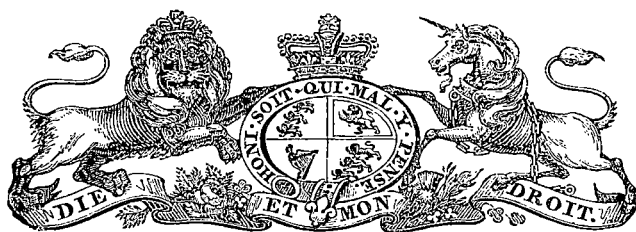


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PARLIAMENT OF TASMANIA.

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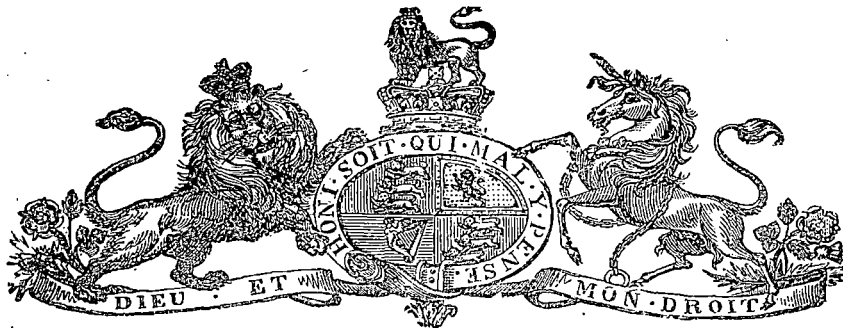
THE GREAT MIDLAND AND WEST COAST  
RAILWAY BILL, 1898, (PRIVATE):

REPORT OF SELECT COMMITTEE, WITH MINUTES OF PRO-  
CEEDINGS, AND BILL AS PROPOSED TO BE AMENDED.

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Brought up by Mr. M. J. Clarke, July 8, 1898, and ordered by the House of  
Assembly to be printed.

Cost of printing—£10 15s.



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

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MEMBERS OF THE COMMITTEE.

MR. MINISTER OF LANDS AND WORKS.  
MR. BRADLEY.  
MR. GILMORE.  
MR. MILES.

MR. HALL.  
MR. MACKENZIE.  
MR. M. J. CLARKE.  
MR. RONALD SMITH.

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DAYS OF MEETING.

Friday, November 26; Monday, November 29; Wednesday, December 1; Thursday, December 2; Friday, December 3; Wednesday, December 8; Friday, December 10; Wednesday, December 15, 1897; and Thursday, June 30; Friday, July 1; Wednesday, July 6; Thursday, July 7; Friday, July 8, 1898.

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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.

MATTHEW J. CLARKE, *Chairman*.

*Committee Room, House of Assembly, 8th July, 1898.*

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## MINUTES OF PROCEEDINGS.

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THURSDAY, JUNE 30, 1898.

The Committee met at 11 o'clock.

*Present.*—Mr. M. J. Clarke (Chairman), Mr. Gilmore, Mr. Hall, Mr. Mackenzie, and Mr. Ronald Smith.  
The Committee deliberated.

At 11-20 the Committee adjourned till 2 o'clock.

The Committee met again at 2 o'clock.

*Present.*—Mr. M. J. Clarke (Chairman), Mr. Gilmore, Mr. Hall, Mr. Mackenzie, and Mr. Ronald Smith.  
The Committee deliberated.

The Committee adjourned till half-past 2 to-morrow.

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FRIDAY, JULY 1, 1898.

The Committee met at half-past 2 o'clock.

*Present.*—Mr. Bradley, Mr. M. J. Clarke (Chairman), Mr. Gilmore, Mr. Hall, and Mr. Mackenzie.

The Minutes of last Meeting were read and confirmed.

The Committee entered upon the consideration of the Bill.

Preamble agreed to.

Clauses 1 to 4 agreed to.

Clause 5.

Amendments made :—

Page 5, line 6, after "contained," by striking out "and noted in Schedule (1.) of this Act."

Page 5, line 21, after "behalf," by inserting "and failing such agreement, then in accordance with such terms and conditions as may be settled by arbitration in conformity with the provisions of 'The Arbitration Act, 1892,' or any statutory modification thereof which may be in force for the time being."

Page 5, line 28, after "Postmaster-General," by inserting "and failing such agreement, then in accordance with such terms and conditions as may be settled by arbitration in conformity with the provisions of 'The Arbitration Act, 1892,' or any statutory modification thereof which may be in force for the time being."

Page 5, line 40, after "manner," by inserting "to the satisfaction of the Minister, who shall be the sole judge of such *bona fides*."

Clause as amended agreed to.

Clauses 6 and 7 agreed to.

Clause 8.

Amendment made, page 7, line 10, after "lease," by adding "Provided always that no branch line of railway (other than a branch from the said railway to a terminus within the boundaries of any land to be granted to the Promoter as hereinafter mentioned), shall be sanctioned by the Governor in Council until such branch shall have been first authorised by a resolution of both Houses of Parliament."

Clause as amended agreed to.

Clauses 9 to 14 agreed to.

Clause 15.

Amendments made :—

Page 8, line 27, after "gauge," by striking out to end of Clause, and inserting "of Three feet Six inches from its starting point to a point at or near West Mount Pelion to be approved by the Minister, and thence a gauge of either Two feet or Three feet Six inches, at the option of the Promoter. When the gauge is 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 adhesive, or steeper than One in Twelve where the Abt, Fell, or other approved system may be sanctioned by the Minister. When the gauge is 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."

Clause as amended agreed to.

Clause 16.

Amendment made by striking out the Clause and inserting the following new Clause in lieu thereof :—"The said railway shall be constructed in a substantial manner fit for the carriage of vehicles at an average rate of not less than Fifteen miles per hour, with a load of not less than Four tons upon each axle of every vehicle when the gauge is Three feet Six inches, and at an average rate of not less than Ten miles per hour with a load of not less than Four tons upon each axle of every vehicle when the gauge is Two feet, and shall be maintained and worked by the Promoter 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."

New Clause agreed to.

Clauses 17 to 34 agreed to.

Clause 35 postponed.

Clauses 36 to 49 agreed to.

The Committee adjourned till half-past 10 o'clock on Wednesday next.

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## WEDNESDAY, JULY 6, 1898.

The Committee met at half-past 10 o'clock.

*Present.*—Mr. Bradley, Mr. M. J. Clarke (Chairman), Mr. Gilmore, Mr. Hall, and Mr. Mackenzie.

The Committee deliberated.

The Committee adjourned till half-past 2 to-morrow.

## THURSDAY, JULY 7, 1898.

The Committee met at half-past 2 o'clock.

*Present.*—Mr. M. J. Clarke (Chairman), Mr. Gilmore, Mr. Hall, Mr. Mackenzie, and Mr. Bradley.

Clauses 50 to 82 agreed to.

Clause 83.

Amendments made:—

Page 25, line 27, after "exceeding," by striking out "Seven," and inserting "Six."

Same line, after "containing," by striking out "Seventy," and inserting "Fifty."

Page 25, line 33, after "line," by inserting "of an equal width from due east to west, and the eastern and western boundaries thereof shall run due north and south, and the back lines due east and west."

Clause, as amended, agreed to.

Clauses 84 to 99 agreed to.

Clause 100.

Amendment made, page 32, line 18, after "of," by striking out "Thirty," and inserting "Twenty."

Clause as amended agreed to.

Clauses 101 to 105 agreed to.

Clauses 106 and 107 postponed.

Clauses 108 to 169 agreed to.

The Committee adjourned till half-past 2 on Friday next.

## FRIDAY, JULY 8, 1898.

The Committee met at half-past 2 o'clock.

*Present.*—Mr. Bradley, Mr. M. J. Clarke (Chairman), Mr. Gilmore, Mr. Hall, and Mr. Mackenzie.

The Minutes of the last three Meetings were read and confirmed.

Clauses 170 and 171 agreed to.

Schedule (1) disagreed to.

Postponed Clause 35.

Amendment made, page 14, line 17, after "of," by striking out "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," and inserting "the cost of working any junction or joint-stations, and such share shall be fixed by agreement from time to time between the Minister and the Promoter in that behalf, and failing such agreement, the said share shall, in such case, be settled by arbitration in conformity with the provisions of 'The Arbitration Act, 1892,' or any statutory modification thereof which may be in force for the time being."

Clause as amended agreed to.

Postponed Clauses 106 and 107 agreed to and transferred, to follow Clause 41.

New Clause A (Minister may authorise construction of Public Road across Railway) brought up and read the First time—

"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 Promoter, 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."

Read the Second time and made part of the Bill (to follow Clause 24).

Mr. Ronald Smith took his seat.

Draft Report brought up and agreed to.

The Committee adjourned *sine die*.

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**As amended by the Select Committee.**

A

# B I L L

TO

Authorise *Robert James Sadler* to construct, A.D. 1897.  
maintain, and work a Railway from some  
point on the *Chudleigh* Railway to the  
West Coast of *Tasmania*, and for other  
purposes.

**W**HEREAS *Robert James Sadler*, who is hereinafter designated PREAMBLE.  
by the expression "the Promoter," is desirous of acquiring the right to  
construct, maintain, and work a Railway from a point in or near *Mole*  
*Creek*, on the *Chudleigh* Railway, or some other point on that Railway,  
5 to a point within the Western Mining Division of *Tasmania*; and to  
construct and maintain Machinery and Works and other appliances  
for treating Ore, and for generating, making, and transmitting Elec-  
tricity or any Motive Power; and to control and manage the said  
Works:

10 And whereas such objects cannot be obtained without the authority  
of Parliament:

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:—

15 1. This Act is divided into Twenty-two Parts, as follows:—

Division of Act.

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

[*Private.*]

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

*Great Midland & West Coast Railway Company.* [61 VICT.]

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Part IX.—Levy and Recovery of Tolls, Fares, &c.	
Part X.—Prior Leases.	
Part XI.—Accommodation Works.	
Part XII.—Compensation.	
Part XIII.—Lease of Lands.	5
Part XIV.—Forfeiture of Primary Lease.	
Part XV.—Power to assign or mortgage.	
Part XVI.—Telegraphs and Telephones.	
Part XVII.—Power to divert Water.	
Part XVIII.—Construction of Works.	10
Part XIX.—Supply of Electric Power.	
Part XX.—Protection of Public Telegraphic and Telephonic Lines.	
Part XXI.—By-laws.	
Part XXII.—Miscellaneous.	15

## PART I.

## TITLE AND INTERPRETATION.

Short title.

**2** This Act may be cited for all purposes as “The Great Midland and West Coast Railway and Ore-reduction Company Act.”

Interpretation.

**3** In this Act, and in any By-law or Regulation made under it, save where there is something in the context inconsistent therewith, the following words and expressions shall have and include the following meanings attached thereto respectively :—

- “Company” shall include every company, association, partnership or firm, whether corporate or unincorporate, and wheresoever and howsoever incorporated, associated, or formed : 25
- “Conductor” shall mean and include cable, wire, or other apparatus for transmitting electrical power :
- “Conduit” shall mean and include the canals, tunnels, aqueducts, cuttings, pipes, or wires by means of which the main supply of electricity or other power is supplied to any town, person or persons, building or property : 30
- “Crown Lands” or “Crown Land,” as used in connection with 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 have not been and are not dedicated to some public use, and includes all lands of the Crown which are or may be occupied for pastoral or mining or other purposes under any lease or licence issued or applied for in pursuance of any Act of Parliament of this Colony : 40
- “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*, and published in *The Hobart Gazette* of the First day of *November*, 1884 : 45
- “First Lessee” shall mean any person entitled to occupy any land previously leased under the authority of any Act of the Parliament of *Tasmania* :
- “Goods” shall mean and include merchandise, goods, minerals, chattels, live stock, and all other things of every description : 50

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- “Land previously leased” shall mean land comprised in any lease or licence issued in pursuance of any Act of Parliament of this Colony :
- 5 “Local authority” shall mean the Board of Health, Municipal Council, Road Trust, Town Board, or body of persons or person having the control or management of the road or street in respect of which such expression shall be used, if the same shall be used in respect of any particular road or street ; but if the same shall not be used in respect of any
- 10 road or street, it shall mean the Municipal Council, Road Trust, or body corporate having the local government of any city, town, or district in which any of the works hereby authorised may be situate, or, in default of any such local authority, the Commissioner of Crown Lands :
- 15 “Machinery” shall mean any appliance for carrying into effect any of the objects authorised by this Act :
- “Meter” shall mean any instrument, apparatus, or appliance for measuring and ascertaining the quantity of water, water-power, motive power, or electricity used or supplied to any
- 20 person :
- “Minister” shall mean the Minister of Lands and Works for the time being of the Colony of *Tasmania* :
- “Motive power” shall mean the power derived from water passing through or acting upon machinery, or the electrical power derived therefrom ; also power derived from combustible material, however used, or from water :
- 25 “The Mining Act, 1893,” shall include any statutory modification thereof, and also any Regulations made under any such Act, or any form prescribed by any such Regulation :
- 30 “Owner” shall mean the person for the time being in the actual receipt of or entitled to receive the rents and profits of any house, manufactory, or building of whatsoever kind, or any land :
- “Person” shall include corporation, company, association, syndicate, firm, partnership, and local authority :
- 35 “Private lands” shall mean any land which shall have been granted by the Crown in fee simple or contracted to be sold by the Crown to any person :
- “Promoter” shall mean *Robert James Sadler* and his assigns :
- 40 “Property” shall mean lands or buildings, and land and buildings :
- “River” shall mean any river, stream, or watercourse or any part thereof which contains not less than Ten sluice heads of water at lowest summer level :
- 45 “Road or Street” or “Public Road or Street” shall include any railway, or tramway and public and common highway, main road, road, bridge, footway, square, court, alley, lane, thoroughfare or public way, place, or passage :
- “The Commissioner” shall mean any one of the Commissioners of Mines for *Tasmania* :
- 50 “The Primary Lease” shall mean the lease made under Section Four of this Act or any renewal thereof :
- “Gazette” shall mean *The Hobart Gazette* :
- 55 “The said Railway” or “the Railway” shall mean the line of railway and any extensions, branches, and deviations thereof, authorised to be constructed under the authority of this Act, and the permanent way thereof, together with all works, buildings, stations, and erections erected or built on or connected with the said railway, and all rolling-stock

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and all land upon which the same are respectively constructed, erected, or built, and all lands, rights, and privileges used in connection therewith or vested in the Promoter for the purposes of this Act :

“Works” or “Waterworks” means and includes all reservoirs, 5  
wells, cisterns, tanks, aqueducts, watercourses, tunnels, shafts, feeders, drains, channels, machinery, engines, cuts, floodgates, sluices, dams, weirs, flumes, races, conduit pipes, pipe-breaks, buildings, pen stocks, conduits, cables, poles for carrying cables and wires, and other works of what 10  
kind soever which are from time to time necessary or used for effecting the purposes of this Act :

“Other Works” or “other Works authorised by this Act” shall mean and include ore reduction and smelting works, subsidiary tramways, desiccation works, power supply works 15  
for electricity for any purpose, and all mining plant and machinery of every description.

