

Mittagong Coal-mining Company's Railway.

MITTAGONG COAL-
MINING COMPANY'S
RAILWAY.

An Act to enable a Company called the "Mittagong Coal-mining Company (Limited)" to construct a Railway from the Mittagong Coal-mine to the Great Southern Railway.
[31st October, 1884.]

Preamble.

WHEREAS certain persons now residing in the Colony of New South Wales have opened coal-mines and established collieries on certain lands situate at Mittagong in the parish of Jellore in the Colony of New South Wales and with others have formed themselves into a Company called the "Mittagong Coal-mining Company (Limited)" and in order to facilitate communication between the said coal-mines and the Great Southern Railway such Company is desirous of constructing a railway from their said coal-mine to the Great Southern Railway but as part of such proposed railway is intended to be made upon and pass through lands believed to be the property of the Crown and private persons respectively the same cannot be made without Legislative authority And whereas the said coal-mines are likely to prove beneficial to the Colony and the public are concerned in promoting such an increase in and facilities for the supply of coal for local consumption steam navigation and export as would result from the construction of the said proposed railway and the traffic on the Great Southern Railway would be increased thereby it is therefore desirable to authorize by Legislative enactment the construction of the said railway subject to the provisions hereinafter contained upon payment of compensation to the several parties through whose land the same shall pass for such portion of their respective lands as may be required to be taken and occupied thereby Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

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

1. It shall be lawful for the said Company to make and construct a railway from the southern boundary of their said lands unto and through the lands belonging to the Crown and unto and through lands known as belonging to the "Australian Kerosene Oil and Mineral Company (Limited)" and unto and through lands known as belonging to Alfred Welby and unto and through lands known as belonging to David Hines and Hiram Hines and unto and through lands known as belonging to Henry Vaughan and unto and through lands known as belonging to the "Fitzroy Bessemer Steel Hematite Iron and Coal Company (Limited)" and to effect a junction if necessary between said line and the Great Southern Railway in accordance with section ninety-nine of the "Government Railways Act of 1858" such railway to be in the direction described in the Schedule but so that the same shall not occupy at any part thereof (except near the junction of the Great Southern Railway) a greater space in breadth than sixty-six feet Provided that such space in breadth shall not include any portion of the land now belonging to or used by the "Australian Kerosene Oil and Mineral Company (Limited)" nearer than sixteen feet from the centre of the Joadja Creek Railway And also that the said Company may take and occupy three acres of land or any lesser area at the junction of the said railway with the Great Southern Railway Provided always that such three acres or any such lesser area shall not include

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include any portion of the land now belonging to or used by the "Australian Kerosene Oil and Mineral Company (Limited)" for the purposes of their railway at the junction of the Joadja Creek Railway with the Great Southern Railway.

2. The ground and soil of so much of the site of the railway as passes over the lands of the said owners of lands respectively and over Crown Land together with such rights of ingress egress and regress upon the adjacent land as may be necessary for the making and repair thereof except as to any land belonging to or used by the "Australian Kerosene Oil and Mineral Company (Limited)" within sixteen feet of the centre of the Joadja Creek Railway shall be vested by virtue of this Act and without the necessity of any conveyance in the Company for the purposes of the railway. Site of railway shall be vested in the Company without conveyance. Provided that no lands vested in the Commissioner for Railways or in the "Australian Kerosene Oil and Mineral Company (Limited)" within sixteen feet of the centre of the Joadja Creek Railway shall by virtue of this Act be vested in the Company and nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said railway which shall not interfere with the safety of the said railway and the traffic thereon and the Company shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repair of the said road by cutting embanking sinking wells or otherwise. Provided that the said railway shall be constructed and brought into use within two years after the passing of this Act and that in default thereof or if after its completion the said railway shall cease to be used for two years continuously all the said lands and all the said Company's interest and estate therein shall revert without any conveyance to the original owners thereof their heirs and assigns. Provided also that if in the exercise of the powers hereby granted it be found necessary to cross cut through sink raise or use any part of any road whether carriage road or horse road so as to render it impassible for or dangerous or inconvenient to the persons entitled to the use thereof the Company shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly as may be. And the Company before they use the said lands of the said owners of land respectively and the said Crown Land for any of the purposes aforesaid shall separate the same by a sufficient fence from the land adjoining thereto with such gates as may be required for the convenient occupation of such land and pay the value agreed upon or assessed for the resumption of such lands and shall also to all private roads used by them as aforesaid put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads and in case of any difference between the owners or occupiers of such roads and lands and the Company as to the necessity for or sufficiency of such fences and gates then the said Company shall put up and erect such fences and gates as any two Justices of the Peace shall deem necessary and sufficient for the purposes aforesaid on application being made to them. Provided always and that it shall not be lawful for the said Company to put up and erect any fences or gates nearer than sixteen feet from the centre of the Joadja Creek Railway.

