not agreeing upon the sum to be paid to the Company upon the purchase by the Crown of the said railway, 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 others arbitrators. Provided, that in no case shall such compensation exceed Twenty per centum on the amount actually paid by the Promoters for such construction work, rolling-stock, equipment, goods, and chattels, nor the value of the same.

**E** If the Company shall 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.

**F** 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.

**G** For the purpose of ascertaining the actual cost of the construction work under this Act, the Company shall, upon the 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 purchase of the said railway, 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.

**H** 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.

**I** After the railway is completed and open for traffic, no new works of construction in connection with the railway shall be commenced or completed without the consent of the Governor in Council, and in event of any such works being constructed without such consent, such works shall not be deemed construction works for the purpose of computing the amount of compensation to be paid to the Company upon the purchase of the said railway.

Read 2<sup>o</sup> and made part of the Bill (to follow Clause 102).

New Clause J. (Conditions and Stipulations) brought up and read 1<sup>o</sup>—

**J** In the event of any of the contingencies hereinafter mentioned arising, the Company shall be liable to forfeit all the rights and powers conferred by this Act:—

- (a) If any of the covenants or conditions contained in this Act and to be performed or observed by the Company is not duly performed and observed:
- (b) 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 accordance with the provisions of this Act:
- (c) If the Company does 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:
- (d) If the Company does not, after the said railway is completed and opened for traffic, run such trains upon the said line throughout its entire length as the Governor in Council may require, such trains to be of such capacity and start at such hours and stop at such stations, sidings, and places for passengers to join the train and alight, and for goods to be forwarded and received, as the Governor in Council may determine.

Read 2<sup>o</sup> and made part of the Bill (to follow Clause 107).

Draft Report brought up and agreed to.

The Committee adjourned *sine die*.

# EVIDENCE.

WEDNESDAY, 10TH NOVEMBER, 1897.

JAMES PATRICK MADDEN, *called and examined.*

1. *By Mr. Simmons.*—What is your name? James Patrick Madden.
2. Where do you reside? At Melbourne.
3. What are you? I am Legal Manager of the North Mount Lyell Mining Company, No Liability.
4. Your company is applying for a Bill giving you permission to construct, maintain, and work a line of railway from North Mount Lyell to Macquarie Harbour? Yes.
5. Will you tell the Committee what are the financial arrangements of the company? The company has secured a sum of £105,000 for the purpose of constructing this railway and working the mine.
6. And that amount is now available? Yes, practically. We have £70,000 in hand, and the balance of £35,000 is guaranteed whenever wanted. We estimate that the £70,000 above-mentioned and the 35,000 shares which have been underwritten will give us sufficient capital to construct the railway and develop the mine. The shares have been underwritten at £1 per share, but the company are to receive the market price of the shares at the date when the money is required. The present market price would give us about £50,000, so we practically have £120,000 now available, which, we estimate, will be amply sufficient for our requirements.
10. What amount of development works have been done at the mine? £10,000 has already been expended at the mine.
11. Generally speaking, why do you require this line of railway? Because it is considered that the mine cannot be profitably or economically worked without it.
12. Your survey parties have commenced work, I believe? Yes, they have been at work for some time, and they will complete the preliminary survey in about a fortnight's time from now.
13. The plan on the table, you believe, shows approximately the line of route? Yes, I believe it does.
14. Where do you propose putting the smelters? Our present intention is to put them at Thureau Hills, on the King River.
15. How many miles is that from the mine? Nine or ten miles.
16. You are asking in the Bill for power to make extensions and branches: will you explain what extensions and branches you require? For the purposes of this railway there will be at least five companies associated, viz., the North Mount Lyell Company, the South Mount Lyell, the Mount Lyell Extended, the Mount Lyell Consols, and the Mount Lyell Comstock. We ask for power to construct extension or branch lines to each of these mines; they would be either tramways or railways, or something of the sort. (The witness here indicated on the plan exhibited the position of the different mines named.) The Consols, Extended and the North Mount Lyell adjoin each other; the South Mount Lyell is associated with us, and is situate on the south side of the Mount Lyell mine.
17. Then, the branch lines are required to convey ores from and goods and timber to the mines named to your line of railway? Yes. There is also another property which would work in conjunction with us, that is the Mount Jukes. That would be two miles from our main line. A company has just been floated for the development of Mt. Jukes. If that develops successfully they will certainly want a branch in connection with the main railway.
18. Can you say what would be the maximum distance of any branch line? I understand not more than four or five miles for a maximum.
19. You would also require branches for getting timber, would you not? Yes; that is a great necessity at present. In the case of the South Mt. Lyell they are now paying 13s. 6d. a ton for firewood.
20. And you would also want a railway for flux purposes? Yes, we would want a branch for fluxes.
21. You mean either an extension or a branch? Yes.
22. Then, I understand the branches or extensions you ask for will not exceed in length from four to five miles? Yes; Mr. Muir will tell you about that; he has a better knowledge of the locality than I have.
23. You are also asking for powers in connection with the supply of electricity. Explain that to the Committee? Well, the idea of the directors is that we will light the smelters by electricity, and in all probability the mines may be lighted and worked by it. We ask power to enable us to generate electricity for that purpose. We also want to generate electricity for lighting and working the other mines that will be associated with the North Mount Lyell Mine.
24. What streams do you want to tap? That is not yet determined on. We have applied for water rights under the Mining Act on the King River; we have applied for a hundred sluice-heads of water.
25. The Act would limit you to streams on the course of the line of railway? Yes, but I may say as far as the company is concerned, if there is any objection to allow us to take water for the purposes of electricity we would as soon abandon that part of the Bill and so avoid the discussion of it.
26. Your object is to get a railway and branches of a railway, and not to establish electric works? Yes, that is our object.
27. Shortly, you are asking for the power to make a railway, but, so far as the generating and supplying electricity is concerned, you are willing that it should be limited? That is all we want. We want the rights to construct and work a railway for our own purposes and those of the other companies associated with us. We have no objection to the clauses in reference to electricity being taken out of the Bill. It might be useful hereafter, but in any case it would be some time before we should want to generate electricity at all.

28. *By the Chairman.*—The company intend going on immediately with this railway, I understand, if they get this Act? Yes, the survey is already undertaken, and the moment the Act is passed the construction will go on forthwith.

29. The money is now raised? Yes, that is it. The money is now raised, and there will be no delay in proceeding.

30. I see that £500 is to be deposited within six months after the passing of the Act, in the name of the Treasurer—why do you want six months? We do not ask for six months: that is what is usually inserted in similar Acts. We will put it up to-morrow if required. One day's notice would be enough for us.

31. I understand the amount you have in hand is £70,000, with a guarantee of £35,000 more? Yes, that is it.

32. And then, besides that guarantee you may have further money from the shares? Yes. We calculate on selling these shares at a high price, but meanwhile we are guaranteed £105,000. The probabilities are that these shares will bring us twice the amount guaranteed, but we have £105,000.

33. *By Mr. Bird.*—I understand you to say you have £105,000; you have £70,000 in cash, and a guarantee of £35,000—are the shares of which you speak additional to that? No, not additional to that.

34. Then, you have £105,000 including the shares? The exact position is this: we have £70,000 in cash, and we are guaranteed not less than £35,000 for the shares, but the probability is that they will sell for twice that amount.

35. Then, the guarantee of £35,000 consists in your having these 35,000 shares? Yes. They are underwritten at that price, and that will bring up the total of our money to £105,000. If we get the present market price for the shares, that will give us about £20,000 more.

36. Is this the fact—you have £70,000 in cash? Yes, that is in hand.

37. And you will have £35,000 besides—is that all? We are guaranteed £35,000 for these shares, but we can get the market price for them when we want the money, and the probabilities are they will bring fifty odd shillings a share when we sell.

38. *By the Chairman.*—Have you had the opinion of any competent railway engineer that you can construct the line for the amount you name? The man we have is Mr. Egan, who was recommended by the Engineer-in-Chief of Victorian Railways. We have reports from him, and he reports the route as practicable.

39. What is its length? From 32 to 33 miles.

40. Have you had any estimate of the cost? Only a rough estimate. We have not got one from Mr. Egan yet. We have one from Mr. Moore. He said the line would cost about £2000 a mile. We believe it will cost more than that.

41. Will it not go to £3000 a mile? We do not think it will; but we believe it will go nearly to £3000.

42. *By Mr. Bird.*—That will practically swamp all your capital. That will mean £96,000, will it not? No, it will not do that. Of course the other companies which are associated with us will contribute towards the cost of construction of the railway by the North Mount Lyell Company in proportion to the benefits they will derive. They will contribute towards it as may be agreed upon.

43. Then the greater part of your money is to be taken up in railway construction, and there will be nothing left to develop the mine? No; we estimate we shall have from £30,000 to £40,000 additional from the sale of the shares, and then our ores are on the surface and can be dealt with.

44. But £30,000 or £40,000 will not build the smelters and also develop the mine? We calculate we can sell ores if necessary to raise more money. Then all the other associated companies will have to contribute their proportion of the expenses. This railway is to be constructed in the name of the North Mount Lyell Company, but it is really for the benefit of the whole.

45. *By the Chairman.*—That is what I wish to know. The other companies will have their branches, will they not? Yes. The South Mount Lyell, the Mount Lyell Extended, the Mount Lyell Consols, and the Comstock are all distinct companies, but the management of each company is the same, being managed by the same Board of Directors.

46. Have you any formal contracts from the other companies—do they ask you to make this line? Yes, when we stated we were going to make the line we had all the other companies with us, and they all agreed; the Directors were all agreeable to it. It was agreed that the whole scheme should be undertaken by the North Mt. Lyell Company, but that the expense should be borne by all the companies—whatever the North Mount Lyell Company does is shared by the whole—that is, so far as the railway is concerned.

47. In the same proportion? No, not in the same proportion. It is not yet decided what the proportion will be, but they will contribute in accordance to the benefit they get—that will be arrived at hereafter.

48. The Directors, I understand, are the same in all the mines? Yes; Messrs. Crotty, Loneragan, Clayton, Packer, and Dr. Moore are the Directors—the same Directors in the whole of them. I am the legal manager of two of them, and my partner is manager of the other three. They are all managed in the same office.

49. *By Mr. Bird.*—Is not your capital insufficient for all you require? You wish the Committee to understand that your money available will be used for the construction of the railway—whatever may be wanted for the development of the mine, you wish us to understand that you will use this money for the railway? Undoubtedly. That money is principally raised for the construction of the railway—it will be used for that purpose and, if necessary, for that only. If necessary, we will have to make arrangements for the development of the mine. We anticipate that the money available will be enough for the North Mount Lyell Company to stand on its own basis.

50. *By Mr. Brown.*—I understand your shares are underwritten at the lowest price? Yes; when we sell we shall get the market price.



51. *By Mr. Bird.*—About the cost of the smelters; I suppose that means about £50,000? We estimate it at about £40,000.

52. Then I understand clearly from you that you use this money which is available for the construction of the railway, whatever comes of the other objects? Yes.

53. *By Mr. Simmons.*—How does the present market price of the shares agree with the under-written price? We are guaranteed £1 a share by the underwriters. The market value is far in excess of that.

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HERBERT STIRLING MUIR, *called and examined.*

54. *By Mr. Simmons.*—What is your name? Herbert Stirling Muir.

55. What are you? I am Mining Manager of the North Mount Lyell Mining Company.

56. What experience have you had on the West Coast? I have been six and a half years on the West Coast, and I have been at Mount Lyell three years.

57. How long have you been manager of this company? Close on two years. I have been nineteen months manager of the North Mount Lyell mine, and for the rest of the time I was manager of the same syndicate.

58. The North Mount Lyell Company has, I understand, three sections? Yes, the company has three sections.

59. What are you mining for? Copper and its by-products, silver and gold.

60. Do you know the country to be traversed in regard to this railway? I know it personally, but not as well as our surveyors know it.

61. Have you travelled it? Yes, I have been over it many times.

62. You see this chart (plan produced), on which you have marked the proposed line of route? Yes, that is right approximately. It shows the general contour of the country approximately through which our line will pass.

63. Do you know how long it is since the survey parties went out? About three months ago.

64. How many parties? Well, one was sent from one end of the line, and one from the other.

65. You started a party from each end—when do they expect to finish? I can't say. They expect to complete the survey in about a fortnight, they will complete it at or about a point shown on the plan (plan referred to).

66. Can you say of your own knowledge that it is necessary to have a railway from Kelly's Basin to the land held by the North Mount Lyell Mining Company—essentially necessary, I mean? Yes, it is decidedly necessary; for anything on the east side of the saddle the natural outlet is down to the Basin; from the North Mount Lyell mine to our smelter site we can get a grade of not exceeding 1 in 30—(witness explained the position on the map),—the slope is down the King valley towards the head waters of the Andrew River, principally through button-grass flats—about 11 miles of pretty bad country. The total length thence of the line will be about 32 miles.

67. *By Mr. Bird.*—What grades and curves are reported? Grades not more than 1 in 30, and not less than 3 chain curves.

68. Then you won't want to use the Abt or any other system of central rail? Not so far as we know; our grades are reported at not more than 1 in 30, and if that be so we can go on the adhesive principle.

69. *By Mr. Simmons.*—What work has been done on the mine? We have put in two tunnels and other works, and winzes have been sunk. In No. 2 tunnel, at 500 feet, we are converging on the ore bodies. Since that, or within the last three weeks, there have been great developments on the surface, from 200 to 300 feet to the west. We were working there before, but the ore has been improving as we proceed. The ore body is now 40 feet across, and we have proved it in length for 120 feet. It carries 20 per cent. of copper and a high percentage of silver, besides a percentage of gold. I cannot say what it will be, but it gives a tremendous added value to the mine.

70. And you think what you have developed justifies the company in immediately proceeding with the railway? Decidedly. Prior to the recent discovery the developments in the mine warranted the railway. We had splendid prospects some time before, and had been encouraged to go in for development and also for railway construction to connect with the other mines, and also to enable us to utilise the rich ores of the North Mount Lyell. The recent development gives a tremendous added value to the mine.

71. Do you know the North-East Dundas Tramway? I know the country very well.

72. You know the country where the tram passes? Yes.

73. How does that compare with the country through which your line will pass? It is very similar. It is a rough broken country with cross curves. There will be lots of curves.

74. Which will be the most expensive to go through? It will be much the same. A portion of the distance will be through difficult country; for the balance of the distance to the North Mount Lyell Mine there are miles of button-grass plains, there will be little cutting in that distance to do till you come to the King River bridge. It is very easy country. There are very few bridges till you come to the King River. (Witness explained by reference to plan.)

75. Then, the line should be constructed for less cost than the North-East Dundas Tramway? I should think so. I think it should be constructed for considerably less.

76. Mr. Back has put the cost of the North-East Dundas Tramway at £2000 a mile, including equipment—do you know that? No; I should have thought it was more.

77. *By Mr. Brown.*—You will have a longer length of easy country than on the North-East Dundas line? Yes, considerably. (Witness referred to the plan.) From this point (showing position) it will be an incline the whole way to the mine. The outfalls there are nothing less than 1 in 60.

78. Then, one-third of the distance will be through difficult country, the other two-thirds are nothing to speak of? Practically nothing at all. One-third of the distance will be difficult.

79. *By Mr. Bird.*—But the difficulties will not be greater than on the North-east Dundas line, will they? Well, they might be less in some parts, and they might be more.

80. You heard what Mr. Madden said in reference to proposed branch lines—what would be the maximum length of your branches? About four miles the maximum, and about a quarter of a mile the minimum.

81. Those would be branches to the particular mines he enumerated, and if you propose to obtain firewood or fluxes for working your line, you will require other branches, will you not? For the purposes of timber and firewood, yes. Fluxes should be got anywhere along the line. The ironstone wanted—what is not contained in the ore itself—can be carried from hematite deposits on the line of railway.

82. And silica? That is contained in the ore itself. The Mount Lyell ore is a sulphide of iron with copper and silver. The North Mount Lyell ore is a siliceous gangue containing copper and other minerals.

83. What amount of timber is there available about the mine at present—is it very large? No, it is very limited, and it is mostly occupied by other companies. We might have to go far. We might have to come down to the King River to obtain timber.

84. *By Mr. Brown.*—Do you think you will have to get it along the King River? Yes, a great extent of it.

85. *By Mr. Bird.*—What branch lines of railway will you require for timber purposes? Along the line of railway it should not exceed two miles at any particular point. We should use steel rails for timber tram lines, and they are so constructed that you can pick them up and lay them down elsewhere when you have run out a block for timber.

86. Then, none of your branches should exceed four miles? No, they should not exceed that.

87. And you are proposing to put that in the Bill? Yes, it is proposed to put it in the Bill.

88. *By Mr. Simmons.*—So far as you can form an idea at present as to the outside length of these branches, four miles for connections with other mines or three for timber would be ample? Yes, that would be ample.

89. And you have no objection to the insertion of a clause to that effect? None whatever.

90. *By Mr. Bird.*—Do you consider that, say five miles of connections with other mines, and three miles for timber, would be enough? Timber may be obtainable within five miles at one place and not at another.

