

An Act to empower the Illawarra Harbour and Land Corporation (Limited) to form and maintain an entrance and passage between the South Pacific Ocean and the waters of Lake Illawarra, in the county of Camden ; and to construct, use, maintain, and in certain respects control and regulate a harbour within the waters of the said lake and of Windang Bay, in the said county of Camden ; and to make, establish, maintain, and control wharfage and shipping accommodation in connection therewith ; and to construct, work, use, and maintain a line or lines of railway to connect with the said harbour all or any coal-bearing lands situate between the South Coast Colliery on the north and the Macquarie River on the south ; and to reclaim, purchase, take, occupy, and otherwise acquire land in certain cases, and on certain terms as to acquisition, compensation, payment, rent, investiture, and otherwise ; and to levy, receive, and recover rates, tolls, and dues for the use of the said entrance, harbour, and accommodation, and for towage, and fares, freights, and other charges for the use of the said railways ; and to confer and impose upon the said Corporation certain powers, rights, duties, and liabilities ; and to extend the rights of owners of the foreshores of the said lake ; and for other purposes. [20th December, 1890.]

WHEREAS the Illawarra Harbour and Land Corporation (Limited) Preamble.  
 (being a joint stock company duly incorporated and registered under the Companies Acts of 1874-1888, and hereinafter called the Company) is possessed of about two thousand nine hundred and twenty acres of freehold land on the shores of Lake Illawarra, and also of other freehold land and certain coal-bearing land adjacent thereto, and on which seams of coal have been opened out and proved : And whereas there are also numerous other large coal properties adjacent to the said lake : And whereas the Company desires to obtain Legislative

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Legislative authority to form and maintain an entrance and passage between the South Pacific Ocean and the waters of Lake Illawarra, in the county of Camden ; and to construct, use, maintain, and in certain respects control and regulate a harbour within the waters of the said lake and of Windang Bay, in the said county of Camden ; and to make, establish, maintain, and control wharfage and shipping accommodation in connection therewith ; and to construct, work, use, and maintain a line or lines of railway to connect with the said harbour all or any coal-bearing lands situate between the South Coast Colliery on the north and the Macquarie River on the south ; and to reclaim, purchase, take, occupy, and otherwise acquire land in certain cases, and on certain terms as to acquisition, compensation, payment, rent, investiture and otherwise ; and to levy, receive, and recover rates, tolls, and dues for the use of the said entrance, harbour, and accommodation, and for towage, and fares, freights, and other charges for the use of the said railways ; and to confer and impose upon the said Corporation certain powers, rights, duties, and liabilities ; and to extend the rights of owners of the foreshores of the said lake ; and for other purposes. And whereas the said harbour and railways are likely to prove beneficial to the Colony and to the public in assisting the opening out and shipment of a very large quantity of coal from the said properties, and also in developing the whole natural resources of the Illawarra District ; and it is therefore desirable to authorize by Legislative enactment the construction of the said harbour and railways with other works and appliances in connection therewith, subject to the provisions hereinafter contained : 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 make and maintain harbour and channel.

1. It shall be lawful for the Company to make, open, construct, and maintain a port and harbour in Lake Illawarra aforesaid, by re-opening and keeping open the entrance thereto to the north and northwest of Windang Island, but so that the said entrance be made and kept of at least sufficient width and depth for the safe navigation and passage from and to the South Pacific Ocean of vessels of a draught of fifteen feet of water to and from the said lake, and to make and carry from the said entrance to a point on the Company's said freehold land called Tallawarra Point, a channel or canal of sufficient width and depth for the safe navigation and passage of such vessels as aforesaid, and at and around the said point or elsewhere fronting any part of the said freehold land, or any land which may become the property of the Company, to provide safe and sufficient accommodation and depth of water for such vessels as aforesaid and other vessels to ride at anchor either before, while, or after loading or discharging cargo.

To be opened within seven years.

Provided that the said harbour and entrance thereto and channel shall be commenced within two years and be made and completed in accordance with the provisions of this Act, and opened throughout for the admission of vessels of the draught specified within the term of seven years from the passing of this Act, failing which all rights and privileges acquired under this Act shall be null and void, and all reclaimed lands shall revert to the Crown, excepting reclaimed lands fronting properties now in possession of the Company.

Authority to erect wharves, &c.

2. It shall be lawful for the Company, on and from the said freehold land or any land which may become the property of the Company by reclamation or otherwise, to erect, construct, run out, extend, and maintain wharves in such positions and of such lengths and dimensions as the Company may from time to time deem suitable for the accommodation and berthing of shipping and the loading and discharging of all kinds of cargo and ballast, and for these purposes to

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to use and occupy such parts of the said lake and of the land under the waters of the said lake as are adjacent to any such land as aforesaid. Provided that all such erections, constructions, and extensions shall in all cases be subject to the provisions of the Crown Lands Acts of 1884 and 1889.

3. It shall be lawful for the Company, for any of the purposes aforesaid, to construct, make, and do all or any of the works and things in Schedule A hereto mentioned, but subject nevertheless to the provisions contained in section twenty-six of this Act.

4. It shall be lawful for the Company, by deposit of dredgings or otherwise, to reclaim land on the foreshores of their said freehold lands, or of the north-west corner of Windang Island, where the works hereby authorized join such island, or on either side of the harbour entrance works or of the entrance channel between the said entrance works and the lake, subject to the provisions of the "Crown Lands Act of 1884," applying to reclamations; and any land so reclaimed shall become the property of the Company on their paying to the Colonial Treasurer the value of the land so reclaimed, calculated on the basis of the present net market value of the lands immediately adjoining the same, after the deduction of the cost of reclamation, and the value of any land so reclaimed shall be ascertained in the manner now authorized by law as between the Crown and any person by its permission reclaiming lands for purchase.

Provided that the Government shall have rights-of-way over such reclaimed land between any Government reserve and the Company's channel at suitable intervals.

Provided that if any such reclamation shall interfere with the foreshore rights of any private owner, compensation shall be paid for such interference by the Company to the said owner, at such price as may be mutually agreed on, or, failing such agreement, at such price as may be fixed by arbitration in the manner hereinafter set out.

Provided also that the land so reclaimed on either side of the said harbour entrance, or of the said entrance channel, shall not exceed an average width of two hundred feet on either side of the entrance works and channel.