3. The railway shall be open to the public use upon payment of a toll to the Company of a sum not exceeding the rate per ton per mile charged by the Commissioner for Railways in respect of every ton of goods for every transit the party seeking transit supplying and loading his own or the Government trucks and waggon and the Railway open to the public.
Company

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Company or the Government supplying locomotive power and all trucks when emptied shall be conveyed on their return free of cost Provided always that it shall not be compulsory on the Company to supply locomotive power unless the party seeking transit guarantee and bring thirty-six tons at least during the twelve working hours and give notice of same at least twenty-four hours previously The railway shall at all times be open to the public upon payment of a toll to the Company of a sum not exceeding one halfpenny per ton per mile in respect of every ton of goods for every transit if the party seeking transit or Commissioner for Railways supply the locomotive power as well as the trucks and waggons Provided that so long as the Company shall be willing to supply locomotive power no other person shall use locomotive power on the line other than the Commissioner for Railways Provided that if the railway shall be damaged by parties who shall themselves use the railway for transit and supply locomotive power the Company shall be entitled to compensation for such damage to be recovered either by action in the Supreme Court of New South Wales or if such damage do not exceed the sum of twenty pounds summarily before two Justices and in estimating such damage the Company shall be entitled only to compensation for the cost of repairing and restoring the railway but not to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

Branch railways.

4. And be it enacted that it shall be lawful for the owners or occupiers of the lands traversed by the said railway to lay down upon their own lands any collateral branches of railway to communicate with the said railway for the purpose of bringing carriages to or from or upon the said railway and the Company shall if required at the expense of such owners or occupiers make openings in the rails and such additional lines of railway as may be necessary for effecting such communication in places where the communication can be made with safety to the public and without injury to the said railway and without inconvenience to the traffic thereupon and the Company shall not take any rate or toll or other moneys for the passing of any passengers goods or other things along any branch so to be made by any such owner or occupier or other person but this enactment shall be subject to the following restrictions and conditions (that is to say) No such railway shall run parallel to the said railway the Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere nor upon any inclined plane exceeding one in thirty or bridge nor in any tunnel The persons making or using such branch railways shall be subject to all by-laws and regulations of the Company from time to time made with respect to passing upon or crossing the railway and otherwise and the persons making or using such branch railways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer Provided always that nothing in this clause shall in any way interfere with disturb or effect any rights liberties or powers belonging to or exercised by the "Australian Kerosene Oil and Mineral Company (Limited)."

Power to divert or alter roads.

5. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company their deputies agents servants and workmen and all other persons by them authorized and empowered to divert or alter the course of any road or way other than the Joadja Creek Railway crossing the railway or to raise or sink any road or way other than the Joadja Creek Railway in order the more conveniently to carry the same over or under or by the side of the railway.

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6. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted and such penalty shall be paid to the Trustees Commissioners surveyor or other persons having the management of such road if a public road and shall be applied for the purposes thereof or in case of a private road the same shall be paid to the owner thereof and every such penalty shall be recoverable with costs by action in any Court at the instance of the Trustees Commissioner surveyor or other persons as aforesaid or in case of a private road at the instance of the owner thereof.

Penalty for not
substituting a road.

7. If in the course of making the railway the Company shall use or interfere with any road they shall from time to time make good all damage done by them to such road and if any question shall arise as to the damage done to any such road by the Company or as to the repair thereof by them such question shall be referred to the determination of two Justices and such Justices may direct such repairs to be made in the state of such road in respect of damage done by the Company and within such period as they may think reasonable and may impose on the Company for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such Justices shall seem fit and any such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the Company if a public road and be applied for the purposes of such road or if a private road the same shall be paid to the owner thereof and every such penalty shall be recoverable with costs by action in any Court at the instance of the surveyor or other person or owner as aforesaid. Provided always the said Justices shall have regard to and shall make full allowance for any tolls that may have been paid by the Company on such road in the course of the using thereof.

Road repairs.

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

Owners' crossing.