91. But no branch would exceed five miles? No, that will be enough; that will enable us to take timber from the King River. There is a lot of timber near Kelly's Basin. The line there will assist the pining industry up the Gordon. There are lots of pine there, and there is also a lot of pine on the Andrew.

92. *By the Chairman.*—Are there any great probabilities of mining developments along the route of your railway? Yes; we expect a continuation of the mineral belt for some distance south at the side of the mountain range. (The witness referred to plan and described probable developments.)

93. Then you think the construction of this railway will be important to the district generally, as well as to the North Mt. Lyell Mine? I should think so. It will certainly open up great facilities for prospectors.

94. *By Mr. Brown.*—You do not raise any objection to other companies having railways, or their branches crossing your line? No objection whatever. What we want is to get our ore and material from the mine to a sea port, but independently of the Mount Lyell Company, because the carriage by their line and the expense of getting to their line is far too heavy for our ore,—it would not be payable. To get anything at all we should have to pick the eyes out of the mine. If you had to be hampered in doing that you could only take the highest grade ores; but with our own line we can get low grade ores, and all at comparatively fair rates.

95. Then, it is essential you should get this line in order to develop your mine? Yes; it is most essential.

96. Is there any other way of developing the mine if you can't get this railway? No other way than by going over the saddle by the Mt. Lyell Railway, and then we could not deal with low grade ores.

97. *By Mr. Simmons.*—About a smelter site—how will you get that? Well, we could not get it on the Mt. Lyell smelter's side of the range, because all the water-rights are taken up by the Mt. Lyell Company, and we can't do without water.

98. *By Mr. Brown.*—How are the prospects of water along the line—what are the rivers like? Well, they are rushing torrents in winter, but, excepting the King River, there is little or nothing in them at all in summer. The River Andrew, where we cross, is a torrent in winter, but it is dry in summer.

#### JAMES PATRICK LONERGAN, *called and examined.*

99. *By the Chairman.*—What is your name? James Patrick Lonergan.

100. What are you? I am acting Chairman of Directors of the North Mount Lyell Mining Company, No Liability.

101. Have you any statement which you desire to make in regard to this Bill? Yes. I think that the Directors came to the conclusion long ago that to develop the North Mount Lyell Mine properly, and also the other mines that are associated with it, and which are managed all in the same office, it is absolutely necessary for the working of these mines at a profit that we should have a line of railway. In asking for permission to construct this line we ask for, practically, no concessions. We ask for no land concessions or water reserves or anything else. We do not desire to interfere with anyone. We desire to construct our smelters altogether away from any existing rights of other people. We are not poaching on anyone else's preserves in any way. We shall have our own water in the King River, and also abundant supplies of timber. All we want is the railway, so that the mine can be worked for the advantage of the shareholders at the minimum expense. We have spent a lot of money in the initiation of the whole concern. We have raised the money for the con-

struction of this railway, and there is no doubt whatever that any additional money which may be required will be forthcoming without any trouble, even to five times the amount already raised if necessary. Money is no object whatever so long as we develop the property. Up to the present time the development of the mine has been wonderfully gratifying to all concerned, and there will be no difficulty in getting further money, should we want it, to proceed, and we don't propose to have any delay. If Parliament gives us the legal rights we want there will be no delay in proceeding with the construction of the railway, as we want to take advantage of the fine weather to get as much work done as possible. It rains so incessantly on the West Coast that it prevents work from being carried on as expeditiously as it might be in a finer climate.

102. *By Mr. Bird.*—Clause 103 of the Bill permits construction to be commenced in 18 months, and I see it is to be completed within four years of the date of the Act. You would be prepared to commence earlier than that? Yes, we would commence immediately.

103. And within what period do you think you could complete the line? Well, we would complete it as far as the North Mount Lyell mine as fast as possible. We only wish it was completed now, so that we could get some return from the mine. It is simply a question of labour, and labour is sometimes a difficulty.

104. Can you do it in two years, do you think? Well within that, I think. I hope the main line will be finished before that, but the maximum time will be within two years. It is not a question of money at all. Our anxiety is to get the line done, and we intend to go ahead as fast as possible.

105. You would not have sought to get these powers for a railway such as this, I understand, if you could have proceeded under the mining easement regulations? We would rather not; but under the mining easement regulations we are practically limited to distance, and we have to come for an Act. We have to put a lot of money into the concern, and an easement is not substantial enough for that; it would not be good business management to go on easements. As regards electricity, we simply ask for powers to enable us to work our smelting works or mines if necessary; we don't want to sell electricity to anyone. We see how necessary it may be to enable us to light our mines and plant.

106. *By the Chairman.*—Are you aware there is nothing to stop you from doing that under the existing law? If that be so, then you can strike those clauses out of the Bill.

107. But you would prefer to have it retained in the Bill, would you not? If it can be retained. There can be no harm in getting the power; but we don't want it if we have sufficient rights already. That being so we don't require it.

The Committee adjourned.

THURSDAY, 11TH NOVEMBER, 1897.

FREDERICK BACK, *called and examined.*

108. *By the Chairman.*—What is your name? Frederick Back.

109. You are General Manager of Tasmanian Railways? Yes.

110. The Committee desire you to give them some information, if you can, or to hear anything you may suggest, in regard to the North Mount Lyell Mining Company's Railway Bill. Do you know anything of the country through which this railway will pass? I know the Mount Lyell end of it, and I know Kelly's Basin. I can give no information about the country.

111. But you have an idea of the character of the country? Yes, fairly.

112. Do you know the North Mount Lyell mine at all? Yes.

113. Do you think that the construction of this railway would prejudice the interests of the colony in any way—I mean in regard to the construction of any contemplated Government lines, or of any other railways? I think, generally, that the Committee should not accept this line in its present form.

114. Do you say that on general grounds? Both on general and specific grounds.

115. Will you state your reasons, Mr. Back? I will. In the first place, I see no grounds whatever for giving the concessions asked for in this Bill, and the powers and concessions asked for are so great that I hardly think the framers of the Bill fully realise what they mean. I think the company is very fairly entitled to a mining easement, but as the mining laws will not permit the granting of a mining easement of so great a length, I am of opinion that a short Act might be passed to enable the necessary easement to be granted.

116. *By Mr. Bird.*—Do you mean for this company alone, or for any company? I am dealing with this company at present. I take only the matter now before me. You are asked here, because this company wishes for a mining easement to deep water, to give it the right to certain lands for all time, and also the use of the streets and roads—the right to the use of the streets of such towns as the line may pass through for all time. Now, such towns as Queenstown and Gormanston are going ahead very rapidly. I can recollect Broken Hill in its early days, and you know what that is now. I think if such a railway as this were granted it should only be on lease, and then for not more than twenty-one years, and it is necessary that arrangements for purchase and for acquiring the line should be inserted. I observe that this is not only a Bill to enable the owners of this mine to get their ores and material to a port of shipment, but they ask for powers to generate and supply electricity for lighting or for motive power.

(The Chairman informed Mr. Back that the Promoters had intimated their intention of striking those Sections out of the Bill.)

*Mr. Back continued.*—Then, I understand that the powers asked as regards electricity are to be withdrawn from the Bill, I need say no more about that.

117. *By Mr. Simmons.*—We should like to hear what you have to say, Mr. Back? We propose to withdraw the electrical clause and will strike out clauses 72 to 91, and 93 to 95? If you will turn to clause 64 you will find that the powers proposed to be given to the company are simply enormous. That clause

proposes to give to the Company power to take from all streams or rivers which shall be crossed by the proposed line one-half the water from those rivers. That is to say, they may cross the Gordon and—

118. *By the Chairman.*—But you will observe, Mr. Back, that if they don't want to generate electricity they will not want the water for doing it? I see.

119. *By Mr. Simmons.*—We should not want water except for the purpose of working our own railway. We would not carry it further than we should be able to do under the mining easement clauses? I understand.

120. *By the Chairman.*—They could get the water under the ordinary Mining Acts, could they not? Yes. I take it this company want the railway to enable them to get their minerals to a market and to get stores and materials upon it. If that is the case, why should the Colony give away its water-rights or any other valuable rights to the company. The company merely wants to open up its mine; then why hamper the Railway Bill with other proposals. It will be quite sufficient, if you want it, to allow the company to take such water as may be necessary for the working of the railway. Lines 21 to 35 of the clause—“Provided also, that the company shall from time to time pay the Minister for all water taken and diverted under the provisions of this Section and used by them for any purpose other than working the said railway. The annual sum payable for such water shall be levied on such principle and at such rate and subject to such provisions as shall from time to time be fixed for diverting and taking water from any river or stream for generating electricity under any regulations from time to time made by the Governor in Council under the provisions of this Act, or under the provisions of any present or future law regulating the diverting and use of such water for such purposes; and all moneys so received by the Minister shall be paid into the Consolidated Revenue Fund: Provided also that, for the purposes of conserving water under the provisions of this Act, the Company shall have and may exercise the powers conferred by ‘The Mining Act, 1893,’—should also be cut out. You will find in the second line of the clause the words, “for any of the purposes of this Act”—it would be necessary to strike out these words. In the third line of clause 63 you will find the words “or along the route of any branch line of railway”—these should come out, but I will come back to that. Then I hope this Committee, or any Committee dealing with works of this sort, will not allow any Act to be passed until a proper survey of the proposed line of railway is deposited with the Minister. I asked that this should be done in former cases, and if it is not done now it will only tend to perpetuate the trouble we have had. I urge now, that on this and on all similar occasions you should require a complete survey to be deposited with the Minister before any Act is passed. That is a course which should have been taken in the past, and which certainly should be insisted on in the future.

121. *By Mr. Brown.*—Then, do you think the Promoters should go to the great expense of a survey of a line on the chance of getting their Bill, and with the risk that it might only benefit some one else in the future? I have already pointed out, and I emphasise it now, by referring to Clause 3 of this Bill, which proposes to give the promoters power to take and use so much of the Crown and private lands, and of the roads, streets, and reserves, both public and private, through which the line shall pass, for the purposes of their railway for ever: that seems to me to be going too far. You will have examples of this in the case of other works, such as the Hobart Tramways; yet that is proposed in line 33 of clause 3. I will go through my notes on the Bill if you wish as to what I think should be done, but I would urge that a mining easement is all that is necessary to secure the objects of this company. It has been often remarked on this question, and too frequently of late by otherwise good business men, that the more of these lines of railway we have the better, as they open up the country and cause the expenditure of large sums of money. This is a great fallacy. If you have a farm and you overstock that farm, what is the result? It is the same here. If you have a colony, and if you over-run it with railways for which there is no traffic, what will be the result? In the case of the failure of any of the undertakings, or if any of them are mismanaged, the colony must suffer—the credit of the Colony must suffer. It was exactly the same case when the Van Diemen's Land Bank failed. If Parliament desires to give concessions to these companies, I think, for the sake of the credit of the Colony, these concessions should be carefully limited, and given only where it is proved there is some chance of profit to the Colony. Therefore, as I say that a mining easement would meet the case of this company, I see no occasion for the Act now referring to Clause 4 of the Bill; this provides that “the railway shall be constructed and worked from a terminus to be approved by the Minister in or near the said mining leases held by the company at Mount Lyell aforesaid, or in or near to the Town of Gormanston, to a terminus to be approved by the Minister in or near Kelly's Basin, in Macquarie Harbour.” As I said before, a complete survey should be deposited with the Minister before any right is given to the company. It is proposed to work a 2-feet gauge railway with curves of a radius of not less than one chain, and with steel rails of not less than 28 lbs. to the yard. If the company are to be given rights to carry traffic for hire, then I recommend that the curves should be limited to  $1\frac{1}{2}$  chains radius, and that the rails should be not less than 40 lbs. to the yard. No gradient is mentioned in the Bill, although in the marginal reference we read “length, gauge, grade, &c. of Railway.” I would recommend that if this is to be an adhesive line no steeper grade than 1 in 25 be permitted. Clause 5 states that “the Railway is to be constructed in a substantial manner fit for the carriage of vehicles at a rate of not less than four miles an hour.” I would alter the four to ten. The word vehicles is often employed in these Bills, but it does not convey the proper meaning in a railway sense; it should be locomotives, and having in view our experience of 2-feet lines in this Colony, I would recommend that the line be constructed suitable for locomotives, with a weight of 8 tons on an axle. That is what we are using on the 2-feet gauge now. Clause 6 provides for use of a rack or third rail in accordance with the Abt-Fell system. Having never seen either of these systems working on a 2-feet gauge railway, I doubt whether they will work satisfactorily, but I am not quite sure, but if this clause is allowed then the grade on the adhesive parts of the line should be fixed at 1 in 40, and the Abt or Fell grades should be such a grade as the Minister may authorise.

122. *By Mr. Bird.*—May I ask why you would alter the grade, because since they have provided for the Abt Fell system for certain grades, why could not the balance of the line have grades of 1 in 25? The reason is that I am looking at this as a railway that might come into the hands of the Government, and if you bunch your grades you get your heaviest grades in any place, so as to take a larger

load over the other portions of the line. In Clause 7, line 20, I would excise the words—"Provided always, that the Company may from time to time submit such plans and sections as are above mentioned for portions of the said Railway, and may commence the construction of any portion in respect of which such plans and sections have been deposited with the Minister and approved by him." These words should be struck out, because I think we should have the survey complete before they commence the line.

123. *By the Chairman.*—Do you mean that complete plans should be lodged before the commencement of the line? Yes.

124. But I suppose the detailed plans and specifications might come in as the work progresses? Oh yes; but I mean the original sections. They should submit plans and sections, which practically means the survey. The subsequent part, such as detailed specifications, might come in later. In Clause 9, line 36, after the word "officers," insert "at the cost of the company." It would then read "The Minister may from time to time appoint one or more officers, at the cost of the company, 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 railway during the construction thereof." Section 10 provides that the company shall efficiently and properly work and maintain the said railway; but there is no penal clause. I think there should be such a clause; and I think it is usual in such cases. Section 11 provides that the company may construct branch lines of railway. I would strike that out entirely; because, as regards such branch lines as this company may desire to construct, they can do so just as well under a mining easement. They can be constructed for a distance of ten miles. If any required branch or easement is of a longer length than that, they might reasonably come for a further easement.

125. *By Mr. Bird.*—The existing Act would not allow of branches from a mining easement. This company wants some provision to get branches, if they can, from their railway, to go into timber beds or to get fluxes. They want branches from the main line; and there should be some provision for that in this case. Supposing they wanted to go twenty miles away from the line, to get into the best bed of timber they can find, that is what this provision is intended for.—Well, I say that is too great a power to grant the company.

126. Without the power to make branches they can do nothing. They are willing to fix it at five miles.—If such a thing is necessary we might draft a clause to meet it to provide for the building of a flux siding or a timber siding for the construction of the railway or the working of the line. I think, however, that the Mining Act provides for that up to ten miles.

127. But they might have to go further than ten miles, what then? Then they could come to Parliament and ask for a further easement. This is the thin edge of the wedge for concessions that are objectionable.

128. Suppose there is a long stretch of country without any timber at all before you get to where the timber is? Then let the company, when it deposits its survey deposit also a survey of the easements they require, and then get the necessary powers passed in the Act.

129. But they may want to get short lines of branches which they will put down into timber till it is worked out, and then they would take them up and put them down again somewhere else? They can do that under the Mining Easement Act. Take the Western Mining Company, they are doing that. They can do it under the Mining Acts.

130. Can they do that from their main line, if the point to be reached is more than ten miles from the line? A provision might be made for sidings. On the whole, I recommend the Committee to strike out "branch lines" and put in "easements," and prepare a fresh clause requiring the company to submit in their survey plans and particulars of such branches as may be required for the purpose of getting timber or fluxes. I am dealing with this as a *bona fide* company intending to work its mine, and seeking to get necessary powers. In Sections 14 and 15, and in one or two other places, it seems that whoever drafted the Bill has mixed up private and public crossings, but if the draftsman will see me I shall be glad to show him where amendments are required. As it is, he provides a penalty in reference to public crossings, but not in reference to private crossings. Section 18, "Bridges how to be constructed over any road." I think that all plans for works of this character should be subject to be approved by the Minister. It is always an unpleasant thing to say that you must pull a structure down and build it differently, and this would be avoided if my suggestion were adopted. The provisions in the Bill seem very fair, but still it would prevent disputes if plans were in the first instance deposited with the Minister. Section 24 provides that the company shall take rates and tolls; and I think it is only fair and right that these tolls and fares should be on all fours with those charged on the Mount Lyell Railway; and that such fares or tolls or rates should not exceed those in operation, from time to time, on the Government railway between Strahan and Zeehan, and these are the same rates charged by the Mount Lyell Company. It is, of course, a fair thing to allow extra rates where it is necessary to work the trains on the Abt or Fell system. On that system I know the cost of engine-power is very great. They have a line in New Zealand where the grades are very heavy, and where the cost of engine-power is 4*d.* per ton per mile; it used to be 5*d.*, but it is now brought down to 4*d.* In that case they allow one mile to be charged at three times their ordinary rates, and that, I think, would be a fair thing for this North Mount Lyell Company. Under Section 27 authority is given to employ steam, electric, horse or other motive power to propel or draw the locomotive engines, carriages, and waggons, &c.? I think that all vehicles used on the railway should be approved by the Minister, and should also be provided with approved automatic breaks. In section 32 line 23, I recommend, in the interests of the Promoters, in reference to the publication of By-laws at the various stations, to strike out the words "at every station on the said railway." It would be very difficult for the company to keep their By-laws posted at every little station, and it will be quite enough if this is done at every principal station. Section 36, sub-section, at the commencement of page 10, "to construct at or near the terminus of the railway at Kelly's Basin aforesaid wharves, piers, or docks." This is too great a concession to give to the company I suggest the Committee should alter it to read "to construct a wharf subject to and vested in the Marine Board," and that the wharfage rates should be the same as those now collected by the Marine Board of Strahan, and that the rates should be collected by the Marine Board and the wharf be under their control. I think that the whole of the wharves and any buildings on the foreshore should be part and parcel of the Marine Board appliances at Macquarie Harbour.