Provided further that no such reclamation shall be made which may interrupt or interfere with navigation; and that notice of the intention to reclaim such land shall be published in the *Gazette* and some local newspaper for six consecutive weeks before such reclamation shall be commenced.

5. It shall be lawful for the Company to occupy and use for the purpose of any work authorized by this Act, any of the Crown Lands, not exceeding fifty acres, nor required for public purposes, and not including Windang, Gooseberry, Illoka, and Bevan Islands, adjacent to the site of the works set out in Schedule A hereto, and convenient for the due carrying out, construction, and maintenance of the works set out in the said Schedule, and the Company shall pay such rent for the use of the same to the Colonial Treasurer as may be agreed on between the Company and the Secretary for Lands; and the Company shall give to the Secretary for Lands at least fourteen days' notice in writing under the seal of the Company of their intention to occupy any part of the said land, and if within sixty days from the date of such notice the Company and the Secretary for Lands shall not agree as to the amount of rent to be paid by the Company for the same, such amount shall be settled by arbitration in like manner as is hereinafter provided with respect to compensation for lands taken by the Company under this Act; and upon payment to

Authority to carry out works in Schedule A.

Right to reclaim land on foreshores of Company's land or Windang Island, or between harbour entrance and the lake; and payment to be made therefor.

Reserve near entrance of harbour and other Crown Lands specified in Schedule A may be leased at rent fixed by arbitration.

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to the Colonial Treasurer of the costs (if any be due), the Secretary for Lands shall forthwith cause a lease to be issued to the Company of the land so taken by the Company for a term of seven years from the expiration of the notice of intention to take the same at the rent so settled, payable annually.

Company to control  
harbour and appoint  
harbour-master.

35 Vic. No. 7.  
36 Vic. No. 30.  
43 Vic. No. 13.  
45 Vic. No. 6.

Harbour-master if  
not appointed by  
Company may be  
appointed by the  
Governor.

Authority to open  
harbour before  
completion.

Completion not to be  
thereby delayed.

Harbour and  
wharves to be open  
to the public.

Authority to levy  
tonnage rates on  
vessels entering and  
using harbour.

Fishing and pleasure  
boats to be free of  
tonnage rates.

6. The Company shall have control within the boundaries of the said harbour over the several matters and things in Schedule A hereto specified, but subject nevertheless to the provisions contained in section twenty-six of this Act; and may appoint a person, to be approved of by the Governor, which person shall from and after such appointment have within the said harbour all the powers, authority, and duties of a harbour-master within the meaning of the Navigation Acts 1871-1881 and any Acts amending the same, and the Company may in all respects exercise and may appoint such persons as they may think fit to exercise full control and authority over the matters and things in Schedule A hereto specified.

Provided that if no person be appointed as aforesaid by the Company to have the powers, authority, and duties of a harbour-master, it shall be lawful for the Colonial Treasurer to give notice in writing to the Company calling upon the Company to appoint such person, and if the Company fail to appoint such person within one month after receiving such notice, then the Governor may appoint a harbour-master for the said harbour, and such appointment shall be published in the *Gazette*, and such harbour-master shall thereupon be deemed to be in all respects a harbour-master within the meaning of the Navigation Acts, 1871-1881, and any Acts amending the same, and shall be paid by the Company such salary as the Governor may direct.

7. It shall be lawful for the Company at any time after the passing of this Act and before the works authorized by this Act shall have been completed, and notwithstanding that the said entrance and channel, or either of them shall not at the time be of the width or depth specified by this Act, to open the said harbour or part thereof for the admission of vessels, and to permit vessels to enter, go out from, and use the said harbour, and use any wharves or other conveniences within or adjacent to the same.

Provided that such use of the said harbour, wharves, or conveniences as aforesaid by vessels shall not be allowed to delay or interfere with the completion of the said harbour in accordance with the provisions of this Act and the final opening of the same.

8. After the said harbour has been completed and opened for the admission of vessels, the said harbour and any wharf belonging to the Company shall (subject, nevertheless, to the directions and control of the harbour-master) be at all times open to the public upon payment of the rates by this Act authorized to be levied.

9. It shall be lawful for the Company to levy, collect, and recover tonnage rates not being differential and not exceeding one shilling per ton, on vessels entering and using the said harbour, on each and every occasion.

Provided that it shall be lawful for the Company in the event of any vessel remaining in the harbour for a longer period than two calendar months to levy, collect, and recover a rate not exceeding one penny per ton per week for each and every week or portion thereof during which the said vessel shall so remain after the expiration of such two calendar months.

Provided always that no tonnage rate shall be levied on vessels using the port as a harbour of refuge, or on boats solely employed in the fishing trade or for pleasure, or on boats plying on the

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the harbour, which said boats shall have the free use of the harbour, provided that they in no way interfere with the navigation thereof, and subject always to the control of the harbour-master and of such regulations as may from time to time be made for the due management of the said harbour in manner hereinafter provided.

10. It shall be lawful for the Company to levy, collect, and recover tonnage rates, not exceeding one penny per ton per day, on vessels occupying a berth at any wharf belonging to the Company within the said harbour, and on vessels fully laden discharging their inward cargo at any such wharf; but such last mentioned rates shall not be leviable until after the expiration of the "free lay days" in Schedule B hereto specified.

Provided that in the case of any vessel partly laden, or which shall have discharged only a portion of her inward cargo at any such wharf, such vessel shall be entitled to claim "free lay days" according to the quantity of cargo discharged, which shall be considered to be the proportion which the amount of such cargo bears to the tonnage of the vessel when fully laden.

11. It shall be lawful for the Company to levy, collect, and recover freightage rates on all goods, merchandize, and packages shipped or unshipped from any vessel within the waters of Lake Illawarra or from any vessel using the said harbour, such respective rates not exceeding the rates in Schedule C hereto specified, in respect of the several articles therein mentioned, and in respect of all other articles such rates as may be approved by the Governor and Executive Council.

Provided that all goods arriving from any part of Australasia or any of the Pacific Islands landed on any wharf belonging to the Company, and entered at the Custom House for transhipment, shall be exempt from any freightage rates chargeable under this Act.

12. Whenever any vessel enters the harbour in distress, and for the purpose of repairing the said vessel, if any goods are unshipped therefrom, and the rates upon the unshipment of such goods are duly paid, then if such goods are afterwards reshipped in the said harbour, without any change in the ownership thereof having taken place, no further rates shall be leviable upon the said goods in respect of such reshipment.

