

(No. 59.)



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PARLIAMENT OF TASMANIA.

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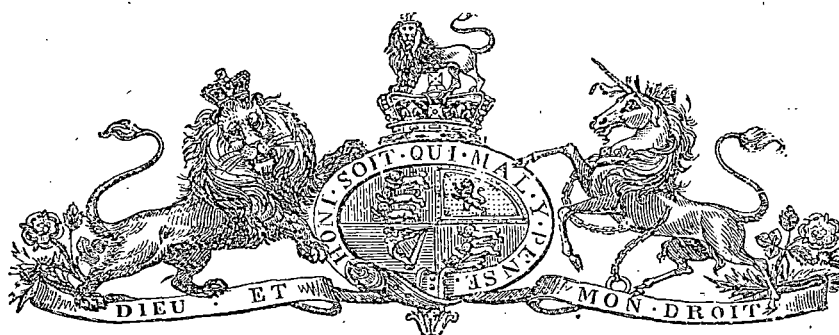
THE TASMANIAN CENTRAL AND WEST COAST  
RAILWAY BILL, (PRIVATE):

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

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Brought up by Mr. Fowler, August 4, 1898, and ordered by the House of  
Assembly to be printed.

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*SELECT COMMITTEE* appointed, on the 18th day of November, 1897, to consider and report upon "*The Tasmanian Central and West Coast Railway Bill*," (Private).

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MEMBERS OF THE COMMITTEE.

MR. ARCHER.  
MR. HARTNOLL.  
MR. DUMARESQ.  
MR. BURKE.

MR. LEWIS.  
MR. PAGE.  
MR. HALL.  
MR. FOWLER.

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DAYS OF MEETING.

Thursday, June 30; Thursday, July 7; Friday, July 8; Thursday, July 14; Wednesday, August 3;  
Thursday, August 4.

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WITNESSES EXAMINED.

The Honourable Charles Henry Grant, M.L.C.; Mr. F. Back, General Manager Tasmanian Government Railways; Mr. John M. McCormick, C.E., Engineer of Existing Lines, Tasmanian Government Railways; Mr. E. C. Driffield, C.E., Superintending Engineer, Mount Lyell Railway; Mr. S. J. Sutton.

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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.

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

A. R. FOWLER, *Chairman.*

*Committee Room, House of Assembly, 4th August, 1898.*

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## MINUTES OF PROCEEDINGS.

THURSDAY, JUNE 30, 1898.

*Members present*—Mr. Fowler (Chairman), Mr. Hall, Mr. Lewis, Mr. Page, Mr. Archer, Mr. Dumaresq, and Mr. Hartnoll.

The Committee entered into discussion as to whether further evidence should be taken.

*Ordered*, That Mr. Back, General Manager of Railways, Mr. J. M. McCormick, Engineer of Existing Lines, Tasmanian Government Railways, and the Hon. C. H. Grant, be summoned to give evidence on Thursday next, at 10-30 o'clock, and that the Clerk do write to those gentlemen asking them to give the Committee the benefit of any notes they may have made with regard to the Tasmanian Central and West Coast Railway Bill.

The Committee adjourned till Thursday next, at 10-30 o'clock.

THURSDAY, JULY 7, 1898.

*Members present*—Mr. Fowler (Chairman), Mr. Archer, Mr. Dumaresq, Mr. Hall, Mr. Hartnoll, Mr. Lewis, and Mr. Page.

The Minutes of last Meeting were read and confirmed.

The Clerk reported that he had acquainted Messrs. Martin & Hobkirk, and Messrs. Clarke & Croft, being the solicitors for the Promoters of the Bill and for the Petitioner against the Bill, respectively, of the intention of the Committee to proceed to take further evidence this day.

Accordingly, Mr. M. W. Simmons appeared as Counsel on behalf of the Promoters of the Bill.

The Honourable Charles Henry Grant, M.L.C., was called in and examined.

Mr. Grant withdrew.

Mr. F. Back, General Manager Tasmanian Government Railways, was called in, and, having made the Parliamentary declaration (35 Vict. No. 11), was examined.

Mr. Back submitted for the convenience of the Committee a map of Tasmania showing (1) Government Railway lines, (2) Private lines, (3) Projected private lines, and (4) Country through which he thought it might be desirable to construct a Government line sooner or later.

Mr. Back withdrew.

Mr. J. M. McCormick, Civil Engineer of Existing Lines, Tasmanian Government Railways, was called in, and, having made the parliamentary declaration (35 Vict. No. 11), was examined.

Mr. McCormick withdrew.

*Resolved*, That Mr. S. J. Sutton and Mr. E. C. Driffield be summoned to give evidence at 11 o'clock to-morrow.

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

FRIDAY, JULY 8, 1898.

The Committee met at 11 o'clock.

*Members present*—Mr. Fowler (Chairman), Mr. Archer, Mr. Dumaresq, Mr. Hall, Mr. Lewis, and Mr. Page.

The Minutes of last Meeting were read and confirmed.

*Resolved*, That Mr. S. J. Sutton be admitted during the examination of witnesses.

Mr. E. Carus Driffield, C.E., was called in, and, having made the Parliamentary declaration (35 Vict. No. 11), was examined.

Counsel for the Promoters handed in Paper by Mr. Back read before the Royal Society last year on the subject of narrow-gauge railways.

Mr. Driffield withdrew.

Mr. S. J. Sutton was called in, and, having made the Parliamentary declaration (35 Vict. No. 11), was examined.

Mr. Sutton withdrew.

*Ordered*, That the Chairman send a telegram to Messrs. Clarke & Croft, Solicitors for the Petitioner, against the Bill, asking them whether they purpose tendering any evidence against the Bill, and that, if so, the Committee would meet to take such evidence on Thursday next, 14th instant, at 10-30 o'clock.

*Resolved*, That if the Petitioner against the Bill does not desire to have any further evidence taken, the addresses by Counsel against and for the Bill be heard at 11 o'clock on Thursday next, 14th instant.

The Committee adjourned *sine die*.

THURSDAY, JULY 14, 1898.

The Committee met at 11 o'clock.

*Members present*—Mr. Fowler (Chairman), Mr. Dumaresq, Mr. Hartnoll, Mr. Lewis, and Mr. Page.

The Minutes of last Meeting were read and confirmed.

The Chairman reported that he had despatched a telegram to Messrs. Clarke and Croft, Solicitors for the Petitioner against the Bill, asking whether they purposed tendering any evidence against the Bill, and that, if the Committee would meet to take such evidence on Thursday, 14th instant, at 10-30 o'clock, but that no reply had been received.

The Committee proceeded to hear Counsel.

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

Counsel withdrew.

The Committee entered upon the consideration of the Bill.

*Resolved*, That the Preamble be agreed to.

The Committee adjourned *sine die*.

## V

WEDNESDAY, AUGUST 3, 1898.

The Committee met at 10.30 o'clock.

*Members present*—Mr. Fowler (Chairman), Mr. Dumareq, Mr. Hartnoll, Mr. Lewis, and Mr. Page.

The Minutes of last Meeting were read and confirmed.

The Committee resumed the consideration of the Bill.

Clauses 1 to 3 agreed to.

Clause 4.

Amendment made (Mr. Lewis), page 3, line 12, after "Railway," by striking out "to such point in the Western Mining Division," and inserting "to such a point on the North-East Dundas Tramway, or to such point within a radius of Five miles from the Town Reserve of Rosebery."

Clause, as amended, agreed to.

Clause 5.

Amendments made (Mr. Lewis):—

Page 3, line 39, after "behalf," by inserting "and failing such agreement, then in accordance with such terms and conditions as may be settled by arbitration in the manner provided in Part VIII. of this Act."

Page 3, line 47, after "Postmaster-General," by inserting "and failing such agreement, then the compensation shall be decided by arbitration in the manner provided in Part VIII. of this Act."

Page 3, line 48, by striking out "For a renewal from time to time of the said lease for a further term not exceeding Twenty-one years, upon and subject to all the conditions herein prescribed, and all the provisions of this Act."

Page 4, line 4, after "shall," by inserting "subject to the provisions of Part XIV. of this Act."

Clause, as amended, agreed to.

Clause 6 agreed to.

Clause 7.

Amendments made (Mr. Lewis):—

Page 4, line 31, before "the Minister," by striking out "It shall be lawful for," and inserting "Until the resumption or forfeiture of the primary lease, as hereinafter provided."

Same line, after "Minister," by striking out "with the consent of the Governor in Council," and inserting "upon the application of the Promoter, shall."

Page 4, line 33, after "lease," by striking out "to."

Clause, as amended, agreed to.

Clauses 8 to 12 agreed to.

Clause 13.

Amendments made (Mr. Lewis):—

Page 6, line 1, by striking out "the said railway shall have a gauge of either two feet or three feet six inches, at the option of the Promoters. If," and inserting "the said railway shall have a gauge of Three feet six inches, but it shall be lawful for the Promoters, with the consent of the Minister, to construct the portion of the said railway from a point in the vicinity of Mount Pelion to be approved by the Minister, to the terminus in the Western Mining Division, with a gauge of Two feet. Where."

Page 6, line 6, after "Twenty-five," by striking out "If," and inserting "Where."

Clause, as amended, agreed to.

Clause 14.

Amendments made (Mr. Lewis):—

Page 6, line 11, after "of," by striking out "vehicles," and inserting "locomotives."

Page 6, line 13, before "if," by striking out "vehicle," and inserting "locomotive."

Page 6, line 14, after "than," by striking out "Four," and inserting "Eight."

Page 6, line 15, after "every," by striking out "vehicle," and inserting "locomotive."

Clause, as amended, agreed to.

Clauses 15 to 17 agreed to.

Clause 18.

Amendment made (Mr. Lewis), page 7, line 10, after "line," by inserting "not less than Five miles in length."

Clause, as amended, agreed to.

Clause 19 agreed to.

Clause 20.

Amendment made (Mr. Lewis), page 7, line 25, after "may," by inserting "at the cost of the Promoters."

Clause, as amended, agreed to.

Clauses 21 to 28 agreed to.

Clause 29.

Amendments made (Mr. Lewis):—

Page 10, line 8, after "may," by inserting "at the cost of the Promoters."

Page 10, line 24, after "aforesaid," by adding "and in default shall be liable to a penalty of not more than Twenty Pounds for every day during which such default shall continue."

Clause, as amended, agreed to.

Clauses 30 to 35 agreed to.

Clause 36.

Amendments made (Mr. Lewis):—

Page 12, line 6, after "this," by inserting "and the preceding."

Same line, after "Section," by adding "s."

Clause, as amended, agreed to.

Clause 37 agreed to.

Clause 38.

Amendment made (Mr. Lewis), page 12, line 37, after "other," by inserting "railway."

Clause, as amended, agreed to.

Clauses 39 and 40 agreed to.

Clause 41.

Amendment made (Mr. Lewis), page 14, line 2, after "machinery," by inserting "required for working the railway."

Clause, as amended, agreed to.

Clauses 42 and 43 agreed to.

Clause 44.

Amendment made (Mr. Lewis), page 15, line 9, after "Promoters," by striking out "used or intended," and inserting "that the Minister may consider necessary."

Clause, as amended, agreed to.

Clauses 45 to 76 agreed to.

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

THURSDAY, AUGUST 4, 1898.

The Committee met at 11 o'clock.

*Members present*—Mr. Fowler (Chairman), Mr. Dumaresq, Mr. Hall, Mr. Hartnoll, Mr. Lewis, and Mr. Page. The Committee resumed consideration of the Bill.

Clause 77.

Amendments made (Mr. Lewis) :—

Page 22, line 24, after “off in,” by striking out “one or more.”

Same line, after “blocks,” by inserting “not less than One thousand acres and not exceeding Five thousand acres in each.”

Page 22, line 28, after “Railway,” by striking out “or any extension, or any branch line or lines,” and inserting “defined in Section Four.”

Clause, as amended, agreed to.

Clause 78.

Amendment made (Mr. Lewis), page 22, line 32, after “shall” by striking out to end of Clause and adding “have a frontage on the said Railway, and shall for the whole length of such frontage abut on the said Railway : such frontage shall not exceed Three miles in the case of any block, and the depth from the said Railway of any block shall in no case exceed Five miles.

“No block on either side of the said Railway shall be nearer than Three miles from the nearest boundary of any other block on the same side of the Railway.”

Clause, as amended, agreed to.

Clause 79.

Amendment made (Mr. Lewis), page 22, line 38, before “or,” by striking out “square,” and inserting “rectangular.”

Clause, as amended, agreed to.

Clauses 80 to 82 agreed to.

Clause 83.

Amendment made (Mr. Lewis), page 23, line 31, after “rate of,” by striking out “Two and a half per centum of the gross value thereof on the ground,” and inserting “Four Pounds for every Hundred Pounds of the net profits made by the Promoters upon all such gold and minerals.”

Clause, as amended, agreed to.

Clauses 84 to 86 agreed to.

Clause 87.

Amendment made (Mr. Lewis), page 25, line 22, after “made,” by adding “no waiver of forfeiture shall be construed to prevent any subsequent application to the Court for forfeiture for any subsequent breach of the provisions of the primary lease or of this Act.”

Clause, as amended, agreed to.

Clause 88.

Amendments made (Mr. Lewis) :—

Page 25, line 24, after “Promoters,” by inserting “such.”

Page 25, line 25, after “compensation,” by inserting “as Parliament may determine.”

Page 25, line 29, after “forfeiture,” by striking out “and such compensation shall in case of difference or dispute be determined in like manner as is provided in Section Forty-five, Forty-six, and Forty-seven.”

Clause, as amended, agreed to.

Clause 89.

Amendment made (Mr. Lewis), page 25, line 36, by striking out “upon the resumption of the land comprised in the primary lease as hereinbefore provided, or.”

Clause, as amended, agreed to.

Clauses 90 to 92 agreed to.

Clause 93.

Amendments made (Mr. Lewis) :—

Page 26, line 39, after “Telephones,” by inserting “for the use of the railway only.”

Page 26, line 41, after “power,” by striking out “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 Promoters, and to the priority (if claimed) of Government messages, such lines of Telegraph and Telephones shall be open for receiving and sending messages by all persons without preference or favour, and at the same rates as those charged for like Messages on Government lines of Telegraph and Telephones ; Provided that the Minister may at any time, with the consent of the Governor in Council, prohibit the Promoters from using such lines of Telegraph or Telephones for profit.”

Clause, as amended, agreed to.

Clause 94.

Amendment made (Mr. Lewis), page 27, line 14, after “communication,” by adding “The Promoters shall, at the request of the Government, allow all messages to be sent over such wires upon the payment to the Promoters of such compensation and upon such terms and conditions as may be agreed upon between the Promoters and the Government, or, failing agreement, then upon payment of such compensation and upon such terms and conditions as may be settled by arbitration in the manner provided in Part VIII. of this Act.”

Clause, as amended, agreed to.

Clauses 95 to 114 agreed to.

Clause 115.

Amendment made (Mr. Lewis), page 31, line 20, after “settled,” by striking out “summarily by a Judge of the Supreme Court,” and adding “by arbitration in the manner provided in Part VIII. of this Act.”

Clause, as amended, agreed to.

Clauses 116 to 118 agreed to.

Clause 119.

Amendments made (Mr. Lewis) :—

Page 31, line 47, after “within,” by striking out “Six,” and inserting “Twelve.”

Page 31, line 48, after “of,” by striking out “Three,” and inserting “Five.”

Page 32, line 4, before “thousand,” by striking out “Three,” and inserting “Five.”

Page 32, line 13, before “thousand,” by striking out “Three,” and inserting “Five.”

Clause, as amended, agreed to.

New Clause A (Promoters to share junction charge) brought up (Mr. Lewis), and read the First time :—

“**A** The Promoters shall pay their share of any junction or joint station, such payment to be one-half of the terminal of each ton or fraction of a ton of goods and each passenger fare ; such terminal to be fixed by arbitration as aforesaid.”

Read the Second time, and made part of the Bill (to follow Clause 37).

New Clause B (Promoters to pay cost of signals and safety appliances used solely on their account, and half of any joint appliances), brought up (Mr. Lewis), and read the First time :—

“**B** The Promoters shall pay the actual cost of all signals and safety appliances, and the wages of any men working such appliances, as may be deemed necessary through the construction of the Railway and its connection with any portion of the Government Railway, where such appliances are used solely on account of or in consequence of the construction of such Railway.

“Where such signals and appliances are used jointly by the Promoters and the Government Railways, then the Promoters shall pay half the cost of the construction and working thereof.

“The necessity for signals and safety appliances shall be decided by the General Manager of Government Railways.”

Read the Second time, and made part of the Bill (to follow New Clause A).

New Clause C (The undertaking of the Promoters vested in Minister upon payment of the purchase money), brought up (Mr. Lewis), and read the First time :—

“**C** The railway, and all the right, title, and interest of the Promoters and of any person or persons claiming by, through, or under the Promoters in and to the same, and all the rights, privileges, powers, and advantages whatsoever affecting or appurtenant to the railway which are vested in, held, enjoyed, or possessed by or conferred on the Promoters or such person or persons, shall, upon payment of the purchase money thereof by the Minister, without the necessity of any transfer or connecting title other than this Act, be transferred to and become vested in and be held, enjoyed, possessed, used, and exercised by the Minister, freed and discharged from all claims and demands by or on the part of the Promoters or any other person whomsoever, in all respects in the same manner as the Promoters or such person or persons could have held, possessed, enjoyed, used, and exercised the same.”

Read the Second time, and made part of the Bill (to follow Clause 50).

New Clause D (Security for Costs), brought up (Mr. Lewis), and read the First time :—

“**D** Upon the application of any respondent, the Court or a Judge sitting in Chambers may at any time order security for costs to be given by the appellant to such amount and in such manner as to the Court or a Judge shall seem fit and proper.”

Read the Second time, and made part of the Bill (to follow Clause 76).

New Clause E (Award not to be made a Rule of Court until Judge determine matter in dispute) brought up (Mr. Lewis), and read the First time :—

“**E** Where the dissatisfied party gives such notice of appeal as aforesaid, then the award given by the arbitrators or the umpire shall not be made a Rule of Court until a Judge of the Supreme Court, by an Order in writing under his hand, determines the matter in dispute, or the time hereinbefore allowed for prosecuting the appeal has expired.”

Read the Second time, and made part of the Bill (to follow new Clause D).