## PART II.

## THE PRIMARY LEASE.

Lease may be granted for purpose of constructing railway and other works.

4 It shall be lawful for the Minister, with the consent of the Governor in Council, notwithstanding anything contained in “The Mining Act, 1893,” or in any other Act, to grant to the “Promoter,” 20  
for a term of Thirty years from the date of this Act, 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 on the *Chudleigh* Railway to be approved by the Minister to 25  
some point within the Western Mining Division to be approved by the Minister, and also such area of Crown Land for all stations, sidings, crossings, side-cuttings, cuttings, embankments, spoil-banks, and ballast, and other conveniences in connection with the said railway as may be proper and necessary for the carrying out of the object of 30  
this Act, subject to such covenants, terms, and conditions, as to the Governor in Council may seem fit, together with the right to take, divert, and appropriate such quantity of water upon the terms and conditions hereinafter provided, free of cost, as shall be sufficient to generate the power required by the Promoter for the working of the 35  
said railway.

Conditions and stipulations of lease.



5 The primary lease, in addition to providing for the construction, maintenance, and working of the said railway in accordance with the stipulations and conditions hereinafter contained, [and noted in Schedule (1.) of this Act,] and in accordance with such other conditions and 40  
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—

1. For the junction of the said railway with the *Chudleigh* Railway, and the passage over or along the said railway 45  
of any motors, engines, carriages, waggons, or other vehicles of the *Chudleigh* Railway, or for the haulage of such motors, engines, carriages, waggons, and vehicles respectively, and for the conveyance of goods and passengers over the said railway in any such carriages, waggons, or 50  
other vehicles as aforesaid, in accordance with the terms and conditions of any agreement that may from time to



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time be made between the Minister and the Promoter in that behalf: (and failing such agreement, then in accordance with such terms and conditions as may be settled by arbitration in conformity with the provisions of "The

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5

Arbitration Act, 1892," or any statutory modification thereof which may be in force for the time being:)

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

10

iii. That the Promoter shall carry on the said railway all mails which the Postmaster-General shall require him to carry thereon, for such reasonable compensation as may from time to time be agreed upon by him and the Postmaster-General: (and failing such agreement, then in accordance with such terms and conditions as may be settled by arbitration in conformity with the provisions of "The Arbitration Act, 1892," or any statutory modification thereof which may be in force for the time being:)

15

iv. For 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 :

20

v. That in the event of any of the contingencies hereinafter mentioned the said lease shall be forfeited, viz. :—

25

(a) If any of the covenants or conditions contained in the said lease and to be performed or observed by the Promoter is not duly performed and observed :

30

(b) If the construction of the railway is not commenced in a *bona fide* manner (to the satisfaction of the Minister, who shall be the sole judge of such *bona fides*) within Eighteen months from the date of this Act, and such construction continued to the satisfaction of the Governor in Council :

35

(c) If the said railway is not completed, fully equipped, and ready for traffic, to the satisfaction of the Governor in Council, within Five years from the date of this Act :

40

(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 :

45

(e) If the Promoter does not provide and maintain engines and rolling stock sufficient for the conveyance of passengers and the tonnage which may be offered for carriage on the said railway :

50

(f) If the Promoter does not, after the said railway is completed and opened for traffic, run at least two trains daily upon the said line throughout its entire length—viz., one daily train from each terminus—such trains to be of such capacity and start at such hours and stop at such stations, sidings, and places for passengers to join the train and alight, and for goods to be forwarded and received, as the Governor in Council may determine; and the average speed at which such train shall travel shall be not less than Ten miles an hour, including all stoppages and detentions :

55

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- (g) If the Promoter does not expend a sum of not less than Five hundred Pounds in each of the first Five years after the issue of the leases of land under Part XIII. of this Act upon each block: but the apportionment of such expenditure may be altered in such manner as the Minister may approve.

If the Promoter shall at any time fail to comply with the conditions and stipulations set forth in Sub-sections (d), (e), and (f), the Minister may, with the consent of Parliament, carry out any or all the works or run any trains over the said railway as may be necessary to comply with such Sub-sections, and may recover the cost of such works and of running such trains from the Promoter in any Court of competent jurisdiction.

Effect of lease.

6 The primary lease shall operate and take effect as a licence to the Promoter 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 the Minister, with the consent of the Governor in Council, from time to time at or after the expiration of the primary lease to grant a renewal thereof to the promoter 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.

## PART III.

## LEASES FOR BRANCH LINES.

Minister may grant lease for branch line of railway.

8—(1.) The Minister may from time to time, with the consent of the Governor in Council, grant to the Promoter for the unexpired residue of the term of the said lease, a lease of any piece of Crown land not exceeding One chain in width, for the construction thereon of such branch lines of railway from the said railway to such termini within the boundaries of any land leased to the Promoter under Part XIII. of this Act as may be determined upon by the Promoter and approved by the Governor in Council, and also for the construction of any tram line or lines to any coal or other mine belonging to the Promoter, and also such area of Crown land for all stations, sidings, crossings, sidecuttings, cuttings, embankments, and conveniences in connection with the said branch lines of Railway or tramway as may be necessary or proper, and for all other purposes in connection with this Act.

(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 in the primary lease as the Governor in Council may think necessary or applicable to such branch lines or otherwise, and shall be renewable in like manner with the primary lease. (Provided always, that no branch line of railway (other than a branch from the said railway to a terminus within the boundaries of any land to be granted to the Promoter as hereinafter mentioned) shall be sanctioned by the Governor in Council until such branch shall have been first authorised by a Resolution of both Houses of Parliament.)

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## PART IV.

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## ACQUISITION OF LAND BY THE PROMOTER.

- 9** The Promoter may purchase, acquire, take on lease, sell or exchange such other land as may be necessary for the purposes of constructing the said railway. Power to purchase land.
- 10** For the purpose of enabling the Promoter to purchase, acquire and take other land as hereinbefore provided, or any material required for the construction of the said railway, *The Lands Clauses Act* shall, except as hereby varied, be incorporated with this Act; but there shall not be incorporated with this Act Sections Eight and Nine of the said *The Lands Clauses Act*. *The Lands Clauses Act* incorporated. 21 Vict. No. 11.
- 10** In the construction of this Act and the said incorporated Act this Act shall be deemed to be the Special Act, and the Promoter shall be deemed to be the "Promoter of the undertaking."
- 11** The power hereinbefore conferred upon the said Promoter to purchase and take land under the provisions of *The Lands Clauses Act* shall not enable him 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 Promoter the power to construct the said railway across or under or over any specified public road or street, subject to such conditions as may be thought fit, and the Promoter shall thereupon have power to construct the said railway across any such public road or street. Power to cross roads and streets.
- 12** When the Promoter shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, he shall, with all convenient speed, and to the satisfaction of the local authority, complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the road or pavement or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so open or broken up, cause the same to be fenced and guarded, and shall cause light sufficient for the warning of passengers to be set up and kept there for every night during which such road or pavement shall be continued open or broken up. Reinstatement of streets, &c.
- 13** No road or street shall, except in the case of emergency aforesaid, be open or broken up except under the superintendence of the persons, if any, having the control or management thereof, or of their officers, and according to such plan as is approved of by such person or their officer, or, in case of any difference respecting such plan, then according to such plan as may be determined by Two Justices: Provided, that if the persons having such control or management as aforesaid and their officers fail to attend at the time fixed for the opening of any such road or street after having had such notice of the intention of the Promoter as aforesaid, or do not propose any plan for breaking up or opening the same, or refuse or neglect to superintend the operation, the Promoter may perform the work specified in such notice without the superintendence of such persons or their officer. Streets, &c. broken up, to be reinstated without delay.
- 14** In any case where land or material is required for the purposes of such railway, if the Promoter or his assigns, before any steps are taken under *The Lands Clauses Act*, tenders to the person entitled to receive the same compensation for severance and otherwise for such land or material, then if such person refuses to accept the same and to convey the land so required, or to permit the same to be used or material Cost of arbitration, how to be borne.

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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 in such manner as the arbitrators or umpire shall direct, and such payment may be enforced by action in any Court of competent jurisdiction on a count for money paid at the request of such person.

## PART V.

## CONSTRUCTION OF THE RAILWAY.

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

**15** The said railway shall be constructed and worked from a terminus to be approved by the Minister on the *Chudleigh* Railway to a terminus to be approved by the Minister within the Western Mining Division, and shall have a gauge [of Two feet, with curves of not less than One and a half chains radius, and steel rails of not less than Forty pounds to the yard, and gradients not steeper than one in twenty-five adhesive.

The line shall be constructed in terms of the specifications set forth in the Schedule hereto: Provided that after survey such deviations in the matter of grades and of minor details may be so modified as the General Manager of Railways may recommend the Minister to adopt.] [of Three feet Six inches from its starting point to a point at or near *West Mount Pelion* to be approved by the Minister, and thence a gauge of either Two feet or Three feet Six inches, at the option of the Promoter. When the gauge is 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 adhesive, or steeper than One in Twelve where the *Abt*, *Fell*, or other approved system may be sanctioned by the Minister. When the gauge is 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.)

Railway to be  
constructed in  
substantial  
manner, &c.

**[16]** The said 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 Eight tons upon each axle of every vehicle, and shall be maintained and worked by the Promoter, 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.]

**[16]** The said railway shall be constructed in a substantial manner fit for the carriage of vehicles at an average rate of not less than Fifteen miles per hour, with a load of not less than Four tons upon each axle of every vehicle when the gauge is Three feet Six inches, and at an average rate of not less than Ten miles per hour with a load of not less than Four tons upon each axle of every vehicle when the gauge is Two feet, and shall be maintained and worked by the Promoter 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.)

Before com-  
mencing to  
construct railway,  
Promoter to  
deposit plans with  
the Minister.

**17** Before the said Promoter shall commence to construct the railway, he shall deposit with the Minister a copy of the working plan and sections of such railway showing the route of such railway, 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

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constructed, and the proposed method of dealing with any roads, streets, or tramways affected; and the Minister may require such alterations as he thinks necessary to be made in such plan and section so deposited with him as aforesaid in order to bring the same into  
 5 accordance with the provisions of this Act: Provided always, that the Promoter may submit the plans and sections above referred to from time to time for portions of the line instead of for the whole line and before commencing construction of such portion: Provided further, that all detailed plans of any of the works, together with specifications  
 10 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 Promoter 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  
 15 approved or required to be made.

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**18** The Promoter 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. Promoter may make alterations in plans.

**20** **19** The Governor in Council may, at the cost of the Promoter, 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  
 25 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 Promoter 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  
 30 the said railway; and the Promoter 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.

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

**21** The said railway shall, so far as possible, be so made as not to unreasonably or unnecessarily impede, injure, prevent, or interrupt any ordinary or rightful traffic upon any public road or street, and so as not to increase the cost of making, maintaining, repairing, and up-  
 50 holding 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 Promoter, it shall be lawful for any Two Justices of the Peace in  
 55 Petty Sessions assembled, at any time before the completion of the works complained of as in contravention of this Section, to make such  
 [Private.] Penalty for injuring any road or street.

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order upon the Promoter for securing due compliance by him with the provisions hereof as such Justices may deem necessary. In default of compliance with such order, the Promoter 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*. 10

Promoter to  
repair damages.