131. *By Mr. Bird.*—Although built at the company's expense? Yes, although built at the company's expense.

132. *By Mr. Brown.*—And you would confine them to one wharf? Yes.

133. *By Mr. Bird.*—Is it fair to ask the company to build wharves, and then to vest them in the Marine Board? Yes, it would be fair to do that. The wharves should be vested in the Marine Board. The fees charged, other than those chargeable to the company's own materials, if any fees are charged, should be the property of the Marine Board. Unless the Board has control the Colony would be put to expense. You would want a Customs Office, a Post Office, Telegraph Office, and other conveniences, at a great cost to the taxpayers, and solely for this line. I do not think that vesting the wharves in the Marine Board is asking too much under the circumstances. In line 11 of the same page 10, power is given to draw water from any stream or river in the vicinity of the railway for the supply of locomotives, or for generating electricity, or for other purposes, &c. That sub-section should be eliminated, and the company should be allowed to take water for the purposes of the working of the railway only. Section 54—“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 completion of the works and the opening of the railway for public use.” After that, the words “for a period of two years” should be inserted. This is customary in all Acts of our own, and it is also customary in England too. Owners of property may apply for a means of access and other conveniences for a period of two years after the completion of the line. In Clause 62, line 41, I recommend to strike out the words “along the route of any branch line of railway which the company are, by this Act, authorised to construct”—that leaves the company power to erect telegraphs and telephones along the main line of railway, and gives every facility for working. I think it is arranged that the 64th Clause, in reference to diverting water, should be altered. It ought to be altered so as to give the power for the use and working of the railway only. Clause 69 gives power to use water for the purpose of generating electricity or other motive power—it is evident that this Clause is superfluous. It is proposed to alter Clause 64, and when this is done it will give the promoters such water as is necessary for the purpose of working the railway. In Clause 70, line 27, it gives power to take land, among other things, “for the purpose of constructing, building, or putting thereon any machinery;” I recommend that the words be added, “used for the purpose of working such railway.”—Any machinery site required for other purposes can be had under the Mining Acts. I understand that Clauses 72 to 91 are to come out of the Bill, so I pass over my notes upon them. Clause 92, “penalty for destroying works, &c.” will stand, but would you not alter it so as to make it refer to a penalty for damaging the railway in any shape or form? Clause 100, “power to assign or transfer rights, &c.”—That appears to me to be a clause giving power to the company to part with or assign any portion of its property. I recommend that the clause be altered so as to give the company power to transfer or dispose of the railway only on the approval of the Governor in Council. Under clause 103 I see they ask four years to complete the line. That is a matter for the Committee to decide. To my mind it seems rather a long time. There is a proviso: “Provided always, that, for the purposes of this section, ‘commencing construction’ shall include the preparation of the necessary survey of the line of railway.” I recommend that these words be struck out. I need not touch on the subject of deposits, which is a matter for the Committee. These are all my notes. I urge on the Committee, strongly, that no Act should be granted until the survey of the line is complete; and further, I urge that a mining easement of the length necessary is all that is required to give ample facilities for the working of this mine.

134. *By Mr. Bird.*—Part of the branch lines asked for under this Bill are required to connect other mines which are associated with the North Mt. Lyell, and which desire to be connected with it, but perhaps a mining easement would be all that is required? In that case the Mining Laws allow mining easements for a distance of 10 miles, which would enable all the mines to connect. That would be quite enough.

135. *By Mr. Simmons.*—Referring to clause 3, please look at the last proviso: “Provided also, that the right hereby conferred upon the company to take and use Crown land and any road, street, or reserve for the construction and maintenance of the said railway, shall not be deemed to be of any greater or other nature or extent than that of an easement.” Does not that obviate one of your objections? I am afraid not.

136. Why not? Is not that the very thing you want to guard against, the use of these streets for ever. The proviso was put in for that very purpose. Don't you think it covers the case? Well, to my mind it is ambiguous. I think it is desirable to make it as clear as possible. I don't know now, but an easement may have been in existence for any number of years.

137. I understood you to say you saw no objection to the company having a railway line to Kelly's Basin if it were in the nature of an easement? Yes.

138. Are you aware that the same proviso was inserted in the Mt. Lyell Company's Bill with the same object?—you say, referring to the railway under this Bill—that we would claim the right to these streets for ever? If you adopt my suggestion, and get a mining easement of the extent and length you require, then all objection would drop, because you would come under the regulations framed under the Mining Acts.

139. And this proviso was added intentionally in order that it could not be said the company was asking for more than they would be entitled to under an easement. Don't you see that the proviso is wide enough to meet your argument? It is too ambiguous to my mind, unless you give up the idea of a railway and take up a mining easement. If you go for a railway, then the proviso is not sufficient.

140. *By Mr. Bird.*—How do you think we could make it less ambiguous? By giving them a lease for 21 years. Recast the clause and make it one to give power to the company to obtain a lease for 21 years. You will have to remodel the clause if the company goes on with a railway. If they will be satisfied with a mining easement then the clause is not required. There is no reason why we should not have the Bill recast, and there is no hurry. I remember in this room on a former occasion deprecating the hasty way in which a Bill was being put through, and I am sure all connected with that Bill are now sorry it was not done. It would not take long to recast the Bill.

141. *By Mr. Simmons.*—Can you suggest any additional words in the proviso which would make it sufficiently clear? You must recast the clause and make it free of all ambiguity; in fact you must recast the Bill. I would give the company a mining easement, under the special circumstances, greater than is allowed under the Mining Acts.

142. Where is the difference? The difference is considerable. This Bill puts the promoters in the position of a railway company, subject only to the provisions of the Common Carriers Act. I don't think that is a desirable thing.

143. In reference to Clause 3 can you suggest any alteration that would make it sufficiently ample, apart from turning it into a Leasehold Bill? I don't think so. Of course, that is a legal question. Under the clause as it stands you are getting the right to the use of the streets, practically for ever, or at least as long as the railway runs.

144. Would it not be the same under a leasehold? No, it would not. You might be restricted on the renewal of your lease.

145. A mining easement would not give any right to the use of the streets? Yes, you would work your easement under the Mining Acts and Regulations.

146. And under the leasehold system, Mr. Back, on the expiration of the lease—as long as the railway continued working satisfactorily—they get a renewal of the lease, don't they? Yes, under such conditions and provisions as the Government and Parliament may see fit to grant.

147. *By Mr. Bird.*—Supposing an Act were passed for a mining easement such as you suggest, instead of this Bill, they would still go over the route. They would want some power to go through roads, streets, and réservoirs. Suppose they get an Act passed extending the mining easement, would they have anything less or more, under such an Act, than they would have under this Bill? My memory is not quite clear on the subject as to powers under mining easements. I have a note here to consult the Mining Department on the matter, and I think they should be consulted. Mining easements are really outside my business.

148. *By Mr. Hamilton.*—In a mining easement such as you refer to, in addition to other limitations do you give the Government the right of purchase? No, as an easement you don't want the right of purchase; as a railway, yes, you do want it. The question is as to whether you will give this company a mining easement or a railway? When that is settled it will be much easier to go on. There are now two proposals, one is for a mining easement, the other is for a railway.

149. *By Mr. Simmons.*—Yes, but a mining easement for railway purposes? I don't understand you.

150. The object is to enable the company to work the mine, is not that so? I mean an easement as for mining purposes, not for railway purposes.

151. The object is to enable them to work the mine efficiently. They must have a railway, there is no doubt about that? Yes, none at all.

(Mr. Simmons produced a plan of the district.)

152. You will observe from this plan that there is at present no settlement on the line to be interfered with. It is a *terra incognita* at present, isn't it? Yes. There is some mining going on in certain places, such as about Mount Jukes; that is all we have got in the way of mining. Besides that, there are only a few prospectors' claims near the Darwin. There is no other railway company in existence there at the present time. The line is quite distinct from the claims of anybody else. You may ultimately affect the Mount Lyell Company, but to no great extent at present.

153. You have recommended to the Committee that before granting the Bill the survey and plans of this line should be deposited. You know the cost of obtaining this survey and plans would be a very considerable item? Yes, it must be, possibly from £2000 to £4000. I can't say exactly. I put that as a very wild shot.

154. Well, take it at £2000. Do you suggest that this company should incur a cost of £2000 before it acquires any rights at all? Not for a mining easement, certainly not, but for a railway you would want it. Tell me a place in the world where they would allow a railway to be got through without a survey. Take England, where companies have had to pay as much as a quarter of a million of money before they could get a survey, and then they have to go over it over and over again. If a syndicate or a company comes to the colony and asks for these large concessions, surely you would not consider it too much to ask them to put up £2000 to get a survey.

155. Do you think it is necessary you should ask them for a survey at so large a cost to enable them to get a Bill? If the cost of the survey came to £100,000, I consider you should insist on it for a railway. Not for a mining easement, but for a railway, yes. Of course I take it that this Bill is worth a great deal of money to the company.

156. You know the line has to be approved by the Minister: is that not protection enough? No, we want to see the survey before we give these concessions. Look at the trouble we have just had with the Great Western Railway Company Act.

157. But this, a line merely to connect the North Mount Lyell mine with deep water. Bearing that in mind, do you seriously suggest to the Committee that this company should go to an expense of £2000 for a survey before they could get the right to construct the line at all? I can only repeat what I said before; if it were to cost £50,000 I would demand a survey from any company asking for such great concessions, and I think the country is quite justified in asking for a survey, if only to prevent disputes in future.

158. We ask for nothing exclusive—we have no objection to the Government railways or any private company's railways crossing the line in fifty places if they like? Yes, but that does not alter the case.

159. You keep on talking of great concessions—we are merely asking for the right to construct a line to enable the North Lyell Company, and the other mines associated with it, to get their ores to deep water? Yes, I know. You are asking the right to construct a line of railway, to levy tolls and fares, to take up water frontages, and so on; and I say, under those conditions, as a railway, my advice to the Committee is to get a complete survey before giving you authority to construct the line.



160. Well, if that was your line, would you go to that cost before starting of getting a survey? I go so far as to say that every Bill for a railway should be accompanied by a complete survey.

161. *By Mr. Bird.*—Would you be disposed to advise that under an extended mining easement the company should have the power to levy tolls, &c.? No.

162. None at all? No, none.

163. Look at clause 9, where the Government is empowered to appoint one or more officers to inspect the railway during construction—is there any other railway company's Bill in existence in Tasmania containing such a provision? Yes.

164. What company? The same provision is in the Great Western Company's Act. I recommended it in others, but I don't think you have done it.

165. Coming to clause 11, you make a suggestion in regard to the connection of branch lines. Under a mining easement the length of such lines is limited to 10 miles. I suppose that in the computation of the 10 miles, the 10 miles can be calculated from any part of the main railway? Yes, that would be right, from any part to be approved by the Minister—yes, I think so. That would give you all the power you want for extending branches for getting fluxes, timber, or other things.

166. In calculating the 10 miles you take it from any part of the railway? Yes, and that ought to meet the case.

167. *By Mr. Simmons.*—Looking at clause 18, as to construction of bridges and works, you recommend that all plans should be submitted to the Minister, the approval of the work should be with the Minister, and all details should be on the plan? Yes, that is customary. I recommend that the Minister should have the full power either to approve or to object to any work. At the last Committee where I gave evidence I recommended that it would be much better if an objection was taken before the work was put up, rather than afterwards. It is not fair to the company to object afterwards. I may tell you that the Emu Bay Company is doing that. It is copying the Government specifications to a great extent.

168. Take clause 24 in reference to rates and tolls. You will remember there is a similar provision in the Mount Lyell Company's Bill. The principle is very right. I believe the Mount Lyell Company put that provision in their Bill? I know very little about the Mount Lyell Company's Bill. I don't remember.

169. We are not desirous of having the power to carry goods and passengers or to levy rates and tolls, but it has been asked and urged over and over again that these lines should be for the use and convenience of the public. If that is the wish we are willing to submit to it, and must have a provision for levying rates and tolls? We have on this sheet of paper two proposals,—one for a mining easement and the other for a railway. If you have a mining easement only you apply for power to make an arrangement to charge in the same way as other carriers would charge, but if you have a railway and carry goods and passengers, then you must approach as near as possible to the Board of Trade regulations for the carriage of passengers and goods.

170. You have no intention of putting a line through this district for the Government? Not at present. If you have power to levy tolls that might be sufficient.

171. In clause 36 you want the sub-clause altered to one wharf instead of wharves. If I understood you aright your suggestion was, that wharfage rates should be paid on all goods landed on this wharf, the same as on other goods landed on the coast? Yes; the clause should be altered somewhat in that way. If this company are to be allowed to have a wharf for their own convenience, it should be made a branch of the Marine Board as is done in other places.

172. *By Mr. Bird.*—Then, who would be responsible for the up-keep of the wharf? In that case I suppose the Marine Board.

173. Don't you think if they take the fees they should make the wharf? No, I only suggest the same as is done in other countries.

174. Kelly's Basin is a large place, with lots of room for wharf accommodation, is it not? I suppose so.

175. Do you know if the Mt. Lyell Company pay wharfage at their wharf at Teepookana? I don't know.

176. *By Mr. Simmons.*—Referring to clause 100, you suggest that the company should not have the power to dispose of the railway, or to assign or transfer their rights, without the approval of the Governor in Council. Is that in any other Railway Bill? I think so. If it is not, it ought to be. I have always made that written recommendation when the matter has come before me.

177. Would that be a fair thing, when the company has constructed a railway at a cost of over £100,000, that perhaps they could not let it or sell it? My position is, that the company might transfer their rights to very unreliable people. You come to Parliament for concessions, and you justify your application to make this railway, partly on the ground that it will be a convenience to the public. I think the Government of the colony has a right to protect the public, and to see that you give the conveniences you have asked for the right to give. You might transfer the line to persons who were not in a position to carry out the Act, or they might, by their action, cause great difficulty and trouble to the colony. But this is done in nearly all cases: it is the common law. For instance, a landlord has the right to approve of the incoming tenant, or take the case of a ground landlord.

178. *By Mr. Bird.*—Might you not as well say that the company should not sell out the mine? That is a different matter. This is a line to be constructed for the convenience of the public, and the company gets the concessions conditionally that they see to the convenience of the public. The colony ought to see that the public is protected properly.

179. *By Mr. Simmons.*—I understand you have not travelled through this country, that you only know the termini, and that you can't say how it compares with the country through which the North-East Dundas Tramway is made? I know Mount Lyell, and I know something of Macquarie Harbour, I can't say I know more.

180. As far as you know, how does this country compare with that of North-East Dundas as to cost and difficulty of construction? I can't say. From the general character of the country much of it would probably be as rough as that about North-East Dundas.



181. It would be as rough as you can expect to find it? Yes, I think so.

182. Mr. Muir said that about two-thirds of the line would not present many difficulties, and that only one-third of the distance would cause any trouble. Give the Committee, if you can, the average cost per mile, up to the present, of the North-East Dundas Tramway? Well, the first few miles cost from £1000 to £1200 a mile, but it gradually increased as we got more into heavy country. You will see cuttings there over 60 feet deep. The cost there got to £3500 per mile; much depends on the nature of the country.

183. Could you give us the average cost per mile. You read a paper some time back before the Royal Society; would that help you? Probably, if you have that paper. (Paper handed to witness). The cost is from £2000 to £2500 a mile. That is the whole cost with the rolling stock. The first 10 or 12 miles would not exceed £1200 a mile.

184. On page 5 of this paper you say that the length of the line is nearly twenty miles, and the cost was £40,000; is that so? Yes, but you must take those figures as approximate; we had only fifteen miles finished at the time.

185. Then the cost of the North-East Dundas Tramway so far as you know is from £2000 to £2500 a mile? Yes.

186. Then, in similar country about £2000 a mile would build a line? In similar country of course it would be a similar cost. There is one thing to be considered, wages will go up directly.

187. And the proposed line with the suggestions you made to the Committee would be a similar class of line to the North-East Dundas? Yes, very much like it, I should think.

(The witness withdrew.)

FRIDAY, 12TH NOVEMBER, 1897.

EDWARD ALBERT COUNSEL, *called and examined.*

188. *By the Chairman.*—What is your name? Edward Albert Counsel.