New Clause F (Compensation for diverting water to be ascertained by action in the Supreme Court) brought up (Mr. Lewis), and read the First time :—

“**F** Where any claim for compensation involves damage alleged to have been sustained by reason of the taking, or diversion, or appropriation of any water, and the right of the claimant in or to such water is disputed by the Promoters, if the Promoters, within Fourteen days after the service of the notice of the claim, give notice to the claimant that his right in or to such water is disputed, then such claim shall not be determined by arbitration, but shall be determined by an action before a Judge of the Supreme Court, to be brought by the claimant against the Promoters for damages, or upon an issue agreed to between the claimant and the Promoters.”

Read the Second time, and made part of the Bill (to follow new Clause E).

Draft Report brought up and agreed to.

The Committee adjourned *sine die*.

## EVIDENCE.

THURSDAY, 7TH JULY, 1898.

HON. CHAS. HENRY GRANT., M.L.C., *called and examined.*

1. *By the Chairman.*—What is your name? Charles Henry Grant.
2. What is your profession? Civil Engineer?
3. *By Mr. Hartnoll.*—The Committee desired, if they could, to get some information in regard to a 2-ft. railway, as to whether, if such a line were constructed from Mole Creek on to Mount Pelion, junctioning with the North-East Dundas Railway, you could, from your knowledge of civil engineering and railway matters generally, give us information as to whether a 2-ft. gauge railway would serve a country like that? No doubt a 2-ft. gauge railway is better than none, and it has advantages, especially in a rough country.
4. I think you have some knowledge of the North-East Dundas Railway—Taken as a guide, would such a railway, if extended on to Mount Pelion—presuming the class of country somewhat similar—could that railway cope with the probable large traffic that will arise in developing the various mines? I have not any knowledge of Mt Pelion.
5. Mt. Pelion is a new district—many don't know where it is—it is a mountain where we have a good deal of prospecting going on now. There are very good mineral indications, and where a seam of Cannell coal is supposed to exist? I only know the country where the North-East Dundas Tramway is located.
6. Yes: well, suppose that tramway goes on to join the proposed Mole Creek Railway, would it be sufficient to cope with the large amount of traffic likely to be dealt with on such a line of country? That would be limited very much by the capacity of the North-East Dundas Tramway. That could not, in my opinion, be utilised for any large traffic on account of the severity of the grades.
7. Is the North-East Dundas Tramway capable of coping with the present traffic on the line? Yes, with the present traffic: so far there is very little to go on it.
8. Well, is it capable of coping with an extension of traffic on what already exists? I think, as regards the traffic for ores, it would be; as regards a large coal traffic I don't think it would, although in bringing coal from Mount Pelion towards the coast, the gradient would be with the load.
9. Would the North-East Dundas Tramway, if supplied with a different type of engine, be improved? I don't think so. I think as much has been done on that line as reasonably could be.
10. Might not an improved type of engine be procured? As far as they have gone they have a good type of engine, and by good manufacturers.
11. And you think a 2-ft. gauge railway would be adapted to the traffic existing? I think so, that is in regard to ores.
12. But not for coal. Would it be sufficient for the carriage of live-stock and ordinary merchandise, and products? I think so. As regards stock, it would probably be carried as carcase meat, and the line would be fully equal to all that had to be carried in that respect.
13. Then you don't look upon the North East Dundas Tramway as an absolute failure? No, certainly not, it is better than nothing. It has not, I think, answered the expectations of those who adopted it: but that is only an opinion of my own.
14. Would a 3-ft. 6-in. gauge railway in the same position have been of such enormous cost as to make it absolutely prohibitive? I don't think a 3-ft. 6-in. gauge railway could be taken over that country unless at a wholly prohibitive cost.
15. Therefore it was a 2-ft. railway or nothing? Undoubtedly.
16. You don't know the country towards Pelion do you? Not at all.
17. *By Mr. Lewis.*—Do I understand you to say it would have been impossible to have a 3-ft. 6-in. railway from Zeehan to Ringville? No, the line would have been at a lower level than that constructed. I don't know how they would have got over the part beyond Ringville, except by a series of zig-zags.
18. If there must be a break of gauge where would it be most expedient to have it, at Mole Creek or at Rosebery? At Rosebery, I should think. On general grounds it would be expedient to carry a uniform gauge as far as possible, as far as it could be reasonably done. The reason is that the carrying capacity of a 3-ft. 6-in. gauge railway is immensely larger than that of a 2-ft. railway.
19. *By Mr. Dumaresq.*—Have you any knowledge of narrow-gauge railways as they now exist in India, as to the grades and character of the lines? Not of existing lines—no, only from reading.
20. You can't say what loads they carry, or give us any information of that kind? No; the grades there are much flatter as a rule, and in India the country is more extensive. In Tasmania it is tumbled up so much that it is difficult to find good grades.
21. There is no comparison between the two? None whatever.
22. Take the Dargeeling line in India, for instance? No, there is room to get good gradients there; here in many cases you can't.
23. Then there is no comparison between the two? None whatever.
24. *By Mr. Hall.*—I gather from your remarks, Mr. Grant, that you do not consider a narrow-gauge railway, say with a 2-ft. gauge, in a country like that, an absolute failure? Oh, no. It is better than roads or no railway, a great deal, but it is not as good as a 3-ft. 6-in. gauge, it could not compare with it.
25. You also speak of the difficulty of getting suitable gradients between Zeehan and the Deep Lead, or the terminus at Rosebery for a 3-ft. 6-in. gauge line? By the Deep Lead, certainly; but the country is easier along which the Emu Bay Railway comes into Zeehan.

26. Their line is only 17 miles from Rosebery to Zeehan, then they carry the line on? The country that line will traverse is well known and not such as the North East Dundas accommodates.

27. I understand you to say that a 2-ft. gauge would serve a limited traffic. I suppose you know of the reports that there are large coal deposits in the Mount Pelion district, and the development of those is partly the object of the construction of this line. Now you suggest that the break of gauge should be on the western end of the line. Would you recommend that the Promoters of this Bill or the Committee should suggest the continuation of the present gauge as far as Mount Pelion—would you recommend that? Well, if you have a large coal traffic I should say that the break of gauge would be very undesirable, except at the mine. You would want to connect the coal mine with the source to be supplied, if possible, without any break of gauge. That is paramount over everything.

28. Then, presuming there is a large demand for this coal in the Western silver-fields, you think a 2-ft. gauge would not be desirable to carry coal to the Western silver-fields? I think not, if a wider gauge is practicable.

29. *By Mr. Simmons.*—I understood you to say that you thought it would be desirable, in the case put by Mr. Hall, to have the break of gauge, if any, at or near Mount Pelion? If the intention be to supply the Western silver-fields with coal, and there must be a break of gauge.

30. That is to say, continue without break of gauge to Mount Pelion, and have the break of gauge there? I would say that the 3-ft. 6-in. gauge would best serve the agricultural country, and let the 2-ft. gauge serve the mineral portion of the country.

31. Then, if there is to be a break of gauge you think it should be at the other end? I think so, where the coal is situated or the mountainous country begins.

32. You see some difficulty in a 2-ft. gauge line doing the work? Yes, I see great difficulty.

33. You could not tell the Committee what the rate of freight would be or what amount of traffic the line could carry? No, Mr. Back will be better able to tell you that.

34. *By Mr. Hall.*—Have you read through the Bill? No, I have not.

35. I would point out to you in section 13, that the weight of rails on a 2-ft. gauge is put down at 40 lbs. to the yard, with a gauge of 3-ft. 6-in. at 43 lbs. to the yard. Do you think, in your opinion, that 43 lbs. to the yard is heavy enough to carry heavy traffic? Yes, on the Main line we only had rails of 40 lbs. to the yard, and we ran with a heavy load upon each axle. Forty-three pounds to the yard forms a good rail for ordinary railways. A heavy rail saves in the cost of maintenance; but a 40 lbs. rail is exceptionally heavy for a 2-ft. gauge railway.

(Witness withdrew.)

#### FREDERICK BACK, called and examined.

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

37. You are General Manager of Railways and head of the Railway Department of Tasmania? Yes.

38. In your evidence before another Committee you said that you were prepared with some notes, and could not answer certain questions until you had gone through them. I am referring to the evidence on the Great Midland and West Coast Railway Bill? What is the section, please.

39. I think it is question 570. You know there is another proposal before the House for a line from Mole Creek to the West Coast.—If you look at question 571, you were asked if you had an opportunity of looking at the Bill, and you said "I have, yes. I have the Bill with any amount of notes, but the matter has gone out of my mind, and I cannot discuss it without my notes,"—That was in reference to this Bill—Have you the notes? Yes, I have.

40. The Committee are desirous you should give us the benefit of these notes, or make any statement? I have prepared for the use of the Committee a map of the district which they will find very useful for reference. This map has been prepared for a special purpose, (map produced). The green patch represents the settled country that would probably be served by an extension of the 2-ft. line from the West Coast. The red bar across the green patch bounds the settled country, and the 2-ft. line is here, (points out line on plan). The dotted lines are sketched in as an approximation of the lines proposed and are sufficient to answer for all purposes of discussion. (Witness pointed out the position on the map of the Great Western line, the Emu Bay line, the proposed Mole Creek lines, the North Mount Lyell Company's line, and the Mount Lyell Company's line.) The red lines on the map are the Government Railways, the blue are the private lines. I would ask permission to say, before reading my notes, that whilst I have made many notes on various points, by some inadvertence the summons requiring me to attend this Committee reached me only yesterday, and I have not had sufficient time to properly dissect the Bill, but it appears to me to be in many respects incomplete. It does not provide sufficiently for the works, such as junctions, signals, payments for services, or for penalties of in certain clauses, which are necessary. The Bill wants a thorough general revision, and the insertion of protective clauses which have been omitted, either by accident or design. I will now commence my notes:—In the Preamble, 8th line, I recommend the following words be struck out, "and to acquire certain land and water rights." Part 2. Section 4.—"Issue of Primary Lease."—I recommend that before the Act is passed a survey should be deposited, the line located, and the termini of the line definitely fixed. Part 3.—Section 8. I recommend that no branch line be made without the sanction of Parliament. It is possible for the branch to be of more importance than the trunk line itself. Part 5.—Section 13. The question of gauge here should not be left an open question, and should be determined by Parliament. Section 14, line 2. The word "vehicle" should read "locomotive"; and in line 3, as to the tonnage, 4 tons should read 8 tons; line 14, 4 tons should read 8 tons. There is a general misconception on this point as to the word "vehicle,"—Whenever the weight on the axle is stated, it should be the axle of the locomotive. Make the word "locomotive," instead of "vehicle," and it will be right, and make it 8 tons instead of 4 tons for a speed of ten miles an hour. Section 15. I think the whole of this section should be eliminated. The powers asked for are too great. The lines with which connection is required should be defined, and receive the sanction of Parliament. I do not think it would



be constitutional for Parliament even to pass an Act enabling this company to connect its line with other companies' lines, should such companies not be consenting parties to the transaction. Section 16 should be entirely struck out. The provisions contained in Sections 35 and 36 are, I think, sufficient. Section 20, line 26.—After the word "officers," insert "at the cost of the Company." We have a precedent for that. Part 6.—Section 29.—This clause should provide penalties for non-compliance with the Act. Section 32 should be altered to read "in terms of The Cattle-guards Act." I should say here that there is a special Act in this Colony providing for the use of cattle-guards, and there are certain regulations which have to be observed. In making provision in this Act for the company to use cattle-guards, it would be desirable to refer to The Cattle-guards Act, and arrange that this Bill should be made in accordance with it. Section 36, line 6.—After the word "this," insert "and the preceding." Under this Section I can understand how the draftsman has fallen into a little mistake. In The Great Western Railway Company's Act I drafted a portion of the clause and applied it to both of these Sections 35 and 36. The Minister, in taking the Bill through the House at the time, did not understand that the repetition was necessary, and did not see that, by dropping it, he made no provision for disputes in the first case. It is necessary that portion of the Section should apply equally to Sections 35 and 36. Part 7.—Section 41, page 14, line 2.—After the word "machinery," add "required for working the railway." Part 8.—Section 44. I recommend that the purchase be based on five years' profits of the railway, and, under any circumstances, that in line 9 the words "appliances, goods, and chattels" be struck out. If such precaution be not taken, the Government might have to take over thousands of pounds' worth of useless and obsolete stores. I don't know whether I should draw attention to my evidence on the other proposed Mole Creek line, where I went fully into this subject. I would ask the Committee to refer to Parliamentary Paper No. 75, Session II. of 1897, and look at question 500 and also questions 543 to 548. My answers to those questions bear to a great extent on this Bill, and you will find information there that has not been either before the House or this Committee. I particularly ask Honourable Members of the Committee to look at these questions.

41. *By Mr. Hartnoll.*—In one part of that evidence you said that Government should only be required to take over that part of the stock that could be used in working the railway, and you wanted that alteration because otherwise they would put in a lot of stores you did not want. That is on page 23, question 548? Well, I mean this, that in framing the clause you should put it so that you would take over such stock as you would be likely to want.

42. I thought you would prefer to see the wording of the clause altered to something more specific? No, I had not made any attempt to be specific, I was simply pointing out where I thought alteration was necessary.

43. Yes, I think an alteration is necessary for the purpose you have in view, but I don't think it is expressed as fully as you wish it to be from other parts of your evidence. You say you would only take over such stock as would be necessary for working the railway. That would be right. That is, the Government would take over only what they could use? I am afraid my mind was rather too technical at the moment. The words "as could be used," should be "such stock as we wanted to use." It was explained by me at the time that these were simply notes of matters that might require attention, and that if you intended to draft any amended clause, it should be drafted on those lines. If Hon. Members of the Committee will read the clause as to purchase, I am sure I need not elaborate very much on the proposal to alter the system of purchase, because when you purchase an undertaking of any kind you purchase on the basis of what it will return. As I referred to the Cascades Brewery on a previous occasion, I will do so again. If you were purchasing such an undertaking, you would not refer to the capital value of its buildings, or take account of surrounding beauty-spots or any considerations of that kind, and then add so much; but you would take its books, and see what profit it earns, and you would arrive at a value on the basis of returns, not on the basis of cost. Section 48.—"All vouchers for charges to construction should be passed by a certifying officer to be appointed by the Government." That is the custom in cases of this kind; they appoint an officer, call him Commissioner, or anything else you like. It is well to remind members of the Committee that during past years there have been many disputes, and much loss to the country was entailed, through not being able to ascertain definitely what portion of the cost of a work was chargeable to construction account and what to revenue account. This was particularly the case in regard to the Main Line Railway. It is the practice generally that all vouchers for works of construction are certified to by an officer of the Government at the time the expenditure is incurred; and when the line is completed the total of all sums so certified to becomes the actual cost of the Railway in reference to all other dealings between the railway and the Government. Part 9. Section 52. I think it would be fair here to alter this Section to read that all tolls and charges should be similar to those in use on Government lines, say at the time the line is open for traffic.

44. *By Mr. Hartnoll.*—You told us the charges are different on some Government lines than on others? Yes, for the West Coast lines. I should be disposed to treat this railway as a West Coast line. It would be quite fair to treat it as a West Coast line.

45. Is it not partly a West Coast line, and partly agricultural? I should not allow the rates charged to exceed those of our own tariff: these rates will rectify themselves by competition, but they should not exceed those adopted on the Government lines. I am not sure how far it is within my province to criticise the Bill, but I have made some notes, and have expressed my views in regard to the land and water questions. Part 13.—In reference to grants of land my notes read:—I cannot see why any land should be given away on this occasion. If the railway is good enough to construct as a commercial speculation, no land is required; if not, 50,000 acres of land will not make it pay. If land is granted it should be granted in rectangular blocks, having as a boundary on one side the boundary of the railway line. Under any conditions the company should not be allowed to mark off or acquire any land until the railway is constructed and opened for traffic (see Sections 78 and 79). Part 14.—Section 87.—The provisions of this clause seem to me to be very one-sided. Section 88.—The country should take no risk in this matter, and should not be compelled, or even allowed, to purchase an incomplete railway with rolling stock which the Government probably would not require. I feel inclined to be emphatic in this matter, as I am satisfied that there is no