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

Roads to be  
crossed on a level.

**23** 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 Promoter may, with the consent of the local authority having control of such road or street, alter and improve the levels of such road or street: Provided, that all expenses incurred in the re-formation of such road or street so altered and improved shall be borne by the Promoter unless otherwise agreed upon. 25

Before roads  
interfered with  
others to be  
substituted.

**24** 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 or inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the Promoter shall, before operations are commenced, cause a sufficient road, to the satisfaction of the local authority or other person or persons interested, to be made instead of the road to be interfered with, and shall at his 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. 35



(Minister may  
authorise con-  
struction of public  
road across  
railway.)

**(A)** 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 Promoter, 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.) 40

Bridges how to  
be constructed  
over any road.

**25** 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:— 45

The width of the arch shall be such as to have thereunder a clear space of not less than Thirty feet if the arch be over a main road, and of Twenty feet if over a cross or by road, and of Twelve feet if over a private road. 50

The clear height of the arch from the surface of the road shall be not less than Sixteen feet for a space of Twelve feet if the arch be over a main road, and Fifteen feet for a 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 55

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feet; the clear height of the arch for a space of Nine feet shall not be less than Fourteen feet over a private road. A.D. 1897.

- 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.
- 10 And every bridge erected for carrying any road over the railroad shall be built in conformity with the following regulations; that is to say:—
- There shall be a good and sufficient fence on each side of the bridge of not less height than Four feet, and on each side of the immediate approaches of such bridge of not less than Three feet. The road over the bridge shall have a clear space between the fences thereof of Thirty-five feet if the road be a main road, and twenty-five feet if it be a cross or by road, and Twelve feet if a private road. The ascent shall not be more than one foot in Thirty feet if the road be a main road, and one foot in Twenty feet if a cross or by road, and One foot in Sixteen feet if a private road not being a tramroad or railroad, or if the same be a tramroad or railroad the ascent shall not be greater than the ruling gradient of such tramroad or railroad.
- Provided always, that in all cases where the average available width for the passing of carriages of any existing road within Fifty yards of the point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the railway, the width of the bridges need not be greater than such average available width of such roads, but so nevertheless that such bridges be not of less width in case of a main road or cross or by road than Twenty feet: Provided also, that if at any time after the construction of the Railway the average available width of any such land shall be increased beyond the width of such bridge, or on either side thereof, the Promoter shall be bound at his own expense to increase the width of the said bridge to such extent as he may be reasonably required by the local authority, not exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the railway: Provided also, that if the mean inclination of any road within Two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may require to be altered, or for which another road shall be substituted, shall be steeper than the inclination hereinbefore required to be preserved by the Promoter, then he may carry any such road over or under the railway, or may construct or alter any such substituted road at an inclination not steeper than the said mean inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

- 26 No part of the said Railway shall be opened for public traffic until such Officer as the Governor in Council may appoint has certified that such part of the said railway has been efficiently constructed in accordance with the provisions of this Act, 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.

Railway not to be used until Officer certifies.

- Should the Promoter work the said Railway by steam locomotives, then he shall adopt such types of locomotives, rolling stock, brakes, couplings, and other appliances as may be approved by the Officer appointed by the Governor in Council for such purpose.

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## PART VI.

## MAINTENANCE OF THE RAILWAY.

Railway to be kept in proper repair.

**27** After the said railway is completed the promoter shall properly and efficiently maintain and work the said Railway ; and the Governor in Council may, at the cost of the Promoter 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 5 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 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 10 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 15 the primary lease ; and the Promoter 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, and in default of the Promoter carrying out such repairs as aforesaid he shall be liable to a penalty of not less than Five Pounds 20 nor more than Twenty Pounds for every day which shall elapse before such repairs shall be effected.

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

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

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 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 45 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, 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. 50

Cattle-guards may be used in place of gates.

**29** Notwithstanding anything hereinbefore contained, it shall be lawful for the Promoter, 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, 55 or other animals from such street or road to the railway : Provided that



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any such street or road be not thereby decreased in width at the A.D. 1897.  
crossing, and that the railway be securely fenced at such points.

**30** In every case in which the Promoter shall make and use cattle-  
guards instead of gates in any place where the railway crosses any  
5 public street or road, he 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  
10 case exceed Five miles per hour.

Measure of  
precaution to be  
adopted.

**31** The Promoter may, with the consent of the Minister, from time  
to time, for the purpose of constructing and maintaining the railway,  
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  
15 primary lease or in the vicinity of the railway, and may fell all timber  
which in the opinion of the Promoter it may be necessary to remove  
for the safe working of the said railway or other works connected with  
the said railway notwithstanding anything contained in Section Six of  
this Act : Provided that, in the case of any land previously leased,  
20 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.

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

Minister may  
agree to maintain  
and work railway.

**33** It shall be lawful for the Minister, with the consent of the  
Governor in Council, from time to time to grant to the Promoter, upon  
such terms and conditions, and for such periods, as the Minister, with the  
35 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.

**34** The Minister may from time to time require the Promoter to  
enter into an agreement whereby the engines, carriages, wagons, and  
other vehicles of the Government of *Tasmania* and the passengers and  
40 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 may be subject to the  
observance of such reasonable conditions and restrictions, as may be  
45 agreed upon.

Promoter may  
grant running  
powers, &c.

In the event of any difference arising between the Minister and the  
Promoter under this Section, such dispute shall be referred to arbitra-  
tion in the manner described in Part VIII. of this Act.

**35** The Promoter shall pay his share of any [junction or joint-  
50 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.] (the cost of working any junction  
or joint-stations, and such share shall be fixed by agreement from time  
to time between the Minister and the Promoter in that behalf, and

Promoter may  
share junction  
charges.



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failing such agreement, the said share shall in such case be settled by arbitration in conformity with the provisions of "The Arbitration Act, 1892," or any statutory modification thereof which may be in force for the time being )

Promoter to pay cost of signals and safety appliances used solely on his account ;

**36** The Promoter 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 or in consequence of the construction of such railway. 10

and half of any joint appliances.

Where such signals and appliances are used jointly by the Promoter and the Government Railways, then the Promoter 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

Cost of transfer of goods if railway is worked electrically.

**37** If the railway is worked electrically, and any goods or live stock have to be transferred to and from the Government trucks, then the cost of such transfer shall be borne by the Promoter.

**PART VII.****POWER TO ENTER UPON ADJOINING LANDS.**

Materials from private land.

**38** The Promoter, for the purpose of constructing, repairing, and maintaining the said railway, may, after Seven days' notice to the 20 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 25 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.

Construction of works.

**39** Subject to the provisions of this Act, it shall be lawful for the Promoter, for the purpose of constructing, maintaining, and working 30 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:

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

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 40 conveniently to carry the same over or under or by the side of the railway:

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: 45

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

To erect and construct houses, warehouses, goods-sheds, offices, 50 and other buildings, yards, stations, engines, machinery, and apparatus, and other works and conveniences:

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

10 **40** Before using any fenced or otherwise enclosed lands for any of the purposes aforesaid, the Promoter shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto with such gates or cattle-guards as may be required by the said owner or occupier for the convenient occupation of such lands, Promoter to separate the lands before using them.  
 15 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 occupiers of such roads and lands and the Promoter as to the proper kind of fences and gates  
 20 or cattle-guards to be erected, the Promoter 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 application shall be given to the other party, who shall have an opportunity of being present at the  
 25 hearing thereof.

**41** 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 Promoter and his workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the Power to enter upon adjoining lands to repair accidents, subject to certain restrictions.  
 30 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 Promoter shall within Forty-eight hours after such entry make a report to the Minister specifying the nature of such accident, or apprehended accident, and of the works necessary to be done, and such  
 35 powers shall cease and determine if the said Minister shall after considering the said report certify that their exercise is not necessary for the public safety: Provided, that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all  
 40 possible despatch; and full compensation shall be made to the owners and occupiers of such lands for the loss, injury, or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled in the same manner as cases of disputed compensation in other  
 45 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.

**(B)** It shall be lawful for the Promoter, and all persons by him (Power to take temporary possession of land.)  
 50 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 nearer to the house of the owner of any such lands than One hundred  
 55 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



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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 :

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

For the purpose of forming roads thereon to or from or by the 10 side of the said works.

And, in exercise of such powers, it shall be lawful for the Promoter 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 15 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 20 machinery : Provided always, that nothing in this Act contained shall exempt the Promoter 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 25 stone or slate quarry, brickfield, 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 Promoter, either wholly or in part, for any of the purposes hereinbefore mentioned.) 30

(Compensation to be made for occupation.)

(C In any of the cases aforesaid, where the Promoter shall take possession of lands by virtue of the powers herein granted, it shall be incumbent on him, within One month after his 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 35 Promoter so taking possession of his lands.)

## PART VIII.

## RESUMPTION OF PRIMARY LEASE AND PURCHASE OF RAILWAY.

Minister may resume land upon notice.

42 It shall be lawful for the Minister, with the consent of Parliament, at any time after the expiration of Twenty-five years from the date of this Act, to give the Promoter 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 used for the purposes of working the said railway by steam locomotives, and all land and buildings belonging thereto, which have been acquired, made, or erected under the authority of this Act, and to compensate the Promoter 45 as hereinafter provided.

Provided, that in the event of the resumption of the land comprised in the primary lease, the Minister shall not be required to take over or purchase from the Promoter or compensate the Promoter for any electrical power, premises, plant, or rolling stock used 50 or employed by the Promoter in connection with the said Railway.

Until such resumption or any forfeiture of the primary lease shall have taken place, all the rights, powers, privileges, benefits, concessions,

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advantages, and liabilities conferred or imposed upon the Promoter 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. A.D. 1897.

5   **43** The amount of compensation to be paid to the Promoter upon the resumption by the Crown of the land comprised in the primary lease shall not exceed the actual cost of the construction work, with an amount added equal to Twenty Pounds per centum on such cost of construction, and the value of all equipments, rolling stock, appliances, 10 goods, and chattels of the Promoter used or intended for use on or in connection with the said railway. 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, then the sum necessary to put the said 15 railway in such repair and condition as aforesaid shall be deducted from the sum that would otherwise be payable to the said lessee as such compensation, and in case of dispute shall be settled by arbitration as hereinafter provided.

20   **44** In the event of the Governor in Council and the Promoter not agreeing upon the sum to be paid to the Promoter upon the resumption by the Crown of the land comprised in the said lease and the purchase of the said railway, the question shall be referred to the determination of Five arbitrators, Two of whom shall be appointed by the Governor in Council, and Two of whom shall be appointed by the 25 Promoter, and the Fifth arbitrator shall be appointed by the Four other arbitrators. If Governor and lessee cannot agree, may proceed to arbitration.

30   **45** If the Promoter fails or refuses 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 35 lease. If Promoter fail to appoint arbitrators.

**46** 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.

40   **47** The accounts of the Promoter 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. The Supervising Officer of the Government shall certify all vouchers for expenditure incurred by the Promoter 45 in connection with the construction of the Railway, and upon the line being opened for traffic the total of such vouchers shall be deemed for all purposes of account to be the cost of the construction of such railway, and in any dealings between the Promoter and the Government such sum shall be deemed final. Accounts of construction subject to 52 Vict. No. 43.

50   **48** Upon the railway being completed and opened for traffic no new works of construction in connection with the railway shall be commenced or carried out without the consent of the Governor in Council. New construction works to be approved by Governor in Council.

[Private]

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Council, and in the event of such works being carried out without such consent such works shall not be deemed construction works for the purpose of computing the amount of compensation upon the resumption or forfeiture of the primary lease as aforesaid.

The undertaking of the Promoter vested in Minister upon payment of the purchase money.

**49** The railway, and all the right, title, and interest of the Promoter and of any person or persons claiming by, through, or under the Promoter 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 Promoter 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 Promoter or any other person whomsoever in all respects in the same manner as the Promoter or such person or persons could have held, possessed, enjoyed, used, and exercised the same if this Act had not been passed.

## PART IX.

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

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

**50** It shall be lawful for the Promoter to use and employ electric motors, locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and to carry and convey upon the railway all such passengers, goods, and things of every kind, and live stock of every kind as shall be offered for that purpose, and to make and sue for such tolls and charges in respect thereof as hereinafter specified: Provided, that all such tolls and charges 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, motor, 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 and charges shall be made either directly or indirectly in favour of or against any particular person travelling upon or using the railway.

Rates and tolls.

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

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.

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**52** The Promoter is hereby authorised to make such charges, rates, and tolls for the supply of electricity as may be agreed upon by him and the persons to whom such electricity is supplied by the Promoter: Provided that in no case shall the charge exceed One Shilling 5 per *English* Board of Trade unit when supplied for lighting purposes.

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Promoter may make charges.

**53** The Promoter shall be entitled to charge the following rates and no more for the supply of motive or electric power to any person:—

Charge for electricity.

For every working day not exceeding Eight hours, at the rate of Ten Pounds per brake horse-power per annum.

10 For every working day not exceeding Sixteen hours, at the rate of Twenty Pounds per brake horse-power per annum.

For every working day of Twenty-four hours, at the rate of Thirty Pounds per brake horse-power per annum.

**54** The rates, charges, and tolls for electricity, and all sums due to the Promoter under this Act, shall be paid by and be recoverable from the person requiring, receiving, or using the supply of electricity.