13. The Company shall provide and maintain a sufficient number of tug boats and other appliances for towing vessels into and out of the said harbour, and from any one part of the said harbour to any other part thereof, and sufficient towage power for the same.

And it shall be lawful for the Company to levy, collect, and recover rates for vessels towed by the said boats or other appliances; such rates not exceeding the rates in Schedule D hereto specified.

Provided that if the Company shall fail to supply such tug boats or other appliances or towage power as aforesaid, it shall be lawful for the Colonial Treasurer to provide or to issue a license authorizing other persons, on such terms as to the Colonial Treasurer shall seem fit, to provide tug boats and other appliances for towing vessels and towage power for the same; and it shall be lawful for the Colonial Treasurer to levy, collect, and recover, or to issue a license authorizing such other persons as aforesaid to levy, collect, and recover such rates as may be specified in a notice in that behalf to be published in a *Gazette*, not exceeding the rates in the said Schedule hereto specified. And all rates collected or recovered by or on account of the Colonial Treasurer shall be paid to him, and shall be by him carried to the credit of the Consolidated Revenue Fund.

14. In all cases where authority is given by this Act to the Company to levy, collect, and recover rates, not exceeding the rates in a Schedule hereto specified, it shall be lawful for the Company to vary rates, or where none specified to fix rates, subject to approval of Governor, from

Authority to levy tonnage rates on vessels using wharves.

Authority to levy freightage rates.

Rates when not leviable on vessels in distress.

In default Colonial Treasurer may provide towage.

Authority to vary rates, or where none specified to fix rates, subject to approval of Governor.

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from time to time to vary such rates by reducing or raising the same so that they do not exceed the rates in such Schedule specified.

Provided that fourteen days notice of such variation shall be published in the *Gazette* before such variation shall come into force; and in the event of a rate not being specified in such Schedule in respect of any kind of vessel or goods, it shall be lawful for the Company, subject to the approval of the Governor, to fix a rate in respect of such vessel or goods respectively; and fourteen days notice that such rate has been so approved and will be enforced may be published in the *Gazette*, and from and after the expiration of the fourteen days it shall be lawful for the Company to levy, collect, and recover the said rate so approved as aforesaid.

**Tonnage how to be calculated.**

17 and 18 Vic. c. 104.

**No wharfage or tonnage rates within harbour payable to Government.**

44 Vic. No. 8.

**Not to affect harbour and light rate.**

35 Vic. No. 7, s. 55.  
36 Vic. No. 30, s. 9.

**Nor customs duties.**

**Exemption of vessels in Her Majesty's service, &c., from rates.**

**Vessels returning from stress of weather not to pay rates again.**

15. In estimating any tonnage of any vessel for the purposes of this Act the same shall be determined in pursuance of the provisions of the Imperial "Merchant Shipping Act, 1854." And in the case of steam-vessels the net tonnage measurement shall be deemed to be the tonnage of such vessels for the purpose of ascertaining the tonnage rates leviable under this Act.

16. No rates shall be due or payable by way of wharfage or tonnage rates under or by virtue of the "Wharfage and Tonnage Rates Act of 1880," or any Acts amending the same in respect of goods, merchandise, packages, or articles unshipped or shipped within the said harbour, or received at or taken from any wharf within, upon, or adjacent to the said harbour, nor in respect of vessels entering and using the said harbour, anything in the said Acts to the contrary notwithstanding, but only such rates in respect of the same respectively shall be payable as are made payable by this Act to the Company.

Provided that nothing herein contained shall exempt any vessel from the payment to any Collector of Customs of the half-yearly harbour and light rate payable in pursuance of the provisions of the Navigation Acts 1871-1881 and any Act amending the same.

Provided also that nothing herein contained shall apply to any customs duties, or shall be deemed to affect the provisions of any Customs Duties Act or any Customs Regulation Act for the time being in force.

17. Nothing in this Act shall extend to charge with rates or duties, or to regulate, or subject to any control, any vessel belonging to or employed in the service of Her Majesty, her heirs and successors, or any member of the royal family, or in the service of the customs or excise, or of the Government of New South Wales using the harbour, or any wharf, and not conveying goods for hire or profit, or any post-office bag of letters conveyed by any vessel whatsoever, or any of the officers or persons employed in the service of the admiralty, ordnance, customs, excise, or post-office, or their baggage, or any vessel or goods being under seizure by the officers of revenue, or any naval, victualling, or ordnance stores or other stores or goods for the service of or being the property of Her Majesty, or any troops landed, delivered, or disembarked within the said harbour, or their baggage; but all such vessels, officers, or persons or things as aforesaid shall have the free use of the said harbour, and of all wharves, without any charge or rate being made for using the same.

Provided always that if any person claim and take the benefit of any such exemption as aforesaid without being entitled thereto, he shall, for every such offence, be liable to a penalty not exceeding ten pounds.

18. If any vessel for which the rates have been paid be obliged from stress of weather or other sufficient cause, after leaving the said harbour, or any wharf, to return with the same cargo, the rates so paid shall not again be payable in respect of such vessel.

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19. It shall be lawful for the Company to nominate and appoint by a written instrument bearing the seal of the Company such persons as they may think fit to act as collectors, and to demand, levy, collect, receive, and recover any rates which the Company is authorized to levy, collect, receive, or recover. And any such persons so appointed shall have and may exercise such lawful power and means for the recovery thereof in case of non-payment or evasion as may be exercised under any law for the time being in force by a person duly appointed to collect wharfage rates in respect of merchandise or packages landed at or laden from any public wharf.

20. The owner of every vessel or float of timber shall be answerable to the Company for any damage done by such vessel or float of timber, or by any person employed about the same, to the said harbour or any wharf or the works connected therewith; and the master or person having the charge of such vessel or float of timber, through whose wilful act or negligence any such damage is done, shall also be liable to make good the same, and the Company may detain any such vessel or float of timber until sufficient security has been given for the amount of damage done by the same.

Provided always that nothing herein contained shall extend to impose any liability for any such damage upon the owner of any vessel where such vessel shall at the time when such damage is caused be in charge of a duly licensed pilot, whom such owner or master is bound by law to employ and put his vessel in charge of.