189. What are you? I am Surveyor-General and Secretary for Lands.

190. Do you know anything personally of the route of the proposed railway from the North Mt. Lyell mine to Kelly's Basin, at Macquarie Harbour? I have never traversed the route right through, but I have been through a few miles of it at the north end.

191. Do you know, officially, of any good agricultural or mineral land along that route? Well, it is principally mineral country. There is some very good agricultural land near Kelly's Basin. The best agricultural land is in that part of the district, and it is estimated at about 2000 acres. There is a wide area of button-rush country near the King River and the adjacent country. That would be fairly suitable for pastoral purposes, if cultivated and laid down in grass.

192. Then you think the construction of this railway would probably open up good land and be beneficial to the country? Yes, I think it would. As far as this button-grass country is concerned I am aware there are different opinions about it, but from what I have seen some of it is fairly good and a lot of it worthless. Some of it is fairly good land because it is the washings from much better country.

193. *By Mr. Bird.*—Do you know anything of the timber forests of the district—is it a good kind of timber that is on it? I have no specific information about that. I know there is good pine timber in the district, but as to the extent of it I have no information to give.

194. Do you know anything of the minerals? Nothing, except that it traverses along the range of the west coast, which is all, more or less, a mineral belt of country. I mean along the Huxley country, and through the valley of the King River.

195. You don't know if any mineral discoveries have been made there? Nothing of importance.

196. *By Mr. Brown.*—Have you seen the land at Kelly's Basin during the winter time? No, I have not.

197. Do you know that it is all subject to very serious floods—the land is good, but it is overflowed entirely to the extent of many hundreds of acres—is not that so? Yes, that is so, but you are under a misconception as to the country of which I speak. It is more towards the head of the several streams where the good country is; about Kelly's Basin it is very flat country, but towards the heads of the small streams it is higher.

198. The best of the timber used to be got there and at the King River. The pine was in this country—was it not? Yes.

199. And that would show that it was a flooded country? Yes; the country is very swampy, but of fair quality on the low lands.

200. I have been on the rises of which you speak, and there are some little patches of good land in the mouths of the gullies? I think there is about 2000 acres at least of good land.

201. You have never been inland to any extent? Not from there. I have been up the Spring River, but no further.

202. You would not be prepared to give an opinion as to the benefit the country would derive from a railway going through there? Not without further information.

203. If such a railway was put into that country would it be beneficial? I believe it would. It would, of course, lead to the accomplishment of an object I have had in view for years, the opening up of this particular country. But, independent of that, the surveys would help to open up the country. It is one of those lines of country which ought to be opened up by a track at all events.

204. Do you know if there is valuable land in the Frenchman's Cap country? Yes.

205. But there is no road to get in with provisions to prospectors? There are no facilities at all for getting into this country.

206. You have seen the proposed line of railway? Yes.

207. In your opinion, would that railway facilitate the opening up of the Frenchman's Cap country? Yes; that is part of a scheme which I intended to submit for the consideration of the Government. I mean the opening of tracks into this country; the route of the railway was a portion of it.  
(The witness withdrew.)

WILLIAM HENRY WALLACE, *called and examined.*

208. *By the Chairman.*—Your name is William Henry Wallace? Yes.

209. What are you? Acting Secretary for Mines.

210. The Committee want to be informed about the effect of a mining easement in regard to the construction of a tramway or a light railway from a mine to deep water, or to some port. I may explain to you it is in connection with the North Mount Lyell Mining Company. The company is applying to Parliament for rights to construct a railway; they have informed the Committee that they require the railway only for working the mine; but it appears that a mining easement would be restricted to ten miles in length. If they could get a sufficient easement they would not have found it necessary to come to Parliament at all. If that restriction were removed, would a mining easement give all the facilities they require for the carriage of tin ore? There is nothing in the Act restricting the length of a mining easement. It is by a resolution passed by the House of Assembly on 18th November, 1892, that an easement cannot be granted for more than ten miles.

211. *By Mr. Bird.*—Have you received any applications for easements of more than ten miles? Yes. Two in the name of C. E. Hogg, which were abandoned.

212. *By the Chairman.*—Have the North Mount Lyell Company applied for an easement of more than ten miles? No.

213. You have granted no easements to anyone longer than ten miles—you consider the resolution restricts you? Yes.

214. If they had an easement would they be able to deal with other companies for the carriage of their ores, or must they bring ore only from their own mines? Oh, I think so. There is nothing in the Act to restrict them from doing so. That would be a matter between themselves and the other companies.

215. *By Mr. Bird.*—Is there anything in the Act under which—if they had an easement—they would be prevented from becoming common carriers of ores, goods, or passengers? There is nothing in the Act at all to prevent it.

216. *By Mr. Hamilton.*—Are you quite certain of that? I see nothing here to prevent it.

217. *By the Chairman.*—Nor in the regulations under the Act either? Nothing that I know of.

218. *By Mr. Brown.*—Is that a sort of thing likely to come under your jurisdiction? No. I have never been asked before. A mining easement is only granted for the better working of a mine.

219. What width of land is allowed for an easement should such be required? No particular width.

220. Then you could club together under the Mineral Lands Act and practically obtain a lease? The Minister has the power, with the consent of the Governor in Council, to withdraw any lands from the operation of the Crown Lands Acts, and that would give him power to withdraw any lands required for a mining easement.

221. That is while it is Crown land: if it were alienated he could not? No.

222. The Act gives no power to go through private lands? No.

223. *By Mr. Bird.*—Have there been any applications for mineral lands at all in that district? Yes, 1045 acres altogether have been taken up.

224. Can you describe the localities? Yes, Mount Huxley, 80 acres, Mount Jukes, 400 acres, Thureau's Hill, 10 acres, and Mounts Sorell and Darwin, 595 acres.

225. Are these sections all for mineral purposes? No, two lots were for machinery sites.

226. *By Mr. Hall.*—Can you give us any information as to the mineral country there—I mean as to the mineral country between the King River and Mount Lyell? No, there are no reports of any kind.

227. *By Mr. Brown.*—Have you ever had any applications from any one at any time for a mining easement over 10 miles in length? Yes. Two from C. E. Hogg, which were abandoned.

(The witness withdrew.)

THURSDAY, 18TH NOVEMBER, 1897.

JAMES PATRICK MADDEN, *recalled and examined.*

228. *By the Chairman.*—The Committee have recalled you, Mr. Madden, with a view to getting some information in regard to the progress of your survey: would it be possible to submit to this Committee, say within a few days, plans of a rough survey? I don't think it would be practicable. Yesterday, when I heard I was to be recalled and asked about this matter, I telegraphed to our Engineer, Mr. Muir, who has gone back to the coast, and received a reply; I will read the telegram:—

17 Nov., 1897.

"FURTHER evidence is to be taken. We are to be recalled to-morrow morning. If Egan can be seen get him to report by telegraph on survey to be put in evidence before Committee; in any case you report by telegraph on survey. State when will be completed. We must remain here till Monday."

That is a copy of the telegram I forwarded to Mr. H. S. Muir, and I received from him, under the same date, the following reply:—

"Survey practically completed, but surveyor's report not in. The distance is too far to communicate with them under three days. If surveyor's report imperative, wire, and will send special messenger."

If the Committee desire it, I will telegraph Mr. Muir to send a messenger at once.

229. How soon do you think it would be possible to get a report so as to show approximately the route of the railway between the two main points? It could be done in two or three days, as soon as we could get a telegram from the engineers. Our surveyors have met now, but their report may not be quite ready.

230. How long will it be before you can get a rough plan? I am not competent to tell you that, because I can't tell how long it would take to prepare the plan.

231. *By Mr. Brown.*—We desire to put it before the House with the Bill? Yes; we will be pleased to do that, if possible.

232. *By the Chairman.*—Mr. Back, the General Manager of Railways, is so positive that the Bill should not go before the House until an approximate plan of the railway line can be submitted with it, that we desire to get the plan if possible? Yes, we shall be glad to get the plan, if possible. I will telegraph to Mr. Muir to send a special messenger on at once.

233. *By Mr. Brown.*—How much money have you spent on this survey up to date? About £1000. That will be the cost of the survey to the present time.

234. How much will it cost altogether? I don't think this survey will cost much more than £1000 altogether. The final survey will be more costly.

235. Are your surveyors men of known ability? Well, our chief, Mr. Egan, was recommended by the Engineer-in-Chief of Victorian Railways as a first-class man, who had surveyed many rough railways in the Gippsland and other districts.

236. You are aware that Mr. Back recommends that only a mining easement should be granted to your Company? Yes. Since we were before the Committee we have obtained counsel's opinion on that point, and we are advised that a mining easement would not be at all sufficient.

237. *By the Chairman.*—Then your answer is that you would not carry out the works? That is practically what would follow as the result of counsel's opinion, and since then we have had additional advice to the same effect.

238. *By Mr. Brown.*—Then, in the event of Parliament only granting you a mining easement, what would be the result? We should have to try and devise other means for carrying out the work of the mine.

239. What do you mean by other means? Well, we don't think it would be right to construct a line on a mining easement—we do not think we should be justified in going to the expense.

240. And you have no other means? We have no other means at present, but we should have to try something—we should have to consider it.

241. And you do not think the undertaking good enough to spend so much money on a mining easement merely? In view of counsel's opinion I have no hesitation in stating that it would not be sanctioned.

242. In replying to that question I presume you speak with the authority of the company? Yes.

243. *By Mr. Hamilton.*—You call this company the North Mount Lyell Mining Company, No Liability, and you told us here in your answer to question 16 that the railway would be made to serve your own company and several others? Yes, that is so.

244. With a mining easement, supposing your particular mine broke down—and the life of a mine is only an uncertain point—suppose the mine to work out, under a mining easement would you still be able to work the other mines, which you say are associated? As I understand the law, if I take a mining easement for a particular mine, and that mine spent itself, the easement would go with the mine, and we would be in a bad position.

245. *By Mr. Hall.*—I notice, Mr. Madden, in this Bill the omission of any purchase clauses. Have you any objection to the usual purchase clauses being inserted? Of course that matter has been discussed, and I do not think we could object if you give us a reasonable tenure. In this case we should probably run that line for some time at a loss. We could not expect to pay interest on the money expended for seven years at all events. If we had a fairly long term granted to us before the right of purchase was exercised there could be no objection.

246. Mr. Back in his evidence objects that the land granted for the railway works, or any land to be transferred to the company, would be for ever? Yes, that would be a perpetual tenure.

247. But I understand you would have no objection to the insertion of a purchase clause after, say 25 or 30 years? No, there would be no objection then.

248. *By Mr. Bird.*—Purchase clauses are of course common in railway bills pure and simple, but this is a line to be constructed chiefly for the purpose of carrying your ores from the mine to a port. If a purchase clause were inserted, would not your interests involve the condition that the Government purchasing should afterwards carry your ores for you to the port? Of course we should require to have the full benefit of the railway, and the Government would have to carry our ores along it at fair rates. Of course we should expect Government to keep the railway going. We hope the mine will be working a hundred years hence.

249. *By Mr. Brown.*—Will the mine be working fifty years hence? As far as we can see, it certainly will.

250. *By Mr. Hall.*—Is not the title of the Bill a misnomer—you speak, in your evidence, of certain companies all associated and interested with you in the line, but you ask that the Bill shall apply to one particular mine? Well, the companies associated thought that it would be best to call it the North Mount Lyell and Macquarie Harbour Railway Company. All the mines associated are in another part of the district.

251. Of course you know that our General Manager of Railways is thoroughly opposed to syndicate railways? Yes.

252. Do you know anything about the Silverton Tramway—have you any experience of these railways: it seems to me that the Committee is strongly impressed, through the representations of the General Manager, against syndicate railways, and I thought you could give us some information about them? Well, so far as that goes we would not dream of constructing a railway here if the Government would undertake it. We must have a railway to develop the mine, and as Government will not undertake it there is only one thing to do, that is, to do it ourselves.

253. *By the Chairman.*—The Committee desire that you will push on with the survey, and let us have it? Yes; I will telegraph down to our engineer at once, and ask that the work be pushed on with all haste, and you shall have it, if possible, before the Bill comes before the House.

254. We only want what you should easily be able to give if the country has been traversed at all—a plan showing your approximate line of route? We will telegraph for it straight away.

255. *By Mr. Hall.*—I take it, Mr. Madden, that you are anxious to take advantage of the present summer to proceed with construction. According to your evidence here you clearly show that, if you have not the whole of the capital in hand, you have at any rate the principal part of it: you want to go on with the work, and you want us to push on the Bill that you may take advantage of the summer months—is that so? Yes; the moment the Bill is passed we shall set to work.

256. You are not going to hawk the Bill about to raise capital? Oh, no; everything is ready now to go on with the work.

257. *By Mr. Simmons.*—Can you say what amount of money the company would have available now, looking at the present price of shares? We can say that we have £140,000 immediately available.

258. *By Mr. Hall.*—What is the length of the line, 35 miles? No; about 33 miles.

259. That is less than £5000 a mile, and the company has the money to go on with? Yes, we have enough now to build the railway and equip it, and also to build at least one smelter.

260. I notice in one clause you mention the gauge—suppose we should like a gauge similar to the Tasmanian railway—can you say whether, according to the success of recent developments, the North Mount Lyell Company would agree to increase the gauge?—we all know the mine shows wonderful prospects, and seeing the improved state of things, would it be possible to make the railway gauge 3 feet 6 inches instead of 2 feet—you know our standard gauge is 3 feet 6 inches? Of course it would cost more money. I may say, in fact, that since we have been before the Committee, we have received letters from persons interested in England advising a gauge of 3 feet 6 inches. Mr. Lonergan, who has had railway experience, thinks a 2 feet 6 inch gauge would be more efficient, that it would be of greater utility in a country like that.

261. *By the Chairman.*—As to purchasing powers, I see that by Sections 10 and 11 of the Mount Lyell and Strahan Railway Act, power is given to purchase and take over the railway after 21 years, on arranging compensation, which is to be the cost of the railway with 20 per cent. added—would your company object to a similar clause? No; but we should like a little longer period than 21 years. With that exception there would be no objection to a purchasing clause. I assume, of course, that the Government would continue to work the railway, and that we should have the benefit of it at usual fair rates for working our mine.

262. *By Mr. Bird.*—That would be only fair. If we purchased we should have to work the railway. It would not do to leave you out in the cold? No, that would not do at all.

263. Nor would it do to impose high rates of freight? No.

264. Tell us why you think you should have a longer time before purchase than 21 years? We reckon we shall not get interest on the money expended on the railway for probably seven or eight years. We shall have to carry on for a number of years at least before we can look to obtain interest.

265. *By the Chairman.*—Would not the 20 per cent. added to the cost of construction repay you for that? If we were seven years without interest it would not, although to some extent it would. It would all depend on what the railway paid.

266. *By Mr. Bird.*—Have you not every reason to expect, from the development of the mine, that the railway will pay? Yes, we have every reason to believe that it will.

267. Then you have no strong reason to give as to why you should have a longer period before purchase than the Mount Lyell Company have? I don't know whether the Mount Lyell Company considered it, but we think thirty years would be a fair period. We should have no objection to that, as it would give us an opportunity of earning interest.

#### JAMES PATRICK LONERGAN, *recalled and examined.*

268. *By the Chairman.*—We desire, Mr. Lonergan, to bring under your notice sections 10 and 11 of the Mount Lyell and Strahan Railway Act—(sections read)—would you as Chairman of Directors, have any objection to clauses of a similar nature being inserted in your Bill? I can't say there would be any serious objection to these clauses being inserted, but we would rather they were not, because for some years at least the railway will be run at a possible loss to the company. If Parliament insists on it we see no serious objection as to the insertion of purchase clauses.

269. *By Mr. Bird.*—Do you think the period of 21 years long enough? We should like to stretch it to 30 years. You see there may be strikes and difficulties with labour during construction, which we cannot now foresee. Then it will be two years probably before the railway is done. We want to push on with the work with all possible speed, but difficulties may arise to delay it. I think if 30 years were fixed it would be fairest to the company, or say 25 years. When we asked to have the liberty of constructing this railway on a 2-foot gauge the mining property had not been so far developed. We think now that we will go on a 3 ft. 6 in. gauge, and that will add greatly to the cost. It is now the desire of the English shareholders to make the gauge 3 ft. 6 in., and that will make the line more costly.

270. *By the Chairman.*—Is not the Mount Lyell and Strahan line 3 ft. 6 in.? Yes, but ours will be a greater length, viz., 33 miles. We have to go that distance in order to get good compensating grades. I think, under all the circumstances, it would only be fair to make the period before purchase from 25 to 30 years. It will cost a lot of money to put that railway down.

271. *By Mr. Bird.*—But there would be no objection on the part of the company to accept a clause providing for purchase? I don't think it would be wise to ask for too much, but I think the Government of the colony should have such a clause for its own protection, and I can't say that the company would

have any well-founded objection to it. As a shareholder I would rather be without it, but speaking as a citizen it is a necessary clause. We should, however, like the term to be 25 or 30 years.

272. *By Mr. Hall.*—The Mount Lyell Company's Act provides for 21 years: the question is whether Parliament would agree to extend the time in this case? Their railway is only 16 miles long, ours is double the length.