Rates to be recoverable from person supplied.

**55** 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 Promoter in a summary way before any Two Justices of the Peace; and it shall be lawful for the Promoter to detain the goods, merchandise, live stock, chattels, and other things of every description in respect of which such money is payable until the same shall have been fully paid and satisfied; and also if such goods, merchandise, or other things have been detained during a period of not less than Six months, to sell the same or so much thereof as may be necessary by public auction to be duly advertised, and to apply the proceeds in or towards satisfying the money so due and payable. Provided, that live stock and perishable goods may be sold forthwith.

Rates and tolls may be recovered.

**56** In all proceedings whatever for the recovery of any rates or charges under this Act, and in all other proceedings before Justices in pursuance of this Act, it shall be lawful for the Justice or Justices in his or their discretion to award and order that the defendant shall pay such costs as to such Justice or Justices shall seem just and reasonable in that behalf; and in case where such Justice or Justices, instead of making an order as aforesaid, shall dismiss the information or complaint, it shall be lawful for him or them in his or their discretion to award and order to the defendant such costs as to such Justice or Justices shall seem just and reasonable; and the sums so allowed for costs shall in all cases be specified in the orders or order of dismissal as aforesaid, and the same shall be recoverable in the same manner and under the same warrants as any penalty or sum of money adjudged to be paid in and by such order is to be recoverable; and in cases where there is no such penalty or sum to be thereby recovered, then such costs shall be recoverable by distress and sale of goods and chattels of the party.

Power to award costs.

**57** Nothing in this Act contained shall extend to charge or make liable the Promoter 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 Promoter

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

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of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but, on the contrary, he shall at all times be entitled to the benefit of every such protection and privilege.

Penalty for bringing dangerous goods on the railway.

**58** No person shall be entitled to carry or to require to be carried, upon the railway, any aquafortis, oil of vitriol, explosives, 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.

**PART X.****PRIOR LEASES.**

Protection to rights of first lessee.

**59** 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 Promoter.

Settlement of disputes.

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

Notice of intention to make railway.

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

The Promoter may enter after notice.

**61** The Promoter 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.

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



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

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Compensation to first lessee.

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

**64** 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 Promoter 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 Promoter by the primary lease. The Commissioner shall not be bound to award any sum for damage unless in his opinion substantial damage shall have been sustained.

Compensation how estimated.

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

Commissioner may exercise power conferred on Justices.

**66** The Commissioner shall have and may exercise, for the purpose of procuring and enforcing the attendance of persons and witnesses, and for hearing and determining any matter brought before him under this Act, all the powers conferred upon a Justice of the Peace by *The Magistrates Summary Procedure Act*; and such Commissioner may award and order that one party shall pay to the other party such costs and expenses as to such Commissioner shall seem just and reasonable; and the amount thereof shall be recoverable in the same manner as costs ordered by a Justice of the Peace to be paid may be recovered under the said Act.

Power to enforce attendance of witnesses.

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

Appeal.

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## PART XI.

## ACCOMMODATION WORKS.

Gates, bridges,  
&c.

**68** The Promoter shall make, and at all times thereafter maintain, the following works for the accommodation of the owners and occupiers of lands adjoining the railway and other works authorised by this Act; that is to say :—

Fences.

Such and so many convenient gates, cattle-guards, bridges, arches, 5  
culverts, and passages over, under, or by the sides of or leading  
to or from the railway as shall be necessary for the purpose of  
making good any interruptions caused by the railway to the  
use of the lands through which the railway shall be made ;  
and such works shall be made forthwith after the part of the 10  
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  
for separating the land taken for the use of the railway from  
the adjoining lands not taken, and protecting such lands from 15  
trespass, or the cattle of the owners or occupiers thereof from  
straying thereout by reason of the railway, together with all  
necessary gates made to open towards such adjoining lands and  
not towards the railway, and all necessary stiles ; and in the  
case of any fenced or otherwise enclosed land, such posts, rails, 20  
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 ;

Drains.

Also all necessary arches, tunnels, culverts, drains, or other pas-  
sages, either over or under or by the sides of the railway, of 25  
such dimensions as will be sufficient at all times to convey the  
water as clearly from the lands lying near or affected by the  
railway as before the making of the railway, or as nearly so as  
may be ; and such works shall be made from time to time as  
the railway works proceed : 30

Watering-places.

Also proper watering-places for cattle where by reason of the  
railway the cattle of any person occupying any lands lying  
near thereto shall be deprived of access to their former watering-  
places ; and such watering-places shall be so made as to be at  
all times as sufficiently supplied with water as theretofore, and 35  
as if the railway had not been made, or as nearly so as may be ;  
and the Promoter shall make all necessary water-courses and  
drains for the purpose of conveying water to the said watering-  
places :

Provided always, that the Promoter shall not be required to make such 40  
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. 45

Differences as to  
accommodation  
works to be settled  
by Justices.

**69** 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 50  
Promoter.

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- 70** If for Twenty-eight days next after the time appointed by such Justices for the commencement of any such works the Promoter 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.
- 71** If any of the owners or occupiers of lands affected by such Railway shall consider the accommodation works made by the Promoter, or directed by such Justices to be made by the Promoter, 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 Promoter, or in case of difference as shall be authorised by Two Justices of the Peace.
- 72** If the Promoter so desires, all such last-mentioned accommodation works shall be constructed under the superintendence of his Engineer, and according to plans and specifications to be submitted to and approved by such Engineer.
- 73** The Promoter 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.
- 74** Until the Promoter shall have made the bridges or other proper communications which, under the provisions herein contained, the Promoter is required to make between lands intersected by the railway, and no longer, the owners and occupiers of such lands, and any other persons whose right-of-way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass, with carriages, horses, and other animals, directly, but not otherwise, across the part of the railway made in or through their respective lands, solely for the purpose of occupying the 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 Promoter received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railway.
- 75** If any person omit to shut and fasten any gate set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands as soon as he and the carriage, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding Ten Pounds.

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Execution of works by owners on default by the Promoter.

Power to owners of land to make additional accommodation works.

Such works to be constructed under the Superintendence of the Promoter's Engineer.

Accommodation works not to be required after Two years.

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

Penalty on persons omitting to fasten gates.

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## PART XII.

## COMPENSATION.

Compensation  
how determined.

**76** Whenever by this Act compensation is directed to be made by the Promoter to any persons whose interests are affected by the exercise of any of the powers hereby conferred, such compensation shall, except in cases hereinbefore specially provided for, be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation, except as provided for in Clause Fourteen of this Act. 5

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

**77** In estimating the amount of compensation for severance or otherwise to be paid to any person for or in respect of land or material taken or used for the purposes of the said railway or other works authorised under this Act, 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 other works, and the arbitrators or umpire, in awarding compensation to be paid for or in respect of such land or material, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the arbitrators or umpire that the benefit likely to accrue to the person through whose land such railway is about to be taken is equal to or greater than the loss he will sustain by reason of the taking or using of his land or material for such railway, the arbitrators or umpire shall award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid. 15 20

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

**78** If either party is dissatisfied with the award of the arbitrators or the umpire appointed to determine the amount of compensation to be paid to any person whose interests are affected by the exercise of any of the powers conferred upon the Promoter by this Act, and the amount of compensation awarded by the arbitrators or umpire exceeds One hundred Pounds, the dissatisfied party may appeal as hereinafter provided, from the award of the arbitrators or the umpire to a Judge of the Supreme Court, and the amount of the compensation in every such case shall thereupon be fixed by a Judge of the Supreme Court in the manner hereinafter provided. 25 30

Procedure upon  
appeal.

**79** 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 appeal in accordance with Rules to be made by the Judges, and until such Rules shall be made the procedure on appeal shall be regulated by the Rules made by the Judges for conducting appeals under "The Main Line of Railway Amendment Act, No. 2," so far as such rules are applicable, and the amount of compensation to be paid in any such case shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as he sees fit to impose; and the Judge may also in his discretion make an Order as to the party by whom the costs of the appeal shall be borne: Provided, that a Judge of the Supreme Court may, upon what he shall deem sufficient cause, allow an appeal to be prosecuted after the 35 40 45

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expiration of the time hereinbefore allowed for that purpose; but no appeal shall be allowed after the expiration of Three months after the service of notice of intention to appeal. A.D. 1897.

**80** 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. Security for costs.

**81** 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. Award not to be made a Rule of Court until Judge determines matter in dispute.

**82** 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 Promoter, if the Promoter, 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 Promoter for damages, or upon an issue agreed to between the claimant and the Promoter. Compensation for diverting water to be ascertained by action in the Supreme Court.

## PART XIII.

### LEASE OF LAND.

**83** Upon the deposit of the plans, specifications, and sections of the said railway with the Minister as hereinbefore provided, and within Two years after the passing of this Act, the Promoter shall acquire the right to mark off in the manner hereinafter prescribed any unoccupied Crown lands, not exceeding [Seven\*] blocks, each containing [Seventy†] thousand acres (or less), first on one and then on the other side alternately of the line of railway along its length, between an imaginary line drawn north and south through the Railway Station at Mole Creek and the line forming the eastern boundary of the Western Mining Division. Each of such blocks of land shall have a frontage along the railway line (of an equal width from due east to west, and the eastern and western boundaries thereof shall run due north and south, and the back lines due east and west.) The selection of the most eastern of such blocks shall be subject to the approval of the Minister. Promoter to acquire right to mark off land for grants. (Six\*) (Fifty†)

**84** Nothing in this Act contained shall be held to empower the Promoter 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. There shall be reserved in any lease made under this part of this Act an Esplanade of One hundred feet in width along the banks of every river, and an Esplanade of One-half of a mile round the margin of every lake within such lease, and also the right for the Minister at any time to resume without compensation such land not exceeding One Chain in width as he may at any time require for the construction of roads, mining easements, or other public purposes. Land reserved for towns or esplanade not available for selection by the Promoter.

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Land marked off  
by the Promoter  
to be protected.

**85** After a block of land has been marked off by the Promoter under the authority of this part of this Act, it shall not be lawful for any other person, except as hereinafter provided, to enter upon, and to occupy or select, or apply for a lease of 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, anything contained in "The Mining Act, 1893," notwithstanding; and any person who shall enter upon and occupy such block of land or any part thereof contrary to the provisions of this Act shall forfeit and pay to the Promoter a penalty not exceeding Twenty Pounds. 10

Upon completion  
of railway  
Minister may  
issue lease to  
the Promoter.

**86** Upon the completion and opening of the said railway for traffic, it shall be lawful for the Governor to issue to the Promoter a lease of each block of land, duly marked off and applied for under the provisions of this Act, including all minerals and metals therein, for a term of Twenty-five years, upon the terms and conditions following; 15 that is to say:—

- i. That the Promoter shall keep a correct and complete record of all minerals and gold obtained from every block of land leased to the Promoter under the provisions of this Act:
- ii. That the Promoter shall furnish to the Minister twice at 20 least in every year a full and correct return of all minerals and gold obtained from every block of land leased to the Promoter under the provisions of this Act:
- iii. That the Promoter shall pay to the Minister for the use of Her Majesty royalties of Two Pounds Ten Shillings for 25 every Hundred Pounds of net profits made by the Promoter upon all minerals and gold obtained from every block of land leased to the Promoter under the provisions of this Act:
- iv. That the said royalties shall be paid once in every year; 30 and the Promoter shall, when called upon to do so by the Minister, submit a profit and loss account of their working of that year for which payment has to be made:
- v. That the Governor in Council may from time to time appoint such person or persons as he thinks fit with full power and 35 authority to enter upon any block of land leased to the Promoter under the provisions of this Act, and to ascertain what use the Promoter is making of the said block of land, or any portion thereof, and what mining or other operations are being conducted thereon: 40
- vi. That for the purpose of ascertaining whether any and what royalties are payable in respect of any minerals and gold obtained from any block of land leased to the Promoter under the provisions of this Act, or from any portion thereof, the Governor in Council may from time to time appoint 45 such person or persons as he thinks fit with full power to enter into any of the offices of the Promoter, and to examine and audit all books of account of the Promoter:
- vii. That, at the expiration of the lease of any such block of land as aforesaid, the Promoter shall be entitled to a second 50 lease for a further term of Twenty-five years of any portion or portions of the same block which shall then be actually occupied by the Promoter, or any person or persons claiming under him, excepting persons occupying under the provisions of Sub-section ix. of this Section, and upon 55

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which mining or agricultural operations shall then be carried A.D. 1897.