21. If the amount claimed in respect of any such damage as aforesaid do not exceed fifty pounds such damage shall be ascertained, and the amount thereof shall be recovered before two Justices.

22. In addition to the remedies hereby provided for the recovery of the amount payable in respect of any such damage as aforesaid, the Court before which the same is recovered may cause the vessel or float of timber causing such damage, and any tackle and furniture thereof to be distrained and kept until the amount of damages and costs awarded be paid, and if the same be not paid within seven days after such distress or keeping may cause the property so distrained or kept, or any part thereof, to be sold, and out of the proceeds of such sale may pay the amount of damages and costs awarded, and all the charges incurred by the distress, keeping, and sale of such property.

23. The Company shall not be liable for damage caused by any blocking, stoppage, or obstruction of or in the said entrance to the harbour or the said channel; but the Company shall use all reasonable diligence to remove such blocking, stoppage, or obstruction without unnecessary delay.

24. The Company shall not erect any light-house or beacon, or exhibit or allow to be exhibited any light, beacon, or sea-mark without the sanction of the Marine Board under their seal first having been obtained in that behalf; and if any such light, beacon, or sea-mark be exhibited with such sanction as aforesaid, the same shall not be afterwards altered without the like sanction; and every such light, beacon, and sea-mark shall be of such power and description, and shall be from time to time discontinued or altered as the Marine Board shall from time to time direct.

25. The said harbour shall, so far as is not inconsistent with the provisions of this Act, be subject to the provisions of any Acts for the time being in force with respect to the matters dealt with by the Navigation Acts 1871-1881, and also subject to the general laws for the time being in force with regard to navigable waters within the Colony of New South Wales.

26. Nothing in this Act contained shall interfere with the existing rights of the owners of the foreshores of the lake, including any

Authority to appoint  
collectors to enforce  
payment of rates.

Owner of vessel  
answerable for  
damage to works.

Company not liable  
for blocking of  
entrance or channel.

Lights, beacons, or  
sea-marks not to be  
exhibited or altered  
without sanction of  
the Marine Board.

Navigation Acts, so  
far as not inconsistent  
with this Act, to  
apply to harbour.

35 Vic. No. 7.

36 Vic. No. 30.

43 Vic. No. 13.

45 Vic. No. 6.

Rights of owners of  
foreshores not to be  
interfered with.

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any right which any owner of any part of the foreshores of the said lake may have to erect a wharf or wharves from his land into the waters of the lake and to collect and recover rates for the use thereof. Any owner of any part of the said foreshores who shall have erected such a wharf, as aforementioned, shall be at liberty to excavate channels from the said wharf or wharves connecting with the Company's channel or otherwise.

Provided that such works shall be carried out in such a manner as not to be prejudicial to any work executed or in course of execution by the Company.

**Power of the Government to resume.**

27. It shall be lawful for the Governor at any time after the expiration of twenty years from the passing of this Act to resume all harbour works carried out in pursuance of this Act, including any land reclaimed by such works, except on the foreshores of the property of which the Company now stands possessed, together with the full control of the said harbour, wharves, piers, jetties, or other harbour works, subject to all liabilities attaching thereto under the provisions of the "Lands for Public Purposes Acquisition Act."

**Appointment of consulting engineer.**

28. It shall be lawful for the Governor to appoint a competent person, approved by the Company, to act as consulting engineer to the Company until the completion of all work in connection with the making, opening, and construction of the said harbour; and any such work shall be carried out with the approval of such engineer, who shall also inspect and pass all works at least once in every three months and report upon the same to the Colonial Treasurer. Such engineer may in writing direct anything to be done which in his judgment shall be necessary for the stability of such works, and the same when so directed shall be done by the Company to the reasonable satisfaction of such engineer. Provided that should the Company fail to comply with any such direction of such engineer within a reasonable time in that behalf, they shall be liable to pay to the Colonial Treasurer the sum of twenty pounds for every day beyond such reasonable time in which they shall make default. Provided also that the salary or fees of such engineer shall be determined by the Governor as a term of his appointment, and shall be paid by the Company.

**Restriction on sale.**

29. It shall not be lawful for the Company, at any time before the expiration of seven years from the passing of this Act, to assign or sell any of the property, matters, or things mentioned in section twenty-seven hereof, or the benefit of any right acquired thereby or thereunder, and any such sale, and any agreement or undertaking to sell, made within such period of seven years to take effect at or after the expiration thereof, shall be, and is hereby declared to be, wholly void. Provided that nothing in this section, or otherwise in this Act contained, shall operate to prevent the Company from raising money for the purposes of the said works or other the purposes of the Company, by way of security upon the aforesaid property, matters, or things, or other the property of the Company, whether such security be given by way of mortgage, debenture, or otherwise.

**Authority to construct railways.**

30. It shall be lawful for the Company to make and construct the railways specified in Schedule E hereto from the land belonging to the Company through the lands specified in Schedule E, and to make one of the said railways cross, and also by means of sidings, or otherwise connect with the Illawarra line of railway near Dapto, and to take and use so much of the said lands as the Company may require for the purpose of such railways in the lines described in the said Schedule E, or either of them, not exceeding in any part thereof a greater space in breadth than sixty-six feet, including the supports, abutments, and foundations of the said railways.

Provided

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Provided that it shall be lawful for the Company in making the said railways to deviate to the extent of not more than ten chains on either side of the lines described in the said Schedule.

Provided also that one of the said railways shall be constructed and brought into use within the term of five years from the passing of this Act.

31. So much of the said lands as shall be taken or used by the Company under the provisions of this Act for the purpose of the said railways, whether Crown land or land of some other owner, with such right of ingress, egress, and regress upon the adjacent lands as may be necessary for the making and repair of the said railways, shall, by virtue of this Act and without the necessity of any Crown grant or conveyance, be vested in the Company.

Provided that, if in the exercise of the powers hereby granted, it be found necessary to cross, cut through, raise, sink, shut, or use any part of any road, whether carriage road or horse road, so as to render it impassable for, or dangerous or inconvenient to the persons entitled to the use thereof, or to divert the course or direction of any creek or water-course, the Company shall, before the commencement of any such operations, cause a sufficient road, or new creek or water-course to be made, instead of any road, or creek, or water-course 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 for any of the purposes aforesaid, shall, if required so to do, 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 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.