273. *By the Chairman.*—Yes; but their 16 miles cost as much as your 33 miles. Is that not so? Yes, possibly it would; but if ours is altered to 3-foot inch gauge, it will cost us much more. Of course, some parts of their line were very difficult; and then there is the Abt section; but we shall have to work a few very deep cuttings.

274. *By Mr. Harulston.*—In what period do you think you will be able to complete your railway? I think it should be done inside of two years. We are very anxious to complete it as soon as possible, in order that we may get a return from the mine. We have an enormous quantity of exceedingly rich ore waiting for treatment, and we want to get at it. Speaking approximately, the line should be done in less than two years, if there are no strikes or other unforeseen difficulties.

275. Would it suit you if we gave you the two years for construction, making the date of purchase from the completion of the line? Yes, that would be better than the Mount Mount Lyell clause, which, in our case, would be only 19 years. That would mean 21 years from the time of completion of construction.

276. And that would induce you to proceed with the work with all celerity? Yes. As far as completing the work expeditiously is concerned, we are anxious to push on with all possible speed; but, of course, we do not know what labour troubles or other difficulties may arise.

277. *By Mr. Hall.*—You want to take advantage of the summer season? Yes. It is most important that we should get on while the weather is fine.

278. Do you know anything about railways of this class other than this? Yes, I was in the traffic branch in Victoria, and served about nine years.

279. Do you know anything of the Silverton line? No, I have not been on that line.

280. Our General Manager has such an objection to syndicate railways, that I wanted to know whether the Silverton Tramway had in any way interfered with the traffic of the South Australian Railways? I could have obtained that information had I known that you required it.

281. My sympathies are with syndicate railways—If there was a Government Railway that would suit our purpose, we should be prepared to support it, and would not want this line. We should rather see a Government Railway; but we cannot get our ore conveyed for treatment until we get a railway. Roads in such a district as this are absolutely out of the question. There is only one way of getting the ores out, and that is by railroads or trams.

282. *By Mr. Brown.*—But I take it the syndicate railways to which Mr. Back refers are different—this is a railway merely to work your own property? Yes, that is so.

283. *By Mr. Hall.*—Whatever Mr. Back's intention is, he is our railway adviser in this colony, and he is opposed to syndicate railways. Now we have some remarkable instances of the success of syndicate railways in other colonies, and I was asking if you could refer to any case. Suppose the House decides not to give you this Bill, you can't use the Mount Lyell Railway? No, that is no use to us, it is on the other side of the range. It is absolutely necessary we should have this railway communication to get our ores to port. There is no other way at present than to make this railway.

The witness withdrew.

## APPENDIX A.

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

The humble Petition of the North Mount Lyell Mining Company, No Liability, registered in the Colony of Victoria, under the provisions of "The Companies Act, 1890,"

SHOWETH:

1. That notice of the intention of your Petitioners to apply for a Private Bill has been duly published within three months previously to the presentation of this Petition, as required by the Standing Rules and Orders of your Honourable House.

2. That your Petitioners have been unable to comply with Standing Order No. 409 of this Honourable House, as Parliament has been in Session previously to the necessity arising for the said Private Bill, and it would be most detrimental to the interests of the North Mount Lyell Mining Company, No Liability, if the said Bill should be postponed until the next Session of Parliament.

3. That the general objects of the said Bill are:—

To enable your Petitioners to construct a Railway from a point in or near the Mining Leases in the vicinity of Mount Lyell, County of Montagu, in Tasmania, held by your Petitioners, to a point at or near Kelly's Basin, Macquarie Harbour, and also such extensions and branches of and to such Railway, alterations or deviations or variations thereof, as may be authorised by the Parliament of Tasmania.

To construct, work, maintain, and repair the said Railway and all such extensions, branches, and deviations, together with all proper rails, crossings, bridges, culverts, junctions, sidings, stations, buildings, piers, and other work and conveniences connected therewith or convenient for the purposes thereof.

To work the said Railway by steam-power, or by the use of electricity, or in any other manner.

To generate and supply electricity for light or motive power.  
To purchase or lease any land for the purposes of the said Railway and other works and appliances thereof, and to provide for the incorporation of "The Lands Clauses Act," (21 Vict. No. 11), or so much thereof as may be necessary for the said Bill.  
To construct and work the said Railway over public roads and streets.  
To demand and take tolls and charges for passengers and goods carried by the said Railway.  
To provide for the due working and management of the said Railway, and to make By-laws and Rules for the regulation of the said Railway and 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 purposes of the said undertaking, upon security of the assets of the said undertaking or otherwise.  
To sell or lease the said Railway, and the land and works connected therewith, or any of them, or any part thereof, as shall be deemed expedient.  
The said Bill will also contain all clauses usual in Bills of such a nature for enabling your Petitioners to carry out the objects of the undertaking.

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

Dated this seventh day of October, 1897.

THOS. LLOYD HOOD, *Agent for the*  
*North Mount Lyell Mining Company, No Liability.*

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APPENDIX B.

*Tasmanian Government Railways,*  
*General Manager's Office, Hobart, 11th November, 1897.*

DEAR SIR,

SINCE leaving the Committee I have looked up the Mining Act, and find that provision is made for easements without limit to distance. See Section 51 of Mining Act of 1893, being 57 Vict. No. 24.

I also learn (and this was in my mind at the time I was before your Committee) that by Resolution of the House of Assembly, passed on the 18th November, 1892, it was decided to restrict all mining easements in future to a limit of ten miles.

Therefore, I think it will probably still be necessary to pass a short Act empowering the Minister to grant a mining easement to the North Lyell Company from Mount Lyell to Kelly's Basin, should the Company elect to accept the mining easement instead of a Railway Act.

Yours faithfully,

FRED. BACK, *General Manager.*

EDWARD MULCAHY, ESQ., *Chairman of Committee*  
*on the Bill, North Mount Lyell Railway.*

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APPENDIX C.

*House of Assembly,*  
*16th November, 1897.*

SIR,

THE Select Committee on the North Mount Lyell Railway Bill (Private) respectfully desire to obtain the advice of the Law Officers of the Crown on certain points raised in connection with some of the provisions of the Bill as submitted to them, and the effects of certain suggested Amendments.

First, as to proviso beginning in line 44, Clause 3.—Does this limit the concession asked for strictly to that conferred under an ordinary mining easement, plus the right to levy tolls, rates, fares, &c., given by Clause 24? It may be explained here that the Promoters are withdrawing their application for right to supply electricity conferred by Clauses 72 to 91 and 93 to 95, and are agreeing to consequential alterations in other clauses. If greater powers are given under the Bill than those covered by an easement, the Committee would like the Crown Law Officers to generally define them.

Second.—The Committee desire to be informed whether it will be necessary to rescind the Resolution of House of Assembly of the 18th November, 1892, in order to enable the Minister for Mines to grant the North Mount Lyell Company a mining easement for a tramway 35 miles in length?

Third.—In the event of the Minister granting this easement under the Mining Act, is there any law which will prevent the North Mount Lyell Company carrying for other companies or for the general public?

I have the honour to be,

Sir,

Your obedient Servant,

EDWARD MULCAHY, *Chairman.*

*The Honourable the Attorney-General.*

## APPENDIX D.

*Attorney-General's Office, Hobart, 16th November, 1897.**MEMO. for the Solicitor-General.*

WILL you kindly advise on the enclosed from Mr. Mulcahy? I have made some marginal notes, which I submit to you as my off-hand views.

D. C. URQUHART.

1. THE word "easement" used in the last line of Section Three does not refer to a *mining* easement, and has nothing to do with such an easement. It is a technical legal term referring to privileges which one person may exercise over the land of another.

The number of different rights of this nature, both in their extent and mode of enjoyment, is said to be infinite.

The word appears to me to be misplaced in the Section, and it is certainly confusing. The form of a mining easement is given in the Mining Regulations, Form No. 30. The form is very short, and a perusal of it shows that it is a grant of land for a term of years authorising a person to do certain things on the land for the more advantageous working of the claim. It is for a limited term, whereas the Bill in question gives a right to occupy the land for ever. This is the chief difference. There are also many powers conferred by the Bill which a mining easement does not give, such as taking private land, occupying roads, making by-laws, &c.

2. It will not be necessary to rescind the Resolution of the House of Assembly: the Bill will override it.

3. If a tramway were built under a mining easement the Company could legally carry for other companies and the general public. The mining easement, however, only applies to *Crown* land—not to private lands or roads, &c.

There would be no law to control the traffic as to rates, by-laws, &c.

ALFRED DOBSON.

*Solicitor-General's Chambers, 17th November, 1897.*

## APPENDIX E.

*Hobart, 16th November, 1897.*

EDWARD MULCAHY, Esq., M.H.A., Chairman of the Select Committee upon  
the Mount Lyell and Macquarie Harbour Railway Bill.

DEAR SIR,

WE have the honour to thank you for permission to peruse the communication which was addressed to you by the General Manager of Railways on the 11th instant, in reference to the subject of mining easements, and desire to submit the following observations upon that communication for your consideration:—

1. A mining easement granted under "The Mining Act, 1893," must be held by a claimholder and must attach to the particular claim in respect of which it is granted, and if the claim is abandoned or forfeited the title to the easement becomes void (*see* Regulation 135.)

2. The proposal of the General Manager of Railways, that the Minister should be empowered by a special Act to grant to the North Mount Lyell Mining Company a mining easement, exempt from the ordinary conditions of forfeiture, is already fully met by the second sub-section of the Third Section of the Bill now under the consideration of your Committee, which provides that the right conferred by the Bill upon the Company to take and use Crown land, and any road, street, or reserve, for the construction and maintenance of the Railway, shall not be deemed to be of any greater or other nature or extent than that of an easement. This Section (3) is the foundation of the whole Bill, and, excepting the sections which incorporate "The Lands Clauses Act," and those which empower the Company to use certain water and to carry goods and passengers for hire and to make by-laws, all the remaining provisions of the Bill which the Company desire to retain impose restrictions and conditions on the Company, and do not confer on it any additional rights or privileges whatever. We make this statement because the Company has decided to ask the House of Assembly to strike out all the sections which confer the right to supply electricity.

3. It will be manifest to you and to the other members of the Committee that the Company requires a much more substantial and permanent railway to serve its mineral properties than such as any person could be reasonably expected to construct under an ordinary mining easement, and consequently a large amount of capital has been subscribed to build it. This capital has been raised in England, on the assumption that the Company would be able to obtain a proper statutory title for the undertaking, and that such title would clearly and fully define the nature and extent of the rights and privileges conferred by it; but such a short Act as that which the General Manager of Railways suggests would leave the nature and extent of the Company's rights to be gathered from the provisions of other Acts which relate to the general disposition and management of the mineral land of the Colony, and which may be from time to time amended or repealed in accordance with any change in the policy of Parliament. Such a title will not be regarded by the Shareholders of the Company as a sufficient security for the investment of their money.

4. The North Mount Lyell Mining Company has incurred a large expenditure in getting their Bill prepared and brought before Parliament, and has also incurred an expenditure of nearly £1000 in effecting the necessary preliminary survey for the proposed Railway, and is prepared to proceed with the construction of the Railway immediately the Bill becomes law.

5. The Company has incurred the large expenditure above mentioned in view of similar Bills which have received the assent of the Parliament of Tasmania, and it trusts that the Bill now before your Committee will receive favourable consideration as a *bonâ fide* effort to introduce additional capital into the Colony for the further development of the rich mineral fields in the western part of the Island.

6. The Company is not desirous of retaining in the Bill the sections which authorise the carriage of passengers and goods for hire, and will be perfectly content with a section empowering the carriage of goods and passengers under special contracts.

7. The Company is prepared to construct a Railway equal in character to the North-East Dundas Railway now in course of construction by the Government of Tasmania, and the Company does not ask from the Colony any concessions whatever in the nature of land grants or water power, except for the purposes of working the Railway or the mine belonging to the Company.

We have the honour to be,

Sir,

Your obedient Servants,

J. P. LONERGAN, *Acting Chairman*  
*North Mount Lyell Mining Company, No Liability.*

JAS. P. MADDEN, *Manager*  
*North Mount Lyell Mining Company, No Liability.*

#### APPENDIX F.

*Lincoln Chambers, Macquarie-street, Hobart, Tasmania,*  
*17th November, 1897.*

EDWARD MULCAHY, *Esq., M.H.A., Chairman of the Select Committee*  
*upon the Mount Lyell and Macquarie Harbour Railway Bill.*

DEAR SIR,

WE regret that, through some misunderstanding, our clients were not represented before the Select Committee when the evidence of Mr. Counsel and Mr. Wallace was taken.

Instead of requesting the Committee to recall Mr. Counsel, we have asked that gentleman to state his views on Mr. Back's suggestion that our clients should be granted a mining easement instead of a Railway Act. We now forward you Mr. Counsel's reply, and shall be glad if you will have it included as an Appendix to your Report.

We thank the Committee for the opportunity we have had of perusing Mr. Wallace's evidence. Section 51 of 57 Victoria, No. 24, distinctly provides that a mining easement shall be "*for the more convenient and advantageous working of the land occupied by*" the applicant. A Company possessing only a mining easement would not be able to carry for other people.

We feel confident that if the Committee will refer to Sections 51 and 52 of 57 Victoria, No. 24, and Regulations 131, 132, 134, and 135, the Committee will see that the granting to the Company of a mining easement would never justify the company constructing, as they intended to do, a permanent serviceable railway equal in character to the North-East Dundas Railway now being constructed by the Government. The cost of a temporary tramway would be all the expense the Company would be justified in incurring under a mining easement.

Our clients forwarded to you yesterday their reply to Mr. Back's memo., which memo., we understand, you propose to include as an Appendix to your Report, and we respectfully request, therefore, that you will also include their reply and also this letter.

We take this opportunity of formally intimating to the Committee the intention of the Company to withdraw from the Bill Sections 72 to 91 inclusive and Sections 93 to 95 inclusive. Should the Company desire at some future time to possess the powers proposed to be conferred by those sections, it can then apply to Parliament for same.

We have the honour to be,

Sir,

Your obedient Servants,

SIMMONS, CRISP, & SIMMONS.

*Department of Lands and Surveys, Surveyor General's Office,*  
*Hobart, November 17th, 1897.*

DEAR SIR,

*Re North Lyell Company's Railway Bill.*

IN reply to your letter of yesterday's date, requesting that I should give my views upon the question of granting a Mining Easement or a Railway Act giving the authority for the construction of a Railway to connect the North Lyell Company's Mineral Sections with Kelly's Basin, on Macquarie Harbour, in order that the same may be laid before the Parliamentary Committee, I desire to inform you that I have



no objection, in the circumstances stated by you, to complying with your request. This can, I think, be done briefly, without reference to the principle of Syndicate as opposed to State Railways, about which there is room for much discussion.

1. For the reasons suggested in my evidence before the Committee, viz., opening up the new country, by which I do not mean the mere running of a railway, but the affording of reasonable facilities to prospectors and those engaged in the development of the mineral and agricultural lands proposed to be traversed, I am strongly in favour of the provision being made for the establishment of a railway to be constructed under the authority of and controlled by Act of Parliament, and to be run under Regulations and tariff approved by the Governor in Council.

2. I assume that the country should receive some advantage from the construction of such a Railway as that proposed, or that it should not be sanctioned by the Government. And, inasmuch as a mining easement would place the control of the Railway entirely in the hands of the Company, to assist public requirements or not, as it may choose, it may be to the detriment of a road, tramway, or even railway, that the necessities of the country may require to establish. I am of opinion it should not be granted over such a long stretch of country. This view is, I may say, supported by a Resolution of Parliament which restricts the length of such an easement to ten miles. I question if it was ever intended to apply to such a case as that referred to in the Bill.

E. A. COUNSEL, *Surveyor-General and Secretary for Lands.*

Messrs. SIMMONS, CRISP, & SIMMONS,  
*Solicitors, &c., Hobart.*

## APPENDIX G.

*In the matter of the North Mount Lyell Company's Bill.*

### CASE FOR OPINION OF COUNSEL.

MR. BACK, the General Manager of the Tasmanian Government Railways, in giving evidence before the Select Committee on the above Bill, recommended the Committee not to give the usual Railway Act, but merely a mining easement. Mr. Back suggested that as mining easements were, by Resolution of the House passed 18 March, 1892, limited to ten miles, that perhaps a short Act might be necessary to make an exception in this case.

The Company are willing, if they get a Railway Act similar to that granted by Parliament to the Mount Lyell Company, to construct a railway equal in character to the Government North-East Dundas Railway; and the Company do not believe that a grant to them of a mining easement would justify the Company in laying down such a railway.

Counsel will please advise generally upon the disadvantages of a mining easement as compared with the provisions of the Company's Bill now before Parliament.

Copy of the Bill is sent herewith.

### OPINION.

THE Mining Act, 1893, provides, in s. 51, that the Minister may, with the consent of the Governor in Council, grant to any person a licence or mining easement, which shall authorise such person, *for the more convenient and advantageous working of the land occupied by him*, to make and construct tramways or other works *for mining purposes* as he requires in, through, and upon *any Crown lands*, and from time to time to repair, improve, or alter any such works.