9. If the railway cross any public highway or parish road or the Joadja Creek Railway on a level the Company shall erect and at all times maintain good and sufficient gates across such road on each side of the railway where the same shall communicate therewith and shall employ proper persons to open and shut such gates and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses cattle carts or carriages passing along the same shall have to cross such railway and such gates shall be of such dimensions and so constructed as when closed to fence in the railway and prevent cattle or horses passing along the road from entering upon the railway and the person entrusted with the care of such gates shall cause the same to be closed as soon as such

Provisions in cases
where roads are
crossed on a level.

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such horses cattle carts or carriages shall have passed through the same under a penalty not exceeding forty shillings for every default therein such penalty to be recoverable summarily with costs before two Justices. Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road shall be kept closed across the railway to order that such gates shall be kept so closed instead of across the road and in such case such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

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

10. In case of accidents or slips happening or being apprehended to the cuttings embankments or other works of the said railway it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto other than the lands of or belonging to the "Australian Kerosene Oil and Mineral Company (Limited)" or their assigns within sixteen feet of the centre of the Joadja Creek Railway at any time whatsoever for the purpose of repairing or preventing such accidents and to do such works as may be necessary for the purpose but in every such case the Company shall within forty-eight hours after such entry make a report to the Secretary for Public Works specifying the nature of such accident or apprehended accident and of the works necessary to be done and such powers shall cease and determine if the said Secretary shall after considering the said report certify that their exercise is not necessary for the public safety. Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of and shall be executed with all possible dispatch and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works the amount of which compensation in case of any dispute about the same shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken 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.

Construction of bridges over roads.

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

The width of the arch shall be such as to leave thereunder a clear space of not less than thirty feet if the arch be over a public highway and of twenty feet if over a parish road and of twelve feet if over a private road.

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be over a main road and fifteen feet for a space of ten feet if over a public carriage road and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet the clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private road.

The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a public highway one foot in twenty feet if over a parish road and one foot in sixteen feet if over a private road not being a tramroad or railroad or if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad.

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

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

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

The ascent shall not be more than one foot in thirty feet if the road be a main road one foot in twenty feet if a parish road and one foot in sixteen 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.

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

14. Provided also that if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same or the inclination of such portion of any road as may be preserved to be altered or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved by the Company then the Company may carry any such road over or under the railway or may construct such altered or substituted road at an inclination not steeper than the said mesne 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. Existing inclination of roads crossed or diverted need not be improved.

15. The Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway (that is to say)— Works for benefit of owners.

Such and so many convenient gates bridges arches culverts and passages over under by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed or during the formation thereof. Gates bridges &c.

All sufficient posts rails hedges ditches mounds or other fences for separating the land taken for the use of the railway from the adjoining lands not taken and protecting such lands from trespass or the cattle of the owners or occupiers thereof from straying thereon by reason of the railway together with all necessary gates made to open towards such adjoining lands and not towards the railway and all necessary stiles and such posts Fences.

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posts rails and other fences shall be made forthwith after the taking of any such lands and the said other works as soon as conveniently may be

Drains.

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

Watering-places.

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

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

Penalty on persons omitting to fasten gates.

16. 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 so soon as he and the carriage cattle or other animals (if any) under his care have passed through the same he shall forfeit for every such offence any sum not exceeding ten pounds which shall be recoverable summarily with costs before any two Justices.

Minerals not to pass.

17. The Company shall not be entitled to any mines of coal iron-stone slate or other minerals under any land whereof the surface is vested in them by virtue of this Act except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized and such mines shall not be deemed to vest in the said Company.

Compensation clause.

18. If within twenty-eight days after the passing of this Act the said persons through whose lands the railway shall pass or any of them and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties or any of them or for any damage that may be sustained by them or him by reason of the execution of the works or by reason of the severance of any portion of the said lands belonging to the said parties or any of them from any other portion of the same or if any other question as to compensation shall arise under this Act the amount of such compensation shall be settled by arbitrators in manner hereinafter mentioned (that is to say) Unless both parties shall concur in the appointment of a single arbitrator each party on the request of the other party shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred and every appointment of an arbitrator shall be under the hand of such party and such appointment shall be delivered to the arbitrator or arbitrators and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other nor shall

Appointment of arbitrators.

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the death of either party operate as a revocation and if for the space of fourteen days after any such dispute or other matter shall have arisen and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator such last-mentioned party fail to appoint such arbitrator then upon such failure it shall be lawful for the Attorney-General for the time being of the said Colony on the application of the party who has himself appointed an arbitrator to appoint such arbitrator to act on behalf of both parties and such arbitrator may proceed to hear and determine the matters which shall be in dispute and in such case the award or determination of such single arbitrator shall be final and conclusive.

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

Vacancy of arbitrator to be supplied.