promise of sufficient traffic in the district through which the proposed railway will run to enable it to pay its working expenses and interest on the cost of construction. Part 16.—I think the whole of this part (Sections 93 and 94) should be cut out, and that the company should be allowed to erect along its own lines such telegraph and telephone lines as may be required for the working of such lines, or for the carriage of messages, subject to such arrangements as the Post and Telegraph Department may deem it expedient from time to time to make. Part 17.—I would cut out the whole of this Part from Section 95 to Section 101, and allow the company to take such water only as may be required for the working of the railway. The company ask for 15,000 brake horse-power. Brake horse-power ought never to be granted in Acts of this nature. If water-power is to be conceded it should be as sluice-heads, and not as brake horse-power. I have no hesitation in saying that if this and the other Act for a line to Mole Creek are passed on top of the Great Western Act it is exceedingly doubtful if the whole of the water on the West Coast can be profitably conserved to yield the effective horse-power which has been either granted or asked for in the several Railway Bills which have been passed or are now before the House. I should like to say on this that I have given some information in my evidence on a previous Bill on the clause named, and I have given some references to the most modern authorities on the subject. It does not seem to be recognised generally what the conditions are, or that water is only capable of being utilised as a power when you can obtain a fall. If all the water from New Norfolk to the Iron Pot Lighthouse were given it would be useless if you can't get a fall. The expense of harnessing your water and developing the power is one of enormous magnitude, and it is doubtful if the water required to produce the enormous power that has been asked for can be profitably harnessed on the West Coast. The horse-power referred to cannot be utilised in either my lifetime or in the next generation, probably. It simply means that the water-power of the West Coast will be locked up, and that those persons who may wish to use water in the genuine development of their mining property will have to pay heavy tolls, if not blackmail, to enable them to do so. Part 19.—Section 110. I do not think that this Section should be passed. All mines should be allowed to make such easements from their mines to any railway as the Mining Acts of the Colony may permit. I would point out that the provisions of this Section may be found to be very harsh, particularly in the case of small mines, where easements and water may be essential to successful working. I think every facility should be given to those mines to connect their works with the nearest railway. Parliament has provided for these mining easements, and the provision is a liberal one. I don't think any of these Company Bills should be allowed to curtail those privileges. I think this provision should not be allowed to this company. Section 115.—It may be worth while to consider whether it is not desirable that disputes referred to should be settled under The Lands Clauses Act. It seems to me to be unnecessary to put the machinery of the Supreme Court into operation to settle small disputes. In all the Acts of the Colony it is provided that such small disputes are settled under The Lands Clauses Act, but I think in cases where settlement cannot be so made, then the Supreme Court should be moved. Section 119.—I have already recommended that the Clauses as to the acquisition of land be struck out, but should Section 119 be passed, lines 6, 7, 8, 9, and 10 would appear to enable the company to lock up a considerable area of land when only five miles of the railway have been constructed. My original view was modified to suit the circumstances of the case, but I am firmly of opinion that no Bill should be entertained unless that bill is accompanied by a survey—a Parliamentary survey—showing the route of the line, the termini, and so forth. If you give a company power to make a line between two given points without Parliament having a knowledge of the proposed route, the case is that the company has the power indefinitely to go into any part of the land lying between those two points, and to make a line of any length they please, and where they like. In this country we have spent about half the national debt in constructing railways, and we want to see them protected. It is generally known that I have objected strongly to syndicate railways, except under very exceptional circumstances. As regards the railways of the country, we have to find the interest on the cost of construction. It is strange that in this morning's *Mercury* there is an article touching this very point to which I am alluding: it is an article on the Lyell and Strahan Railway Bill, in which certain concessions are asked for in connection with the power to levy rates. The *Mercury* said:—"One reason for the proposed change is, that the Zeehan line may come into competition with the Emu Bay line, and thus be compelled to charge lower rates, and it would be unfair to compel the Lyell Company to do the same." Now this opens up to us one of the most remarkable railway concessions ever heard of. When the Emu Bay Railway Company's Construction Bill was before the Committee, and when it was before the Parliament, I wrote on various occasions and pointed out the desirability of compelling that line to stop short at Rosebery, so that it should not come into competition with the Government lines, as the writer in the *Mercury* points out. When the Government has spent about a quarter of a million of money on its own line it should give no concessions to another company to come in and compete against that line. It is generally recognised that the Emu Bay Company will come into competition with us, so as probably to lower our rates, and that will mean, probably, from £10,000 to £20,000 a year additional taxation which the public will have to pay. In regard to the Bill now before the Committee, I have not had time, as I have said, to go far enough into the matter, but I can say that the Bill is incomplete in regard to various clauses which have been omitted, as I have said, either by accident or design. There are various clauses which should be inserted in the Bill and further continued for the protection of the Government railways, and also for the protection of the public generally. If the Committee intend to go on with the Bill I shall be pleased to assist in getting those clauses drafted. I may say this, that the construction of this Mole Creek line would be detrimental to the interests of the Government railways in the shape you now have it before you. Taking that portion of the settled country marked green on the map I have presented, that shows where I think the Government railways may some day be extended from the West Coast, but not yet. As for a railway from Mole Creek to the West Coast, it cannot possibly pay interest and working expenses, not only in our lifetime, but I will go further and say possibly not within the lifetime of the next generation. You have the Emu Bay Railway a few miles further on, and you have over-sea freights from several ports as low as 10s. per ton. Under these circumstances I feel the line cannot possibly pay. It has been said that if a company of this sort fails or becomes bankrupt it does not

hurt the colony, but I hold that if any institution or company of a large kind becomes bankrupt it must affect the credit of the colony generally. As to traffic, there is no body of traffic available, and I do not think the line would have much to carry. Lately I asked a gentleman who is interested what they proposed to carry, and he said among other things it was proposed to carry live-stock for the West Coast. Well, they can now send cattle from the extreme end of the North West Coast to Hobart for 5s. a head in truck loads. At the present moment beef is worth £2 a cwt. in Hobart, and the market is not supplied. If you talk of sending live-stock from the West Coast; then, I ask,—Where is the live-stock? It is not in the country, and our own market is not supplied. It is certainly not necessary to make a railway to supply the markets with live-stock. I think the country through which it is proposed to take this line should be left for further development by Government, and when the proper time arrives the railways will no doubt be extended. That is all I have to say. To conclude my notes, a specification for construction should be added to the Bill similar to that which was in force in the case of the Great Western Railway Company. I think that a complete survey should be insisted on within twelve months after the passing of the Act, and that its construction should commence within eighteen months of the passing of the Act, otherwise the deposit should be forfeited.

46. *By Mr. Hall.*—You refer to a short article written in this morning's *Mercury*, in which it is brought out that the extension of the Emu Bay Company's Railway will bring it into competition, and that it will have the effect of reducing the rates of the Strahan-Zeehan line? Just so.

47. Is it not a fact that the freights on that line are the highest of any line in any of the colonies? Yes.

48. Would it not be to the interest of the colony to have the freights reduced for the sake of the mines? No, I think not. The matter you refer to is purely a matter of sentiment. The cost for the last twelve months to the raiser of the ore for carriage amounts to 5·34 per cent. on the value, practically a trifle over 5 per cent. on the value of the ore. That has been the freight on the quantity of ore we have carried.

49. Yes; but what has been the charge for the materials that are required to develop those mines? Do I understand you to say that 5·37 per cent includes the cost of carrying material—is that all included? The cost of the carriage of ore averages 5 per cent. on the value of the ore for the last twelve months.

50. Yes, but you must understand, as a business man, that the cost of the carriage of materials required to develop a mining undertaking must also be considered—Do you mean the carriage on coke, fluxes, and other materials?

51. Yes, the cost of fuel, of stores for living, of tools, and all that is required to develop a mine. It may, perhaps, interest you to know that the Department has entered into satisfactory arrangements with the Smelting Company. Of course, the only proper way of treating low-grade ores would be by the smelters. The Railway Department and the Smelting Companies have entered into mutual arrangements, which are considered very satisfactory. When you talk of food supplies on the West Coast, there is hardly an article of daily consumption that you cannot purchase as cheaply, or more cheaply, at Zeehan than in Hobart. When you refer to freight, there are 2240 lbs. weight in a ton, and there are 240 pence in a pound sterling: we will drop decimals of pence and say that 10 lbs. weight is carried for a penny. Do you think it would benefit the people or assist the development of the country if a reduction of say a tenth of a penny per lb. were made? I don't think it is at all likely that the public of the Coast would have any advantage were the rates reduced a tenth of a penny a lb. The only probable advantage might be to the storekeepers; they would get their carriage £1 a ton less, but when they sold their goods they would not give the public the advantage of a tenth of a penny per pound.

52. You appear, from your argument, to think that the North-West Coast has reached the limit of its population? Oh, dear, no.

53. Would the question of the freight there not affect the population?—If freights were lowered would there not be an increase of population to work those mines that now could not be dealt with? You mean an increase of settlement. Do you mean to say you think a reduction of a tenth of a penny a pound on the freight would lead to an increase of population?

54. Yes; I say there would be an increase of population. Take the case of the railway from Broken Hill to Adelaide. When they increased the length of the railway, and included the Silverton Tramway—which is a syndicate line—there was a great increase. That case is so exceptional that it has no application at all in our circumstances. Broken Hill is in New South Wales, just over the South Australian border, and the effect of the tramway that was made was to divert the traffic from New South Wales to South Australia. It has undoubtedly been of great benefit to South Australia.

55. The conveyance of ore from Broken Hill to the seaboard is 12s. 6d. a ton. Now I argue, upon the authority of Mr. J. S. Reid, that when the freights were much higher the miners who produced low-grade ores had to close down their mines. They then agreed to reduce the rates to 3s. 6d. a ton on the Silverton Tram, and to 9s. a ton on the Government line, and a large number of mines immediately started, and were now paying dividends. You have a thorough knowledge of railway matters, I know, and you claim to have a fair knowledge of money matters, but I contend that the lower the lower the freights are in mining districts, and the more facilities you give for traffic, the better it will be for the mines and for the colony as well. You will find, if I meet you three years hence, that, instead of the Emu Bay Railway injuring the Government lines, it will prove a wonderful factor in increasing your returns.

*The Chairman* asked Mr. Hall to put questions to the witness.

*Mr. Hall* thought the question rather important, and so had gone into the discussion. He had no wish further to detain the Committee. In questioning a witness he sometimes found it difficult without explanation to convey his meaning.

*Mr. Back* would ask permission to explain that he did not disagree altogether with Mr. Hall. He felt, however, that if they went very far in the direction indicated they would have to get a subsidy for their railways instead of paying their expenses. Any man whose mind is not trained in railway work might very well fall into the mistake which Mr. Hall has done. That is, that if an article can be carried for a penny in one country, it can be carried at the same rate in another. The conditions vary much under which railway traffic is carried on. In America, many of the lines can make a larger profit out of

carrying goods at a farthing a ton per mile than we can make carrying at a penny a ton per mile. Our railways just carry a maximum load of 100 tons, and the maximum load is more than 500 tons in America. At Broken Hill they have much greater loads than in Tasmania. The traffic depends in a great measure on the train loads, and they carry as much in a month as we carry in a year. It is not reasonable to make comparisons with traffic under circumstances which are so diametrically opposed.

56. *By Mr. Hall.*—Some four years ago, after the Strahan-Zeehan line was opened, I believe the freight on ores and goods were about double the present rates, is that so? No, I think not. The alteration was, that on the low-grade ores we reduced the freight from 5*d.* per ton to 2*d.* per ton.

57. What is the profit on the Strahan-Zeehan line? Between 6 and 7 per cent.

58. And in your opinion that profit was not brought about by the reduction in the freight of ore? I don't think the reduction on the mileage cost of freight on the ore has made the slightest difference. The average value of the output last year was £11 0*s.* 6*d.* per ton. The railway, at the reduced rates, carried low-grade ores—that is, any ores under £6 per ton in value—at the reduced rate. I don't think in any one year we have carried 400 tons of low-grade ore since the reduction was made. We carried last year considerably over £200,000 worth of ore.

59. In the Schedule of Rates, what was the rate for ores? 5*d.* per ton per mile, I believe, for the ore, and 9*d.* per ton for merchandise. We have carried £200,000 worth of ore a year on the West Coast railways, at an average value of £11 0*s.* 6*d.* per ton. We differentiate as regards the rate, and if the value is below £6 per ton, the ore is carried at 2*d.* per ton. The higher-grade ores, principally the concentrates, are 5*d.* per ton. I don't think we have carried 400 tons of low-grade ore a year. I don't think that the reduction has brought about any remarkable increase in the production of low-grade ore.

*Mr. Hall.*—I should like if Mr. Hartnoll would take up the argument; he was Minister of Lands at the time when an agitation sprung up on the West Coast, I believe in response to a desire on the part of the mine owners that a great reduction should be made.

*Mr. Hartnoll.*—Do you mean the reduction that Mr. Back now mentions?

60. *Mr. Hall.*—Yes. I want to find out what the first tariff was; can you tell me, Mr. Back? I think the first published schedule of rates we had fixed the ore freight at 5*d.*, but this happened before that. When the construction of the line was drawing to a close, it was necessary to run trains on the finished part in the best way we could. We then charged almost prohibitive rates, because we were not in a position to carry ore; we had no facilities then.

61. *By Mr. Lewis.*—If Parliament decided that the Colony should construct a line from Mole Creek to the West Coast lines, would you advise its construction on a 2-ft. gauge or on a 3-ft. 6-in. gauge? I would not advise any at all at present.

62. Yes, I know; but if Parliament decided that these two points were to be connected, would you advise whether the extension should be on a 2-ft. gauge or a 3-ft. 6-in. gauge. What gauge would you recommend in the interests of the country? I would not feel inclined to advise the Government at all without time for more serious consideration of the matter. The 2-ft. line so far has done all that could be asked for it. I do not think that Mole Creek is the best place to connect with. I think you would serve the whole of the districts better by making your terminus nearer Devonport, just as near to deep water as you can. Then the traffic to be developed might warrant the adoption of a broader gauge. The broader gauge would be very costly, and I doubt much whether the line would develop traffic enough in the next twenty-five years to maintain even a 2-ft. gauge. There are so many matters to be considered that I can only answer your question in the way I have done.

63. *By Mr. Hartnoll.*—Mr. McCormick answered differently. He said he would recommend taking the 3-ft. 6-in. gauge to what is called the natural axis of traffic; that is, he would run the 3-ft. 6-in. line as far as it could possibly go, and then run a 2-ft. gauge, junctioning with the North-East Dundas Railway. Does that not seem practicable? Oh yes, that is practicable. The proposition you now suggest was not put before me at the last enquiry.

64. You endorse it? Undoubtedly. There is, of course, no advantage in making a 2-ft. gauge line where a 3-ft. 6-in. gauge can be taken. There is no advantage except in getting round sharp curves. They now make railways with curves of 66 ft. radins on the 2-ft. gauge. We have curves of 99 ft. radius. On the 2-ft. gauge expense is saved in contouring in broken country, but it would only be adopted where the traffic is small, and where the conditions of the country are such that you must make a narrow-gauge railway or have no line at all. If the Government were making a line I should advise the construction of a 3-ft. 6-in. gauge as far as it could be conveniently adopted. The break of gauge is exactly the same whether it is in one part or in another. The cost of transfer occurring through break of gauge would be the same whether the break is at Devonport or at the Gorge of the Forth.

65. Is the haulage locomotion on the Coast sufficient to open up traffic as far as Mount Pelion? You mean could we get any locomotives that would be able to do it?

66. I will put it from another point of view—it is thought that our present locomotives are not capable of coping with the traffic—is that the case? Oh, we have locomotives that will haul a load of fifty tons up a grade of 1 in 25.

67. Is it not frequently stopping every few miles, and not doing the work that the general public expected of it. As a railway manager, I ask is that railway doing all you wish? The engines do all that is expected of them. We could get a 40-ton locomotive that would haul 80 tons up a grade of 1 in 25. They have engines on the Dargeeling, in India, that haul as much on a 2-ft. gauge as our engines haul on a 3-ft. 6-in. gauge.

68. And if the traffic expands that would enable you to get from England a locomotive that would be capable of doing all the work? Yes, undoubtedly.

69. There is a growing feeling in the public mind that 2-foot railways do not do all that was expected of them. That would be allayed by your evidence that locomotives could be got that would do it? If we have the rolling stock we can cope with 120 to 150 tons a day.

70. *By Mr. Hall.*—In regard to these surveys, Mr. Back—you recommend that a survey should be made to locate the line before any concessions are granted at all? Yes, in all cases.

71. A flying survey or a Parliamentary survey? Yes.

72. Merely to locate the line; in your notes it would appear you wanted a permanent survey? It should be a survey that would locate the line; I mean rather more than a flying survey—I mean what is known as a Parliamentary survey.

73. *By Mr. Simmons.*—You said, Mr. Back, that this Bill was incomplete in many respects? Yes.

74. Are these the respects which you have outlined? Yes, some I have done; but I also said that some clauses should be there which have been omitted either by accident or design.

75. Are these the clauses you have mentioned to the Committee? Some of them are; I want to see the usual provisions for safeguarding the Government in the matter of expense, and generally in the working control of the line.

76. Are these clauses to which you refer in other Bills? Yes.

77. Are you in a position now to state the special clauses to which you refer? No, I am not.

77A. You think that this line would be detrimental to the interests of the Government railways? I think so.

78. Do you say that in connection with a possible extension of the North-East Dundas Railway? I say that it will be likely to interfere with a portion of the general scheme for the construction of Government railways in the future. It would be a very sore place in the system when the Government want to construct more railways in those districts than they now have.

79. In what way is this proposed Mole Creek line of railway likely to be a detriment to the Government lines? Because it will absorb the traffic which would ultimately go to the Government lines when constructed.

80. Does not that argument apply generally to any private railway? Yes, more or less.

81. But in this specifically? I should say in this specifically; more in this line than in the others.

82. I understand you are now referring to some existing line, not to a line of the future? No; I say that the construction of lines by a company, on the conditions proposed in this Bill, would be to interfere with the development of the Government lines generally.

83. Which lines? All lines generally that come in to take away from us the traffic that would ultimately come in to the lines already constructed.

84. You think that this line would come into competition with the North-East Dundas Railway? It might; I am not prepared to say.

85. You have said, I think—I will ask, do you propose at any time to extend the North-East Dundas Railway to Mole Creek? I never said that, and I don't say so now. It is the opinion of the Government that whatever extensions may be made in this district, taking Mole Creek on one side and the West Coast on the other, that they should only be made where, after survey, it is determined they could be made most profitably to the Colony.

86. Have you not said—I think it is in evidence—that your idea of the extension of the North-East Dundas line is that, if made at all, it should come out at Devonport? I don't know that I particularly said the North-East Dundas line. It is desirable in any case to get as near to deep water as possible.

87. In regard to the traffic on the North-East Dundas Railway, is that line able to cope with any particular extension of trade should it occur at the present time? I don't know.

88. Is the line now worked up to its full capability? No; not within 70 or 75 per cent. It is a question of rolling-stock: give us the rolling-stock and we can carry as much over that line as over any other line in Tasmania.

89. If it were extended to Mount Pelion, would it be sufficient for any traffic of coal or of live stock? Live stock, yes. I don't know as to coal. The traffic in that would be limited by the market. I don't think it likely it would be so great as to prevent the line from carrying it.

90. Mr. Grant is of opinion that a 2-ft. gauge railway might be sufficient to carry ore, but thinks it would not be sufficient to carry coal—could you give the Committee any idea as to what quantity of coal you could carry? That would depend on the rolling-stock; if necessary, we could run day and night. You would carry the whole of the coal that is ever likely to be wanted either in your lifetime or mine.

91. Of course, you can get the rolling-stock? It is a question of money.

92. Do you know the Mount Pelion coal—have you any opinion about it? None whatever.

93. Do you know if any tests have been made? No; I can only tell you what I have heard about that coal.

94. Has any of it been tried upon the Government railways? No.

The witness withdrew.

#### JOHN MACNEILL McCORMICK, *called and examined.*

95. *By the Chairman.*—What is your name? John Macneill McCormick.

96. What is your profession? I am a civil engineer and Engineer of Existing Lines of the Government railways.

97. You have had an opportunity of considering this Bill—the Tasmanian Central and West Coast Railway Bill? Yes, I went through it yesterday.