On the 18th November, 1892, a Resolution was passed by the House of Assembly to the following effect:—"That in the opinion of this House the Minister of Lands ought not to grant to any person under the provisions of 'The Mineral Lands Act, 1884,' or 'The Goldfields Regulation Amendment Act, 1885,' a Licence or mining easement for the construction of a railway or tramway more than ten miles in length, and that in the event of this Motion being carried it be an instruction to the Honourable the Attorney-General to bring in a Bill to give effect to it."

This Resolution was passed in 1892, and "The Mining Act, 1893," was passed in the following year. It was possible for the House to have given statutory effect to the Resolution by embodying it in the Act, but this was not done. It appears, therefore, that the Resolution must be considered as practically rescinded, and, in my opinion, it would not now be binding upon the Minister.

A mining easement is granted merely for the more convenient and advantageous working of the land occupied by the grantee of the easement. The prescribed form of a Licence for a mining easement contains a proviso that the Licence may be declared void and forfeited in the manner provided in the 43rd and 45th Sections of "The Mining Act, 1893," if the grantee shall fail or neglect to use the mining easement in a *bonâ fide* manner and continuously for a period of six months without the permission in writing of a Commissioner.

I do not know that the easement could be forfeited if the grantee should use the rights given thereby for purposes other than the working of his mine, (for instance, if he should carry for other persons under express contracts in every case, and I am not quite clear that such contracts would be enforceable by any process), or that he could be restrained from so doing; but there are many practical drawbacks and objections which would become apparent immediately a mining company attempted to carry on the business of a railway and carrying company upon a mining easement. These may be summarised as follows:—

1. The mining easement is only granted for 21 years, and there does not appear to be any provision giving to the grantee an absolute right to the renewal of the Licence at the termination of such period. This would prevent any capitalist from embarking any large sum of money in an undertaking held upon such a short tenure.
2. If the leases held by the company should at any time be sold, the mining easement would go with the leases.
3. If the leases should be abandoned or forfeited the title of the easement would *ipso facto* lapse and be void (*see* Mining Regulations, 135). It is possible that the mine may not prove successful, while the railway may become of great value by carrying for other mines and people in the vicinity. It would be unfair, after the expenditure of much capital, that the Company should lose its most valuable, possibly its only valuable, asset.
4. There is no power to separate the mining property from the railway should such a course be at any time desirable. For instance, if it be desired to raise capital by the issue of debentures upon the railway apart from the mine, this would be impossible.
5. Without express statutory authority the Company would not have the following powers, which appear to me to be necessary for the construction, and absolutely essential to the successful conduct of the business of the railway :—
  - a. The power to acquire private property under the Lands Clauses Act.
  - b. The power to cross roads and tramways.
  - c. The power to pass along roads.
  - d. The power to cut down timber likely to fall upon the line.
  - e. The power to make, collect, and levy rates, fares, and charges, recoverable in a summary manner.
  - f. The power to make by-laws and to enforce the same by penalties.
  - g. The imposition of penalties for travelling without paying fares, omitting to shut gates, trespassing upon the railway, obstructing officers, bringing dangerous goods on to the railway, and so forth.
  - h. The power to sell, mortgage, or lease the railway and the rates and tolls apart from the mine.
  - i. The freedom of the Company from greater liability than that of common carriers.

The Godkin S. M. Co., N.L., and the Grubbs S. M. Co., N.L., both had tramway easements, and they found it necessary to come to Parliament for additional statutory powers. Their Private Acts will be found in the Statute Book for 1891.

For the above reasons I am of opinion that a mining easement would be found insufficient for the purposes of the North Mount Lyell M. Co., N.L., and that the Company could not prudently expend a large amount of their capital in the construction of a railway or tramway without further powers than are conferred by a mere mining easement.

Even if the Company were granted a mining easement it would be advisable for them, before embarking any large sum in the construction of a railway or tramway, to have powers similar to those proposed to be conferred by the following Sections of their Private Bill now before Parliament, viz.—1, 2, 3, 6, 12, 13, 15, 17, 18, 22 to 33, 35 to 43, 54, 56 to 62, 100, 101, 104, 105, and 106; and, in the interests of the public, I think it desirable that the following Sections should also be included, viz.—4, 5, 7, 8, 9, 10, 14, 16, 19, 20, 21, 34, 49 to 53, 55, 63, 96 to 99, 102, 103, 107.

N. E. LEWIS.

*Club Chambers, Hobart, 18th November, 1897.*

#### APPENDIX H.

*Lincoln Chambers, Macquarie-street, Hobart, Tasmania, 2nd December, 1897.*

E. MULCAHY, Esq., M.H.A., Chairman Select Committee North Mount Lyell Bill.

DEAR SIR,

WE yesterday telegraphed Mr. H. S. Muir as follows :—"Has plan and report been posted to us? Committee want precise information as to what streets in Gormanston affected by Railway: does plan show this?" We to-day received the following reply :—"Plan and report forwarding to-morrow. No roads or private property will be affected. Route passes entirely through Crown Lands and Mineral Leases."

We are, &c.

SIMMONS, CRISP, & SIMMONS.

APPENDIX I.  
NORTH LYELL TO KELLY'S BASIN TRAM.  
ESTIMATE OF COST OF CONSTRUCTION.  
2 ft. 6 in. Gauge. . . . . Length, 30 m. 41 c.

	Total Cost.			Cost per Mile.		
	£	s.	d.	£	s.	d.
Clearing.....	1525	10	0	50	0	0
Earthworks .....	52,490	0	0	1721	0	0
Side Cuttings .....				...		
Bridges and Culverts .....				214	0	0
Permanent Way .....	21,634	0	0	709	0	0
Contingencies, 12½ % .....	10,283	0	0	337	0	0
	£92,486	10	0	£3031	0	0

Total Cost, £92,486 10s.      Cost per Mile, £3031.  
M. F. E.  
W. M'E.  
2. 12. 97.

Gormanston, 2nd December, 1897.

NORTH LYELL TO KELLY'S BASIN TRAMWAY.  
2 FT. 6 IN. GAUGE.

The Chairman Parliamentary Select Committee.

SIR,  
ACTING under instructions from the Directors of the North Mount Lyell Mining Company, we have the honour to submit the following general Report, together with an estimate of the total cost and cost per mile of the proposed tramway, which estimate please find attached hereto. We are also forwarding by this mail tracings of trial section, together with a plan tracing to a scale of 50 chains to an inch. The general plan showing details of curves, &c. we will not be able to complete for some weeks yet, but the radii of the curves are shown on the trial section tracings.  
*Location.*—For 3½ miles from the North Lyell Mine the line passes down the northern side of the Linda Valley along the foot hills of Mount Lyell. At 3½ miles it crosses the Linda River and the overland track from Hobart to Strahan. This, which is the only road crossed on the entire route, it is proposed to cross by an overhead bridge. From 4 m. to 17 m. the route is through level button-grass plains, devoid of timber, the only works of any consequence necessary being bridges across the King and Governor Rivers. After leaving the plains the line curves round the head waters of the Andrew River, ascending to a low gap in the divide between the Andrew and Bird Rivers. From this gap it descends along the Nora and Bird Rivers to Kelly's Basin, and after skirting the shore of the basin for a mile crosses the Fysh River, and terminates at the proposed wharfage easements on the northern shore of Kelly's Basin. The total length of line is 30 m. 41 c.  
*Ruling Gradient.*—With the exception of the first 3½ miles, where there is a gradient of 1 in 30, there will be no grade steeper than 1 in 40. This 3½ miles may be regarded as a separate section, as it is a down gradient from the mine, and all the heavy loading will be down hill to the smelters. The 1 in 40 grades are not compensated on the sharp curves, but there is a sufficient margin of level and easier grades to permit of this being done on a permanent survey.  
*Curves.*—The sharpest curves on the line are of 3 chains radius. There are many places where the deeper cuttings could be reduced 50 per cent. by substituting curves of 2 chains radius for these, and sufficient information has been obtained to enable us to take out an estimate on this basis should it be required.  
*General Features, &c.*—With the exception of 4 miles at the Lyell end, the formation is mostly schist and freestone on the hills, and peat resting on gravel beds on the button-grass plains. The rock will be easily excavated, and the cuttings will stand with nearly vertical sides. On the plains it will be merely necessary to strip the overlying peat to an average depth of about fifteen inches, when the gravel substratum will afford a very suitable formation. The slopes on the sidelong country run from 10° to 45°, averaging about 25°. In the conglomerate country the surface is very hard, but the local experience of this rock shows that it is usually a surface covering or boulder, underlaid by schist or soft shales. Abundance of the best quartz gravel for ballast is obtainable through the plain country in the direct course of the line, and also at Kelly's Basin and Lyell. Timber suitable for construction purposes will also be obtained in sufficient quantities in the course of clearing the formation widths.  
*Interference with Property, &c.*—With the exception of a few mineral leases near Lyell, the route is entirely through unoccupied and unalienated Crown Lands—barren and unsuitable for settlement.  
Owing to the dense scrub in the hill country we were unable to get the best results on a mere trial survey, and feel confident that a much improved section could be obtained on a permanent survey.

We have, &c.  
W. F. EGAN,      } Surveyors for the North Mount Lyell  
W. M'EACHERN, } Mining Company.

**As amended by the Select Committee.**

A

# B I L L

TO

Authorise "The North Mount *Lyell* Mining Company, No Liability," to construct, maintain, and work a Railway from Mount *Lyell* to *Macquarie Harbour*, and to generate and supply Electricity for Light or Motive Power. A.D. 1897.

**W**HEREAS "The North Mount *Lyell* Mining Company, No Liability," registered in the Colony of *Victoria* under the provisions of "The Company's Act, 1890," is willing, and it is expedient that the said Company should be authorised, to construct, maintain, and work the Railway hereinafter mentioned, [and to generate and supply Electricity for light or motive power] : PREAMBLE.

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 :—

10 **1** This Act may be cited for all purposes as "The Mount *Lyell* and *Macquarie* Harbour Railway Act." Short title.

**2** 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 :— Interpretation.

15 "Crown Lands" or "Crown Land" shall mean any lands in the Colony which are or may become vested in the Crown, and [Private.]

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

A.D. 1897.

have not been and are not dedicated to some public use, and includes all lands of the Crown which are or may be occupied for 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 :

["Local Authority" shall mean the Municipal Council or Town Board having jurisdiction in any Municipality or Town in which the Company may propose to apply or put in force any of the provisions of this Act:]

"Person" includes "Corporation :"

"Leased land" means land comprised in any lease or licence issued in pursuance of any Act of Parliament of this Colony :

"The Governor" shall mean the Governor in Council :

"The Commissioner" shall mean (1) any one of the Commissioners of Goldfields for *Tasmania*; (2) any one of the Commissioners of Mines :

"Minister" shall mean the Minister of Lands and Works for the time being :

"The Company" shall mean the said North Mount *Lyell* Mining Company, No Liability, and shall include the Assigns of the Company :

"The Railway" shall mean the Railway mentioned in the Section next hereinafter contained :

"Road" or "street" or "public road or street" shall include any Railway or Tramway.

Power to construct Railway.

3 It shall be lawful for the Company, subject to the provisions of this Act, to construct, maintain, and work a Railway from a point in or near the mining leases in the vicinity of Mount *Lyell*, in *Tasmania*, held by the Company, to a point in or near *Kelly's* Basin, *Macquarie* Harbour, in *Tasmania*, along such route as shall be approved by the Minister under the provisions of this Act, and to take and use so much of the Crown or private lands and of the roads, [streets, and reserves] both public and private through which such route shall pass as may be required for the construction and working of such Railway, and also such area of Crown land 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 and necessary for the carrying out the object of this Act.

Provided always, that nothing herein contained shall authorise the Company to take and use for the construction or maintenance of the said Railway any piece or strip of Crown land more than One chain in width.

Provided also, that the right hereby conferred upon the Company to take and use Crown land and any road, [street, or reserve] for the construction and maintenance of the said Railway shall not be deemed to be of any greater or other nature or extent than that of an easement.

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

4 The Railway shall be constructed and worked from a terminus to be approved by the Minister in or near the said mining leases held by the Company at Mount *Lyell* aforesaid, [or in or near to the Town of *Gormanston*,] to a terminus to be approved by the Minister in or near *Kelly's* Basin, in *Macquarie* Harbour aforesaid, and shall have a gauge of not less than Two feet, with curves of a radius of not less than One \*chain, and steel rails of not less than [Twenty-eight] Pounds to the yard.

(\*and a half)

(Forty)

[5 The Railway shall be constructed in a substantial manner fit for the carriage of vehicles at a rate of not less than Four miles per hour, 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 Minister or such officer as he may appoint.]

A.D. 1397.

[Railway to be constructed in substantial manner, &amp;c.]

6 The said Railway may be so constructed that the locomotives, carriages, and other rolling stock used thereon may be used and worked thereon with the assistance of a rack or a third rail in the manner adopted in the construction and working of Railways in accordance with the systems respectively known as the "*Abt*," and "*Fell*" systems.

"Abt" and "Fell" systems may be used.

(A The said Railway shall be constructed in a substantial manner so that those portions of it which shall be used without the assistance of a third or rack-rail shall have a grade not steeper than 1 in 30, and shall be fit for the carriage of locomotives with a weight of not less than eight tons on each axle, at a rate of not less than twelve miles per hour. And those portions of the said railway which shall be used with the assistance of a third or rack-rail shall have a grade not steeper than 1 in 10, and shall be fit for the carriage of locomotives as aforesaid at a rate of not less than four miles per hour. And the whole of the said railway shall be maintained and worked in accordance with the provisions of the said Act, and to the satisfaction of the Minister or such Officer as he may from time to time appoint to inspect the said railway.)

7 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, and showing on such plan the private or Crown lands or mineral leases affected, and the proposed method of dealing with any roads, [streets,] or tramways affected; such plan, in so far as it affects Crown land or mineral leases, to be certified by an authorised surveyor of the Colony; and the Minister may require such alterations as he thinks necessary to be made in such plan and sections 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 from time to time submit such plans and sections as are above mentioned for portions of the said Railway, and may commence the construction of any portion in respect of which such plans and sections have been deposited with the Minister and approved by him:] 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.

8 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.

9 The Minister may from time to time appoint (at the cost of the Company) 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 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

Railway may be inspected during construction.

A.D. 1897.

to make the 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 Railway as the Minister shall so require as aforesaid. No part of the said 5 Railway shall be opened for passenger traffic until the Engineer in-Chief or such officer as the Minister may appoint has certified that such Railway has been efficiently constructed, and all the rolling stock to be used thereon for such traffic is in good and efficient repair and condition, and may be safely used for public passenger traffic thereon. 10

Railway to be kept in proper repair.

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

Company may construct branch lines.



**11** It shall be lawful for the Company to construct, in accordance 25 with the provisions of this Act relating to the construction of the said Railway, such extensions of the said Railway, not exceeding (Five) miles, to any of the mining leases aforesaid or any mining leases adjacent thereto as may be approved by the Governor in Council, and such branch lines of Railway from the said Railway to such termini as 30 may be approved by the Governor in Council.

Power to purchase land.

**12** The Company may, in addition to the right of using any Crown Lands for the purposes of the Railway, purchase, acquire, and take, as hereinafter provided, such other land as may be necessary for the purposes of this Act. 35

*The Lands Clauses Act* incorporated. 21 Vict. No. 11.

**13** For the purpose of enabling the Company to purchase, acquire, and take other land as hereinbefore provided, *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 *Lands Clauses Act*. 40

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."

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

**14** Where the Railway crosses any public road or street on a level, the Company shall, if the Minister shall so direct, erect, and 45 at all times maintain, good and sufficient gates across such road or street on each side of the Railway where the same shall communicate therewith, and shall, where such gates are within the boundaries of any town, employ proper persons to open and shut such gates ; and such gates shall be kept constantly closed across such road or street 50 on each side of the Railway where the same shall communicate therewith, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross the Railway ; and such gates shall be of such dimensions and so constructed as when closed to fence in the Railway and prevent cattle or horses passing along 55 the road from entering upon the Railway ; and 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 every default therein : A.D. 1897.

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 Railway, 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 closed across the Railway, except when engines or carriages passing along the 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. The provisions of this Section shall apply to any public road or street that may be made at any time after the construction of the Railway.

15 **15** 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, or other animals from such street or road to the Railway.

Cattle-guards may be used in place of gates.

**16** In every case in which the Company shall make and use cattle-guards instead of gates in any place where the Railway crosses any public street or road, they shall erect a notice-board on each side of the 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 no case exceed Five miles per hour.

Measure of precaution to be adopted.

30 **17** Where the Railway crosses any private or occupation road on a level the Company shall allow Twelve feet of the Railway for the same ; and from time to time the Company may 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 Railway, and all such field-gates shall also be opened and shut by the person or 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.

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

Bridges how to be constructed over any road.

45 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 bye road, and of twelve feet if over a private road.

50 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 span of ten feet if over a cross or bye road, and in each of such cases the clear height at 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.