32. The railways shall be at all times open to the public upon payment of a toll to the Company not exceeding threepence per ton per mile in respect of every ton of goods for every transit, the party seeking transit supplying and loading his own trucks or waggons and the Company supplying locomotive power (being thereunto required by the party seeking transit twenty-four hours, at least, previously). And such supply of locomotive power shall not be compulsory on the Company unless the party seeking transit guarantee and bring two hundred tons at the least during the twelve working hours to be mentioned in such notice. But it shall be compulsory on the Company to carry any quantity not less than forty tons if the locomotive be actually at work, and all trucks when emptied shall be conveyed on their return free of cost. The railways shall be at all times open to the public upon payment of a toll to the Company not exceeding twopence per ton per mile in respect of every ton of goods for every transit, if the party seeking transit supply the locomotive power as well as trucks or waggons. Provided that so long as the Company shall supply necessary locomotive power no other person shall use locomotive power on the line. Provided, also, that if the railways shall be damaged by parties who shall themselves use the railways 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, or, if the amount claimed is not more than two hundred pounds, by action in the District Court, or, if the amount claimed is not more than twenty pounds, summarily before two Justices; and in estimating such damage the Company shall be entitled, not only to compensation for the cost of repairing and restoring the railways, but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise. After the railways shall have been opened for transit the Company shall

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shall continue to provide the locomotive power required for using the same (accidents excepted) until twenty-eight days notice shall have been given by them, by advertisement in the *Gazette*, that they intend, after the expiration of a day to be named in such notice, to suspend or discontinue working the railways or supplying the necessary locomotive power thereon, whereupon it shall be lawful for any person entitled to use the railways to provide locomotive power, such person paying the toll hereinbefore mentioned to be payable in such event. Provided that any person interested in using the railways, upon giving to the Company three calendar months notice in writing of his intention so to do, may make application to the Governor to reduce the tolls limited by this Act, and to create a new scale applicable to the traffic on the said railways, such new scale being below the scale limited by this Act; and it shall thereupon be lawful for the Governor to reduce the tolls to such extent as shall be shown to be under all the circumstances reasonable. Provided that the clear divisible profits of the railways shall be annually made good to the Company by the persons using the said railways, at the rate of fifteen pounds for every one hundred pounds by the year of the capital proved by the Company to have been expended by them in or about the construction of the railways, after debiting the railways with the cost of maintaining the line in proper working order and crediting the railways with the carriage obtained by the Company at the rate aforesaid.

**Branch railways.**

33. It shall be lawful for the owners or occupiers of the lands traversed by the said railways to lay down upon their own lands any collateral branches of railways to communicate with the said railways for the purpose of bringing carriages, trucks, or waggons to or from or upon the said railways, and the Company shall, if required, at the expense of such owners or occupiers, make openings in the rails and such additional railways 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 railways, 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 railways shall run parallel to the said railways.

The Company shall not be bound to make any such openings in any place which, before being thereunto required, they shall have set apart for any specific purpose with which such communication would interfere, nor upon any inclined plane 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 railways 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 Act contained shall prevent the owner of any coal property from making a line or lines of railway from such property to the present Government Illawarra line of railway.

**Right to carry passengers.**

34. It shall be lawful for, but not compulsory upon the Company, from time to time, and at any and all times, to carry passengers and live stock upon the said railways, or any part thereof respectively, and to make, demand, take, receive, and recover such tolls or dues for carrying the same, at such rates per mile, or other scale of charges as shall

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shall be established from time to time by the Directors of the Company, for or in respect of all such passengers and live stock which shall be conveyed or transported upon such railways, or either of them, or any part thereof respectively.

Provided that if the rates, tolls, or dues that may be established as aforesaid, under and by virtue of this Act, shall be found excessive, it shall be lawful for the Governor to reduce the said rates, tolls, or dues, and to revise them in such manner as may seem most proper and advisable.

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

35. 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 roadway or water-course crossing the railways, or either of them, or to raise, sink, or divert any roadway or water-course in order the more conveniently to carry the same over or under, or by the side of the railways, or either of them.

36. If the Company do not cause another sufficient road or new creek or water-course to be so made before they interfere with any such existing road, creek, or water-course as aforesaid, they shall forfeit twenty pounds for every day during which such substituted road, creek, or water-course shall not be made after the existing road, creek, or water-course shall have been interrupted, and such penalties shall be paid to the trustees, commissioners, surveyor, or other persons having the management of such road, if a public or parish 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 either in the Supreme Court, or if the amount claimed is not more than two hundred pounds, in the District Court.

37. If in the course of making the railways or either of them, 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 diem as to such Justices shall seem fit, and any such penalty shall be paid to the trustees, commissioners, surveyor, or other persons having the management of such road if a public or parish road, and be applied for the purposes of such road, or if a private road the same shall be paid to the owner thereof. Provided that 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 using thereof.

38. If the railways cross any public or parish road, then either such road shall be carried over the railways or the railways shall be carried over such road by means of a bridge of the height and width and with the ascent or descent by this Act in that behalf hereinafter provided, and such bridge with the immediate approaches and

Power to divert or  
alter roads or  
water-courses.

Penalty for not  
substituting roads or  
water-courses.

Repairs of roads.

Bridges to be  
constructed where  
the railways cross  
highway.

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and all other necessary works connected therewith shall be executed by and be at all times thereafter maintained at the expense of the Company. Provided that on the order of two Justices giving authority in that behalf it shall be lawful for the Company to carry the railways across any such road on the level.

Owners and  
occupiers crossing.

39. 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 railways, but for no longer time, 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 railways 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 railways, or to damage the same. Provided always that if the owner or occupier of any such land have received or agreed to receive from the Company compensation in lieu of the making by the Company of any such communications, such owner or occupier, or those claiming under him, shall not be entitled so to cross the railways.

Provisions if  
Illawarra Railway is  
crossed on a level.

40. The Company shall, subject to the regulations to be made from time to time by the Railway Commissioners, and approved by the Governor, have power to cross the Illawarra line of railway on the level, in such manner as shall be approved by the Railway Commissioners, and for that purpose to lay down such rails and execute such other works as shall be necessary for the purpose of such crossing. And the rails for such crossing shall be laid down at the expense of the Company under and subject to the directions and approval of the Railway Commissioners.