98. Have you made any notes on it? Yes.

99. Will you favour us with your notes? Yes.

100. Have you made notes on the whole Bill? Yes; as I went through the Bill I made my notes. I will now go through the Bill in a general way. Regarding the title, I thought that instead of leaving it “to some point within the Western Mining Division of Tasmania,” it should read “to construct, maintain, and work a railway to some point on the North-East Dundas Tramway to be approved by the Governor in Council.” I consider that the wording, “to some point within the Western District,” is too general. I would expect the line to junction somewhere on the North-East Dundas Railway. To some point in the

Western District does not provide for any junction at all. I should propose in the preamble to omit the words "and to acquire certain lands and water rights, &c.," also as to the division of the Act, Part III., referring to "leases for branch lines." I don't think the subject of branch lines should be dealt with in this Bill. The reference in the interpretation clause to the said railway "and any extensions or branch line or lines of railway which may at any time be constructed under the authority of this Act, or of any lease which may be issued thereunder" should be omitted. Then we come to Part II., the Primary Lease. Section 4 says:—"It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to the promoters for a term of thirty years, at a nominal rental, and in accordance with the provisions of this Act, a primary lease of any Crown land not exceeding one chain in width, for the construction and maintenance and working of a railway from a point at or near the Mole Creek Station on the Chudleigh Railway, or some other point on that railway, to such point in the Western Mining Division as may be approved of by the Governor in Council." That should read, after the words "to such point" "on the North-East Dundas Tramway as may be approved of by the Governor in Council." Then, as to leases or extensions for branch lines, Part III., to which I before referred, I should omit that clause altogether, because it is just as necessary to go to Parliament for a branch line as for a main line; it may be more important. If it be necessary to go to Parliament for a line at all, it should be necessary to go for a branch line, or you might as well submit the whole thing to the Governor in Council. As to Part V., Construction of the Railway, Section 13, reads—"The said railway shall have a gauge of either two feet or three feet six inches, at the option of the Promoters. If the said railway has a gauge of two feet the curves shall have a radius of not less than ninety-nine feet, and the rails shall be steel of not less than forty pounds to the yard, and the grade shall not be steeper than one in twenty-five. If the said railway has a gauge of three feet six inches the curves shall have a radius of not less than five chains, and the rails shall be steel of not less than forty-three pounds to the yard, and the grade shall not be steeper than one in forty." It appears to me that a Parliamentary survey should first be made, and the gauge or gauges should be determined by Parliament. A Parliamentary survey should certainly be made before the bill is allowed to become law. That is the usual way, and that should be done before a gauge can be fixed; the gauge will depend largely on the nature of the country and the requirements of traffic. Clause 14 provides that the railway "shall be constructed in a substantial manner fit for the carriage of vehicles at a rate of not less than ten miles per hour with a load of not less than four tons upon each axle of every vehicle if the gauge is two feet;" you should make that not less than eight tons—four tons is not enough. It is stated here that the load is to be upon "each axle of every vehicle," that practically means the locomotive; that is what it should be. Clause 15 provides that—"It shall be lawful for the Promoters to connect the same railway, and any extension thereof and any branch line, with any other existing or future railway or railways, and to execute such works as may be necessary to connect the said railway, or any extension thereof, or any branch line, with any such other existing or future railway or railways." Any connection with existing railways should be stated in this Bill; power as regards future railways is a question for such future Bills as may be found necessary, and should not be given now. It is too general a provision to give power to connect with future railways. It might lead to altering your whole railway system. It is provided that "It shall be lawful for all engines and trains going along the said railway or any extension thereof, or any branch line, to pass over and along and to use any part of any such other existing or future railway or railways as is mentioned in the last preceding section between the starting point of the said railway and the terminus thereof, and between the starting point of any such extension or branch line and the terminus of such extension or branch line, and also the works connected therewith, upon payment of reasonable tolls and compensation for so doing." That is the clause giving running powers. I think the railways should be named in this bill to which it is intended to apply—certainly running powers cannot be granted without the consent of the parties interested in the railways in question. You can't take such powers without any reference to the other companies at all, therefore the railways to which the clause applies should be named. In Clause 17 it is stated that—"When in any case the Promoters and the proprietors of any railway over which the Promoters are hereby authorised to run shall not be able to agree as to the mode in which the Promoters may exercise any of the powers conferred upon them by the last two preceding sections, or upon the arrangements for conducting their joint traffic, then disputes or differences between the parties shall be decided by the General Manager of the Government Railways"—that seems to me as rather an arbitrary way of dealing with other companies or proprietors. I think you should give due notice before you can get running powers over other lines: you cannot deal arbitrarily with the rights of other companies, as this Bill proposes to do. It is too arbitrary. Of course, as regards Government railways this is provided for in Part VI., Clauses 35 and 36—"35. It shall be lawful for the Minister, with the consent of the Governor in Council, from time to time to grant to the Promoters, upon such terms and conditions, and for such periods as the Minister, with the consent of the Governor in Council, shall think fit, running powers over, along, and upon any railway belonging to the Government of Tasmania. 36. The Minister may from time to time require the Promoters to enter into an agreement whereby the engines, carriages, wagons, and other vehicles of the Government of Tasmania and the passengers and goods conveyed thereby may pass over and along the said railway upon payment by the Minister of such reasonable tolls and compensation for so doing as may be agreed upon; and the Minister shall have such reasonable privileges in connection therewith, and be subject to the observance of such reasonable conditions and restrictions as may be agreed upon. In the event of any difference arising between the Minister and the Promoters under this section, such dispute shall be referred to arbitration in the manner described in Part VIII. of this Act." That is the provision made in the case of the Government railways. Clause 18, Part 5, provides that—"Before the promoters shall commence to construct the railway they shall deposit with the Minister a copy of the working plans and sections of such railway, showing the route thereof and the private and crown lands and mineral leases to be traversed by the said railway or which shall be contiguous thereto when the same is constructed, and the proposed method of dealing with any roads, streets, or tramways affected; and the Minister may require such alterations as he thinks necessary: Provided always, that the promoters may from time to time submit such plans and sections as aforesaid for portions of the line instead of for the whole line." I think that portion should be more distinct as to the



lengths of survey deposited, and the words should be inserted "in lengths of not less than five miles." You should name some length at all events. In Clause 20, providing that the railway may be inspected during construction, and giving the Minister power to appoint officers to inspect, I should add the words "at the cost of the promoters." Part VI., Clause 29, refers to the maintenance of the railway, and provides that it shall be kept in proper repair. After providing for officers it says—"and the Minister may, upon the report of any such officer as aforesaid, require the promoter to make such repairs to the said railway and such repairs or additions to the rolling stock thereof as may be necessary to ensure the safety of the said railway or of the passengers travelling thereon, or the efficient maintenance and working of the said railway in accordance with the provisions of this Act and the stipulations and conditions of the primary lease; and the promoters shall, within such time as the Minister shall require, make all such repairs and additions to the said railway and the rolling stock thereof as the Minister shall so require as aforesaid." Up to a certain point that is a copy of previous Acts, but not altogether. I think after the word "aforesaid," certain other words should be added. If you will refer to the Great Western Railway Company's Act, Section 27, you will find that in default of the promoters carrying out the works required they are liable to a penalty for non-compliance. These words should be put in, "and in default of the Promoters carrying out such repairs as aforesaid, they shall be liable to a penalty of not less than Five pounds nor more than Twenty pounds for every day which shall elapse before such repairs shall be effected." Again, at the end of Clause 36 in the same Part VI., there is a clause omitted which I think should be added. It is in the Great Western Railway Company's Act, and is important. The clause is this—"the Promoters shall pay their share of any junction or joint station. Such payment to be one half of the terminal of each ton or fraction of a ton of goods, and each passenger fare, such terminal to be fixed by arbitration as aforesaid." I think this clause should be added. There is also another clause in the Great Western Act which should be introduced; it is Clause 36 of that Act, and provides that the Promoters are to pay the cost of signals and safety appliances used solely on their account and half of any joint appliances, the necessity for any such appliances being decided by the General Manager of Government Railways. This clause has been omitted from the Bill. In part VII., Section 38, line 36, the Promoters are authorised "to draw water from any stream or river in the vicinity of the Railway for the supply of locomotives and other purposes," and so on. I would strike out the word "other," and substitute "Railway." Clause 41.—Power to take temporary possession of land.—I don't know why that clause is in the Bill. I think clause 37 makes sufficient provision enabling the Promoters to take possession of private land for the purpose of obtaining materials on payment of compensation. I think this clause is unnecessary, and such a power is not given in the Great Western or other Railway Bills, as far as I know. It might be unfairly used, and become rather an irritating clause. The next clause, 42, provides for compensation to be made for occupation of land; it is of course consequential, and if you omit Clause 41 you would also omit 42. Clause 50, Part VIII., as to new construction works being approved by the Governor in Council.—There is another clause which is inserted elsewhere, which has been omitted from this Bill. You will find it in the Great Western Railway Act, Part VIII., Section 49. It provides that the undertaking of the Promoters shall be vested in the Minister upon payment of the purchase money. That is, that the title goes to the Minister without any transfer or connecting title other than the Act itself. This clause should be inserted. Part XII.—At the end of Clause 76 three Clauses have been omitted which appear in other Acts, and which, I think, should also be there. They are Clauses 80, 81, and 82 of Part XII. of the Great Western Railway Bill. They refer to cases of appeal, and Clause 80 provides for security for costs; Clause 81 that the award is not to be made a Rule of Court until the Judge determines the matter in dispute; and Clause 82, that compensation for diverting water is to be ascertained by action in the Supreme Court. Part XIII. refers to grants of land. I am of opinion that the land question should be dealt with in a separate Bill. Both land and water grants should, I think, be dealt with separately in a separate Bill. I note that in this case it is a grant of land; in the case of the Great Western Company it was a lease of land. Looking at the quantity, it is a small amount as compared with other demands that have been made, viz., 50,000 acres in one or more blocks. These are to be selected by the Promoters from time to time within five years from the passing of the Act along the line of the railway. I think that it is different from the provision in other Acts. In the Great Western Company's Act I think it is within two years. This leaves it open for rather a long period. At a first glance 50,000 acres of land looks small, but when you consider the position of the land it is different.

*Mr. Simmons.*—It is to be within five miles of the railway.

*Mr. McCormick.*—Yes; it is not only the distance from the railway that has to be considered, but the position of the land. As I have said, 50,000 acres looks small as compared with the lease to the Great Western Railway Company, which amounts to 490,000 acres, but that point does not touch the location of it. Suppose you take the land along the railway, this may be the very pick of the land along the line, and therefore more important than if it were a larger grant.

*Mr. Simmons.*—Look at Section 79.

*Mr. McCormick.*—Yes; I see that every block is to be marked off in the manner prescribed by the mining regulations under the Act of 1893; but then you are free to mark it all off in one block, and you are allowed to locate it where you like, as far as it is not without the distance of five miles from the railway. In the Great Western Company's Act the position of the land is located throughout.

*Mr. Simmons.*—And this 50,000 acres is to be taken in one or more blocks.

*Mr. McCormick.*—Taking the line at fifty miles you would get 78 blocks, say of 640 acres. In this way you could pick the eyes out of the country, and as far as settlement is concerned you could say you shall make no progress excepting through us.

101. *By Mr. Lewis.*—Is it not the case that they could not take it in one square block or they would get too far back from the railway? I did not read it in that light. I took it that the whole area can be selected within five miles of the railway.

102. The land must be within a ten-mile limit, that is, five miles on either side of the railway: you could not have one block of 50,000 acres. The largest block you could have would be 16,000 acres? Suppose you took the land in 640-acre blocks, you would get roughly 78 blocks; you could then pick out

the best land along the railway, and practically the promoters could control the progress of settlement along the line. In the case of the Great Western Railway Company, they get their land on lease for twenty-five years, but this is a grant for all time. The Great Western Company may have a very large area, but it is limited to twenty-five years as to possession. This is more important than it looks.

103. *By Mr. Page.*—Why should they not have the whole 50,000 acres in one block?

104. Why not; you could have it if you did not mark it square; ten square miles, but not ten miles square? Allow me to point out a small discrepancy while at this part; it is merely an error. In page 2 of the index, under Part XIII., it says here "Blocks to be selected within three miles of the line." It is merely an error; it means within five miles of the line. My object in calling attention to this is that it is a more important matter than it looks. As for the Great Western Company, they hold a larger area, but they only hold it under lease for twenty-five years. In Part XIV., Section 87, providing that if the Court order a lease to be forfeited, the Governor in Council may waive same upon address of Parliament, the clause stops at the word "made." In Part XIV., Section 91, of the Great Western Company's Act, there are three lines added: "No waiver of forfeiture shall be construed to prevent any subsequent application to the Court for forfeiture for any subsequent breach of the provisions of the primary lease or of this Act." I don't know that it is necessary that these words should be added, but they have been omitted. Clause 88 provides for compensation to Promoters upon forfeiture, and provides that the amount to be paid by the Minister shall not exceed the amount actually paid by the Promoters for construction, rolling stock, equipment, &c. This clause practically nullifies the forfeiture. There is no real forfeiture in the Bill. It means that if the Promoters can't get on with the line then we must buy it. It seems to me to amount to a forced purchase rather than a forfeiture. Clause 89 refers to the resumption of the land, railway, &c. I should think the clause, as it stands in the Great Western Railway Company's Act, more suitable. The clause now proposed says "Upon the resumption of the land comprised in the primary lease as hereinbefore provided, or upon the forfeiture of the said lease" the railway shall vest in the Minister, and so on. I have pointed out that there is a clause in the Great Western Company's Act, Part VIII., Clause 49, in which some words used in this Bill are omitted. The words "resumption of the land comprised in the" should be struck out, and the clause should read "upon the forfeiture of the Primary lease, &c." Part 16, Clause 93, Promoters may construct telegraphs and telephones. I think this should be amended by limiting "for the use of the railway." In Part XVII., the Promoters take power to obtain water sufficient to develop an aggregate of 15,000 brake horse-power. You cannot give them what you have not got. When you speak of brake horse-power you mean the manufactured article. All you should give them is the volume of water necessary to develop a certain number of brake horse-power. If you give them brake horse-power it may take a very large excess of water to develop it, whereas a small amount, if skilfully used and developed into power, would give all that is wanted. The clause says that the water may be taken from any river along the proposed line of railway, and at so many and such points upon such rivers as may be approved by the Minister. Under such a clause it might take a lifetime to develop that amount of brake horse-power, and you might take practically all the water that is available in the country. You may secure it although you can't make use of it. You may say we want this, and this, and this, and so secure all the best intakes, and hold them against everybody else. It appears to me that the proper way is to grant the right of so many sluice-heads or volume of water. Brake horse-power is the manufactured article, and when you give that it is the same as selling gas at the meter. As a fact you have not got it to give. Part XIX., Miscellaneous.—I now come to the last clause of the Bill, and of my notes. Under this clause, 119, the Promoters are to deposit £3000 in the name of the Treasurer of the Colony, and when five miles of the railway are constructed this deposit is to be returned to them. I think it is a question whether that is a satisfactory deposit. Under the Great Western Railway Act the Promoters are required to deposit £10,000, to be held until the work is completed. The deposit should be security until the work is done; that is the usual way. There is no specification of works attached to this Bill, as it was decided by the House of Assembly that there should be in the case of the Great Western Railway Act. In that Act there is a Schedule attached of all works in connection with the construction of the railway.

105. *By Mr. Lewis.*—If we were to alter the water clauses of the Bill as it stands from 15,000 brake horse-power to a certain number of sluice-heads of water, what would be the corresponding number of sluice-heads to give to the Promoters that number of brake horse-power? It is not defined as to a sluice-head: if you have the sluice-head it is pressure, you know, that is required to develop power, and it would require a very large quantity. Roughly speaking, if you give them a fall of 100 feet then 3333 ordinary sluice-heads will supply the brake horse-power. Suppose you give them 3500 sluice-heads, I could develop it with a fall of 100 feet. It is enough if you give them the volume of water.

106. You speak of the sluice-head as we know it in connection with mining operations? Yes; or you might give them the volume of water, say fifty per cent. of the available quantity or volume flowing in that river and the same quantity from this river, but it is not so satisfactory. The same fault occurs in the Great Western Company's Act. When you do it by so many sluice-heads it is not developed, it requires pressure to get the power. Our mining sluice-heads have a 6-inch head. It would take 44 of these sluice-heads to give one horse-power, that is with a 6-inch head. Now, I say this power has to be developed by pressure, and they should be able to develop it. If they can get 100 feet fall they want a quantity of water in volume to that extent and no more. Roughly speaking one sluice-head is .0454 horse-power per foot fall; multiply that by 100 and it gives you 4.54, or about 4½ horse-power, or, in general terms, something like 3500 sluice-heads, with 100 feet fall give 15,000 horse-power: that gives you an idea. You might take half the volume of so many rivers and limit them to that, but if they want power they must develop that power.

107. *By Mr. Simmons.*—The North-East Dundas Railway line, do you know that? Yes.

108. Do you say that is capable of expansion, so far as its carrying capacity is concerned. You could carry more than is now carried on it? Undoubtedly.

109. Supposing a line were carried through on a 2-ft. gauge to Mount Pelion, would that be sufficient to cope with all the traffic, including carriage of ore and carriage of coal? I could not give an opinion;



that would be a question of survey. I would be guided by the difficulty of the country. You would gain flexibility of working in difficult country by the narrow gauge. As to the point of capability of expansion, with good rolling-stock on the Zeehan-Dundas line there can be no doubt about that. We have offers now to make engines of 40 tons. We can't say what the limit of power will be on a 2-ft. gauge. We have offers to make engines of 40 tons now, which, on a 2-ft. gauge, will take a much larger haulage up 1 in 25 grades.

110. So far you have offers to make engines that would take all the traffic there would be if the line were extended to Mount Pelion? It is possible. It would depend upon the cost and the demand and where the traffic is distributed.

111. I am told that for the carriage of coal to the West Coast a 2-ft. gauge line is not suitable? It might be taken on a 2-ft. gauge, but it may not be the most economical way of doing it.

112. You have no reason to suppose that a 2-ft. gauge would not carry it? I believe the gauge would carry it by increasing the rolling-stock. That can be done.

113. Do you know about recent offers for the coal at Mount Pelion? No, I do not.

The witness withdrew.

FRIDAY, 8TH JULY, 1898.