20. Where more than one arbitrator shall have been appointed such arbitrator shall before they enter upon the matters referred to them nominate and appoint by writing under their hands an umpire to decide any matters on which they shall differ or which shall be referred to them under the provisions of this Act. And if such umpire shall die or refuse or for seven days neglect to act after being called upon to do so by the arbitrators they shall forthwith after such death refusal or neglect appoint another umpire in his place and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire.

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

Attorney-General to appoint umpire on neglect.

22. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable or shall refuse or for fourteen days neglect to act before he shall have made his award the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such arbitrator had not been appointed.

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

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

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

24. If where more than one arbitrator shall have been appointed and where neither of them shall refuse or neglect to act as aforesaid such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed or within such extended time (if any) as shall have been appointed for that purpose by both of such arbitrators under their hands the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

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

25. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which

Powers of arbitrators to call for books &c.

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which they or he may think necessary for determining the question in dispute and may examine the parties or their witnesses on oath and administer the oaths necessary for that purpose.

Arbitrators or umpire to make a declaration for faithful discharge of duty.

26. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall in the presence of a Justice of the Peace make and subscribe the following declaration (that is to say)—

I A.B. do solemnly and sincerely declare that I will faithfully and honestly and to the best of my skill and ability hear and determine the matters referred to me under the provisions of the "Mittagong Coal-mining Company's Railway Act."

Made and subscribed in the presence of

A.B.

Penalty for misconduct.

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

Costs of arbitration how to be borne.

27. All the costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the Company unless the arbitrators shall award the same or a less sum than shall have been offered by the Company in which case each party shall bear his own costs incident to the arbitration and the arbitrators' fees shall be borne by the Company unless the amount awarded shall be one-fourth less than the amount so offered in which case the whole costs shall be paid by the claimant. Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid or the arbitrators shall neglect or refuse to allow such costs the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court and the amount allowed by such officer shall be the amount of costs to be paid and all the costs of and occasioned by the said Company resuming any land or exercising any right of entry or other right by this Act conferred and of and occasioned by any conveyance transfer or other assurance and of deducing or amending the title thereto shall be borne and paid by the Company the amount thereof in case of any difference to be settled by taxation as hereinbefore provided.

Award to be delivered to the Company.

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

Submission may be made a rule of Court.

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

Award not void through error in form.

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

Compensation for temporary permanent or recurring injuries.

31. The Company shall make compensation and satisfaction to the said owners and occupiers (the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided) for temporary permanent or recurring injury and all other damage loss costs charges and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company of any of the matters and things hereby required to be performed by them or otherwise.

Compensation to be made for temporary occupation.

32. In every case where the Company shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within one month after their entry upon such lands upon being required so to do to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well as full compensation

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compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of his lands and they shall also from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands as the case may require a rent to be fixed by two Justices in case the parties differ and shall also within six months after entry upon such lands pay to such owner and occupier or deposit in the Bank for the benefit of all parties interested as the case may require compensation for all permanent or other loss damage or injury that may have been sustained by them by reason of the exercise as regards the said lands of the powers hereby granted including the full value of all clay stone gravel sand and other things taken from such lands.

33. For the purpose of regulating the conduct of the officers and servants of the Company and for providing for the due management of the affairs of the Company in all respects it shall be lawful for the Company subject to the provisions herein mentioned from time to time to make such by-laws and regulations as they shall think fit. Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act or to any resolutions of any general meeting of shareholders and such by-laws shall be reduced into writing and shall have affixed thereto the common seal of the Company and a copy of such by-laws shall be given to every officer and servant of the Company affected thereby and such by-laws may specify a maximum and minimum penalty for any breach thereof such penalty to be proceeded for and recovered under the provisions of the Act eleventh and twelfth Victoria chapter forty-three. Provided always that any by-laws of the said Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time being. Provided further that it shall not be lawful for the said Company to make or pass any by-law or regulation which may affect or tend to affect the "Australian Kerosene Oil and Mineral Company (Limited)" or their assigns or the Joadja Creek Railway unless such by-law or regulation shall have been first submitted to and approved by the said "Australian Kerosene Oil and Mineral Company" or their assigns.

34. The production of a printed or written copy of the by-laws of the Company having the common seal of the Company affixed thereto shall be sufficient evidence of such by-laws in all proceedings under the same.

35. Nothing in this Act shall be deemed to authorize the said Company to interfere with the Great Southern Railway or any of the works thereof further or otherwise than is necessary for making the junction and inter-communication between the railways without the previous consent in writing in every instance of the Commissioner for Railways or to alter or interfere with the Joadja Creek Railway or any of the works thereof further or otherwise than shall be necessary for making the crossing with the Joadja Creek Railway referred to in the Schedule to this Act without the previous consent in writing in every instance of the "Australian Kerosene Oil and Mineral Company" or their assigns.