55 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 bye road, and one foot in sixteen feet if over a private



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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: 5

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 10 twenty-five feet if it be a cross or bye 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 bye road, and one foot in sixteen feet if a private road not being a tramroad or railroad, or if the same be 15 a tramroad or railroad the ascent shall not be greater than the ruling gradient of such tramroad or railroad.

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 20 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 bye road than twenty feet: Provided also, that if at any time after the construction of the Railway the average available 25 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 its own expense to increase the width of the said bridge to such extent as may be required by the Trustees or Surveyors of such road, not exceeding the width of such road as so widened or the maximum width herein 30 prescribed for a bridge in the like case over or under the Railway: Provided also, that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be required to be altered, or for which another road shall be substituted, shall be steeper than the 35 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 of the road so requiring to be altered, or for which another road shall 40 be substituted. (Provided further, that plans for all bridges over roads or streets shall be submitted to and approved by the Minister before construction.)



Penalty for  
injuring any road  
or street.

**19** The Railway shall, as far as possible, be so made as not to impede, injure, prevent, or interrupt any ordinary or rightful traffic 45 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 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 50 of this Section are being infringed by the lessees, it shall be lawful for any Two Justices of the Peace in Petty Sessions assembled, at any time before the completion of the works complained of as in contravention of this Section, to make such order upon the Company for securing due compliance by it with the provisions hereof as such Justices may 55 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 com-

plaint is made a penalty not 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 prescribed by *The Magistrates Summary Procedure Act*. A.D. 1897.

**20** The Company shall from time to time make good, repair, and amend all damage which may be done by it to or upon any public road or street in, through, over, or along which the Railway is constructed; and in case of its refusal or neglect so to do after reasonable 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 in the next preceding Section. *The Company to repair damages.*

**21** The Railway shall, whenever its course is over or along any public road or street, 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 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. *Roads to be crossed on a level.*

**22** The Company, for the purpose of constructing, repairing, and maintaining the Railway, may after Fourteen 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, quarry, or 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 sustained. *Materials from private land.*

**23** 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 in the vicinity of the Railway, and may fell all timber which in the opinion of the Company it may be necessary to remove for the safe working of the Railway: Provided, that full compensation shall, in the case of leased land, be made to the lessee for the damage done under this Section, 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.* *Compensation.*

**24** 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, and approved by the Governor in Council: Provided that all such tolls, rates, fares, and *Rates and tolls.*

A.D. 1897.



charges shall (not at any time exceed the tolls, rates, fares, and charges then in operation on the Government Line from *Strahan* to *Zeehan*.) at all times be subject to be altered and amended by the Governor in Council: Provided also, that Members of the Parliament of *Tasmania* shall be entitled to travel free on the said line.

5

Rates and tolls may be recovered.

**25** 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 or merchandise, the same may be recovered in 10 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, or other things 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 15 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.

Not to be liable to a greater extent than common carriers.

**26** Nothing in this Act contained shall extend to charge or make liable the Company further or in any other case than according to the 20 laws of this Colony stage-coach proprietors and common carriers would be liable, and the Promoter shall at all times be entitled to the benefit of every protection and privilege which may be enjoyed and possessed by such proprietors and carriers.

Authority to employ locomotive engines, carriages, and other locomotive powers, &c.



**27** It shall be lawful for the Company to use and employ steam, 25 electric, horse, or other moving power to propel or draw the locomotive engines, carriages, and waggons which shall be drawn or propelled on and along the said Railway. (Provided always, that all such vehicles shall be furnished with automatic brakes, and shall be approved by the Minister.)

30

Passengers and goods.

**28** It shall be lawful for the Company to carry and convey upon the Railway all such passengers and goods as shall be offered for that purpose, and to make and to sue for such charges in respect thereof as hereinbefore specified: Provided, that all such tolls be at all times charged equally to all persons and after the same rate in respect 35 to all passengers and goods 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 40 in favour of or against any particular person travelling upon or using the Railway.

Penalty for bringing dangerous goods on the Railway.

**29** No person shall be entitled to carry, or to require to be carried upon the Railway, any aqua fortis, oil of vitriol, gunpowder, lucifer matches, or any goods which, in the judgment of any person employed 45 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 50 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.

**30** It shall be lawful for the Company from time to time to make such By-laws for regulating their affairs and the management of the Railway and the buildings and works connected therewith, and for fixing the tolls, rates, fares, and charges for the carriage and conveyance of passengers, goods, and other things thereon as they may think fit, and for all purposes which are usually comprised in the 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 any other Law in force in *Tasmania*; and such By-laws shall be in writing under the seal of the Company, and if affecting other persons than its own officers and servants, shall be subject to the approval of the Governor in Council, and be published as hereinafter is provided.

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Power to make By-laws.

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

By-laws may be enforced by penalties.

**32** All such By-laws relating to persons other than the servants and officers employed upon the said Railway, not being tables of the charges for the conveyance of passengers, goods, and other things thereon, shall be published in the *Gazette*; and all such By-laws shall be printed in legible letters and exhibited in some conspicuous place in the principal Office of the Company 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 inspected at any reasonable time, he shall for every such offence be liable to a penalty not exceeding Five Pounds.

By-laws to be published.

**33** 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 same.

By-laws to be binding.

**34** All By-laws made by the Company under this Act shall be laid before both Houses of Parliament within Fourteen days of the making 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.

**35** The production of a copy of the *Gazette* purporting to contain any such By-laws shall in all Courts of Justice and in all legal proceedings whatsoever be accepted as *prima facie* evidence of such By-laws and that all the provisions of this Act with regard thereto have been duly complied with.

Proof of By-laws.

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

Construction of works.

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

45 To make or construct upon, across, under, or over any lands, [streets,] roads, rivers, creeks, or other waters any temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, culverts, drains, arches, cuttings, fences, and other works:

50 To construct at or near the terminus of the railway at *Kelly's* Basin aforesaid, wharves, piers, or docks:  
[*Private.*]

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To divert or alter, as well temporarily as permanently, the course of any streams of water, (or) 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 : 5

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

To draw water from any stream or river in the vicinity of the railway for the [supply of locomotives or for generating electricity 10 or for other purposes] (purpose of working the said railway) at such elevation as may be necessary to secure a fall by natural gravitation :

To erect and construct any houses, warehouses, goods-sheds, offices, and other buildings, yards, stations, wharfs, engines, 15 machinery, and apparatus, and other works and conveniences :

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, 20 or repairing and working the 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 25 reason of the exercise of such powers : (Provided also that the plans of such wharves, piers, and docks shall be submitted to the Marine Board of *Strahan* or other public body governing *Macquarie Harbour*, and that such wharves, piers, and docks shall be vested in and subject to the said Marine Board or public body). 30

Company to separate the lands before using them.

37 Before the Company shall use any such lands for any of the purposes aforesaid, it 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 as may be required by the said owner or occupier for the convenient occupation of such lands, and shall also erect across 35 all private roads used by them as aforesaid such fences and gates as may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads : and in case of any difference between the owners or occupiers of such roads and lands and the Company as to the proper kinds of fences and gates to be erected, the Company shall erect 40 such fences and gates as any Two Justices shall deem necessary for the purposes aforesaid, on application being made to them by either party : Provided 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. 45

Before roads interfered with others to be substituted.

38 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, 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, 50 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 its own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be. 55

**39** In case of accidents or slips happening, or being apprehended, to the cuttings, embankments, or other works of the said Railway, it shall be lawful for the Company and 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 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 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 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 Railway.

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

**40** When the Railway passes over leased land, then the rights of the lessee shall not be affected except so far as may be necessary for carrying out the purposes of this Act, and the lessee may accordingly exercise all powers conferred upon him in respect of the leased land: Provided that he shall not carry on any mining operations within Fifty feet of the surface of any land comprised in the said lease, nor in such a way as to endanger or inconvenience the working of the Railway.

Protection to rights of lessees.

**30** 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.

Settlement of disputes.

**41** Where the Railway passes over leased land, then the Company shall serve upon the lessee a notice describing with all reasonable accuracy, by means of a plan or otherwise, the proposed course, direction, or situation of the Railway.

Notice of intention to make Railway.

**42** 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 lessee, enter upon any leased land without the previous consent of any person.

The Company may enter after notice.

**43** In any case in which a notice is required to be served on the 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.

**44** Before any work shall be constructed under or in pursuance of the powers given by this Act through, over, or upon any leased land the lessee shall be paid by the Company such compensation (if any) as

Compensation to lessee.

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shall be determined by agreement between the 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 Forty-two, then such compensation (if any) shall be determined by the Commissioner.

5

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.

Compensation  
how estimated.

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

20

Commissioner  
may exercise  
power conferred  
on Justices.

**46** 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*.

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Power to enforce  
attendance of  
witnesses.

**47** 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 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.

35

Appeal.

**48** Either party to any proceeding before the Commissioner under this Act may at any time within Thirty 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.

40

Gates, bridges,  
&c.

**49** 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 :—

45

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the Railway as shall be necessary for the purpose of making good any interruptions caused by the Railway to the use of the lands through which the Railway shall be made ; and such works shall be made forthwith after the part of the Railway

passing over such lands shall have been laid out or formed, or during the formation thereof ; A.D. 1897.

Also sufficient posts, rails, hedges, ditches, mounds, or other fences Fences.

5 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 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 ;

10 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 ; Drains.

15 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 : Watering-places.

20 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.

35 50 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 the Commissioner or Two Justices of the Peace ; and such Commissioner or 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 or Commissioner.

45 51 If for Thirty-one days next after the time appointed by such Commissioner or 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 ; Provided, that if there shall be any appeal from the decision of such Commissioner or Justices the said Execution of works by owners on default by the Company.



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period of Thirty-one days shall not commence to run until such appeal has been heard and decided.

Power to owners of land to make additional accommodation works.

**52** If any of the owners or occupiers of lands affected by such Railway shall consider the accommodation works made by the said lessees, or directed by such Justices or the Commissioner to be made 5 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 the Commissioner or Two 10 Justices of the Peace.

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

**53** If the Company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of its Engineer, and according to plans and specifications to be submitted to and approved by such Engineer. 15

Accommodation works not to be required after Railway is completed. Owners to be allowed to cross until accommodation works are made.

**54** 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 (Two years from) the completion of the works and the opening of the Railway for public use.

**55** Until the Company shall have made the bridges or other 20 proper communications which it shall, under the provisions herein contained, have been required to make between lands intersected by the Railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times 25 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 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; 30 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. 35

Penalty on persons omitting to fasten gates.

**56** 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. 40

Compensation how determined.

**57** Whenever by this Act compensation is directed to be made by the Company to any persons whose interests are affected by the exercise 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 45 compensation.

In estimating compensation to be paid for land

**58** 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 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 through the land affected, and the arbitrators or umpire, in awarding compensation to be paid for or in respect of  
 5 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  
 10 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.

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—  
 taken for railway  
 benefit to owner  
 to be considered.

**59** In any case where land or material is required for the purposes of such Railway, if the Company before any steps are taken under *The*  
 15 *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*  
 20 *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.

Costs of arbitra-  
 tion, how to be  
 borne.

**60** 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 there-  
 25 with; or if any person shall wilfully do or commit any damage, injury, or spoil, or any nuisance to or upon the 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.

Penalty for  
 damage to  
 instruments,  
 Railway, &c.

**61** Subject to the provisions of this Act, the Company may mortgage or charge the Railway or its equipment for the purpose of securing the payment of any sum or sums of money borrowed or raised by the Company to the same extent as the Company has power to mortgage or charge any other property belonging to it.

Company may  
 mortgage  
 Railway.

**62** 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 are by this Act authorised to construct, one or more lines of electric telegraph and telephones, or any electrical works or machinery for the generation and  
 45 transmission of electricity for motive power or for light; 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 Government messages, such lines of telegraph and telephones  
 50 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.

Company may  
 construct tele-  
 graphs, &c.

A.D. 1897.

Government may  
affix wires.

**63** 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 are by this Act authorised to construct, and maintain and use such wires for the purposes of telegraphic and telephonic communication.

Power to divert  
water.

(\* purpose of  
working the  
railway.)



**64** It shall be lawful for the Company, and it is hereby empowered and authorised, to take, divert, and appropriate, for [any of the purposes of this Act,] \* from any rivers or streams which shall be crossed by the proposed line of railway at so many and such points upon such rivers or streams as may be approved by the Minister, and in accordance with such regulations as are hereinafter mentioned, such quantity of the water as shall be required by the Company; and the Company may from time to time enter upon any such rivers or streams, and upon the banks and beds thereof, and construct and erect on and in any portion of the banks or beds of any such rivers or streams any works, dams, weirs, flumes, or races for the purposes of such taking, diversion, and appropriation of the water of any such rivers or streams: Provided always, that the water taken from any river or stream for the purposes of this Act shall not exceed Fifty per cent. of the available quantity or volume flowing therein at the point of intake: Provided also, that the Company shall from time to time pay the Minister for all water taken and diverted under the provisions of this Section [and used by them for any purpose other than working the said railway.] The annual sum payable for such water shall be levied on such principle and at such rate and subject to such provisions as shall from time to time be fixed for diverting and taking water from any river or stream for generating electricity under any regulations from time to time made by the Governor in Council under the provisions of this Act, or under the provisions of any present or future law regulating the diverting and use of such water for such purposes; and all moneys so received by the Minister shall be paid into the Consolidated Revenue Fund: Provided also that, for the purposes of conserving water under the provisions of this Act, the Company shall have and may exercise the powers conferred by "The Mining Act, 1893."

35

Power to take  
water to be  
subject to  
Regulations.

**65** The powers hereinbefore conferred upon the Company to take, divert, and appropriate water from the said rivers shall be subject to such Regulations as the Governor in Council may from time to time prescribe for the purpose of securing a sufficient supply of water for public purposes and for the proper conduct of mining operations above or below the point of intake in any of the said rivers; and the Governor in Council is hereby authorised to make from time to time such Regulations as he may deem necessary for the purpose aforesaid, and for prescribing the rate to be paid by the Company for water diverted or taken by them under the provisions of the last preceding Section, and the principles upon which the same shall be paid and the mode of payment.

Power to make  
Regulations to be  
additional to  
existing powers  
for that purpose.

**66** The power hereinbefore conferred upon the Governor in Council to make Regulations for the purpose aforesaid shall be in addition to any powers already possessed by the Governor in Council under the provisions of any Act relating to mining or to the disposal of mineral lands to make Regulations thereunder.

**67** Nothing herein contained shall abrogate any existing right vested in any person or company to take, divert, and appropriate water from any of the said rivers; and before the Company shall take or divert or appropriate any water from any of the said rivers, they shall submit to the Minister the plans and specifications of their proposed works for taking, diverting, and appropriating such water, and shall obtain the Minister's approval of the same.

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Existing rights reserved.

Plans to be submitted to Minister and approved by him.

**68** All waters taken, diverted, and appropriated by the Company from any of the said rivers under the authority of this Act shall be returned to the same river or rivers at such point or points as shall be shown in the plans approved by the Minister as hereinafter provided; and no water shall be taken or diverted by the Company from any of the said rivers until the return of such water to the same river or rivers has been provided for.

Water to be returned to rivers.

**69** It shall be lawful for the Company to use all or any of the waters aforesaid for any of the purposes hereinafter specified:—

[Power to use water.

To work any machinery that may be erected by the Company for generating, making, transmitting, and supplying electricity or other motive power to the Railway or other works authorised by this Act.]

Purposes for which water may be taken.]

**70** It shall be lawful for the Company, and all persons by them authorised, after not less than Two or more than Seven days' notice to the occupier or occupiers, to enter upon any lands abutting on the said Railway and to occupy the said lands so long as it may be necessary for the construction or repair of any works authorised by this Act, or of the accommodation works connected therewith hereinafter mentioned; and to use the same for any of the following purposes; that is to say—

Power to take temporary possession of land.

For the purpose of constructing, building, or putting thereon any machinery (used for the purpose of working such Railway);

For the purpose of taking earth or soil by side-cuttings therefrom;

**30** For the purpose of depositing soil thereon;

For the purpose of obtaining materials therefrom for the construction or repair of the works authorised by this Act or such accommodation works as aforesaid; or

**35** For the purpose of forming roads thereon to or from or by the side of the said works.

And, in exercise of such powers, it shall be lawful for the Company and all other persons employed therein to deposit, and also to manufacture and work upon such lands, materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from or out thereof any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature, or any steam-engines or other machinery: Provided always that nothing in this Act contained shall exempt the Company from an action for nuisance or other injury, if any done, in the exercise of the powers hereby conferred, to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid.

**71** In any of the cases aforesaid, where the Company shall take possession of lands by virtue of the powers herein granted, it shall be incumbent on the Company within One month after entry upon such

Compensation to be made for occupation.

[Private.]

A.D. 1897.

lands, upon being required to do so, to pay the occupier of the said lands full compensation for any damage which he may sustain by reason of the Company so taking possession of his lands.

[Company may supply, &c.]



[Supply of power to occupiers of Company's blocks.]