MR. EDWARD CARUS DRIFFIELD *called in and examined.*

114.—*By the Chairman.*—What is your name? Edward Carus Driffield.

115. What are you? A civil engineer and superintending engineer of the Mt. Lyell Mining and Railway Company.

116. Have you had any experience in connection with the working or maintenance of narrow-gauge railways, that is 2-ft. railways? Yes; I have had a fair experience in the running of the 2-ft. system.

117. Are you prepared to make your statement without any examination? Well, I don't think so. I hardly knew, Mr. Chairman, what would be exactly the nature of the evidence I should be asked to give.

118. Well, as far as I can gather, the Committee wish to know from you your opinion of the capabilities of a 2-ft. gauge line, presuming you know the proposed railway to be constructed from Mole Creek to Rosebery; and it is proposed to construct that on a 2-ft. gauge? Precisely.

119. Well, we want to have some information that would guide us as to whether a 2-ft. gauge railway would be capable of doing the work such a railway would be required to perform? In the first place, I must say that I am not at all cognisant of the country that this line will pass through. However, I have had a few particulars about the locality generally handed to me, and from these, and what I know myself, I believe a very large portion of it to be exceedingly rough country. The portion nearer Deloraine is however, I believe, very much easier country, and I should certainly say this,—that if the broad gauge could be taken on for a portion of the distance without any very great expense I should certainly consider it advisable to do so, instead of adopting the 2-ft. gauge. But, under certain conditions, I think a 2-ft. gauge line would be a very useful and economical way of affording railway communication; where in fact it would be impossible to construct a railway in any other way.

120. Where the traffic would be of a limited nature, and the grades and curves steep and sharp? Yes. In that case, I think the narrow-gauge system is one that would prove excellent.

121. Do you know any 2-ft. railways now in work, and whether they have answered the requirements? We have in the colony the North-East Dundas Tram as an object lesson, and we have also about eight miles of 2-ft. tramways, or locomotive railways, at Mt. Lyell; that is, without going outside this colony.

122. With reference to the North-East Dundas Tram; in some directions a doubt has been thrown out as to whether that tram will be capable of performing the work expected of it. Have you had any experience of anything of that kind, or, failing that, what is your opinion as to its capabilities? In what way?—I don't quite understand what you mean by a doubt being thrown out?

123. Well, it has been stated that the power of the locomotive is not sufficient to do the haulage,—either that the power of the locomotive was defective, or else the construction of the road? Well, I know the North-East Dundas Tram, and I believe the permanent way to be as substantial and perfect as any 2-ft. railway hitherto constructed in any other part of the world. I think, as far as the railway is concerned, that it was well surveyed, that the line is good, and that it is certainly substantially constructed. With regard to the locomotive power, I certainly think they will be able to improve upon it. You can easily understand that no new system can be adopted without having possibly a certain amount of experimental failures; and while the present type of engine could do its best—that is, could work to its full capacity of power under favourable conditions of weather and rails—under the existing conditions of bad weather and greasy rails it cannot always fully realise the expectations formed of it, as far as I am aware.

124. Well, you think any failure that has resulted has arisen owing to the locomotive not possessing sufficient power? No, not necessarily in consequence of want of power. The locomotive may be powerful enough, but if the rails are greasy there is great slippage of the wheels, and a consequent loss of power. To explain myself—The coefficient of adhesion may vary from as high as one-quarter to as low as one-twelfth under different conditions of weather and rail; and an engine may sometimes, under very adverse conditions on steep grades and sharp curves, thus be reduced to one-third of its hauling capacity,—although the power of the cylinders and supply of steam would still be ample to develop the full power of the engine.

125. Perhaps I was wrong in saying it was due to the locomotive not possessing sufficient power. But you think something might be gained by a different locomotive being tried? Yes, perhaps a different type of engine, such as the "Fairlie," would be better—possibly, even lighter locomotives than the one

now used will be found to be the most serviceable. The matter, however, is one of some difficulty, and a knowledge of the requirements in such cases can only be discovered from actual working experience.

126. The difficulty referred to is not in consequence of it being a 2-foot railway? Certainly not.

127. And it may be remedied by a different locomotive? I don't wish to admit that there has been any failure of the North-East Dundas tram at all.

128. If there has been any failure, however, this has not been in consequence of it being a 2-ft. railway? Decidedly not. In fact, I am surprised to hear that the line has been considered a failure in any way. As far as I am aware, it has never had an opportunity of working to its full capacity.

129. *By Mr. Lewis.*—If the Mount Lyell Company had not its 3-ft. 6-in. railway, and you were advising them as to the construction of a line from Mount Lyell to Strahan, would you advise them to adopt a 2-ft. as against a 3-ft. 6-in. line over that country? You mean, if we were starting completely afresh?

130. Yes. Well, Mr. Lewis, I think I should have been very much tempted, in the absence of any other knowledge, to put a 2-ft. 6-in. line down, not a 2-ft. one. The capacity of a 2-ft. 6-in. line so nearly approaches that of a 3-ft. 6-in., and besides, it is so much cheaper in the first cost; and it is possible to work very steep grades with a 2-ft. 6-in. line more safely than with a 3-ft. 6-in. gauge. At the same time I may say that the traffic has increased so much on our line since it was opened, and the district is going ahead so quickly, that that system would have been insufficient to meet the prospective traffic; and had we put down a 2-ft. 6-in. gauge, we should probably be compelled to either duplicate the line or else alter it to a 3-ft. 6-in. gauge.

131. *By the Chairman.*—You prefer a 2-ft. 6-in. gauge to a 2-ft.? In certain cases, and in others I should certainly prefer a 3-ft. 6-in. line.

132. *By Mr. Lewis.*—As far as I understand your answer to the question, it refers to the maximum grade that can possibly be worked? Yes.

133. We look upon the maximum grade for a 3-ft. 6-in. line as 1 in 40? Yes, and the maximum grade on a 2-ft. 6-in. line is 1 in 25.

134. *By Mr. Page.*—You say that a 2-ft. gauge railway is possible where one of 3-ft. 6-in. could not be made, and that if a railway were made 2-ft. 6-in. instead of 2-ft., that would not be a very great difference? No, I did not say that. There are certain conditions which, of course, must settle the peculiarities of each case. If you have a country that is extremely difficult the 2-ft. system might be the cheaper system to put in, and if the country were not quite so rough the 2-ft. 6-in. system might be the best; and, again, with easier country still, the 3-ft. 6-in. gauge would be preferable.

135. Is there so very much difference between the 2-ft. and the 2-ft. 6-in. gauge, that is, would there have to be very much difference in the country to warrant the adoption of the one as against the other? There would be very little difference as far as the curves and grades are concerned on both systems of railway; but the 2-ft. 6-in. gauge would entail extra expenditure for the additional width in forming, metalling, &c.

136. I understand the expense would be greater? Yes.

137. *By Mr. Simmons.*—Considering that it is proposed by this line to join two other lines,—one with a gauge of 3-ft. 6-in. and the other with a gauge of 2-ft.,—I suppose you would not recommend the gauge should be 2-ft. 6-in.? No, certainly not.

138. I presume you have read the paper Mr. Back read before the Royal Society a year ago in reference to the North-East Dundas Railway? Yes, I have.

139. On page 4, which deals with the carrying capacity, Mr. Back states there that with four trains daily, 100,000 tons of freight could be carried per annum, and that this could be doubled by increasing the number of trains? Yes, I saw that.

140. You read the paper at the time? Yes.

141. And it commended itself to your judgment? Yes, Sir, it did. I may say that I have some information bearing on the matter which may prove of interest to the Committee, and substantiate Mr. Back's estimate. It is in reference to a line from Antofagasta in Bolivia. This line is 574 miles in length, and is of 2-ft. 6-in. gauge. The maximum gradients are 1 in 32, and in 1892, they carried over 400,000 tons of freight and 21,740 passengers on it. And it is a line 574 miles long, and constructed to an altitude of 13,000 feet, over fairly difficult country. It is also the longest 2-ft. 6-in. narrow-gauge line in the world.

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MR. S. J. SUTTON, *called in and examined.*

142. *By Mr. Simmons.*—What is your full name, Mr. Sutton? Samuel John Sutton.

143. And you reside in Launceston? Yes.

144. And are at present Mayor of that city? Yes.

145. I believe you take a very active interest in everything connected with Tasmania, especially up in the north and west? Yes, I do.

146. You are not a shareholder in the Tasmanian Central and West Coast Railway Company? No.

147. And have no pecuniary interest in the company? No.

148. But you are Chairman of the Launceston and North-West Direct Route Association? Yes.

149. And, therefore, you have a great deal of knowledge with regard to the desirability of communication between Launceston and the Coast? Yes.

150. Now, just to clear up one little question as to the priority of the two bills. You know Mr. Sadler, also a Director of a proposed line from Mole Creek to the West Coast? Yes, I do.

151. Prior to the publication of Mr. Sadler's notice, do you recollect attending a meeting at the Stock Exchange in Launceston? I do.

152. How long was this before the publication of Mr. Sadler's notice? I could not say exactly.

153. A few weeks? That I could not say, but I know distinctly that it was before the publication of Mr. Sadler's notice. It was some time before. It may have been a week or two.

154. Can you tell us what that meeting was for? That meeting was held to consider the desirability of asking Parliament to run a railway from Mole Creek to Rosebery.

155. It was convened by Mr. Hales' people? It was convened by circular, signed by either Mr. Hales or Mr. Hedley Button, I forget which.

156. What was your object in attending the meeting? My object in attending the meeting was in the interests of the Direct Route Association, to ask them to delay further action in the matter until we got a vote from Parliament to expend on the track.

157. And, at your request, they did consent to delay further action? They did. After some conversation I carried a resolution postponing further action until we got a reply from the Minister of Lands in reference to the vote of money for which we had applied.

158. Some few weeks after that Mr. Sadler came out with his notice, and then the Tasmanian Company published their notice? That is so.

159. Now, can you tell us, Mr. Sutton, whether you think the construction of this proposed line from Mole Creek to the West Coast will be beneficial to the Colony? I do think so.

160. It will be of considerable benefit? Yes.

161. What district would it particularly benefit? I think it would benefit the whole island, especially the Southern portion of the Island and the Western Districts,—that is, Deloraine, Chudleigh, Westbury, &c.; that is what we understand by the Western Districts in Launceston.

162. In what way do you consider it would benefit them? Well, I think it would facilitate the passenger traffic very materially, and it would enable fat stock to be taken from the westward to the silver fields, and generally open up the country.

163. Would it have a tendency to increase the passenger traffic? I should think so; as also to open up the mineral country between East and West Pelion, noticeably the coal mines, which we know for a fact exist there.

164. Now tell us, Mr. Sutton, about the coal at Mount Pelion: what has been done in the way of prospecting, &c? Well, a syndicate was formed to take up certain sections on West Pelion, and they took up a section, as also some at East Pelion. There was some little difficulty at first; but they have since expended some £400 or £500 in prospecting. Some little delay then occurred, but eventually I think some 2 cwt. or 3 cwt. of coal was got out and brought to Launceston. This was sent to the Launceston Gas Company, who had reported on it very favourably indeed.

165. Have you got their report?—You may read it to the Committee? Yes. (Document put in and read as follows):—

*Gas Company's Office, Launceston, June 23, 1898.*

DEAR SIR,

*Re MOUNT PELION COAL.*

I HAVE to report that a test of this coal has been made at these works with the following results:—1. For Coke only: A charge of 2½ cwt. was placed in one of the ordinary retorts for six hours, and produced an excellent coke, very much superior to any Tasmanian coal yet carbonised here: the weight of coke from the above charge was 1 cwt. 3 qrs. 18 lbs. 2. For Gas and Coke: A trial of the coal was also made in the Experimental Works, the result being as under: yield of gas per ton of coal, 8766 cub. ft.; coke per ton of coal, 15 cwt. 2 qrs. 14 lbs. illuminating power of gas, 8 standard candles. The quantity of gas per ton is low in comparison with the best Newcastle, but the coke is of excellent quality. In this trial the gas was very poor as regards illuminating power, but I have reason to believe that the purification was incomplete, and the impurities not properly removed, owing to a defect in the purifiers; I would ask you therefore to take no notice of the reported candle-power, and I will have a further test made when our Mr. Payne has time to give it proper attention.

Yours faithfully,  
(Signed)

ARTHUR GREEN, *Secretary.*

*The Manager of the Mount Pelion P. A.*

166. Can you tell us, Mr. Sutton, from the prospecting which has already been done on Mount Pelion, whether there is any large extent of coal there? Yes, we have had reported to us that there are millions of tons; and there are also finds on East Pelion which are not so good for coke, but better for some purposes.

167. And you have reason to believe that a very large market would exist for this coal at the West Coast if the coal could be transported there? I think so, more especially if it could be made into coke.

168. Have you at the present time an offer to tribute the coal section? Yes, the prospectors; or a portion of them, said they would like to take the mine on tribute if there was any way of getting the coal out.

169. Now, Mr. Back, in his evidence before this Committee, and also in his evidence before the Midland Committee, seemed to indicate some circumstances leading to the belief that the future policy of the Government in the matter of the extension of the North-East Dundas Tram would be to get that line extended as quickly as possible, probably to Devonport. Assuming that were so, would that be of benefit to the Colony? I think not; it would leave out all the Eastern and Western Districts of the Colony.

170. You do not think that policy a good policy? No, Sir; because the bulk of the people would not be benefited by it,—and I presume that is the true merit of railways.

171. Would the construction of the proposed Mole Creek line be calculated in any way to prejudice any of the existing lines? I don't think so.

172. Would the tendency be the other way? Yes, it would open up a country hitherto unknown and hitherto unoccupied, mineral and agricultural.

173. Would the proposed line act as a feeder to the Government railways? I am hardly prepared to answer that.

174. Would it provide work for the North-East Dundas Railway instead of acting prejudicially to it? Would it not really act as a feeder? Yes, I think so.

175. And you think the construction of this line would be very much more preferable, so far as the interests of the Colony are concerned, than the railway to Devonport? I do, for the reasons stated. It would benefit more people.

176. You know the concessions asked for in the Central Company's Bill—50,000 acres of land and 15,000 horse-power of water? Yes.

177. Have you considered the matter as to whether that would be a sufficiently valuable concession to enable the company to get the capital with which to construct the line? The only way I have considered the matter is as compared with the concessions to the Waratah line, which, instead of 50,000 acres, only gets 3800 acres of land and no water-power. In the case of this present company they have asked for 15,000 horse-power, which, to my mind, will be a very valuable asset to them if it could be turned into use.

178. You know a good deal about the Launceston electric light? I know something.

179. You know the horse-power which is required for generating the electricity? Yes; we require at present something under 1000 horse-power.

180. What can you go up to—1500 horse-power? Yes.

181. And the 15,000 horse-power may probably be a valuable asset? Yes, without a doubt.

182. And you think 50,000 acres of land and 15,000 horse-power of water for this line would be a very valuable concession? It would be a very valuable concession.

183. Do you know of anything else in connection with the Bill that you would like to mention? No, I don't know of anything just now.

184. *By Mr. Hall.*—In addition to this coal, Mr. Sutton, there are copper and other mineral deposits about Pelion, are there not? Yes.

185. Can you tell the Committee whether they have been reported upon by experts or men competent to form an opinion? I cannot say of my own knowledge.

186. You have not seen any reports or heard of them? Well, no, not to notice them.

187. In reference to the present Government line from Deloraine or Mole Creek, you are aware it is a non-paying line? I am.

188. Presuming it to be true that this company are going on with their line, do you not think, or do you express an opinion on the question, whether that line would be converted from a non-paying line to a paying line? I certainly think it would. That is the tendency of all lines that have their lengths extended.

189. If Mr. Back says in his evidence that there is nothing between Chudleigh and the West Coast to warrant either a private syndicate or the Government constructing a railway,—nothing in the shape of minerals or land all the way,—what would you say to that? I should regard it as a bold statement to make; but, of course, Mr. Back is a railway expert and I am not.

190. You think that would be a bold statement to make? Yes, from the information I have gathered from time to time. Of course you must understand I have never been there. The information I have gathered was from surveyors who pointed out the track.

191. Then you have in your own opinion, from information gathered, come to the conclusion that the coal deposits between Chudleigh and the West Coast would warrant the construction of a railway,—basing your opinion, of course, on the information you have gathered. Of course I don't want it from your own observation. You have told us you have never been there, but do you think the coal and metalliferous deposits would warrant the construction of that line? I can only speak positively of the coal. As I have pointed out, I have not taken much notice of the mining reports; but I certainly think the coal is of great importance and ought to be made available, especially considering the large amount of money expended annually on coke.

192. And suppose a railway is not constructed to these coal deposits, will they remain dormant? Oh, yes, and we shall not pay the Government any more rent.

193. Have you any idea, Mr. Sutton, of the area held in that locality for coal purposes, just approximately? Well, I am only connected with two companies. They hold from 1000 to 1200 acres.

194. And in regard to the other mineral sections, can you give us any idea? No, I know nothing.

195. Have you had an opportunity of viewing copper ore or other metalliferous deposits which have been brought down from Mount Pelion? Yes, I have. I have seen the copper ore.

196. Yes. And have you heard it spoken of by those competent to give an opinion? No.

197. Are they still working at mining operations there, at the copper mine? I don't know.

198. *By Mr. Lewis.*—You are aware that the Promoters undertake to pay a royalty of 2½ per cent. on the gross value of all gold and minerals obtained from the blocks of land that may be granted to them? Yes.

199. Do you consider that a fair royalty? I think so. I cannot state very positively, but I think that is the same as the Waratah-to-Zeehan railway are to pay.

200. *By Mr. Hall.*—Just the same? Yes.

201. *By the Chairman.*—Apart from the districts you have mentioned, Mr. Sutton, which the proposed line would better serve than the line having its outlet at Devonport, would not the districts of Scottsdale, Ringarooma, and all those districts lying between Ringarooma and Deloraine—in fact all the northern and western districts—be benefited? Yes, they would, including Deloraine, Dunorlan, and Chudleigh.

202. When you speak of the Western Districts you don't mean the West Coast? No, I mean what we in Launceston refer to as the Western Districts.

The Witness withdrew.

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A

**B I L L**

TO

Authorise certain Persons to construct, main- A.D. 1897.  
tain, and work a Railway from some point  
at or near the *Mole Creek* Station on the  
*Chudleigh* Railway, or some other point on  
that Railway, to some point within the  
Western Mining Division of *Tasmania*.