on, or on which any buildings shall then be standing, or upon which streets have been marked out and formed for a Town: Provided that upon the renewal of any lease for mining purposes, for every mine being worked by the Promoter at the expiration of the said lease he shall be entitled to a renewal thereof in the proportions prescribed by "The Mining Act, 1893":

viii. Within Three months of the expiration of the said lease or renewal thereof the Promoter shall notify to the Minister the exact portions of land comprised in such lease which he desires to have leased to him for a further term of Twenty-five years, and shall furnish to the Minister all such surveys and plans of such land as may be required by the Surveyor-General; but the Promoter shall in every case hold any land so leased to him subject to the rights of any person or persons claiming under him:

ix. That any block of land or any portion exceeding One hundred acres in area of any block of land leased to the Promoter under the provisions of this Part of this Act, and upon which no mining or agricultural operations shall be commenced and continued within Two years after the issue of the first lease thereof in a manner which the Minister shall deem sufficient to exempt such land from the operation of this condition, shall be free and open to any person or persons to prospect thereon for gold and other minerals; and every person who shall discover any gold or other mineral on any such land shall have the right to mark out a claim which, if containing gold, shall not exceed Ten acres, and if containing any mineral other than gold shall not exceed Eighty acres, and to have such claim registered at the Office of Mines in *Habart* in accordance with such Regulations as may from time to time be made by the Governor in Council for that purpose, and shall have the right, for such term or terms as may be prescribed by such Regulations, or in default thereof for such term or terms as may be prescribed in similar cases by "The Mining Act, 1893," to carry on mining operations on such claim, and to extract and remove gold or other minerals respectively from such claim and retain the same for his or their own use, subject to the payment of a tribute or royalty of Five Pounds per centum of the net value thereof, and that one-half of all such tribute or royalty paid by any person or persons to the Promoter shall be paid by the Promoter to the Treasurer for the use of Her Majesty:

Provided always, that if any such claim shall contain coal, shale, slate, freestone, or limestone, and shall not contain gold or any mineral other than those hereinbefore mentioned, such claim may contain Three hundred and Twenty acres:

x. That, at the expiration of the second lease of any portion or portions of any such block as aforesaid, the Promoter shall be entitled to a renewal of the lease from time to time for periods not exceeding Twenty-five years of so much of the land included in any such second lease as shall have remained in the actual occupation of the Promoter

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or any person or persons claiming under him as aforesaid during the continuance of such second lease, and upon which mining or agricultural operations shall then be carried on, or on which any buildings shall then be standing, or upon which streets have been marked out and formed for a town :

- x1. That the Promoter shall be entitled to a renewal of the lease of such land as shall be reserved as an area for a Town in the proportion of One-half acre for every building used and in the occupation of any person as a dwelling-house, 10 subject to the rights of any tenant thereof:
- xii. For every Ten Shillings spent by the Promoter in improvements on the land occupied for agricultural purposes leased to them under this Act (and which improvements are still remaining), they shall be entitled to such further lease or 15 leases as aforesaid of an acre of contiguous land to be selected by them out of the said blocks.

For the purposes of this Section "actual use or occupation" shall mean—

In the case of lands worked for gold or minerals—Any land 20 upon which the labour conditions or covenants of "The Mining Act, 1893," or any statutory modification thereof in force for the time being, are being complied with.

## PART XIV.

## FORFEITURE OF THE PRIMARY LEASE.

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

**87** If the Promoter shall be guilty, without reasonable cause, of any breach of any of the conditions, provisions, or stipulations of the primary 25 lease, or of any of the provisions of this Act, and such breach shall continue after reasonable notice shall have been given by the Governor in Council to the Promoter to put an end to or remedy the same, the Attorney-General may, when and so often as any such breaches may happen, apply to the Supreme Court for a Rule calling upon the Pro- 30 moter to show cause, on a day to be mentioned in such Rule, why the primary lease should not be declared forfeited upon such grounds as may be set forth in such Rule; and such Rule may be served upon the Promoter or any other person having the management of the affairs of the Promoter in *Tasmania*, either personally or by leaving the same at 35 the last known place of business of the Promoter in *Tasmania*, and being so served or left as aforesaid, such Rule shall be deemed for all purposes to have been duly served on the Promoter, as the case may be.

Prior to construction of railway, other works not to be proceeded with except by the consent of the Minister.

**88** The Promoter shall not undertake or carry out prior to the 40 commencement of survey or construction of the railway any of the works which he is authorised by this Act to execute other than the railway, unless he shall from time to time pending completion of such survey or construction satisfy the Minister that proper progress is being made in the survey or construction of the railway; and if the 45 Promoter shall fail to satisfy the Minister, whenever he requires him to do so, that he is making proper progress in the construction of the railway, the Minister may apply to the Supreme Court, as hereinbefore provided, for the forfeiture of all the rights, privileges, and concessions granted to or conferred upon the Promoter by this Act; and such for- 55



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feiture shall be enforced by the Minister without any compensation A.D. 1897.  
whatever to the Promoter.

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

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

Provided, that the Court upon the hearing of any such Rule may, if it shall consider that the justice of the case would be met by so doing, instead of ordering the forfeiture of the said lease as aforesaid, order the Promoter 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 costs of the proceedings as it may think fit; and any Order so to be made for the payment of any sum of money or costs as aforesaid may be enforced in the same manner as may for the time being be provided for the enforcement of decrees and orders of the said Court in its Equitable Jurisdiction.

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

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

and may order issues to be tried by a jury.

**91** If the said Court shall order the primary lease to be forfeited as hereinbefore mentioned, it shall nevertheless be lawful for the Governor, with the advice of the Executive Council, on the Address of both Houses of Parliament, to waive such forfeiture upon the payment of such sum or sums of money, and upon such other terms and conditions as by such Address may be suggested; and upon payment of such sum or sums of money, and compliance by the Promoter with such other terms and conditions as aforesaid, the primary lease shall be of the like force and effect as if such Order of the Court had not been made. 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.

**92** Upon the forfeiture of the primary lease, or of the rights of the Promoter under this Act, the railway constructed by the Promoter, and all the right, title, and interest of the Promoter, and of any person or persons claiming, by, through, or under the Promoter in and to the said railway and all works connected or used therewith, and all lands

Upon resumption, &c. railway vested in Minister.

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leased to or acquired by the Promoter under the authority of this Act for the purposes of the said Railway, 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 Promoter, 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 Promoter or such other person or persons held, possessed, enjoyed, used, and exercised the same. 10

## PART XV.

## PROMOTER MAY ASSIGN OR MORTGAGE, &amp;c.

Promoter may  
raise money by  
mortgage.

**93** Subject to the provisions of this Act, the Promoter may, from time to time issue Debentures and give and execute mortgages or other charges upon the said railway or its equipment, or any branch line, or other works, or the tolls, rates, fares, and charges on any such railway or branch line or other works, for the purpose of securing the payment of any sum or sums of money borrowed or raised by the Promoter 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 Promoter may deem expedient. 20

Promoter may  
let tolls, &c.

**94** It shall be lawful for the promoter for time to time, with the consent of the Governor in Council, to let the said railway and other works, and the said tolls, rates, fares, and charges, together with all or any equipment or rolling stock of the Promoter; and during the continuance of any such letting the person to whom the same shall be let, or the persons or person by him appointed, are hereby empowered to demand, levy, and take the said tolls, rates, fares, and charges, and to use the said equipment and rolling stock, and to manage the railway and works of the Promoter 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 Promoter would have been empowered, or would have had, and would have been subject to, but for such letting. 25 30

Rights, powers,  
&c. under this  
Act may be  
assigned, &c. to  
incorporated  
companies.

**95** It shall be lawful for the Promoter, at any time after the passing hereof, to assign, transfer, convey, and release to any company duly incorporated for that purpose, or to any local authority, association, syndicate, partnership, person, or persons, all or any of the rights, powers, authorities, privileges, liabilities, and obligations conferred and imposed upon him by this Act, together with all or any of the lands, tenements, and hereditaments, estates, chattels, and effects of every kind acquired by him under or in pursuance thereof, and purchased, occupied, or used in connection with the construction, maintenance, and working of the works hereby authorised; and upon and after the completion of such assignment, transfer, conveyance, and release, the said company, local authority, association, syndicate, partnership, person, or persons, their officers, agents, and servants, may lawfully exercise and enjoy all the rights, powers, authorities, and privileges, and shall be and continue to be subject to all liabilities, obligations, penalties, and forfeitures to which the Promoter or his officers, agents, or servants 35 40 45

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would have been entitled or subject had no such assignment, transfer, conveyance, and release been completed: Provided, however, that nothing herein contained shall prejudice or affect any rights accrued, actions or proceedings taken against, or liabilities, obligations, penalties, 5 or forfeitures incurred by the Promoter before the completion of the said assignment, transfer, conveyance, and release.

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96 Upon the completion of any such assignment, transfer, conveyance, or release as in the last preceding Section mentioned, this Act shall be read so that whenever the word "Promoter" occurs it shall 10 be omitted and the name of the Company, local authority, association, syndicate, partnership, person or persons so purchasing or acquiring the said railway, land, machinery, and other works shall be read and taken to be inserted in its stead.

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

97—(1.) If the Promoter should at any time transfer or assign to 15 any Company formed or incorporated in any country or place beyond this Colony, and which is not registered in *Tasmania* under *The Companies Act*, 1869, the rights, powers, privileges, and concessions granted by the primary lease or by this Act, then such Company shall, before commencing to construct the said railway, register with the Registrar of 20 Companies under the said Act the name and place of abode or business of the person appointed by such Company to carry on the business of the Company in *Tasmania*, and also the situation of the Office of such Company; and the person so registered shall be deemed to be the Agent of such Company, and such Office shall for all purposes be the 25 Registered Office of such Company.

If lease transferred to foreign Company such Company to have registered Office.

(2.) Upon such Registration such Company may sue and be sued in its corporate name in *Tasmania*, and the liability of and proceedings against such Company shall be in the same manner as if such Company had been duly registered in *Tasmania* under the provisions of *The 30 Companies Act*, 1869.

(3.) Sections Forty-three, Forty-four, Forty-five, and Forty-six of *The Companies Act*, 1869, shall be incorporated with this Act, and shall apply to any such Company aforesaid in the same manner and to the like effect as if such Company had been duly registered under the 35 said Act.

## PART XVI.

### PROMOTER MAY ERECT TELEGRAPHS AND TELEPHONES.

98 The Promoter may construct, maintain, and work and use for his own profit along the route of the said railway, and along the route of any branch line of railway which the Promoter is by this Act authorised to construct, one or more lines of Electric Telegraph 40 and Telephones, or any electrical works or machinery for the generation and transmission of electricity for motive power or for light; but Government messages shall have priority on such lines of Telegraph and Telephones, if required; and, subject to the use of such lines of Telegraph and Telephones by the Promoter, and to the priority (if 45 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

Promoter may construct Telegraphs, &c.

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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 Promoter from using such lines of Telegraph or Telephones for profit.

Government may  
affix wires.

**99** The Government may affix telegraphic and telephonic wires 5 upon any posts erected by the Promoter along the route of the said railway or along the route of any branch line of railway which the Promoter is by this Act authorised to construct, and maintain and use such wires for the purposes of telegraphic and telephonic communication.

10

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

Power to divert  
water.



(Twenty\*)

**100** Subject to the provisions of this Act, it shall be lawful for the Promoter, and he is 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 15 accordance with such regulations as are hereinafter mentioned, such quantity of the water as shall be sufficient to develop an aggregate of [Thirty\*]-five thousand brake horse-power; and the Promoter 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 20 banks or beds of any such rivers any works, dams, weirs, flumes, or races for the purposes of 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 25 quantity or volume flowing therein at the point of intake.

Provided also that the Promoter shall from time to time pay the Minister for all water taken and diverted under the provisions of this Section and used by him for any purpose other than working the said railway. The annual sum payable for such water shall be 30 levied on such principle and at such rate and subject to such provisions as shall from time to time be fixed for diverting and taking water from any river or stream for generating electricity under any Regulations from time to time made by the Governor in Council under the provisions of this Act or under the provisions of any present or future 35 law regulating the diverting and use of such water for such purposes; and all moneys so received by the Minister shall be paid into the Consolidated Revenue Fund.

Provided also that, for the purposes of conserving water under the provisions of this Act, the Promoter shall have and may exercise the 40 powers conferred by "The Mining Act, 1893."

Power to take  
water to be  
subject to  
Regulations.

**101** The powers hereinbefore conferred upon the Promoter 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 45 public purposes and for the proper conduct of mining operations above or below the point of intake in any of the said rivers; and the

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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 Promoter for water diverted or taken by him under the provisions of the last preceding Section, and the principles upon which the same shall be paid and the mode of payment. A.D. 1897.

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

**103** 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 Promoter shall take or divert or appropriate any water from any of the said rivers he shall submit to the Minister the plans and specifications of his proposed works for taking, diverting, and appropriating such water, and shall obtain the Minister's approval of the same. Existing rights reserved.  
Plans to be submitted to Minister and approved by him.

**104** All water taken, diverted, and appropriated by the Promoter 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 Promoter from any of the said rivers until the return of such water to the same river or rivers has been provided for. Water to be returned to rivers.

**105** It shall be lawful for the Promoter to use all or any of the waters aforesaid for any of the purposes hereinafter specified— Power to use water.

To work any machinery that may be erected by the Promoter for generating, making, transmitting, and supplying electricity or other motive power to the railway or other works authorised by this Act. Purposes for which water may be taken.

**106** It shall be lawful for the Promoter, and all persons by him 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 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 mentioned, and to use the same for any of the following purposes; that is to say:— [Power to take temporary possession of land.]