[72] The Company may supply, let, hire, and sell to any person, mine, or building, motive or electric power or electricity, upon such terms and conditions as in this Act contained: Provided that before the Company contracts to supply any motive or electric power or electricity within the boundaries of any city or town, they shall first obtain the sanction of the Local Authority affected: Provided also, that any person in occupation of any land forming part of any block of land leased to the Company under the provisions of this Act, shall be supplied by the Company upon similar terms to those upon which the Company supply any other person not so occupying under similar circumstances.]

[Testing.]



[73] The Company shall, before supplying any person, mine, or building with motive or electric power or electricity, put up and erect suitable apparatus at some testing-place for the purpose of testing the normal strength and electric power and motive force of the power supplied by them, and the Minister or Local Authority may from time to time appoint a person to test the strength and electric power of the motive force to be supplied by the Company.]

[Company may let meters.]



[74] The Company shall let for hire to any consumer of motive power or electricity supplied by measure, any meter or instrument for measuring the quantity of motive power or electricity supplied and consumed, and any conduits and apparatus for the conveyance, reception, and storage of the motive power or electricity, for such remuneration in money as may be agreed upon between the Company and the consumer, which shall be recoverable in the manner hereinafter mentioned.]

[Meters not distrainable, &c.]



[75] Such meters, instruments, conduits, and apparatus, when the property of the Company, shall not be subject to distress for rent of the premises where the same are used, or to be attached or taken in execution under any process of any Court of Law or Equity, or under or in pursuance of any adjudication, sequestration, or order in bankruptcy or other legal proceedings against or affecting the consumer of the electricity or the occupier of the premises, or other the person in whose possession the meters, conduits, instruments, and apparatus may be.]

[Meter may be supplied and maintained by consumer.]



[76] Every person who shall have agreed with the Company for a supply of electricity by measure shall, at his own expense, unless he hire a meter from the Company, in which case such meter must be to the satisfaction of the consumer, provide a meter, and keep and maintain the same in good working condition to the satisfaction of such Officer as may be appointed by the Company, and in the event of any repairs being required notice in writing shall be immediately given by such person to the Company, and a registration of the quantity used shall be taken before such repairs are effected.]

[Notice of removal, &c. of meter.]



[77] Every person requiring to remove or alter the position of any meter shall give Six days' notice in writing to that effect to the Company, and a registration of the quantity of electricity shall be taken before such removal or alteration is made.]

[78 If any person who under the provisions hereinbefore contained ought to provide any meter, neglect or refuse, after having been required by the Company so to do, to provide such meter, he shall, for every such day during which such neglect or refusal continues, forfeit a sum not exceeding Two Pounds.] A.D. 1897. [Penalty for neglect to provide meter.]

[79 If any person who has provided any meter as aforesaid fail to give the notice hereinbefore required of any repairs required for such meter, he shall be liable to forfeit a sum not exceeding Five Pounds, and a further sum not exceeding Two Pounds for each day (if more than one) that such meter remains unrepared.] [Penalty for neglecting to give notice of repairs of meters.]

[80 If any person refuse or delay to have such meter properly repaired and put in correct working order after having been required by any Officer of the Company so to do, the Company may shut off the supply of electricity from the premises of such person, either by cutting the conduits or service-pipe, or otherwise, until such meter shall have been properly repaired and certified by some officer of the Company to be in proper working order.] [Electricity may be shut off if meter not in order.]

[81 If any plumber or other person fix or refix any meter upon any premises supplied with electric power by the Company, without having first obtained a certificate from the Company that the said meter has been examined and found in correct working order, he shall be liable to forfeit a sum not exceeding Five Pounds.] [Penalty for fixing uncertificated meter.]

[82 If any person remove or alter the position of, or in any way interfere with, any meter without giving such notice as aforesaid, he shall be liable for each offence to forfeit a sum not exceeding Five Pounds over and above the damage which he may be found liable to pay in any action at law at the suit of the Company.] [For removing meter without notice.]


[83 The Officers of the Company may enter any house, building, or lands to, through, or into which electricity is supplied by the Company by measure in order to inspect meters, instruments, conduits, and apparatus for the measuring, conveyance, reception, or storage of electricity, or for the purpose of ascertaining the quantity of electricity supplied or consumed, and may from time to time enter any house, building, or lands for the purpose of removing any meter, instrument, conduit, or apparatus the property of the Company; and if any person hinders any such Officer from entering or making such inspection, or effecting such removal, he shall for each such offence be liable to a penalty not exceeding Five Pounds: but, except with the consent of a Justice, this power of entry shall be exercised only between the hours of Nine in the forenoon and Four in the afternoon.] [Power to officers of Company to inspect meters.]

[84 After conduits or wires have been laid and erected and put up under the authority of this Act for the supply of electric power to any street or part thereof, the Company shall cause a notice thereof to be published in a newspaper circulating in the district affected.] [Notice that conduits be laid.]


[85 Any owner or occupier of any dwelling-house or part of a dwelling-house, mine, building, or property, who shall wish to have electricity brought into his premises, and shall have paid or tendered to the Company the rate or charge in respect of such electricity by this Act directed to be paid in advance, may, with the consent of the

[Conduits laid by owner or occupiers.]


A.D. 1897.

 Company first had and obtained, open the ground between the conduits of the Company, or erect poles and put wires and conductors thereon between, and to communicate with, the conduits, poles, and wires of the Company, and carry and run electricity therein and thereon, having first obtained the consent of the owners and occupiers of such ground.] 5


[Notice to Company of laying pipes.]

 [86 Such conduits shall be of a strength and material approved of by some officer of the Company; and every such owner or occupier shall, before he begins to lay such conduits, give to the Company Two days' notice of his intention to do so.] 10


[Communication with pipes of Company to be made under the superintendence of surveyor.]

 [87 Before any conduit or wire is made to communicate with the conduit or wires of the Company, the person intending to lay such conduit, or put up such poles and wires, shall give Two days' notice to the Company of the day and hour when such conduit or wire is intended to be made to communicate with the conduits or wires of the Company; and every such conduit or wire shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the Company. The conductor, communicator, distributor, conduits, or wires put up to connect with the conduits or wires of the Company shall be supplied by the Company at cost price to any person requiring the same, at his request and costs.] 15 20

[Service conduits may be removed after giving notice.]


 [88 Any person who shall have laid down any conduit, wire, or other works, or who shall have become the proprietor thereof, may remove the same after having first given Six days' notice in writing to the Company of his intention to do so, and of the time of such proposed removal; and every such person shall make compensation to the Company for any injury or damage to their conduits, wires, or works which may be caused by such removal.] 25

[Power to break up pavements.]

 [89 Any such owner or occupier may open or break up so much of the street or pavement if any as shall be between the conduits of the Company and his house, building, or premises, or of any sewer or drain therein, for any such purpose as aforesaid, doing as little damage as may be, and making compensation to the Local Authority for any such damage done in the execution of any such work.] 30 35

Provided always, that every such owner or occupier desiring to break up the pavement of any street, or any sewer or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restrictions, and obligations in and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto, as the Company is subject to under the provisions of this Act.] 40

[Protection of motive power. In case of breach motive power may be cut off.]

 [90 If any person supplied with electricity by the Company wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this Act, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, or undue consumption of electricity, the Company may, without prejudice to any remedy against him in respect thereof, cut off any of the conduits or wires by or through which electricity is supplied to him or for his use, and may cease to supply him with electricity as long as the cause of injury remains or is not remedied.] 45 50

**[91]** If any person supplied with electricity by the Company wilfully or negligently causes or suffers any conduit or other apparatus to be out of repair, or to be so used or contrived that the electricity supplied to him by the Company is or is likely to be wasted, misused, or unduly consumed, he shall for every such offence be liable to a penalty not exceeding Five Pounds, and a further sum not exceeding Two Pounds for each day, if more than one, that such offence continues.]

A.D. 1897.

[Penalty for waste of motive power.]

**[92]** If any person shall wilfully or maliciously destroy, injure, or damage, or attempt to destroy, injure, or damage, any conduit, pipe, wire, or apparatus, or any of the works constituted under the authority of this Act, or wilfully and maliciously do any act calculated to render any part or parts of the machinery or works of the Company or its assigns unworkable or defective, or whereby any electricity is or may be lost, wasted, misused, destroyed, or interrupted in any way, he shall be for every such offence liable to a penalty not exceeding Fifty Pounds, or to be imprisoned for any term not exceeding Six months, and shall pay for any damage that may be done.

Penalty for destroying (railway) works, &amp;c.

**[93]** It shall not be lawful for the owner or occupier of any premises supplied with motive power or electricity by the Company, or any consumer of the motive power or electricity of the Company, or any other person, to affix or cause or permit to be affixed, any conduit, wire, or apparatus to a conduit or wire belonging to or used by such owner or occupier, consumer, or any other person, or to make any alteration in any such communication, or conduit, or wire, or in any apparatus connected therewith, without the consent in every such case of the Company; and if any person acts in any respect in contravention of the provisions of this Section he shall for every such offence be liable to a penalty not exceeding Five Pounds, without prejudice to the right of the Company to recover damages from him in respect of any injury done to their property, and without prejudice to the right of the Company to recover from him the value of any motive power or electricity wasted, misused, or unduly consumed.]

[No pipe to be fixed to consumer's pipe without permission of Company.]

**[94]** The Surveyor or other person appointed for that purpose by the Company may, between the hours of Nine o'clock in the forenoon and Four o'clock in the afternoon, enter into any house or premises supplied with motive power or electricity by the Company in order to examine if there be any waste or misuse of such motive power, and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the Company may turn off the motive power supplied by them from such house or other premises.]

[Inspection of premises supplied with motive power.]

**[95]** For the purposes of erecting the necessary works for supplying electricity and electric power under the authority of this Act, the Company shall have all the powers conferred by *The Electric Telegraph Act*, 20 *Victoria*, No. 22, upon the Superintendent of Telegraphs, appointed under the Act 46 *Victoria*, No. 5, and the Promoters may from time to time exercise all the powers thereby conferred upon the Superintendent of Telegraphs subject to the payment of compensation to all persons who shall suffer any loss or damage by the exercise of such powers by the Company as provided in that Act.]

[Powers of 20 *Victoria* No. 22 extended.]



A.D. 1897.

If Company  
guilty of breaches  
of Act, the  
Attorney-  
General may  
move Supreme  
Court to prohibit  
further proceed-  
ing.

**96** If the Company shall be guilty, without reasonable cause, of any breach of any of the provisions of this Act, and such breach shall continue after reasonable notice shall have been given by the 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 Company should not be prohibited from proceeding further with the construction of the said Railway, or from continuing to work the same, upon such grounds as may be set forth in such Rule; and such Rule may be served upon the Company either by delivering the same to the agent of the Company under this Act personally, or by leaving the same at the registered office of the Company in *Tasmania*.

Supreme Court  
may prohibit  
further proceed-  
ing, or may order  
payment of a  
sum of money by  
Company.

**97** 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 provisions 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 prohibit the Company from proceeding further with the construction of the said Railway, or continuing to work the same.

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, order the Company to pay to the Treasurer such a sum of money as the said Court may consider reasonable by way of penalty for the breach of any of the provisions 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.

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

and may order  
issues to be tried  
by a jury.

**98** 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.

45


Company to have  
a Registered  
office in  
*Tasmania*.  
48 Vict. No. 16.

**99**—(1.) The Company incorporated and registered in *Melbourne*, in the Colony of *Victoria*, under the name of "The North Mount Lyell Mining Company, No Liability," shall, if not already registered under "The Mining Companies (Foreign) Act," forthwith register under that Act with the Secretary of Mines 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 of such Company, and such Office shall for all purposes be the Registered Office of such Company. A.D. 1897.

(2.) Upon such registration the said Company may sue and be sued in its corporate name in *Tasmania*, and proceedings against such Company shall be in the same manner, and the liabilities of the Company and of all persons in respect of such registration shall be the same, as provided by "The Mining Companies (Foreign) Act."

**100** It shall be lawful for the Company or its assigns (with the consent of the Governor in Council) at any time and from time to time, by deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, concessions, and advantages conferred upon them by this Act to any person or persons, or to any duly incorporated Company ; 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 this Act, including the power of assignment given by this Section, and shall be subject to all the obligations and conditions imposed upon the Company by this Act.

 Power to assign and transfer rights, &c.

**101** Upon the completion of any such assignment or transfer as in the last preceding Section mentioned, this Act shall be read so that whenever the word "Company" occurs it shall be omitted, and the name of the Company, local authority, association, syndicate, partnerships, person or persons so purchasing or acquiring the said Railway, land, machinery, and other works shall be read and taken to be inserted in its stead.

How Act to be read on completion of assignment, &c.

**102**—(1.) If any such transfer as mentioned in the last preceding Sections shall be made 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*, then such Company shall, before commencing to construct or work the Railway, as the case may be, 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 such 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 of such Company, and such Office shall for all purposes be the Registered Office of such Company.

If transfer made 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 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 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.

**(B)** 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 this Act, or earlier if the Company shall so agree, to give the Company notice of the intention of the Crown to purchase the said Railway at the expiration of Six months after the date of such notice,

(Minister may purchase Railway upon notice.)

A.D. 1897.

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.)

(Compensation upon purchase of Railway.)



**(C)** The amount of compensation to be paid to the Company upon the purchase by the Crown of the said Railway shall be the actual cost 5 of the construction work, 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.

Provided that if at the time of such purchase the said railway shall 10 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 Company as such compensation, and in case of dispute shall be settled by arbitration as 15 hereinafter provided.)

(If Governor and Company cannot agree, may proceed to arbitration.)



**(D)** In the event of the Governor in Council and the Company not agreeing upon the sum to be paid to the Company upon the purchase by the Crown of the said Railway, the question shall be referred to the determination of Five arbitrators, Two of whom shall be appointed by 20 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.

Provided that in no case shall such compensation exceed Twenty per centum on the amount actually paid by the Promoters for such con- 25 struction work, rolling stock, equipment, goods, and chattels, nor the value of the same.)

(If Company fail to appoint arbitrators.)



**(E)** If the Company shall 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 30 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.) 35

(Vacancy in arbitrators.)



**(F)** 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.) 40

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



**(G)** 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 Com- 45 pany in the event of the purchase of the said railway, 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.)

(Accounts of construction subject to 52 Vict. No. 43.)




**(H)** The accounts of the Company in and about the construction of the railway shall be subject to all the provisions of "The Audit Act, 50 1888," in the same manner in all respects as if such accounts had been specifically mentioned therein.)

**(I)** After the railway is completed and open for traffic, no new works of construction in connection with the railway shall be commenced or completed without the consent of the Governor in Council, and in event of any such works being constructed without such consent, such works shall not be deemed construction works for the purpose of computing the amount of compensation to be paid to the Company upon the purchase of the said railway.)

A.D. 1897.

(New works of construction to be approved by the Governor in Council.)

 (Twelve)\*

**103** The Company shall commence the construction of the said Railway in a *bonâ fide* manner within [Eighteen]\* months from the date of this Act, and shall complete the construction of the said Railway in accordance with the provisions of this Act within a period of [Four] (Three) years from the date of this Act: [Provided always, that for the purposes of this section "commencing the construction" shall include the preparation of the necessary survey of the line of Railway.]

Railway to be commenced within [Eighteen] (Twelve) months and completed within Four years.



**104** All offences against this Act or any Bye-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 Bye-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 Bye-law shall be paid to the said Company.

Offences to be dealt with summarily.

19 Vict. No. 8.

**105** Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act 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.

**106** In the event of any dispute, question, or difference arising between the Company and the Minister, or any officer appointed by the Minister, the same shall be referred to and decided by arbitration under "The Arbitration Act, 1892."

All disputes referred to arbitration.

**107** The Company shall, within [Six] (Two) months after the passing of this Act, place at interest on fixed deposit the sum of [Five hundred] (One thousand) Pounds, in the name of the Treasurer of the Colony, in some Bank in Hobart to be approved of by the said Treasurer, and shall deliver to the Treasurer the deposit receipt for such sum.

Deposit.



The Company shall be entitled to the interest on such deposit of [Five hundred] (One thousand) Pounds during the period it remains in the name of the Treasurer in such Bank as aforesaid.



**40** 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 in accordance with the provisions of this Act, and shall do every act reasonably required to enable the Company to obtain payment of the said deposit.

**45** If the Railway shall not be so constructed within the time mentioned in this Act, the said sum of [Five hundred] (One thousand) Pounds and all interest accrued thereon shall be absolutely forfeited to Her Majesty, and shall become part of the Consolidated Revenue Fund of the Colony.



[Private.]

A.D. 1897.

(Conditions and  
stipulations.)

**(J)** In the event of any of the contingencies hereinafter mentioned arising, the Company shall be liable to forfeit all the rights and powers conferred by this Act :—

- (a) If any of the covenants or conditions contained in this Act and to be performed or observed by the Company is not duly performed and observed :
- (b) 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 accordance with the provisions of this Act : 10
- (c) If the Company does 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 :
- (d) If the Company does not, after the said railway is completed 15 and opened for traffic, run such trains upon the said line throughout its entire length, as the Governor in Council may require, such trains to be of such capacity and start at such hours and stop at such stations, sidings, and places for passengers to join the train and alight, and for goods 20 to be forwarded and received, as the Governor in Council may determine.)