Provided that the Company shall, before they shall be at liberty to cross the said Illawarra line of railway, erect upon their own land, and all times thereafter maintain a suitable station or lodge at the place where the Company's railways shall cross the Illawarra line of railway on the level, and shall also erect and maintain all necessary signals, that is to say, all junction or crossing signals and two distance signals at the said crossing.

Provisions in cases  
where roads are  
crossed on a level.

41. If the railways cross any public or parish road on a level the Company shall erect and at all times maintain good and sufficient gates across such road on each side of the railways, where the same shall communicate therewith, and shall, if so ordered as aforesaid, employ proper persons to open and shut such gates, and such gates shall be constantly kept closed across such road on both sides of the railways, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railways, and such gates shall be of such dimensions and so constructed as when closed to fence in the railways and prevent cattle or horses passing along the road from entering upon the railways, and the person 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.

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 railways, 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 railways, except when engines or carriages passing along the

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the railways 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.

42. In case of accidents or slips happening, or being apprehended, to the cuttings, embankments, or other works of the said railways, it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents, and to do such works as may be necessary for the purpose; but in every 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.

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

Provided that such works shall be as little injurious to the adjoining lands as the nature of 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 railways.

43. Every bridge to be erected for the purpose of carrying either of the said railways over any road shall be built in conformity with the following regulations (that is to say) :—

The width of the arch or opening shall be such as to leave there- Width of opening.  
under a clear space of not less than thirty feet between the abutments at the level of the surface of the road and up to a height of twelve feet therefrom if the arch or opening be over a public road, and of not less than twenty feet at the level of the surface of the road and up to a height of twelve feet therefrom if the arch or opening be over a parish road (not being a tramroad or railroad), and of not less than twelve feet if over a private road (not being a tramroad or railroad), and of not less than twenty-five feet if over a tramroad or railroad.

The clear height of the arch or opening from the surface of the road shall be not less than sixteen feet for a space of twelve feet if the arch or opening be over a public road, and not less than fifteen feet for a space of ten feet if over a parish road, and not less than fourteen feet for a space of nine feet if over a private road, in case such public road, parish road, or private road respectively be not a tramroad or railroad; and in case such road be a tramroad or railroad, then the clear height of the arch or opening from the surface of such road shall be not less than seventeen feet for a space of twenty-five feet.

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

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Construction of  
bridges carrying  
roads over railway.

Fences.

Width of road.

Gradient of road.

The width of the  
bridges need not  
exceed the width of  
the road in certain  
cases.

Existing inclination  
of roads crossed or  
diverted need not be  
improved.

Works for benefit of  
owners.

Gates, bridges, &c.

Fences.

44. Every bridge to be erected for the purpose of carrying any road over either of the said railways 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 public road, and twenty-five feet if it be 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 public road, and one foot in twenty feet if a parish road, and one foot in sixteen feet if a private road, in case such public road, parish road, or private road respectively be not a tramroad or railroad, and in case such road be a tramroad or railroad, the ascent shall not be greater than the ruling gradient of such tramroad or railroad.

45. Provided always that in all cases where the average available width for the passage 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 railways, 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 road or parish road than twenty feet. Provided also that if at any time after the construction of the railways 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 railways.

46. 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 Company, then the Company may carry any such road over or under the railways, or may construct such altered or 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.

47. 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 railways (that is to say):—

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from the railways as shall be necessary for the purpose of making good any interruptions caused by the railways to the use of the lands, or any streets not diverted under the powers herein contained, through which the railways shall be made; and such works shall be made forthwith after the part of the railways 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 railways from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying

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straying thereout, by reason of the railways, together with all necessary gates made to open towards such adjoining lands, and not towards the railways; and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Also all necessary arches, tunnels, culverts, drains, or other Drains. passages, either over or under, or by the sides of the railways 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 railways, as before the making of the railways, or as nearly so as may be, and such works shall be made from time to time as the railway works proceed.

Also proper watering-places for cattle, or compensation in lieu Watering-places. thereof, where, by reason of the railways, the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places, and such watering-places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the railways had not been made, or as nearly so as may be, and the Company shall make all necessary water-courses and drains for the purpose of conveying water to the said watering-places. 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 railways, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation instead of the making them.

48. If any person omit to shut and fasten any gate set up at either side of the said railways 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. Penalty or persons omitting to fasten gates.

49. The Company shall not be entitled to any mines of coal, Minerals not to pass. ironstone, slate, or other minerals under any land 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.

50. The provisions contained in the following sections of the "Public Works Act of 1888" shall (so far as they are applicable and subject to the proviso hereinafter contained) be incorporated with and form part of this Act, and be applied as fully and effectually as if the said sections had been specifically enacted herein, that is to say--sections thirty-one, thirty-four, and thirty-six; sections forty to fifty-five, both inclusive; and sections fifty-seven to seventy-two, both inclusive. Certain provisions of 51 Vic. No. 37 incorporated herewith.

Provided that—

- (a) Wherever, in any section so incorporated, the words "the Constructing Authority," or the words "Her Majesty" occur, the words "the Company" shall, for the purposes of this Act, be substituted for the said words respectively.
- (b) And whenever in any of the said sections the expressions "sell and convey," "sell and convey or release," or "sell, convey, or release" occur, the word "sell" shall, for the purposes of this Act, be substituted therefor, and nothing in the said sections contained shall, for the purposes of this Act, render the execution of a conveyance or release necessary.

(c)

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- (c) And section forty-two, subsection two, of the said Act shall, for the purposes of this Act, be read as though, for the words "under his hand and official seal" were substituted the words "under the seal of the Company."
- (d) And section fifty of the said Act shall, for the purposes of this Act, be read as though for the words "Public Works Act of 1888" were substituted the words "Illawarra Harbour and Land Corporation (Limited) Act, 1889."
- (e) And to section fifty-two of the said Act there shall, for the purposes of this Act, be added the following proviso: "Provided that where one of the parties to the arbitration is the Secretary for Lands, the arbitrators shall deliver the said award in duplicate, one to the Company and the other to the Secretary for Lands."

Provisions to apply to Crown Lands.

Costs against Government how recovered.

39 Vic. No. 28.

How disputes as to compensation to be settled.

51 Vic. No. 37.

Compensation for temporary or recurring injuries.

Compensation to be made for temporary occupation.