For the purpose of constructing, building, or putting thereon any machinery:

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

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

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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 Promoter and all other persons employed therein to deposit, and also to manufacture and work upon such lands, materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from or out thereof any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the said works or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature, or any steam engines or other machinery: Provided always, that nothing in this Act contained shall exempt the Promoter 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, brickfield, 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 Promoter, either wholly or in part, for any of the purposes hereinbefore mentioned.]

[Compensation to be made for occupation.]

[107 In any of the cases aforesaid, where the Promoter shall take possession of lands by virtue of the powers herein granted, it shall be incumbent on him, within One month after his 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 Promoter so taking possession of his lands.]

## PART XVIII.

## CONSTRUCTION OF WORKS.

Construction of works.

108 It shall be lawful for the Promoter from time to time to make, construct, erect, lay down, maintain, alter, repair, or discontinue upon any land purchased by the Promoter under the provisions of this Act, or upon any land now or hereafter to be vested in the Promoter, such waterworks, machinery, steam-engines, water-wheels, and other works as the Promoter may think necessary for the purposes of this Act.

Promoter to give notice prior to entering.

109 Prior to the first entry upon any private land by the Promoter for the purposes of this Act, not less than Seven days' notice of the intention of the Promoter to enter shall be given by the Promoter to the owner and occupier, if any, but no notice shall be necessary previous to any subsequent entry by the Promoter upon such land for the purposes of this Act.

To do as little damage as possible.

110 In the exercise of the powers conferred by this Act, the Promoter shall do as little damage as possible or that can be consistent with a due regard to the works authorised under this Act, and, in all cases where it can be done, shall provide other watering-places, drains, and channels for the use of the adjoining lands in place of any such as are taken or interrupted by the Promoter.

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**111** The Promoter shall make compensation in manner hereinafter provided to all persons lawfully claiming any right to the use of any water taken or diverted or appropriated by the Promoter under the authority of this Act, or lawfully interested in any private land other than land purchased by the Promoter in or upon which any waterworks may hereafter be constructed, or which may be injuriously affected by the construction and maintenance of the waterworks under this Act or otherwise by the exercise or execution by the Promoter of the powers hereby conferred, for all damage sustained by reason of the exercise or execution as to such land or water of the powers vested in the Promoter by this Act.

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—  
Promoter to make compensation.

**112** Any person claiming under this Act any compensation against the Promoter shall prefer his claim by notice in writing addressed to the Promoter, and served as hereinafter provided, in which notice shall be specified the place of abode of the claimant, the particular act occasioning the damage for which compensation is claimed, the nature and amount of such damage, and the nature of the title or interest of such claimant in or to the water or land or other property or possession, or anything in respect of which the claim is preferred; and if any such person and the Promoter do not agree as to the amount of such compensation, the same and the application thereof shall, except in the cases hereinafter mentioned, be determined by arbitration in the manner provided by *The Lands Clauses Act* in cases of disputed compensation.

Persons damaged to claim compensation.

**113** If the Promoter, by notice in writing, requires any person to make claim for compensation for any damage occasioned by the exercise of any of the powers conferred on the Promoter by this Act previously to the service of such notice, such person shall not be entitled to compensation for any damage sustained by reason of the exercise of any such powers previously to the service of such notice unless he prefers his claim in the manner aforesaid within Six months after service of such notice.

Persons not making claim barred.

**114** Nothing in this Act contained shall prevent the owners and occupiers of land through or by which any such stream shall flow from using the waters thereof in such manner and to such extent as they might have done before the passing of this Act, unless they shall have received compensation in respect of their right of so using such water.

Reservation of existing rights.

## PART XIX.

### SUPPLY OF ELECTRIC POWER.

**115** The Promoter may supply, let, hire, and sell to any person, mine, or building, motive or electric power or electricity, upon such terms and conditions as in this Act contained.

Promoter may supply, &c.

Provided that before the Promoter contracts to supply any motive or electric power or electricity within the boundaries of any city or town he shall first obtain the sanction of the Local Authority affected.

Provided also, that any person in occupation of any land forming part of any block of land leased to the Promoter under the provisions of this Act shall be supplied by the Promoter upon similar terms to

Supply of power to occupiers of Promoter's blocks.

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those upon which the Promoter supplies any other person not so occupying under similar circumstances.

Testing.

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

Promoter may let meters.

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

Meters not distrainable, &c.

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

25

Meter may be supplied and maintained by consumer.

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

Notice of removal, &c. of meter.

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

Penalty for neglect to provide meter.

**121** If any person who under the provisions hereinbefore contained ought to provide any meter neglect or refuse, after having been required by the Promoter so to do, to provide such meter, he shall, for every such day during which such neglect or refusal continues, forfeit a sum not exceeding Two Pounds.

Penalty for neglecting to give notice of repairs of meters.

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



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**123** If any person refuse or delay to have such meter properly repaired and put in correct working order after having been required by any officer of the Promoter so to do, the Promoter may shut off the supply of electricity from the premises of such person, either by cutting 5 the conduits or service-pipe, or otherwise, until such meter shall have been properly repaired and certified by some officer of the Promoter to be in proper working order.

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Electricity  
may be shut off if  
meter not in order.

**124** If any plumber or other person fix or refix any meter upon any premises supplied with electric power by the Promoter without having 10 first obtained a certificate from the Promoter that the said meter has been examined and found in correct working order, he shall be liable to forfeit a sum not exceeding Five Pounds.

Penalty for fixing  
uncertified meter.

**125** If any person remove or alter the position of, or in any way interfere with, any meter without giving such notice as aforesaid, he 15 shall be liable for each such offence to forfeit a sum not exceeding Five Pounds over and above the damage which he may be found liable to pay in any action at law at the suit of the Promoter.

For removing  
meter without  
notice.

**126** The officers of the Promoter may enter any house, building, or lands to, through, or into which electricity is supplied by the Pro- 20 moter by measure in order to inspect the meters, instruments, conduits, and apparatus for the measuring, conveyance, reception, or storage of electricity, or for the purpose of ascertaining the quantity of electricity supplied or consumed, and may from time to time enter any house, building, or lands for the purpose of removing any meter, instrument, 25 conduit, or apparatus the property of the Promoter; and if any person hinders any such officer from entering or making such inspection, or effecting such removal, he shall for each such offence be liable to a penalty not exceeding Five Pounds; but, except with the consent of a Justice, this power of entry shall be exercised only between the hours 30 of Nine in the forenoon and Four in the afternoon.

Power to officers  
of Promoter to  
inspect meters.

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

Notice that  
conduits be laid.

**128** Any owner or occupier of any dwelling-house or part of a dwelling-house, mine, building, or property who shall wish to have electricity brought into his premises, and shall have paid or tendered to the Promoter the rate or charge in respect of such electricity 35 by this Act directed to be paid in advance, may, with the consent of the Promoter first had and obtained, open the ground between the conduits of the Promoter, or erect poles and put wires and conductors thereon between and to communicate with the conduits, poles, and wires of the Promoter, and carry and run electricity therein and thereon, having first obtained the consent of the owners and occu- 45 piers of such ground.

Conduits laid by  
owner or  
occupier.

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

Notice to  
Promoter of  
laying pipes.

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Communication  
with pipes of  
Promoter to be  
made under the  
superintendence  
of surveyor.

**130** Before any conduit or wire is made to communicate with the conduit or wires of the Promoter, the person intending to lay such conduit, or put up such poles and wires, shall give Two days' notice to the Promoter of the day and hour when such conduit or wire is intended to be made to communicate with the conduits or wires of the Promoter; and every such conduit or wire shall be so made to communicate under the superintendence and according to the directions of the surveyor, or other officer appointed for that purpose by the Promoter. The conductor, communicator, distributor, conduits, or wires put up to connect with the conduits or wires of the Promoter shall be supplied by the Promoter at cost price to any person requiring the same, at his request and costs. 5 10

Service conduits  
may be removed  
after giving  
notice.

**131** Any person who shall have laid down any conduit, wire, or other works, or who shall have become the proprietor thereof, may remove the same after having first given Six days' notice in writing to the Promoter of his intention to do so, and of the time of such proposed removal; and every such person shall make compensation to the Promoter for any injury or damage to their conduits, wires, or works which may be caused by such removal. 15

Power to break  
up pavements.

**132** Any such owner or occupier may open or break up so much of the street or pavement (if any) as shall be between the conduits of the Promoter and his house, building, or premises, or of any sewer or drain therein, for any such purpose as aforesaid (doing as little damage as may be), and making compensation to the Local Authority for any such damage done in the execution of any such work. 20 25

Provided always that every such owner or occupier desiring to break up the pavement of any street, or any sewer or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restrictions, and obligations in and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto, as the Promoter is subject to under the provisions of this Act. 30

Protection of the  
motive power:  
In case of any  
breach of this  
part of this Act  
motive power  
may be cut off.

**133** If any person supplied with electricity by the Promoter wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this Act, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, or undue consumption of electricity, the Promoter may (without prejudice to any remedy against him in respect thereof) cut off any of the conduits or wires by or through which electricity is supplied to him or for his use, and may cease to supply him with electricity as long as the cause of injury remains or is not remedied. 35 40

Penalty for waste  
of motive power.

**134** If any person supplied with electricity by the Promoter wilfully or negligently causes or suffers any conduit or other apparatus to be out of repair, or to be so used or contrived that the electricity supplied to him by the Promoter is or is likely to be wasted, misused, or unduly consumed, he shall for every such offence be liable to a penalty not exceeding Five Pounds, and a further sum not exceeding Two Pounds for each day (if more than one) that such offence continues. 45 50

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**135** If any person shall wilfully or maliciously destroy, injure, or damage, or attempt to destroy, injure, or damage, any conduit, pipe, wire, or apparatus, or any of the works constituted under the authority of this Act, or wilfully and maliciously do any act calculated to render any part or parts of the machinery or works of the Promoter or his assigns unworkable or defective, or whereby any electricity is or may be lost, wasted, misused, destroyed, or interrupted in any way, he shall for every such offence be liable to a penalty not exceeding Fifty Pounds, or to be imprisoned for any term not exceeding Six 10 months, and shall pay for any damage that may be done.

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Penalty for destroying works, &c.

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

No pipe to be fixed to consumer's pipe without permission of Promoter.

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

Inspection of premises supplied with motive power.

**138** For the purposes of erecting the necessary works for supplying electricity and electric power under the authority of this part of this Act, the Promoter shall have all the powers conferred by *The Electric Telegraph Act* (20 Vict. No. 22) upon the Superintendent of Telegraphs appointed under the Act 46 Vict. No. 5, and the Promoter 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 Promoter as provided in that Act.

Powers of 20 Vict. No. 22 extended.

A.D. 1897.

PART XX.

PROTECTION OF PUBLIC TELEGRAPHIC AND TELEPHONIC LINES.

Promoter not to injure any Government line of telegraphic or telephonic communication.

**139** The Promoter shall not, in the exercise of any of the powers conferred by this Act, lay down any electric line or do any other work for the supply of electricity whereby any telegraphic or telephonic line belonging to or under the control of the Postmaster-General is or may be injuriously affected.

5

Consent of Postmaster-General to be obtained.

**140** The Promoter shall not proceed to erect or lay down any wire, conductor, communicator, distributor, electric line, or other electric apparatus without the approval of the Postmaster-General having been previously obtained as hereinafter provided; and if the said Postmaster-General is at any time of opinion that any telegraphic or telephonic wire is or may be injuriously affected by such wire, conductor, communicator, distributor, electric line, or other apparatus, or that the same is likely to become dangerous to the public safety or a public nuisance, the said Postmaster-General may, by notice in writing, require the Promoter to remove such wire, conductor, communicator, distributor, electric line, or other apparatus or any portion thereof; and if the Promoter does not within Ten days after service on him of such written notice remove the same, the said Postmaster-General may remove the same, and recover the expense of such removal from the Promoter in a summary manner.

20

Notice to be given to Postmaster-General of intention to execute works.

**141** One month before commencing the execution of any works under the authority of this Act for the transmission of electricity (not being the repairs, renewals, or amendments of existing works of which the character and position are not altered), the Promoter shall serve a notice upon the Postmaster-General describing the proposed works, together with a plan of the works showing the mode and position in which such works are intended to be executed, and shall, upon being required to do so by the Postmaster-General, give him any such further information in relation thereto as he may desire.

25

Postmaster-General may approve.

**142** The Postmaster-General may in his discretion approve of any such works or plan, subject to such amendments or conditions as may seem fit, or may disapprove of the same, and may give notice of such approval or disapproval to the Promoter.

30

If Postmaster-General does not disapprove within One month works may be executed.

**143** If the Postmaster-General fail to give any such notice of approval or disapproval to the Promoter within One month after the service of the notice upon him, he shall be deemed to have approved such works and plan.

35

Works to be in accordance with plans.

**144** Notwithstanding anything in this Act contained, the Promoter shall not be entitled to execute any such works as above specified, except so far as the same may be of a description and in accordance with a plan which has been approved or is deemed to have been approved by the Postmaster-General as above mentioned; but where any such works, description, and plan are so approved or to be deemed to be approved, the Promoter may cause such works to be executed in accordance with such description and plan, subject in all respects to the provisions of this Act.

45

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**145** If the Promoter makes default in complying with any of the requirements or restrictions of this Act, he shall make full compensation to the Postmaster-General for any loss or damage which the Postmaster-General may incur by reason thereof.