**W**HEREAS *Charles Beaumont Barnes Grubb, Donald Norman* PREAMBLE.  
*Cameron, Charles Youl, James Francis Oliver Barclay, Thomas*  
*Gunn, Thomas Bourke, and Stuart Eardley Wilmot*, (all of whom,  
and their assigns and the survivors or survivor of them and their or his  
5 assigns, are hereinafter included in and designated by the expression  
“The Promoters”) are willing, and it is expedient that they should be  
authorised to construct, maintain, and work the Railway hereinafter  
mentioned, and to acquire certain lands and water-rights upon the  
terms and conditions hereinafter provided :

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

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

Division of Act.

- |    |   |  |
|----|---|--|
|    | Part I.—Title and Interpretation.                                   |  |
| 15 | Part II.—The Primary Lease.   |  |
|    | Part III.—Leases for Branch Lines.                                  |  |
|    | Part IV.—Acquisition of Land.                                       |  |
|    | Part V.—Construction of Railway.                                    |  |
|    | Part VI.—Maintenance of Railway.                                    |  |
| 20 | Part VII.—Power to enter adjoining Lands.                           |  |
|    | Part VIII.—Resumption of Primary Lease, and Purchase of<br>Railway. |  |
|    | Part IX.—Levy and Recovery of Tolls, Fares, &c.                     |  |
|    | Part X.—Prior Leases.   |  |

[*Private.*]

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

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|      |                                   |   |
|------|-----------------------------------|---|
| Part | XI.—Accommodation Works.          |   |
| Part | XII.—Compensation.                |   |
| Part | XIII.—Grant of Mineral Lands.     |   |
| Part | XIV.—Forfeiture of Primary Lease. |   |
| Part | XV.—Power to assign or mortgage.  | 5 |
| Part | XVI.—Telegraphs and Telephones.   |   |
| Part | XVII.—Power to divert Water.      |   |
| Part | XVIII.—By-laws.                   |   |
| Part | XIX.—Miscellaneous.               |   |

PART I.

TITLE AND INTERPRETATION.

Short title.

**2** This Act may be cited for all purposes as “The *Tasmanian* 10  
Central and West Coast Railway Act.”

Interpretation.

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

“Crown Lands” or “Crown Land,” as used in connection with 15  
or in reference to the primary lease hereinafter mentioned,  
shall mean any lands in the Colony which are or may  
become vested in the Crown, and which are not and have  
not been dedicated to any public use, and includes all lands  
of the Crown which are or may be occupied for pastoral or 20  
mining or other purposes under any lease or licence issued or  
applied for in pursuance of any Act of Parliament of this  
Colony :

“Person” includes Company :

“Company” includes every company, association, partnership, or 25  
firm, whether corporate or unincorporate, and wheresoever  
and howsoever incorporated, associated, or formed, which  
carries on business in this Colony :

“The primary lease” means the lease made under Section Four  
of this Act, or any renewal thereof : 30

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

“The first lessee” means any “person” entitled to occupy any  
land previously leased : 35

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

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

“The said railway” or “the railway” shall mean the railway 40  
mentioned in the Section next hereinafter contained, and  
any extensions or branch line or lines of railway which  
may at any time be constructed under the authority of this  
Act or of any lease which may be issued thereunder :

“Road or street” or “public road or street” shall include any 45  
railway or tramway :

“The Western Mining Division” shall mean the Western  
Mining Division as defined by the Proclamation under the  
hand of *Sir John Henry Lefroy*, Governor of *Tasmania*,  
dated the Thirty-first day of *October*, One thousand eight 50  
hundred and eighty-four, and published in the *Hobart*  
*Gazette* of the First day of *November* in the same year :

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“Local Authority” shall mean the Municipal Council or Town A.D. 1897.

Board or Trustees of any Road District or other body of persons or person in whom any street or road through or along or under which the said railway may be constructed may be vested, or who shall have the care, control, and management of any such street or road.

## PART II.

### THE PRIMARY LEASE.

4 It shall be lawful for the Minister, with the consent of the Governor in Council, to grant to the Promoters for a term of Thirty years, at a nominal rental, and in accordance with the provisions of this Act, a primary lease of any Crown Land not exceeding One chain in width, for the construction and maintenance and working of a railway from a point at or near the *Mole Creek* Station on the *Chudleigh* Railway, or some other point on that Railway, [to such point in the Western Mining Division] (to such point on the North-East *Dundas* Tramway, or to such point within a radius of Five miles from the Town Reserve of *Rosebery*) as may be approved of by the Governor in Council, 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, subject to such covenants, terms, and conditions as to the Governor in Council may seem fit.

Lease may be granted for purpose of constructing railway.



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

Conditions and stipulations of lease.

i. For the passage over or along the said railway of any engines, carriages, wagons, or other vehicles of the Government of *Tasmania*, or for the haulage of such engines, carriages, wagons, and vehicles respectively, and for the conveyance of goods and passengers over the said railway in any such carriages, wagons, or other vehicles as aforesaid, in accordance with the terms and conditions of any agreement that may from time to time be made between the Minister and the Promoters in that behalf, (and failing such agreement, then in accordance with such terms and conditions as may be settled by arbitration in the manner provided in Part VIII. of this Act):



ii. That the Promoters shall properly fence the said railway in all places in which they shall be required by adjoining proprietors, or by the Minister, to do so:

iii. That the Promoters shall carry on the said railway all mails which the Postmaster-General shall require them to carry thereon, for such reasonable compensation as may from time to time be agreed upon by them and the Postmaster-General, (and failing such agreement, then the compensation shall be decided by arbitration in the manner provided in Part VIII. of this Act):



[iv. For a renewal from time to time of the said lease for a further term not exceeding Twenty-one years, upon and subject to all the conditions herein prescribed, and all the provisions of this Act:]



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

15

Effect of lease.

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

Minister may renew lease.



7 [It shall be lawful for] (Until the resumption or forfeiture of the primary lease as hereinafter provided,) the Minister, [with the consent of the Governor in Council,] (upon the application of the Promoter, shall) from time to time at or after the expiration of the primary lease [to] grant a renewal thereof to the Promoters for a further term not exceeding Twenty-one years, upon and subject to all the conditions herein prescribed and all the provisions of this Act, so far as the same may be applicable.

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## PART III.

## LEASES FOR EXTENSIONS AND BRANCH LINES.

Minister may grant lease for branch line of railway.

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

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45

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

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in the primary lease as the Governor in Council may think necessary A.D. 1897.  
or applicable to such branch lines, and shall be renewable in like manner  
with the primary lease.

Provided always that no extension or branch line of railway (other  
5 than any extension or branch from the said railway to a terminus  
within the boundaries of any land to be granted to the Promoters as  
hereinafter mentioned), shall be sanctioned by the Governor in Council  
until such extension or branch shall have been first authorised by a  
resolution of both Houses of Parliament.

## PART IV.

### ACQUISITION OF LAND BY THE PROMOTERS.

10 9 The Promoters may purchase, acquire, and take such other land Power to  
as may be necessary for the purposes of constructing the said railway ; purchase land.  
and all the costs, expenses, and charges of so purchasing, acquiring, and  
taking such other land, and the cost of all buildings or other works  
constructed on the same, shall be included in the cost of construction  
15 work mentioned in Section Forty-four.

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

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

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

35 12 In any case where land or material is required for the purposes Cost of arbitra-  
of such railway, if the Promoters or their assigns, before any steps are tion, how to be  
taken under *The Lands Clauses Act*, shall tender compensation to the borne.  
person entitled to receive the same for such land or material and the  
severance thereof, then if such person refuses to accept such compen-  
sation and to convey the land so required, or to permit the land to be  
40 used or the material to be taken, as the case may be, and a reference  
to arbitration takes place under *The Lands Clauses Act*, and the  
arbitrators or umpire award a sum not exceeding the amount of  
compensation so tendered, all the costs of the reference, arbitration,  
and award shall be paid by such person, and such payment may be  
45 enforced by action in any Court of competent jurisdiction on a count  
for money paid at the request of such person.

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## PART V.

## CONSTRUCTION OF THE RAILWAY.

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

**13** [The said railway shall have a gauge of either Two feet or Three feet six inches, at the option of the Promoters.] (The said railway shall have a gauge of Three feet six inches, but it shall be lawful for the Promoters, with the consent of the Minister, to construct the portion of the said railway from a point in the vicinity of Mount 5. *Pelion*, to be approved by the Minister, to the terminus in the Western Mining Division, with a gauge of Two feet.) [If] (Where) the said railway has a gauge of Two feet the curves shall have a radius of not less than Ninety-nine feet, and the rails shall be steel of not less than Forty pounds to the yard, and the grade shall not be steeper than 10. One in Twenty-five. [If] (Where) the said railway has a gauge of Three feet six inches the curves shall have a radius of not less than Five chains, and the rails shall be steel of not less than Forty-three pounds to the yard, and the grade shall not be steeper than One in Forty.

Railway to be  
constructed in a  
substantial  
manner, &c.

**14** The said railway shall be constructed in a substantial manner 15. fit for the carriage of [vehicles] (locomotives) at a rate of not less than Ten miles per hour with a load of not less than Four tons upon each axle of every [vehicle] (locomotive) if the gauge is Two feet, and at a rate of not less than Fifteen miles per hour with a load of not less than [Four] (Eight) tons upon each axle of every [vehicle] (loco- 20. motive) if the gauge is Three feet six inches, and shall be maintained and worked by the Promoters in accordance with the provisions of this Act, and subject thereto, to the satisfaction of the Governor in Council, or such officer as the Governor in Council may appoint.

Power to connect  
railway with  
other railways.

**15** It shall be lawful for the Promoters to connect the said railway, 25. and any extension thereof and any branch line, with any other existing or future railway or railways, and to execute such works as may be necessary to connect the said railway, or any extension thereof, or any branch line, with any such other existing or future railway or railways, subjecting such other existing or future railway or railways to as little 30. damage or inconvenience as possible; and the Promoters shall be liable to pay compensation for any such damage, which shall be assessed, in case of difference, in the manner provided in Section Seventeen.

Running powers  
on other railways.

**16** It shall be lawful for all engines and trains going along the said railway, or any extension thereof, or any branch line, to pass over and 35. along and to use any part of any such other existing or future railway or railways as is mentioned in the last preceding Section between the starting point of the said railway and the terminus thereof, and between the starting point of any such extension or branch line and the terminus of such extension or branch line, and also the works connected there- 40. with, upon payment of reasonable tolls and compensation for so doing; and the amount of such tolls and compensation shall, in case of difference, be decided in the manner provided in Section Seventeen.

Arbitration on  
dispute as to  
running powers  
and joint traffic.

**17** When in any case the Promoters and the proprietors of any railway over which the Promoters are hereby authorized to run, shall 45. not be able to agree as to the mode in which the Promoters may exercise any of the powers conferred upon them by the last two preceding Sections, or upon the arrangements for conducting their joint traffic with safety to the public and to the advantage of each of the said parties, or in the event of any other dispute, questions, or differences arising between 50. the said parties, then it shall be lawful for the General Manager of the Government Railways for the time being, upon the application of either of the parties, to decide the questions in dispute between them, and to order and determine whether the whole or what proportion of the

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expenses attending on such arrangements shall be borne by either of the parties respectively. A.D. 1897.

**18** Before the Promoters shall commence to construct the railway they shall deposit with the Minister a copy of the working plans and sections of such railway, showing the route thereof and the private and Crown lands and mineral leases to be traversed by the said railway or which shall be contiguous thereto when the same is constructed, and the proposed method of dealing with any roads, streets, or tramways affected; and the Minister may require such alterations as he thinks necessary to be made in such plans 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 Promoters may from time to time submit such plans and sections as aforesaid for portions of the line (not less than Five miles in length) instead of for the whole line, and may commence the construction of any portion of the said railway in respect of which such plans and sections have been deposited with the Minister and have been 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 Promoters 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, Promoters to deposit plans with the Minister.

**19** The Promoters 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.

Promoters may make alterations in plans.

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



Railway may be inspected during construction.

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

Crossing of private roads.

**22** The said railway shall, so far as possible, be so made as not to unreasonably or unnecessarily impede, injure, prevent, or interrupt

Penalty for injuring any road or street.

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any ordinary or rightful traffic upon any public road or street, and so as not to increase the cost of making, maintaining, repairing, and upholding the same: Provided always, that if at any time complaint shall be made to a Justice of the Peace by or on behalf of the person in whom any such road or street is vested, or under whose control the same may be, that the provisions of this Section are being infringed by the Promoters, 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 Promoters for securing due compliance by them with the provisions of this Section as such Justices may deem necessary. In default of compliance with such order, the Promoters shall be liable to pay to the person by or on whose behalf the complaint 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*.

Promoters to  
repair damages.

**23** The Promoters shall from time to time make good, repair, and amend all damage which may be done by them to or upon any public road or street in, through, over, or along which the said railway is constructed; and in case of their refusal or neglect so to do after reasonable notice given, and upon such repairs or amendments being effected by or on behalf of the local authority 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.

Roads to be  
crossed on a  
level

**24** Whenever its course is over or along any public road or street, the railway shall be laid at or about the general level of such road or street; and the Promoters may, with the consent of the local authority having control of such road or street, alter or 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 Promoters unless otherwise agreed upon.

Before roads  
interfered with  
others to be  
substituted.

**25** 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, the Promoters shall before operations are commenced cause a sufficient road to be made instead of the road to be interfered with, and shall at their own expense maintain such substituted road for a period of One year in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Minister may  
authorise con-  
struction of  
Public Road  
across railway.

**26** Nothing in this Act contained shall be construed to prevent the construction of any Public Road across the said railway at any point directed by the Minister upon payment of proper compensation for any interference with the works of the Promoters, which compensation, in case of dispute, shall be settled by arbitration in the manner prescribed by *The Lands Clauses Act* in cases of disputed compensation.

Bridges how to  
be constructed  
over any road.

**27** 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:—

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The width of the arch shall be such as to have thereunder a clear space of not less than Thirty feet if the arch be over a main road, and of Twenty feet if over a cross or by-road, and of Twelve feet if over a private road. A.D. 1897.

- 5 The clear height of the arch from the surface of the road shall be not less than Sixteen feet for a space of Twelve feet if the arch be over a main road, and Fifteen feet for a space of Ten feet if over a cross or by-road, and in each of such cases the clear height of the spring of the arch shall not be less than Twelve feet; the clear height of the arch for a space of Nine feet shall not be less than Fourteen feet over a private road.

- 10 The descent to be made in the road in order to carry the same under the bridge shall not be more than One foot in Thirty feet if the bridge be over a main road. One foot in Twenty feet if over a cross or by-road, and One foot in Sixteen feet if over a private road not being a tramroad, or if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad.

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

- 20 There shall be a good and sufficient fence on each side of the bridge of not less height than Four feet, and on each side of the immediate approaches of such bridge of not less than Three feet. The road over the bridge shall have a clear space between the fences thereof of Thirty-five feet if the road be a main road, and 25 Twenty-five feet if it be a cross or by-road, and Twelve feet if a private road. The ascent shall not be more than One foot in Thirty feet if the road be a main road, and One foot in Twenty feet if a cross or by-road, and One foot in Sixteen feet if a 30 private road not being a tramroad or railroad, or if the same be a tramroad or railroad the ascent shall not be greater than the ruling gradient of such tramroad or railroad.

- Provided always, that in all cases where the average available width for the passing of carriages of any existing road within Fifty yards of the 35 point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of the bridges need not be greater than such average available width of such roads, but so nevertheless that such bridges be not of less width in case of a main road or cross or by-road than Twenty feet: Provided also, that if at any 40 time after the construction of the railway the average available width of any such land shall be increased beyond the width of such bridge or on either side thereof, the Promoters shall be bound at their own expense to increase the width of the said bridge to such extent as they may be reasonably required by the Trustees or Surveyors of such road, not 45 exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the railway: Provided also, that if the mean inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may be required to be altered, 50 or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the Promoters, 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 55 of the road so requiring to be altered, or for which another road shall be substituted.

28 No part of the said railway shall be opened for public traffic until the Engineer-in-Chief or such officer as the Minister may appoint has certified that such part of the said railway has been efficiently con- [Private.]

Railway not to be used until Engineer certifies.

A.D. 1897.

structed, and all the rolling stock to be used thereon is in good and efficient condition and repair, and may be safely used for public traffic thereon.

## PART VI.

## MAINTENANCE OF THE RAILWAY.

Railway to be kept in proper repair.



**29** After the said railway is completed the Promoters shall properly and efficiently maintain and work the said railway ; and the Minister 5 may (at the cost of the Promoters) from time to time appoint one or more officers to inspect the said railway and to report upon the state and condition of repair thereof and the manner in which the same is being maintained and worked ; and it shall be lawful for every officer so appointed for the purpose aforesaid from time to time to enter upon the 10 said railway and to inspect the same and all the rolling stock thereof, and the manner in which the said railway is being worked ; and the Minister may, upon the report of any such officer as aforesaid, require the Promoters to make such repairs to the said railway and such repairs or additions to the rolling stock thereof as may be necessary to ensure the 15 safety of the said railway or of the passengers travelling thereon, or the efficient maintenance and working of the said railway in accordance with the provisions of this Act and the stipulations and conditions of the primary lease ; and the Promoters shall, within such time as the Minister shall require, make all such repairs and additions to the said 20 railway and the rolling stock thereof as the Minister shall so require as aforesaid (and in default shall be liable to a penalty of not more than Twenty Pounds for every day during which such default shall continue).



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

**30** Where the said railway crosses any public road or street on a 25 level, the Promoters shall erect, and at all times maintain, good and sufficient gates across such road or street on each side of the said railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates ; and such gates shall be kept constantly closed across such road or street on each side of the said 30 railway where the same shall communicate therewith, and the Promoters shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such road or street on both sides of the said railway, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross the 35 said railway ; and such gates shall be of such dimensions and so constructed as when closed to fence in the said railway and prevent cattle or horses passing along the road from entering upon the said railway, and the persons entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall 40 have passed through the same, under a penalty of Forty Shillings for every default therein :

Provided always, that it shall be lawful for the Minister, in any case in which he may be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any 45 such road or street should be kept closed across the said 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 said railway, except when engines or carriages passing along the said railway shall have occasion to cross such road or street, 50 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.