And the provisions of the said sections of the said Act shall, so far as they are applicable, apply, for the purposes of this Act, to Crown Lands, and any costs to be borne by the Secretary for Lands shall be paid, and on default execution may be had, and the amount levied in like manner as in the case of costs awarded against a nominal defendant under the claims against the Colonial Government Act.

51. If, within sixty days after the passing of this Act, the owners of any lands taken by the Company under the provisions of this Act, and all parties having any estate or interest in such lands, or any of them, fail to agree with the Company as to the amount of the compensation to be paid by the Company for the interest in such lands belonging to such owner or party, or which he is by this Act enabled to sell, or for any damage that may be sustained by reason of the execution of the work authorized by this Act, or if any other question as to compensation shall at any time arise under this Act, the amount of such compensation shall be settled and the costs of and incident to any inquiry in respect thereof shall be borne and the whole matter dealt with in the manner provided by such of the said sections of the "Public Works Act of 1888" hereinbefore incorporated with this Act as deal with the manner of settling cases of disputed compensation.

52. The Company shall make compensation and satisfaction to the owners or occupiers of lands affected by the railways (the amount of such compensation and satisfaction to be ascertained and recovered, in case of difference, and the cost of and incident to any inquiry in respect thereof to be borne in the manner hereinbefore 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.

53. 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 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 the completion of the work by reason whereof such possession shall have been taken, 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

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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.

54. If in any case in which, according to the provisions of this Act, the Company is authorized to enter upon and take possession of any lands required for the purpose of carrying out the works authorized by this Act, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the Company from entering upon or taking possession of the same, it shall be lawful for the Company to issue its warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant to be settled by the Sheriff shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Company from the compensation, if any then payable, to such party, or if no such compensation shall be payable to such party, or if the same be less than the amount of such costs, then such costs or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly.

55. All offences against this Act or any regulation made under this Act in respect of which any pecuniary penalty is imposed, and all proceedings for the recovery of any expenses or sum of money by this Act made payable shall (unless otherwise hereinbefore provided for) be heard and determined in a summary way by and before any two Justices under the provisions of the Act or Acts in force for the time being regulating proceedings on summary convictions; and if such penalty or sum of money be not paid, either immediately after the conviction or order, or within the time appointed by such conviction or order, the same shall be levied by distress and sale of the offender's goods and chattels. And on failure of distress shall be enforced in manner directed by the said Act or Acts. And all persons aggrieved by any such conviction or order may appeal therefrom in the manner and subject to the conditions prescribed by the Acts regulating appeals to Quarter Sessions.

56. It shall be lawful for the Company from time to time to make by-laws—

For providing for the due management of the said harbour and the traffic thereon, and of the said railways and the traffic thereon, and of the affairs of the Company in all respects.

For regulating the duties and conduct of all persons, as well the servants of the Company as others (not being Officers of Customs or Excise), who shall be employed in the said harbour, or at any wharf, or on or in connection with the said railways, or elsewhere on the premises of the Company.

And all or any such by-laws, being consistent with the provisions of this Act, and not otherwise repugnant to any other Act in force within the Colony of New South Wales, shall, when confirmed by the Governor and published in the *Gazette*, but not sooner, or otherwise, have the force of law.

57. The production of the *Gazette* with any such by-laws so published as aforesaid, shall in any suit or proceeding, civil or criminal, be *prima facie* evidence that such by-law has been made, confirmed, and published as by this Act required.

Sheriff authorized to give possession of certain lands.

*Illawarra Harbour and Land Corporation.***Interpretation clause.**

58. In this Act, unless the context otherwise requires—  
 “Australasia” means and includes Australia, Tasmania, New Zealand, and the Fiji Islands.  
 “Governor” means the Governor, with the advice of the Executive Council.  
 “Harbour” means and includes the port and harbour authorized to be constructed by this Act and the entrance thereto.  
 “Owner” means any person or persons or Corporation able, whether under the provisions of this Act or otherwise, to sell land to the Company, and in the case of Crown Lands means the Secretary for Lands.  
 “Two Justices” means two Justices of the Peace assembled and acting together in Petty Sessions.  
 “Wharf” means any wharf, quay, dock, pier, jetty, staith, or other erection, or work for giving wharfage accommodation or berthage to vessels, or for enabling vessels to load or discharge any kind of cargo or ballast.

**Railway Commissioners may appoint inspectors.**

59. The Railway Commissioners may from time to time appoint any person to be inspector, for the purpose of inspecting the railway and of making any inquiry with respect to the condition of the works, or into the cause of any accident, provided that no person so appointed shall exercise any powers of interference in the affairs of the Company.

**Powers of Inspectors.**

60. Every Inspector under this Act shall, for the purpose of any inspection or inquiry which he is directed by the Railway Commissioners to make or conduct, have the following powers, that is to say :—

- (i) He may enter and inspect the railway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto.
- (ii) He may, by summons under his hand, require the attendance of any person who is engaged in the management, service, or employment of the Company, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make.
- (iii) He may require and enforce the production of all books, papers, and documents of the Company which he considers important for the said purpose.

**Accidents.**

61. Where, in or about the railway, or any of the works or buildings connected with such railway, or any building or place, whether open or enclosed in connection with such railway, any of the following accidents take place in the course of working, that is to say :—

- (i) Any accident attended with loss of life or personal injury to any person whomsoever.
- (ii) Any collision where one of the trains is a passenger train.
- (iii) Any passenger train, or any part of a passenger train, accidentally leaving the rails.
- (iv) Any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused, or to be likely to cause, loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the Railway Commissioners.

The Company working such railway shall send notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby, to the Railway Commissioners.

**Form of notice of accident.**

62. Such notice shall be in such form and shall contain such particulars as the Railway Commissioners may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

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63. The Railway Commissioners may from time to time by order direct that notice of any class of accidents shall be sent to them by telegraph, and may revoke any such order. While such order is in force notice of every accident of the class to which the order relates shall be sent to the Railway Commissioners by telegraph immediately after the accident takes place. Failure to comply with the provisions of this section shall render the Company liable for each offence to a penalty not exceeding twenty pounds.