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Promoter liable in damages.

**146** The Postmaster-General may require the Promoter to erect wires, conductors, communicators, distributors, electric lines, or other apparatus in accordance with the rules and regulations applying to electric light and power wires as issued by the *London* Board of Trade, or such modification thereof as may be approved and sanctioned by the Governor in Council.

Wires, &c. to be erected in accordance with Rules of Board of Trade.

**147** In the event of any contravention of or wilful non-compliance by the Promoter or his agents with any of the provisions of this Part of this Act, the Promoter shall be liable on conviction to a penalty not exceeding Ten Pounds for every day during which such contravention or non-compliance continues, or, if the telegraphic communication is wilfully interrupted, not exceeding Fifty Pounds for every day on which such interruption continues.

Penalty.

**148** Nothing in this Part of this Act shall subject the Promoter or his agent to a penalty if he or they satisfy the Court having cognizance of the case that an immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or officer in charge of the post or telegraph office nearest to the place where the work was done a notice of the execution thereof, stating the reason for executing the same without previous notice.

Penalty not to be incurred in certain cases.

**149** For the purposes of this Act, a telegraphic or telephonic line belonging to or under the control of the Government shall be deemed to be injuriously affected by a work if telegraphic or telephonic communication by means of such line is, whether through induction or otherwise, in any manner affected by such work or by any use made of such work.

When line to be deemed to be injuriously affected.

**150** If at any time the Promoter is dissatisfied with anything done by the Postmaster-General under the alleged authority of this Act, the Promoter may appeal to a Judge of the Supreme Court, who shall determine whether the particular power claimed by the Postmaster-General is conferred upon him by this Act, and whether the manner in which the same has been exercised is reasonable and proper for the purpose for which it is conferred, and such Judge may make such Order as he shall deem necessary to secure a proper exercise of such power.

Promoter may appeal to Judge of the Supreme Court.

## PART XXI.

### BY-LAWS.

**151** It shall be lawful for the Promoter from time to time to make By-laws—

Power to make By-laws.

For regulating the affairs and the management of the said railway, and the buildings and works connected therewith :  
**45** For fixing the tolls, rates, fares, and charges for the carriage and [Private.]

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conveyance of passengers, goods, merchandise, chattels, live stock, and other things of any description thereon :

For all purposes which are usually comprised in the By-laws of any railway company :

For regulating the form of contract to be entered into with the Promoter and any other person, and generally for carrying into effect the purposes of this Act :

As to supplying electricity :

For determining the time at which any charge for electricity shall be payable, and whether in advance or not : 10

For regulating the form, material, dimensions, construction, and arrangement of pipes, conductors, conduits, wires, and other works supplying electricity from the pipes, conduits, or wires of the Promoter to adjacent premises, the time of executing and the notices to be given for such works, the superintendence 15 thereof, the making good and replacing ground which may be displaced in the course of such works, and for inspecting all works or appliances at reasonable times, whether situate within any building or otherwise :

For regulating the construction, disposition, custody, and inspection of meters : 20

For preventing the waste or misuse of electricity supplied by the Promoter :

For preventing the use, directly or indirectly, of electricity supplied by the Promoter, by persons unauthorised by the Promoter : 25

For preventing persons from wilfully breaking, injuring, or interfering with any conduit, lock, cock, valve, engine, or work belonging to the Promoter, and from doing any other wilful act whereby the electricity supplied by the Promoter 30 may be wasted.

And it shall be lawful for the Promoter 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 or to any law in force for the time being in *Tasmania* ; and such By-laws 35 shall be in writing under the hand of the Promoter, and, if affecting other persons than its own officers and servants, and not being By-laws fixing such tolls, rates, fares, and charges as aforesaid, shall be subject to the approval of the Governor in Council, and be published as hereinafter is provided. 40

By-laws may be enforced by penalties.

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

By-laws to be published.

**153** All such By-laws relating to other persons than the servants 45 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, or for the supply of electricity, light, or motive power, 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 to be open to inspection without fee or reward ; and in case any person wilfully obliterates any of the letters or figures thereon, or wilfully prevents the same being inspected 50

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at some reasonable time, he shall for every such offence be liable to a A.D. 1897.  
penalty not exceeding Five Pounds.

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

**155** 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. Proof of By-laws

**156** The Governor in Council may from time to time make, alter, and revoke such Regulations as are mentioned in Parts XIII. and XIV. of this Act, and for prescribing the forms which shall be used in carrying out the provisions of this Act and the Regulations made hereunder, and generally for any of the purposes of this Act. And any such Regulations may impose a penalty for the breach thereof, and may also impose different penalties in case of successive breaches; but no such penalty shall exceed Ten Pounds. Regulations by the Governor in Council.

All such Regulations shall be published in the *Hobart Gazette*, and shall take effect from the date of such publication, unless otherwise provided therein, and shall have the same effect in law as if part of this Act.

**157** All Regulations made by the Governor in Council, and all By-laws made by the Promoter under this Act, shall be laid before both Houses of Parliament within Fourteen days of the making thereof if Parliament is in Session, and if not, then within Fourteen days after the commencement of the next Session. By-laws to be laid before Parliament.

## PART XXII.

### MISCELLANEOUS.

**158** Wherever by this Act authority is conferred on the Promoter to enter upon any land for the purposes of this Act, or to do any act in or relating to the construction or maintenance of any work, the same authority shall extend to all persons acting by direction of the Promoter, and to all necessary agents, assistants, servants, workmen, means, and appliances whatsoever. Entry by agents.

**159** Nothing contained in this Act, or in any lease issued hereunder, shall be deemed to prevent the Minister from constructing any line of railway which Parliament may at any time hereafter authorise in the vicinity of or adjacent to the said line of railway, nor from constructing any public tramway or road across any of the said blocks or across the line of the said railway at any point or points directed by the Minister, nor to prevent the resumption of any land for This Act not to prevent Minister constructing railway.

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these purposes or for the purpose of constructing any works for conserving water or conducting water either for generating electricity or for other purposes, and either from any of the rivers on which the Promoter may have established or may have power to establish any works under this Act or from any other river or lake, and for the construction of any electric works or the conducting and transmission of electricity : Provided proper compensation shall be made by the Minister to the Promoter for any severance or damage done to the works of the Promoter or to any of his buildings, cultivation, or mines, or for any loss by inconvenience in working the said railway or any other works of the Promoter by reason of any such action of the Minister, 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.

Minister may  
refuse to grant  
Mining Easement  
under  
57 Vict. No. 24  
within Ten miles  
of railway.

**160** Notwithstanding anything contained in "The Mining Act, 15 1893," or in any other Act, the Minister may refuse to grant to any applicant any Mining Easement to construct and use any tramway in, through, or upon any Crown lands within a distance of Ten miles of any part of the said railway except upon such conditions as to the construction and working of such tramway as the Minister may think fit to impose ; but this Section shall not apply to any application for a Mining Easement to construct and use any tramway which shall be *bonâ fide* used only for the more convenient and advantageous working of any sections of mineral land held or occupied by the applicants, 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.

Promoter to  
have all powers  
of this Act before  
lease issued.

**161** Until the primary lease shall be issued the Promoter 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 or other works.

Penalty for  
damage to  
instruments,  
railway, &c.

**162** If any person shall wilfully interfere with or obstruct any person acting under the authority of the Promoter in setting out the line of any works undertaken under the authority of this Act, or move, injure, or damage any poles, stakes, marks, or instruments used by the Promoter or his 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 Promoter, such person shall for every such offence forfeit and pay to the Promoter a sum not exceeding Ten Pounds over and above the damages occasioned thereto.

45

Promoter's  
Attorney may act  
for Promoter.

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



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- 164**—(1.) Before commencing to construct any works authorised by this Act, the Promoter shall register with the Registrar under “The Companies Act, 1869,” and shall publish in the *Hobart Gazette* the name and place of abode or business of the person who for the time being carries on the business of the Promoter in *Tasmania*, and also the situation of the Office in *Tasmania* of the Promoter, and shall in like manner upon any change of such person, or in the situation of such office, register and publish the same. And such person shall be deemed to be the Agent, and such office to be the Registered Office of the Promoter. A.D. 1897.  
Promoter to have Registered Office.
- (2.) The name of the style or firm under which the Promoter is carrying on business, and that such office is his Registered Office under this Act, shall appear and be stated in a conspicuous manner on the outside of such Registered Office.
- 15 (3.) Any Bill in Equity, writ, summons, notice, order, or other document relating to the works authorised by this Act, or to any matter herein mentioned, or to the privileges or liabilities of the Promoter hereunder, may be served upon the Promoter by delivering the same to his Agent, or by leaving the same at his Registered Office, or  
20 by sending the same in a prepaid and registered letter addressed to the Promoter at such office.
- (4.) If the Promoter shall at any time transfer or assign his rights, privileges, and authorities under this Act, or any of them, to a Company incorporated and registered in *Tasmania* under “The Companies Act, 1869,” the preceding provisions of this Section shall not extend or  
25 apply to such Company.
- 165** In the event of any dispute, question, or difference arising between the Promoter and the Minister, or any official to whom any powers are given by this Act, in regard to any of the powers hereby  
30 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. Settlement of certain disputes.
- 166** 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  
35 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 Promoter: Provided that no person shall be liable to  
40 imprisonment for non-compliance with any order for payment of any money or charges due to the Promoter. Offences to be dealt with summarily.  
19 Vict. No. 8.
- 167** Where by this Act any fine or forfeiture is imposed, or expenses or compensation made payable, such fine, forfeiture, expenses, or compensation may be recovered as simple debts. Recovery of fines, &c.
- 45 **168** Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act or any By-law, which is recoverable in a summary manner, may, unless otherwise expressly provided, appeal against the same in the mode prescribed by *The Appeals Regulation Act*. Appeal from penalties.  
19 Vict. No. 10.
- 50 **169** The Judges of the Supreme Court may from time to time make, alter, and rescind Regulations for the following purposes:— Regulations.

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- i. For prescribing the form of any notice required by this Act, and the mode of service thereof, and the persons upon whom the same may be served :
- ii. For prescribing the mode in which proceedings shall be taken before the Commissioner, and for regulating the practice 5 and procedure before him, and for the fees to be paid thereon :
- iii. For prescribing the mode in which appeals shall be brought before the Supreme Court or a Judge thereof :
- iv. For determining the person or persons whose receipt for 10 compensation money, or whose signature to any agreement for compensation, shall be binding.

Minister may  
reserve lands.

**170** It shall be lawful for the Minister to withdraw from selection under "The Crown Lands Act, 1890," and from the operation of "The Mining Act, 1893," for a period of Two years from the passing of this 15 Act, so much land as to the Minister may seem fit as lies between the parallels of latitude which run through the towns of *Sheffield* and *Strahan* respectively, and west of an imaginary line drawn north and south through the railway station at *Mole Creek*, and east of the eastern boundary of the Western Mining Division. 20

Promoter to  
make deposits.

**171** The Promoter shall, within Six months after the passing of this Act, deposit with the Treasurer of the Colony the sum of Five thousand Pounds, which shall from time to time be returned without interest to the Promoter in sums of Five hundred Pounds each as soon as the Minister may report that such an amount shall have been ex- 25 pended by the Promoter in making a survey of the railway authorised under this Act ; and if the whole of such sum of Five thousand Pounds shall not be expended in making such survey within Two years after the passing of this Act, then such sum, or the balance then remaining unexpended, shall be absolutely forfeited to Her 30 Majesty, and shall become part of the Consolidated Revenue Fund of the Colony.

The Promoter shall, within Twelve months after the passing of this Act, place at interest on fixed deposit a further sum of Five thousand Pounds, in the name of the Treasurer of the Colony, in some bank in 35 *Hobart* to be approved by the said Treasurer, and shall deliver to the Treasurer the deposit receipt for such sum.

The Promoters shall be entitled to the interest on such deposit of Five thousand Pounds by yearly payments during the period it remains in the name of the Treasurer in such bank as aforesaid, or until forfeited 40 as hereinafter mentioned.

The Treasurer shall transfer or deliver the said deposit receipt to the Promoter as soon as the Minister shall report to him that the said railway has been constructed in accordance with the provisions of this Act, and shall do any act reasonably required to enable the Promoter 45 to obtain payment of the said deposit.

If the said railway shall not be so constructed within Five years from the passing of this Act to the satisfaction of the Minister, the said sum of Five thousand Pounds and all interest accruing thereon shall be absolutely forfeited to Her Majesty and shall become part of the Con- 50 solidated Fund of the Colony. In the event of either of the said sums of Five thousand Pounds not being deposited as hereinbefore mentioned, all rights, powers, privileges, and concessions conferred upon the Promoter by this Act shall be absolutely void and of no effect.

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**[SCHEDULE.]****(1.)****SPECIFICATION OF WORKS IN CONNECTION WITH THE CONSTRUCTION OF THE GREAT MIDLAND AND WEST COAST RAILWAY.***Extent of Line.*

The Railway shall extend from a point on the Chudleigh Railway to be approved by the Minister, to a point within the Western Mining Division to be approved by the Minister.

*Description.*

The Railway shall have a gauge of 2 feet, with curves of a radius of not less than  $1\frac{1}{2}$  chains, and gradients not steeper than 1 in 25 adhesive.