36. The Commissioner shall at the expense of the Company from time to time erect such signals and conveniences incident to the junction either upon his own lands or on the lands of the Company and may from time to time appoint and remove such watchman switchmen and other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

37. The Company shall at their own expense in all things from time to time erect and keep erected and in good working order such signals and conveniences incident to the crossing by the Company's Railway with the Joadja Creek Railway and shall at all times at their own

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own expense employ at such crossing such proper and competent watchmen and other persons as may be necessary for the working of such crossing and for the prevention of damages to or interference with the traffic of the "Australian Kerosene Oil and Mineral Company (Limited)" or their assigns at or near the crossing. The working and management of such signals and conveniences shall be subject to the approval of the "Australian Kerosene Oil and Mineral Company (Limited)" and for every default in the observance of or compliance with the provisions of this section the Company shall be liable to a penalty of ten pounds to be recoverable with costs summarily before two Justices at the instance of the "Australian Kerosene Oil and Mineral Company (Limited)" or their assigns or the manager or secretary for the time being of such Company.

Working of signals
to be under
regulations of
Commissioner.

38. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the Commissioner for Railways.

"Government Railways
Act of 1858" not altered
or repealed.

39. Nothing herein contained shall alter repeal or otherwise affect the "Government Railways Act of 1858."

Interpretation clause

40. In this Act the said "Justices" shall mean Justices of the Peace in and for the territory of New South Wales and where any matter shall be authorized or required to be done by two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions and the word "owner" shall mean any person or corporation who under the provisions of this Act would be able to sell land to the Company.

Short title.

41. This Act shall be deemed and taken to be a Public Act and the same whenever cited shall be sufficiently described as the "Mittagong Coal-mining Company's Railway Act of 1884."

THE SCHEDULE HEREINBEFORE REFERRED TO.

COMMENCING at the southern boundary of block ninety-nine property of the "Mittagong Coal-mining Company Limited" in the parish of Jellore thence in a south-westerly direction through Crown Lands block ninety-eight for about four chains thence south-westerly through Crown Lands block ninety-seven for about seventeen chains thence south-westerly through corner of block ninety-six Crown Lands for about five chains thence south-westerly through unsurveyed Crown Lands for about one mile fifty-eight chains thence south-easterly for about five chains through land the property of the "Australian Kerosene Oil and Mineral Company Limited" thence across the Berrima road one and a half chain wide thence easterly for about thirty chains through lands the property of the "Australian Kerosene Oil and Mineral Company Limited" thence across Government road one chain wide to western boundary of Alfred Welby's ninety-two acres thence south-easterly for about thirty-three chains through Alfred Welby's ninety-two acres and the portion thereof the property of the "Australian Kerosene Oil and Mineral Company Limited" thence southerly for about eight chains through and within the western boundaries of portions one seven eight nine and ten Woodland's subdivision thence south-westerly for about fifteen chains again through Alfred Welby's ninety-two acres and the portion thereof the property of the "Australian Kerosene Oil and Mineral Company Limited" thence south-easterly through Crown Lands and the property of the said "Australian Kerosene Oil and Mineral Company Limited" for about three chains thence south-easterly for about one chain through the south-western corner of portion seventeen Woodland's subdivision thence south-easterly for about eight chains through the property of the "Australian Kerosene Oil and Mineral Company Limited" thence crossing Montagu-street and the Gibber Gunyah Creek thence south-easterly through section twenty-nine private village of Nattai for about five chains thence across Spring-street seventy-five links wide thence south-easterly through section twenty-eight village of Nattai for about one chain thence across John-street fifty links wide thence easterly for about thirty-three chains through the property of the "Australian Kerosene Oil and Mineral Company Limited" thence across a Government road one chain wide also crossing the Joadja Creek Railway on the level thence easterly for about one chain through the property of the "Australian Kerosene Oil and Mineral Company Limited" thence easterly for about twenty-five chains through blocks sixty-one and sixty-seven the property of "Mittagong Land Company Limited" lately the property of the "Fitzroy Bessemer Steel Hematite Iron and Coal Company Limited" thence across the Bowral Road one chain wide and thence easterly through said block sixty-seven for about three chains to a point on the Great Southern Railway about fifty chains south-westerly from the Mittagong Railway Station being a total distance of about four miles thirty-one chains more or less.