64. This Act may be cited as the "Illawarra Harbour and Land Corporation Act of 1890." Short title.

**SCHEDULES.****SCHEDULE A.***Lake Illawarra Harbour Works.*

1. The construction of a breakwater projecting from Windang Island north-easterly to form the southern wall of entrance channel; the reclamation of a portion of the foreshores of Windang Island as mentioned in section four of this Act; and the erection of lighthouses thereon.

2. The construction of a mole parallel to the breakwater to form the northern side of entrance channel.

3. The construction of training walls from the breakwater and mole to form the sides of channel from Windang Island and a point opposite to it to the entrance of the lake, and thence through the entrance to a point in the present channel where the canal or channel to be excavated under this Act starts.

4. The construction of sand traps along the sand beaches to the north and south of the entrance works at distances and positions found by the Company to be necessary.

5. The excavation of a canal or channel of suitable width and depth to accommodate large ships from the training walls at the entrance of the lake to Elizabeth or Tallawarra Point, or such positions on the Company's estate as may be requisite; and the erection of beacons and buoys to indicate the course of channel.

6. The excavation and deepening of the necessary docks and channels for the accommodation and berthing of ships; and the power to erect wharves for the reception, discharge, and shipment of all kinds of goods, merchandise, and things; and staiths for the shipment of coals.

7. The power to reclaim the foreshores of the Company's estate, and to deposit dredgings and materials in such positions as may be suitable without interfering with existing private rights or the navigation of the lake.

**SCHEDULE B.***Free Lay Days.*

During which vessels fully laden discharging their cargoes at any wharf, are exempt from the payment of tonnage rates.

For vessels not exceeding 100 tons register ... ... ... ... Two days.

Exceeding 100 tons and not exceeding 200 tons register ... ... ... Four "

" 200 " " 300 " " Five "

" 300 " " 400 " " Six "

And for every additional 100 tons or fractional part of 100 tons ... One "

Excluding Sundays and public holidays in every case.

**SCHEDULE C.***Freightage Rates.*

							£	s.	d.
Ballast, per ton	...	...	...	...	...	...	...	0	1 0
Coals, per ton	...	...	...	...	...	...	...	0	0 10
" coked	...	...	...	...	...	...	...	0	1 8
Lime and Limestone, per ton	...	...	...	...	...	...	...	0	2 0
Timber—Deals, deal ends, and all sawn timber, per 600 feet, superficial	...	...	...	...	...	...	...	0	2 6
" Rough timber and spars, per 40 cubic feet	...	...	...	...	...	...	...	0	2 6
" Laths, trenails, shingles, per 1,000	...	...	...	...	...	...	...	0	0 6
" Posts and rails, per 100	...	...	...	...	...	...	...	0	2 6
" Palings, per 600	...	...	...	...	...	...	...	0	2 6
" Spokes, per 500	...	...	...	...	...	...	...	0	2 6
" Staves, cooper, per 100	...	...	...	...	...	...	...	0	2 6
Iron and Iron ores	...	...	...	...	...	...	...	0	2 0

**SCHEDULE**

*Illawarra Harbour and Land Corporation.*

## SCHEDULE D.

*Towage and Harbour Removal Rates.*

For each vessel.	Towage from and to sea.	Removals.
	£ s. d.	£ s. d.
Under 150 tons register ... ... ...	3 10 0	1 0 0
150 tons and under 200 tons ... ... ...	4 10 0	1 10 0
200 " " 250 " ... ...	5 10 0	2 0 0
250 " " 300 " ... ...	6 10 0	2 5 0
300 " " 400 " ... ...	7 10 0	2 10 0

Vessels of four hundred tons register and over to pay for towage from and to sea one shilling per register ton, and for towage one way eightpence per register ton, and for each removal in the harbour at the rate of one penny half-penny per ton register.

The above rates to include for a distance of three miles outside the entrance to the harbour. Towage for a greater distance than the said three miles to be a matter of private arrangement.

## SCHEDULE E.

*Railway.*

Commencing at a point on the Lakelands Estate, the property of the Illawarra Harbour and Land Corporation (Limited), near the foreshore of Lake Illawarra, at Elizabeth or Tallawarra Point, and proceeding thence through the Company's estate; thence through the property of C. Heniger, owner, and occupied by Charles and Frank Chy; thence crossing the South Coast Road; thence through the property of Robert James Marshall, crossing the Government railway line at a point between fifty-six miles forty chains and fifty-seven miles; thence again through the lands of the said Robert James Marshall; thence through Michael Fitzgerald's one hundred acres, occupied by Philip Moore; thence through the property of Mrs. Cole, leased to John Bovard and subleased to George Empton and Michael McAuliffe; thence through William Swan's one hundred acres, crossing the Bong Bong road; thence through W. S. Thompson's one hundred acres, occupied by Henry Harris and John Chy; thence through George Lindsay's thirty acres, being part of Paul's original grant; thence again through W. S. Thompson's fifty acres, occupied by John Chy; thence again through W. S. Thompson and others' one hundred and six acres, occupied by Isaac Cooper; thence through John Lindsay's five hundred acres, occupied by George Lindsay; thence again through W. S. Thompson's and others' one hundred and six acres, occupied by Isaac Cooper; thence across a road; thence through John Hore's fifty acres, occupied by Charles Hore; thence through William Fry's fifty-acre grant, occupier and owner, W. Rose; thence through William Harris's one hundred acres; thence across a road; thence again through William Harris's fifty acres; thence through William Rose's sixty-acre portion, thirty-acre portion, and thirty-four acres one rood twenty-four perches portion; and through John Burns' fifty-nine acres to the Illawarra Harbour and Land Corporation (Limited) Colliery; otherwise called the Ocean Steam Colliery.

*Railway Branch Line.*

Also a branch line commencing at a point near the western boundary of Michael Fitzgerald's one hundred acres, proceeding thence through William Swan's one hundred acres, George Lindsay's eighty acres, and William Cook's six hundred acres; thence crossing the Cleveland Road; thence again through William Cook's six hundred acres; thence through the Public School reserve; thence through Henry Osborne's six hundred acres, Hugh Clark, occupier; thence through Henry Osborne's one hundred and forty-five and sixty-acre portions, James Neville, occupier; thence through Henry Osborne's three hundred-acre, two hundred and forty-six-acre, and one hundred and forty-two-acre portions, Mathew Keen, James Neville, and William O'Brien, occupiers; thence through Richard Summer's fifty acres to J. B. Watt's coal-mining property.