*Clearing.*

The whole of the land required for railway purposes must be cleared of all trees, logs, and undergrowth.

All stumps of trees, bushes, and shrubs must be removed from the seats of embankments wherever the depth is less than 5 feet, and from all surface forming and cuttings.

When the safety of the line requires, trees outside the limits of the Railway land must be cut down.

*Fencing.*

Fencing must be erected, where required, of approved design and construction.

*Level Crossings, Gates, &c.*

Public and occupation crossings must be constructed, where required, with gates or cattle-guards for public roads of approved design, material, and construction.

*Side Cuttings.*

Side-cuttings must not interfere with the drainage of the surrounding district, or with the flow of water from ditches into culverts, or the discharge of water from culverts. The inner slopes must be properly trimmed, and in no case must the edge of a side-cutting come nearer than ten feet to the toe of an embankment.

*Table Drains.*

Table drains must be cut on each side of the cutting to properly carry off the water.

*Excavations and Cuttings.*

The excavations shall be of such widths and slopes as may be approved.

No cuttings shall be less than ten (10) feet wide at bottom.

The depths of the cuttings shall be those shown on the sections, and the bottom is represented by the formation line.

The bottom of each cutting must be taken out true to the formation line, and the sides must be parallel with the centre line.

When the line is curved the bottoms of cuttings and the tops of embankments shall have such inclination transversely as may be approved, so as to correspond with the superelevation of the outer rail. Cuttings must be perfectly true to grade. Where taken out too low must be made up with approved hard material or ballast.

Every care must be taken to protect the public where necessary during the progress of the work, and temporary crossings must be formed and maintained where required.

*Excavations for Diversions, Approaches, &c.*

Excavations for approaches to bridges, level crossings, or station yards, or for river, creek, or road diversions, shall be of such form and dimensions as may be approved.

*Embankments.*

The tops of the embankments shall not be less than ten (10) feet in width, and shall be finished and maintained to the levels represented by the formation line on the longitudinal section; where embankments are made on sidelong ground, benches must be cut where required. All embankments must be of approved material.

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*Surface Forming.*

Where surface forming is shown on the longitudinal section, the ground shall be cleared of all objectionable material and trimmed longitudinally to the levels shown by the formation line, and transversely to a width of ten feet.

*Side Ditches.*

Side ditches must be cut of such extent as may be required, of approved form and dimensions.

*Excavations for Foundations.*

All excavations for foundations for bridges, piers, culverts, walls, and other erections shall be made to approved depths and dimensions.

*Concrete.*

Concrete where used shall consist of five parts of clean broken stone or good clean gravel, not exceeding two-inch gauge, three parts clean, coarse, sharp sand, and one part best Portland cement of approved brand, to be mixed to approval.

*Brickwork.*

Bricks to be sound, hard, kiln-burnt, of uniform size and shape, and free from defects, the work to be laid in English bond with well-tempered mortar, as hereinafter specified for masonry, with lime or cement as approved.

*Masonry.*

Materials.—All stone used for buildings, bridges, flood openings, culverts or water-ways, walls, or other erections shall be hard, flat-bedded, approved quarry-stone.

Lime mortar shall consist of one part of fresh well burnt lime of approved quality and two parts of clean sharp sand, to be mixed to approval.

Cement mortar shall consist of one part Portland cement as before specified and three parts of clean sharp sand (washed if required), and used fresh mixed to approval.

*Footings.*

All footings to masonry shall consist of large flat-bedded stones, roughly squared with horizontal beds and vertical joints, laid in mortar on their natural beds, each stone if possible running through the entire width of footing, and where this is not obtainable the stones shall have a lap past each other of at least one foot; they must be rough axed, dressed on the beds and joints, and no stone shall have a bed of less than four superficial feet.

*Squared Masonry.*

Squared masonry in bridges, culverts, walls, or other erections shall consist of good, sound, flat-bedded stones, roughly squared with horizontal beds and vertical joints, levelled up in regular courses and set in lime mortar, unless where otherwise specified, the stones to be laid upon their natural beds; no stones shall be of less dimensions than one-half of a cubic foot, and the breadth of the bed of any stone shall not be less than one-third more than its own height, and the length of any stone on the face shall not be less than twice its height.

The work shall be laid in courses of not less than 6 inches nor more than 18 inches in height, each course being pitched off to the proper line before the next course is commenced. The work in the hearting and the back must be of the same quality as that on the face, both as regards material and workmanship.

The stones shall break joint with each other at least 4 inches; no spalls will be allowed in the beds or face joints.

All vacancies must be filled and grouted up level in each course, and no underpinning will be allowed.

In courses under 12 inches in height every stone in the course must be of the same height; in courses of 12 inches or more in height, there shall not be more than two stones.

There shall not be more than two stones in the height of the course; the deeper stones must be kept in the lower part of the work.

Bond stones the full height of the course must be laid in each course at intervals of not more than four feet, extending the full width of the work, with a lap past each other of at least one foot if through-stones are not obtainable.

No bond stone shall have a width on the face of less than 12 inches. Angle quoins shall be the full height of such course, laid header and stretcher alternately, with a pitched line on the outer arris.

The headers must be bond stones, as above specified, and the stretchers shall break joint not less than eight inches; weep-holes must be provided where required.

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The top course to all abutment walls of culverts with timber tops, abutment walls to bridges or to piers, shall be laid in cement mortar. A.D. 1897.

All face joints shall be raked out one half-inch deep, and pointed in cement mortar

*Coursed Arching.*

All stones used for arching to culverts, tunnels, &c. shall be free from defects, not less than one and a half ( $1\frac{1}{2}$ ) times the depth of the arch in length, and two-thirds ( $\frac{2}{3}$ ) the depth of the arch in thickness, dressed true on face, beds, joints, and soffit, and properly summered with radial joints so as to fit close. Joints shall not be more than one-half ( $\frac{1}{2}$ ) inch in thickness, and shall be thoroughly filled with mortar. The masonry shall be laid in gauged courses, so as to run square and true from one face of the arch to the other, and the stones shall break joint not less than one-half ( $\frac{1}{2}$ ) of the depth of the arch. The arrises of the face of the stones shall be dressed true to a pitch line.

After the removal of the centres the joints shall be raked out three-quarters ( $\frac{3}{4}$ ) of an inch deep and pointed in fine mortar. No centres shall be struck before the masonry backing is built, and the spandrel walls and parapets shall not be built until the centres are struck.

*Ashlar.*

Ashlar in abutments, piers, and bed stones must be pitched quarry-faced work, beds and joints worked fair to chisel drafts and out of winding, with a pitch-line round the outer arris, and no projection on the face of the work shall exceed two and a half ( $2\frac{1}{2}$ ) inches. All headers shall be three (3) feet in length by not less than twenty (20) inches on the bed.

Stretchers shall be at least 3 feet 4 inches in length. The width of the bed of the stretchers shall not be less than  $\frac{1}{3}$  more than the thickness of their several courses.

No header or stretcher shall break joint with less than 10 inches.

The whole of the ashlar work shall have the beds and joints raked out to a depth of half an inch, and pointed with fine mortar.

Ashlar in plinths, strings, caps, coping, &c. shall be squared throughout, with beds and joints worked fair, and true arrises.

Face stones to arches and tunnels must be squared throughout, worked fair and properly summered to radial joints.

Copings shall be set in cement. Pointings shall be in fine mortar. Joints not more than one-eighth of an inch thick.

*Tunnels.*

Tunnels must be of approved design and dimensions, lined, where required, with brickwork, masonry, or concrete of approved thickness and of quality for each class of work as hereinbefore specified.

*Dry Stone-walling, &c.*

Dry stone-walling, pitching, loose stone-packing, and rubble drains built, where required, to the approval of the Inspecting Officer.

*Earthenware Drain-pipes.*

Wherever earthenware pipes are used as culverts under the Railway they must be surrounded with cement concrete of approved thickness. Pipes, wherever used, must be of approved quality, free from flaws.

*Hardwood in Bridges, Culverts, &c.*

All hardwood used must be of approved description and quality.

Round timber must be carefully barked.

Piles must be driven to approval with a monkey weighing not less than one ton.

*Round Timber.*—Where used for girders, to be squared true, and out of winding on top, and all bearings to have butt joints, and to be squared on sides.

Backing logs for abutments or elsewhere to be of half round timber, adzed on three sides to fit close at joints, trenailed to each with one-inch diameter hardwood trenails not more than 4 feet apart, and spiked to piles or uprights with  $\frac{3}{8}$ -inch round jagged spikes; all joints to be on piles or uprights.

In log culverts fronts to be secured with 2-inch hardwood trenails, and the tops of the logs forming the sides of the culverts to be adzed so as to form a proper bed for the covering; the edges or sides of the covering to be adzed so as to form close joints.

*Squared or Sawn Timber.*

Wherever used to be squared true on all sides, and dressed fair with the adze. The small sized scantlings must be squared, and wrought true to all surfaces which are in contact.

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Head stocks must be mortised down on pile heads, and prepared to receive corbels (if any), walings and bracings are to be checked on to piles to a depth of  $1\frac{1}{2}$  inches, braces checked out one-fourth into the walings, and both bolted to piles with not less than one bolt at every bearing.

Planking to be close-jointed, and well spiked down with spikes, the length of which must be equal to twice the thickness of planking, two spikes through each plank at every bearing. Every plank shall extend across the full width of the bridge, culvert, or opening, without joint, and the ends shall be cut square and even.

All holes for bolts, pins, &c. shall be bored with an auger of the diameter of each bolt, pin, &c.

After any bridge, flood-opening, or culvert is completed it shall be tested by having run over it a train of engines or waggons equal in weight to one ton per lineal foot of opening at a speed of 18 miles per hour.

*Ironwork.*

*Cast-iron.*—All cast-iron used shall be equal in quality to the best English castings, and of such strength that a bar of 1 inch square and 3 feet 2 inches long, when placed on two supports 3 feet apart, and loaded in the centre, shall sustain a weight of not less than 7 cwt.

*Wrought-iron.*—All wrought-iron used shall be equal in quality to the best Staffordshire iron.

All girders and bridges to be subjected to a test of running load not exceeding  $1\frac{1}{2}$  tons per lineal foot of opening at 18 miles per hour.

All ironwork, whether cast or wrought, to be of approved design and workmanship.

*Ballast.*

The ballast shall consist of good clean gravel of approved quality, or approved hard stone broken so as to pass through a ring in every direction of  $2\frac{1}{2}$  inches diameter. The quantity of ballast to be used to be not less than 800 cubic yards per mile.

*Metalling Roads.*

A foundation 5 inches deep is to be laid on road formed to approved drawing, consisting of hard stone closely packed, broken until no stone is too large to pass in any direction through a 5-inch ring.

Metalling is to consist of good hard approved stone, small enough for any stone to pass through a  $2\frac{1}{2}$ -inch ring in any direction, and 6 inches in depth.

Blinding to consist of loam, fine gravel, or approved soft stone, and not to consist of clay or pure sand; to be laid over metalling to a depth of 2 inches.

Approved drainage to be provided, and the whole to be finished to width, shape, and thickness, when consolidated, as required.

*Temporary Roads and Bridges.*

Approved temporary roads and bridges efficiently lighted and protected must be provided where necessary during the progress of the works.

*Sleepers.*

The sleepers must be 5 feet long, 8 inches wide, and 4 inches thick, of approved stringy-bark, blue gum, or peppermint, properly squared, and free from sap, heart, and all defects.

*Rails, Fish-plates, Fish-bolts, and Spikes.*

The rails to be of steel, not less than 40 lbs. per lineal yard.

The fish-plates, bolts, and spikes to be of steel.

The rails, fish-plates, and fish-bolts to be made in England, tested, inspected, and certified to as to quality by the Consulting Engineer of the Tasmanian Government in England, at the sole cost of the Great Midland and West Coast Railway Company.

Switches, lever-rods, boxes, weights, &c. to be provided where required.

*Laying Permanent Way.*

Before any sleepers are laid they shall be truly adzed out of winding, and to a proper template, with a cant inwards of 1 in 26, and bored for dogspikes with a half-inch auger.

The bottom ballast must be spread upon the formation for the full width and thickness, and the sleepers then laid and placed in true position.

The rails (after being properly straightened or curved, as the case may be) shall be laid and linked in, proper allowance being made for expansion, the rails to be then fastened to the sleepers with the dogspikes in a workmanlike manner, care being taken that the heads of the dogspikes clip the bottom flange closely without bending the spikes.

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The line must be laid true to gauge, with such slacks of gauge on curves as may be necessary. A.D. 1897.

The outer rail on curves must be elevated above the inner to the running speed.

*Guards and Public Crossings.*

At level crossings, both public and occupation, steel and wooden guards and check rails shall be fixed to approval.

*Specifications and Drawings.*

The detailed plans and drawings of designs and works to be submitted to the Minister for his approval must in every respect be in accordance with the specifications as herein set forth.

*Inspecting Officers.*

The specifications must be carried out to the approval of the Inspecting Officers appointed in accordance with the Act of Parliament, and where the words *approved* or *approval* are used in the specification, unless otherwise stated, they shall mean approved by, and with the approval of, such Inspecting Officers.]