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**31** Notwithstanding anything hereinbefore contained, it shall be lawful for the Promoters, 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 : Provided that any such street or road be not thereby decreased in width at the crossing, and that the railway be securely fenced at such points.

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Cattle-guards may be used in place of gates.

**32** In every case in which the Promoters 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 said railway at every such crossing warning travellers as to passing trains, and whenever any train is approaching such crossing the engine-whistle shall be sounded : Provided that the rate of speed of a train while passing any such crossing on any street in a Town shall in no case exceed Five miles per hour.

Measure of precaution to be adopted.

**33** The Promoters may from time to time for the purposes of this Act fell timber and use and carry away the same, and dig and use clay, stone, and other material upon any Crown land comprised in the primary lease or in the vicinity of the railway, and may fell all timber which in the opinion of the Promoters it may be necessary to remove for the safe working of the said railway, notwithstanding anything contained in Section Six of this Act : Provided that, in the case of any land previously leased, full compensation shall be made to all parties interested in such land for the damage done under this Section, 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.

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

Minister may agree to maintain and work railway.

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

Minister may grant running powers.

**36** The Minister may from time to time require the Promoters to enter into an agreement whereby the engines, carriages, wagons, and other vehicles of the Government of *Tasmania* and the passengers and goods conveyed thereby may pass over and along the said Railway upon payment by the Minister of such reasonable tolls and compensation for so doing as may be agreed upon ; and the Minister shall have such reasonable privileges in connection therewith, and be subject to the observance of such reasonable conditions and restrictions, as may be agreed upon.

Promoters may grant running powers, &amp;c.

In the event of any difference arising between the Minister and the Promoters under this (and the preceding) Section(s), such dispute shall be referred to arbitration in the manner described in Part VIII. of this Act.



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(Promoters to share junction charge.)

(A) The Promoters shall pay their share of any junction or joint station, such payment to be one-half of the terminal of each ton or fraction of a ton of goods and each passenger-fare; such terminal to be fixed by arbitration as aforesaid.)

(Promoters to pay cost of signals and safety appliances used solely on their account ;



and half of any joint appliances.)

(B) The Promoters shall pay the actual cost of all signals and safety appliances, and the wages of any men working such appliances, as may be deemed necessary through the construction of the railway and its connection with any portion of the Government Railway where such appliances are used solely on account of or in consequence of the construction of such Railway. 10

Where such signals and appliances are used jointly by the Promoters and the Government Railways, then the Promoters shall pay half the cost of the construction and working thereof.

The necessity for signals and safety appliances shall be decided by the General Manager of Government Railways.) 15

## PART VII.

## POWER TO ENTER UPON ADJOINING LANDS.

Materials from private land.

37 The Promoters, for the purpose of constructing, repairing, and maintaining the said railway, may, after Seven days' notice to the owner or occupier, enter upon any uncultivated land, and may fell, carry away, and use indigenous timber, except when the same is used for ornament or shelter to any dwelling-house, and may also dig, quarry, carry away, and use clay, stone, or other material, and may place and deposit upon any such land any materials, waste, or spoil: Provided that full compensation for taking any of such materials, or for depositing any such materials, waste, or spoil as in this Section mentioned shall be made to all parties interested for the damage thereby sustained. 25

Construction of works.

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

To enter upon any lands to survey and take the levels of the same: 30

To make or construct upon, across, under, or over any lands, streets, roads, rivers, creeks, or other waters such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, culverts, drains, arches, cuttings, fences, and other works as the Promoters may think proper: 35

To divert or alter, as well temporarily as permanently, the course of any streams of water, roads, streets, or ways, or raise or sink the level of any such roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as the Promoters may think proper: 40

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

To draw water from any stream or river in the vicinity of the railway for the supply of locomotives and other (railway) purposes at such elevation as may be necessary to secure a fall into any railway tank by natural gravitation: 45

To erect and construct such houses, warehouses, goodsheds, offices, and other buildings, yards, stations, wharfs, engines, machinery, and apparatus, and other works and conveniences, as the Promoters may think proper: 50





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To, from time to time, alter, repair, or discontinue the before-mentioned works, or any of them, and substitute others in their stead: A.D. 1897.

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

5 Provided that in the exercise of the above-mentioned powers the Promoters 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  
10 by reason of the exercise of such powers.

39 Before using any fenced or otherwise enclosed lands for any of the purposes aforesaid, the Promoters shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates or cattle-guards as may be  
15 required by the said owner or occupier for the convenient occupation of such lands, and shall also erect across all private roads used by them as aforesaid such fences and gates or cattle-guards as may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or  
20 occupiers of such roads and lands and the promoters as to the proper kind of fences and gates or cattle-guards to be erected, the Promoters shall erect such fences and gates or cattle-guards as any Two Justices shall deem necessary for the purposes aforesaid, on application being made to them by either party: Provided that due notice of any such  
25 application shall be given to the other party, who shall have an opportunity of being present at the hearing thereof. Promoters to separate the lands before using them.

40 In case of accidents or slips happening, or being apprehended, to the cuttings, embankments, or other works of the said railway, it shall be lawful for the Promoters and their workmen and servants to  
30 enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every such case the Promoters shall within Forty-eight hours after such entry make a report to the Minister specifying the nature of such accident, or apprehended  
35 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  
40 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  
45 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. Power to enter upon adjoining lands to repair accidents, subject to certain restrictions.

50 41 It shall be lawful for the Promoters, and all persons by them authorised, after not less than Two nor more than Seven days' notice to the occupier or occupiers, to enter upon any lands, not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being  
55 nearer to the house of the owner of any such lands than One hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of any works authorised by this Act, or of the accommodation works connected therewith hereinafter Power to take temporary possession of land.

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mentioned, and to use the same for any of the following purposes; that is to say :—

For the purpose of constructing, building, or putting thereon any machinery (required for working the railway) :

For the purpose of taking earth or soil by side-cutting therefrom : 5

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 10

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 Promoters 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 : 15  
Provided always, that nothing in this Act contained shall exempt the Promoters 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 : Provided also, that no stone or slate-quarry, brick-field, or other like place which, at the time of the passing of this Act, shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same, shall be taken or used by the Promoters, either wholly or in part, for any of the purposes hereinbefore mentioned. 25 30

Compensation to be made for occupation.

**42** In any of the cases aforesaid, where the Promoters shall take possession of lands by virtue of the powers herein granted, it shall be incumbent on them, within One month after their entry upon such 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 Promoters so taking possession of his lands, and in the case of difference such compensation shall be ascertained by arbitration in the manner prescribed by "The Arbitration Act, 1892." 35

**PART VIII.****RESUMPTION OF PRIMARY LEASE AND PURCHASE OF RAILWAY.**

Minister may resume land upon notice.

**43** It shall be lawful for the Minister, with the consent of Parliament, at any time after the expiration of Twenty-one years from the date of the primary lease, or earlier if the Promoters so agree, or at any time after any renewal of the primary lease, to give the Promoters notice of the intention of the Crown to resume the land comprised in the primary lease at the expiration of Six months after the date of such notice, and to take and acquire the permanent way, rolling stock, and equipment of the said railway, and all land and buildings belonging thereto, and to compensate the Promoters as hereinafter provided. 40 45

Until such resumption or any forfeiture of the primary lease shall have taken place, all the rights, powers, privileges, benefits, concessions, advantages, and liabilities conferred or imposed upon the Promoters by this Act or by the primary lease shall, notwithstanding any such notice given by the Minister as aforesaid, continue in force in like manner and to the like effect as if such notice had not been given. 50 55

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

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Compensation upon resumption of land comprised in lease.



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

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

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

**46** If the Promoters 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.

If Promoters fail to appoint arbitrators.

**47** 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.

Vacancy in arbitrators.

**48** For the purpose of ascertaining the actual cost of the construction work under this Act, the Promoters 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 Promoters in the event of the land comprised in the primary lease and the works connected and used therewith being resumed, the amount of the accounts as passed by the Auditor-General shall be deemed to be the actual cost of the construction of the railway.

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

**49** The accounts of the Promoters 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.

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

**50** Upon the railway being completed and open for traffic no new works of construction in connection with the railway shall be commenced or carried out without the consent of the Governor in Council, and in the event of such works being carried out without such consent such works shall not be deemed construction work for the purpose of computing the amount of compensation upon the resumption or forfeiture of the primary lease as aforesaid.

New construction works to be approved by Governor in Council.

A.D. 1897.

(The undertaking of the Promoters vested in Minister upon payment of the purchase money.)



(C The railway, and all the right, title, and interest of the Promoters and of any person or persons claiming by, through, or under the Promoters in and to the same, and all the rights, privileges, powers, and advantages whatsoever affecting or appurtenant to the railway which are vested in, held, enjoyed, or possessed by or conferred on the Promoters or such person or persons, shall, upon payment of the purchase money thereof by the Minister, without the necessity of any transfer or connecting title other than this Act, be transferred to and become vested in and be held, enjoyed, possessed, used, and exercised by the Minister, freed and discharged from all claims and demands by or on the part of the Promoters or any other person whomsoever, in all respects in the same manner as the Promoters or such person or persons could have held, possessed, enjoyed, used, and exercised the same.)

## PART IX.

### LEVY AND RECOVERY OF TOLLS AND FARES, &c.

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

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

Rates and tolls.

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

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

45

Rates and tolls may be recovered.

53 In case default is made in payment of any money due and payable under the authority of this Act in respect of the carriage or conveyance of any passenger or any goods, merchandise, live stock, chattels, or other things of every description, or the demurrage or storage of any goods, merchandise, live stock, chattels, or other things of every description, the same may be recovered by the Promoters in a summary way before any Justice of the Peace; and it shall be lawful for the Promoters to detain the goods, merchandise, live stock,

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chattels, and other things of every description in respect of which such money is payable until the same shall have been fully paid and satisfied; and also if such goods, merchandise, or other things have been detained during a period of not less than Six months, to sell the same or so much thereof as may be necessary by public auction to be duly advertised, and to apply the proceeds in or towards satisfying the money so due and payable. A.D. 1897.

**54** Nothing in this Act contained shall extend to charge or make liable the Promoters further or in any other case than where according to the laws of this Colony stage-coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the Promoters of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but, on the contrary, they shall at all times be entitled to the benefit of every such protection and privilege. Promoters not to be liable to a greater extent than common carriers.

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

## PART X.

### PRIOR LEASES.

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

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.

**57** Before entering upon any land previously leased for the purpose of constructing any portion of the said Railway, the Promoters shall serve upon the first lessee a notice describing with all reasonable Notice of intention to make railway.

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accuracy, by means of a plan or otherwise, the proposed course, direction, or situation of the said railway.

The Promoters  
may enter after  
notice.

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

How notice may  
be served.

**59** In any case in which a notice is required to be served on the first lessee under this Act, the same shall be deemed to be duly served if such notice is served upon the person in charge of or occupying the land in respect of which such notice is given, or, if there be no person in charge of or occupying such land, or such person cannot be found, then such notice shall be deemed duly served upon proof of the same having been posted in some conspicuous place on the said land.

Compensation  
to first lessees.

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

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 which within One chain of the centre of any proposed line of railway under this Act shall, either before or after the passing of this Act, have been 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.

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

Commissioner  
may exercise  
power conferred  
on Justices.

**62** 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*.

Power to enforce  
attendance of  
witnesses.

**63** 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;

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and the amount thereof shall be recoverable in the same manner as A.D. 1897.  
costs ordered by a Justice of the Peace to be paid may be recovered  
under the said Act.

64 Either party to any proceeding before the Commissioner under Appeal.  
5 this Act may at any time within Twenty days after the Commissioner  
has given his decision thereon appeal to a Judge of the Supreme  
Court against the decision of the Commissioner, and such Judge may  
make such Order as to him shall seem fit and as to the costs of such  
appeal, and by and to whom the same are to be paid, and every such  
10 appeal shall be prosecuted in accordance with the rules made by the  
Judges for conducting appeals under "The Main Line Railway Amend-  
ment Act, No. 2," so far as the same shall be applicable.

## PART XI.

### ACCOMMODATION WORKS.

65 The Promoters shall make, and at all times thereafter maintain, Gates, bridges, &c.  
the following works for the accommodation of the owners and occupiers  
15 of lands adjoining the railway ; that is to say :—  
Such and so many convenient gates, cattle-guards, bridges, arches,  
culverts, and passages over, under, or by the sides of or leading  
to or from the railway as shall be necessary for the purpose of  
making good any interruptions caused by the railway to the use  
20 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 ;  
Also sufficient posts, rails, hedges, ditches, mounds, or other fences Fences.  
25 for separating the land taken for the use of the railway from  
the adjoining lands not taken, and protecting such lands from  
trespass, or the cattle of the owners or occupiers thereof from  
straying thereout by reason of the railway, together with all  
necessary gates made to open towards such adjoining lands and  
30 not towards the railway, and all necessary stiles ; and in the  
case of any fenced or otherwise enclosed land, such posts, rails,  
and other fences shall be made forthwith after the taking of any  
such lands, if the owners thereof shall so require, and the said  
other works as soon as conveniently may be ;  
35 Also all necessary arches, tunnels, culverts, drains, or other pas- Drains.  
sages, 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  
40 may be ; and such works shall be made from time to time as  
the railway works proceed ;  
Also proper watering-places for cattle where by reason of the Watering-places.  
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  
45 all times as sufficiently supplied with water as theretofore, and  
as if the railway had not been made, or as nearly so as may

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be ; and the Promoters shall make all necessary water-courses and drains for the purpose of conveying water to the said watering-places :

Provided always, that the Promoters shall not be required to make such accommodation works in such 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.

Differences as to accommodation works to be settled by Justices.

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

15

Execution of works by owners on default by the Promoters.

**67** If for Twenty-eight days next after the time appointed by such Justices for the commencement of any such works the Promoters 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.

25

Power to owners of land to make additional accommodation works.

**68** If any of the owners or occupiers of lands affected by such railway shall consider the accommodation works made by the Promoters, or directed by such Justices to be made by the Promoters, 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 Promoters, or in case of difference as shall be authorised by Two Justices of the Peace.

35

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

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

40

Accommodation works not to be required after Two years.

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

45

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

**71** Until the Promoters shall have made the bridges or other proper communications which, under the provisions herein contained, the Promoters are 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

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of such communication, and their respective servants, may at all times A.D. 1897.  
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  
5 same lands, or for the exercise of such right of way, and so as not to  
obstruct the passage along the railway, or to damage the same;  
nevertheless, if the owner or occupier of any such lands have in his  
arrangements with the Promoters received or agreed to receive com-  
pensation for or on account of any such communications, instead of the  
10 same being formed, such owner or occupier, or those claiming under  
him, shall not be entitled so to cross the railway.

72 If any person omit to shut and fasten any gate set up at either Penalty on  
persons omitting  
to fasten gates.  
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  
15 animals under his care have passed through the same, he shall forfeit  
for every such offence a sum not exceeding Ten Pounds.

## PART XII.

### COMPENSATION.

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

74 In estimating the amount of compensation for severance or In estimating  
compensation to  
be paid for land  
taken for railway,  
benefit to owner  
to be considered.  
otherwise to be paid to any person for or in respect of land or material  
25 taken or used for the purposes of the said railway, the arbitrators or  
umpire shall take into consideration the benefit that is likely to accrue  
to the person to whom such land or material belongs by reason of  
the construction of such railway, and the arbitrators or umpire, in  
awarding compensation to be paid for or in respect of such land or  
30 material, shall make such deduction for such benefit as shall be deemed  
just; and in case it appears to the arbitrators or umpire that the benefit  
likely to accrue to the person through whose land such railway is about  
to be taken is equal to or greater than the loss he will sustain by reason  
of the taking or using of his land or material for such railway, the  
35 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.

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

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Procedure upon  
appeal.

**76** If the dissatisfied party desires to appeal from the award of the arbitrators or umpire he shall, within Fourteen days after the delivery to him of such award or a copy thereof, give notice in writing to the other party of his intention to appeal, and shall, within One month after the service of such notice upon the opposite party, prosecute such 5 appeal in accordance with the rules made by the Judges for conducting appeals under "The Main Line Railway Amendment Act, No. 2," so far as such Rules are applicable, and the amount of compensation to be paid in any such case shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such con- 10 ditions as he sees fit to impose; and the Judge may also in his discretion make an order as to the party by whom the costs of the appeal shall be borne: Provided, that a Judge of the Supreme Court may, upon what he shall deem sufficient cause, allow an appeal to be prosecuted after the expiration of the time hereinbefore allowed for that 15 purpose; but no appeal shall be allowed after the expiration of Three months after the service of notice of intention to appeal.

(Security for  
costs.)

**(D)** Upon the application of any respondent, the Court or a Judge sitting in Chambers may at any time order security for costs to be given by the appellant to such amount and in such manner as to the 20 Court or a Judge shall seem fit and proper.)

(Award not to be  
made a Rule of  
Court until Judge  
determine matter  
in dispute.)

**(E)** Where the dissatisfied party gives such notice of appeal as aforesaid, then the award given by the arbitrators or the umpire shall not be made a Rule of Court until a Judge of the Supreme Court, by an Order in writing under his hand, determines the matter in 25 dispute, or the time hereinbefore allowed for prosecuting the appeal has expired.)

(Compensation  
for diverting  
water to be ascer-  
tained by action  
in the Supreme  
Court.)

**(F)** Where any claim for compensation involves damage alleged to have been sustained by reason of the taking, or diversion, or appropriation of any water, and the right of the claimant in or to 30 such water is disputed by the Promoters, if the Promoters, within Fourteen days after the service of the notice of the claim, give notice to the claimant that his right in or to such water is disputed, then such claim shall not be determined by arbitration, but shall be determined by an action before a Judge of the Supreme Court, to be 35 brought by the claimant against the Promoters for damages, or upon an issue agreed to between the claimant and the Promoters.)

## PART XIII.

## GRANTS OF LAND.

Promoters to  
acquire right to  
mark off land  
for grants.

**77** Upon the deposit of the plans, specifications, and sections of the Railway mentioned in Section Four hereof with the Minister, as 40 hereinbefore provided, the Promoters shall acquire the right to mark off in [one or more] blocks (not less than One thousand acres and not exceeding Five thousand acres in each) and in the manner hereinafter prescribed such quantity of land, not exceeding in the whole a total area of Fifty thousand acres, as the Promoters shall from time to time 45 within Five years from the passing of this Act select along the line of the said Railway, [or any extension thereof, or any branch line or lines.] (defined in Section Four,) in the manner hereinafter directed, and to apply for grants thereof in accordance with the provisions in that behalf contained in this Act. -



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**[78]** Every block of land marked off by the Promoters under the authority of this Act shall be selected within a distance of Five miles from either side of the line of the said Railway, or of the extension or branch line, as the case may be.] A.D. 1897.

How blocks to be selected.

5 **(78)** Every block of land marked off by the Promoters under the authority of this Act shall have a frontage on the said Railway, and shall for the whole length of such frontage abut on the said Railway : such frontage shall not exceed Three miles in the case of any block, and the depth from the said Railway of any block shall in no case  
10 exceed Five miles.

No block on either side of the said Railway shall be nearer than Three miles from the nearest boundary of any other block on the same side of the Railway.)

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

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

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

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

**81** Every application by the Promoters for a grant of any block of land marked off under the authority of this Act shall be made as  
25 nearly as possible in the form prescribed by the Regulations made under "The Mining Act, 1893," and shall be deposited with the Minister within thirty days after the land has been marked off.

Applications for grants.

**82** After a block of land has been marked off by the Promoters under the authority of this Part of this Act, it shall not be lawful for  
30 any other person to mark off, or enter upon, or to occupy or select such block of land, or any portion thereof, under the provisions of any other Act relating to the disposal or occupation of Crown lands or otherwise during the pendency of the application of the Promoters for a grant thereof ; and any person who shall mark off or enter upon or  
35 occupy such block of land or any part thereof contrary to the provisions of this Act shall forfeit and pay to the Promoters a penalty not exceeding Twenty Pounds.

Land marked off by the Promoters to be protected during pendency of application for a grant.

**83** Upon the completion and opening of the said railway for traffic, it shall be lawful for the Governor to issue to the Promoters a grant of  
40 each block of land duly marked off and applied for under the provisions of this Act, together with all minerals therein and thereon, upon the terms and conditions following ; that is to say—

Upon completion of railway Minister may issue grants to the Promoters.

- I. That the Promoters shall keep a correct and complete record of all gold and minerals obtained from every block of land granted to the Promoters under the provisions of this Act.
- 45 II. That the Promoters shall furnish to the Minister twice at least in every year a full and correct return of all gold and minerals obtained from every block of land granted to the Promoters under the provisions of this Act.
- 50 III. That the Promoters shall pay to the Minister for the use of Her Majesty royalties upon all gold and minerals obtained

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- from every block of land granted to the Promoters under the provisions of this Act at the rate of [Two and a half per centum of the gross value thereof on the ground] (Four Pounds for every Hundred Pounds of the net profits made by the Promoters upon all such gold and minerals). 5.
- iv. That the said royalties shall be paid twice at least in every year.
- v. That the Governor may from time to time appoint such person or persons as he thinks fit with full power and authority to enter upon any block of land granted to the 10 Promoters under the provisions of this Act, and to ascertain what use the Promoters are making of the said block of land or any portion thereof, and what mining or other operations are being conducted thereon.
- vi. That for the purpose of ascertaining whether any and what 15 royalties are payable in respect of any gold or minerals obtained from any block of land granted to the Promoters under the provisions of this Act, or from any portion thereof, the Governor may from time to time appoint such person or persons as he thinks fit with full power to enter 20 into any of the offices of the Promoters, and to examine and audit all books of account of the Promoters.
- vii. That the Governor in Council shall be empowered without compensation to resume from any grant under this Act any land required for roads, mining easements, or other public 25 purposes.

## PART XIV.

## FORFEITURE OF THE PRIMARY LEASE.

If Promoters guilty of breaches of lease or of Act, the Attorney-General may move Supreme Court to declare lease forfeited.

**84** If the Promoters shall be guilty, without reasonable cause, of any breach of any of the conditions, provisions, or stipulations of the primary lease, or of any of the provisions of this Act, and such breach shall continue after reasonable notice shall have been given by the 30 Governor in Council to the Promoters to put an end to or remedy the same, the Attorney-General may, when and so often as any such breach may happen, apply to the Supreme Court for a Rule calling upon the Promoters to show cause, on a day to be mentioned in such Rule, why the primary lease should not be declared forfeited upon 35 such grounds as may be set forth in such Rule; and such Rule may be served upon the Promoters or any other person having the management of the affairs of the Promoters in *Tasmania*, either personally or by leaving the same at the last known place of business of the Promoters in *Tasmania*, and, being so served or left as aforesaid, such 40 Rule shall be deemed for all purposes to have been duly served on the Promoters, as the case may be.

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

**85** If on the hearing of such Rule the Court shall be satisfied, either by affidavit or otherwise, that the Promoters have been guilty, without reasonable cause, of any of the breaches of the conditions, 45 provisions, or stipulations in the primary lease or of this Act set forth in the said Rule, and that any such breach has continued after such reasonable notice as is mentioned in the immediately preceding Section has been given, the said Court may, and is hereby authorised and empowered, to order and declare such lease to be forfeited, and there- 50

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upon (except as hereinafter mentioned) such lease shall become absolutely null and void. A.D. 1897.

Provided, that the Court upon the hearing of any such Rule may, if it shall consider that the justice of the case would be met by so doing, instead of ordering the forfeiture of the said lease as aforesaid, order the Promoters 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 conditions, provisions, or stipulations of the primary lease or of this Act. And the said Court may also make such Order as to the cost 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.

15 **86** 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 Promoters such time as to the Court may seem reasonable for the purpose of enabling the Promoters to file such affidavits as may be considered necessary in opposition to the ground set forth in the said Rule, and  
20 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  
25 may direct one or more issue or issues to be tried by a jury in the like manner as issues directed by the Court in its Equitable Jurisdiction are tried.

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

and may order issues to be tried by a Jury.

**87** If the said Court shall order the primary lease to be forfeited as hereinbefore mentioned, it shall nevertheless be lawful for the Governor, with the advice of the Executive Council, on the Address of both Houses of Parliament, to waive such forfeiture upon the payment of such sum or sums of moneys, and upon such other terms and conditions as by such address may be suggested; and upon payment of such sum or sums of money, and compliance by the Promoters with such other terms and  
35 conditions as aforesaid, the primary lease shall be of the like force and effect as if such Order of the Court had not been made. (No waiver of forfeiture shall be construed to prevent any subsequent application to the Court for forfeiture for any subsequent breach of the provisions of the primary lease or of this Act.)

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

40 **88** The Minister may, with the consent of Parliament, upon such forfeiture as aforesaid make to the Promoters (such) fair and reasonable compensation (as Parliament may determine) for all construction work of the Promoters under the authority of this Act or of the primary lease, and for the rolling stock, equipment, goods, and chattels of the  
45 Promoters used or intended for use in connection with the said railway according to the value thereof at the time of such forfeiture, [and such compensation shall in case of difference or dispute be determined in like manner as is provided in Sections Forty-five, Forty-six, and Forty-seven.] Provided that in no case shall such compensation exceed the  
50 amount actually paid by the Promoters for such construction work, rolling stock, equipment, goods, and chattels, nor the value of the same at the time of such forfeiture.

Compensation to Promoters upon forfeiture.

[Private.]

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Upon resumption  
&c. railway vested  
in Minister.

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

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## PART XV.

### PROMOTERS MAY ASSIGN OR MORTGAGE, &c.

Promoters may  
raise money by  
mortgage.

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

25

Promoters may  
let tolls, &c.

**91** It shall be lawful for the Promoters from time to time, with the consent of the Governor in Council, to let the said railway and the said tolls, rates, fares, and charges, together with all or any equipment or rolling stock of the Promoters; and during the continuance of any such letting the person to whom the same shall be let, or the person or persons by him appointed, are hereby empowered to demand, levy, and take the said tolls, rates, fares, and charges, and to use the said equipment and rolling stock, and to manage the railway and works of the Promoters in like manner, and shall have the like remedies and rights, and be subject to the like liabilities in respect of the same, as the Promoters would have been empowered, or would have had, and would have been subject to, but for such letting.

Power to assign  
and transfer  
rights, &c.

**92** It shall be lawful for the Promoters, with the consent of the Governor in Council, at any time, by deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, concessions, and advantages conferred upon the Promoters by this Act or by the primary lease or any other lease issued hereunder 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 Promoters, and shall have all the liabilities, rights, powers, privileges, benefits, concessions, and advantages, including the power of assignment, conferred upon the Promoters by this Act.

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**PART XVI.****PROMOTERS MAY ERECT TELEGRAPHS AND TELEPHONES.**

**93** The Promoters may construct, maintain, and work and use for their own profit along the route of the said railway, and along the route of any branch line of railway which the Promoters are by this Act authorised to construct, and along, over, and across any Crown Lands and roads, one or more lines of Electric Telegraph and Telephones, (for the use of the railway only) or any electrical works or machinery for the generation and transmission of electricity as a motive power; [but Government messages shall have priority on such lines of Telegraph and Telephones, if required; and subject to the use of such lines of Telegraph and Telephones by the Promoters, and to the priority (if claimed) of Government messages, such lines of Telegraph and Telephones shall be open for receiving and sending messages by all persons without preference or favour, and at the same rates as those charged for like Messages on Government lines of Telegraph and Telephones; Provided that the Minister may at any time, with the consent of the Governor in Council, prohibit the Promoters from using such lines of Telegraph or Telephones for profit.]

Promoters may  
construct  
Telegraphs, &c.

**94** The Government may affix telegraphic and telephonic wires upon any posts erected by the Promoters along the route of the said railway or along the route of any branch line of railway which the Promoters are by this Act authorised to construct, and maintain and such wires for the purposes of telegraphic and telephonic communication.

Government may  
affix wires.

(The Promoters shall, at the request of the Government, allow all messages to be sent over such wires upon the payment to the Promoters of such compensation and upon such terms and conditions as may be agreed upon between the Promoters and the Government, or, failing agreement, then upon payment of such compensation and upon such terms and conditions as may be settled by arbitration in the manner provided in Part VIII. of this Act.)

**PART XVII.****POWER TO DIVERT WATER.**

**95** Subject to the provisions of this Act, it shall be lawful for the Promoters, and they are hereby empowered and authorised, to take, divert, and appropriate, for any of the purposes of this Act, from any rivers along the proposed line of railway, at so many and such points upon such rivers 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 sufficient to develop an aggregate of Fifteen thousand brake horse-power; and the Promoters may from time to time enter upon any such rivers, 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 any works, dams, weirs, flumes, or races for the purposes of

Power to divert  
water.

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such taking, diversion, and appropriation of the water of any such rivers.

Provided always, that the water taken from any river 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. 5

Provided also, that the Promoters 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 10 from time to time be fixed for diverting and taking water from any river or stream for generating motive power under any Regulations from time to time made by the Governor in Council for the purposes of this Act or under the provisions of any present or future law regulating the diverting and use of such water for such purposes; 15 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 Promoters shall have and may exercise the powers conferred by "The Mining Act, 1893." 20

Power to take water to be subject to Regulations.

96 The powers hereinbefore conferred upon the Promoters 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 25 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 Promoters for water diverted or taken by them under the provisions of the last preceding 30 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.

97 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 35 provisions of any Act relating to mining or to the disposal of mineral lands to make Regulations thereunder.

Existing rights reserved.

Plans to be submitted to Minister and approved by him.

98 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 Promoters shall take or 40 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.

Water to be returned to rivers.

99 All water taken, diverted, and appropriated by the Promoters 45 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 Promoters from any of the said rivers until the return of such water to the same river or 50 rivers has been provided for.



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**100** It shall be lawful for the Promoters to use all or any of the waters aforesaid for any of the purposes hereinafter specified—

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- 5 To work any machinery that may be erected by the Promoters for generating, making, transmitting, and supplying electricity or other motive power to the railway [or other works] authorised by this Act, and to the lands which the Promoters are by Part XIII. of this Act empowered to select.

Power to use water.

Purposes for which water may be taken.



- 101** 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 Vict. No. 22 extended.

## PART XVIII.

## BY-LAWS.

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

Power to make By-laws.

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

By-laws may be enforced by penalties.

- 104** All such By-laws relating to other persons than the servants and officers employed upon the said railway, not being tables of the charges for the conveyance of passengers, goods, merchandise, chattels, live stock, and other things thereon, shall be published in the *Gazette*; and all such By-laws shall be printed in legible letters and exhibited in some conspicuous place in the principal office of the railway, and at every station on the said railway, and be open to inspection without fee or reward; and in case any person wilfully obliterated any of the

By-laws to be published.

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- A.D. 1897. letters or figures thereon, or wilfully prevents the same being inspected at some reasonable time, he shall for every such offence be liable to a penalty not exceeding Five Pounds.
- By-laws to be binding. **105** 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.
- Proof of By-laws. **106** The production of a copy of the said By-laws purporting to have been made as aforesaid shall be accepted as proof thereof in all proceedings in any Court of Law or Equity in which the existence or validity of any such By-laws shall be in question; and *prima facie* evidence of any such By-laws may be given in all Courts of Justice and in all legal proceedings whatsoever by the production of a copy of the *Gazette* purporting to contain any such By-laws.
- By-laws to be laid before Parliament. **107** All By-laws made by the Promoters 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.

## PART XIX.

## MISCELLANEOUS.

- Promoters may purchase other railways to form part of railway constructed under this Act. **108** If the Promoters shall at any time purchase any line or any portion of any line of railway, and convert the same into a portion of the railway which the Promoters are by this Act authorised to construct as aforesaid, the line or portion of line of railway so purchased and converted by the Promoters as aforesaid shall be deemed to have been constructed by the Promoters under the authority of this Act, and to be a portion of the railway which the Promoters are by this Act authorised to construct, and shall be subject to all the provisions of this Act.
- This Act not to prevent Minister constructing railway. **109** Nothing contained in this Act, or in any lease issued hereunder, shall be deemed to prevent the Minister of Lands and Works from constructing any line of railway or tramway which Parliament may at any time hereafter authorise in the vicinity of or adjacent to the said line of railway.
- Minister may refuse to grant Mining Easement under 57 Vict. No. 24 within Ten miles of railway. **110** Notwithstanding anything contained in "The Mining Act, 1893," or in any other Act, the Minister may refuse to grant to any applicant any Mining Easement to construct and use any tramway in, through, or upon any Crown lands within a distance of Five miles of any part of the said railway except upon such conditions as to the construction and working of such tramway as the Minister may think fit to impose; but this Section shall not apply to any application for a Mining Easement to construct and use any tramway which shall be *bonâ fide* used only for the more convenient and advantageous working of any section of mineral land held or occupied by the applicant, and not in any way for carrying goods or passengers for hire, or for carrying metals or minerals from or to any land held or occupied by any person other than the applicant, or for carrying metals or minerals obtained from any land held or occupied by any person other than the applicant.

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**111** Until the primary lease shall be issued the Promoters shall have all the rights, powers, privileges, benefits, concessions, advantages, and liabilities conferred or imposed upon it by this Act so far as the same shall be necessary for the survey and construction of the said railway. And if the Promoters shall be guilty of any breach of any of the provisions of this Act at any time before the primary lease shall be issued, the Attorney-General, when and so often as any such breach shall happen, may apply to the Supreme Court, as provided in Section Eighty-four, for a rule calling upon the Promoters to show cause why they should not forfeit all the powers, rights, benefits, and privileges conferred upon them by this Act; and all the provisions of Part XIV. of this Act shall apply to every such breach of any of the provisions of this Act as is mentioned in this Section, and to every application made to the Court under this Section, in the same manner as if the primary lease had been issued.

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Promoters to have all powers of this Act before grant issued.

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

Penalty for damage to instruments, railway, &c.

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

Mineral land exempt from Land Tax.

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

Promoters' Attorney may act for Promoters.

**115** In the event of any dispute, question, or difference arising between the Promoters and the Minister, or any official to whom any powers are given by this Act, in regard to any of the powers hereby conferred upon the Minister or such official, or the manner in which any such power should be exercised, the same may be settled [summarily by a Judge of the Supreme Court] (by arbitration in the manner provided in Part VIII. of this Act.)

Settlement of certain disputes.

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

Offences to be dealt with summarily. 19 Vict. No. 8.

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A.D. 1897. . . . . **117** Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act or any such By-law, which is recoverable in a summary manner, may, unless otherwise expressly provided, appeal against the same in the mode prescribed by *The Appeals Regulation Act.* 5

Appeal from penalties.

19 Vict. No. 10.

Regulations.

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

- i. For prescribing the form of any notice required by this Act, and the mode of service thereof, and the persons upon whom the same may be served : 10
- ii. For prescribing the mode in which proceedings shall be taken before the Commissioner, and for regulating the practice and procedure before him, and for the fees to be paid thereon :
- iii. For prescribing the mode in which appeals shall be brought before the Supreme Court or a Judge thereof : 15
- iv. For determining the person or persons whose receipt for compensation money, or whose signature to any agreement for compensation shall be binding.

(Twelve)

Promoters to deposit £3000.



\*(Five)

**119** The Promoters shall, within [Six] months after the passing of this Act, place at interest on fixed deposit, the sum of [Three]\* thousand 20 Pounds, in the name of the Treasurer of the Colony, in some bank in *Tasmania* to be approved by the said Treasurer, and shall deliver to the Treasurer the deposit receipt for such sum.



\*(Five)

The Promoters shall be entitled to the interest on such deposit of [Three]\* thousand Pounds during the period it remains in the name of 25 the Treasurer in such bank as aforesaid.

The Treasurer shall transfer or deliver the said deposit receipt to the Promoters as soon as the Minister shall report to him that the said railway has been constructed to the extent of Five miles in accordance with the provisions of this Act, and shall do any Act reasonably required 30 to enable the Promoters to obtain payment of the said deposit.



\*(Five)

If the said railway shall not be so constructed to the extent of Five miles within Two years from the passing of this Act, the said sum of [Three]\* thousand Pounds and all interest accruing thereon shall be absolutely forfeited to Her Majesty and shall become part of the 35 Consolidated Revenue Fund of the Colony.

In the event of the said sum of Three thousand Pounds not being deposited as hereinbefore mentioned, all rights, powers, privileges, and concessions conferred upon the Promoters by this Act shall be absolutely void and of no effect. 40