

VICTORIA.



ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.

An Act to Incorporate a Company to be called "The Melbourne, "Mount Alexander, and Mur- "ray River Railway Company." [Assented to 8th February, 1853.]

WHEREAS the construction of a Railway from the City of Melbourne to Mount Alexander and the River Murray (as the most direct Line to Sydney) between which places respectively a very large and increasing traffic now exists would prove highly beneficial to the inhabitants of the Colony of Victoria and it would be of great public utility that such Railway should be extended from the City aforesaid to Williams Town for the purposes of direct communication with the shipping and wharves to be erected there and it is therefore advisable to grant encouragement to such enterprising persons as may be desirous and willing to make and maintain such Railways by granting to them an Act of Incorporation: BE IT THEREFORE ENACTED by His Excellency the Lieutenant-Governor of Victoria with the advice and consent of the Legislative Council thereof That Charles Hotson Ebdon, Edward Stone Parker, William Montgomerie Bell, John Alison, John Hodgson, William John Turner Clarke, Henry Ginn, and William Kaye, Esquires, and all and every other person and Corporation who shall hereafter become subscribers to the said undertaking and their several and respective successors executors administrators and assigns shall be and are united into a Company for making completing and maintaining a Railway or Railways in the said Colony and other works by this Act authorised to be made and executed and for that purpose shall be one body corporate by the name and style of "THE MELBOURNE, MOUNT ALEXANDER, AND MURRAY RIVER RAILWAY COMPANY" and by that name shall have perpetual succession and shall have a common Seal and by that name shall and may sue and be sued plead and be impleaded answer and be answered unto defend and be defended in all Courts and places whatsoever and the said Company shall have power and authority from and after the passing of this Act and at all times hereafter to purchase

Preamble.

Proprietors incorporated by the name of
"The Melbourne,
"Mount Alexander,
"and Murray River
"Railway Company."

Seal.
Power to sue and be
sued.

and

Hold lands.

and hold lands to them and their successors and assigns for the use of the said undertaking and works and generally for the purposes of carrying the Provisions of this Act into effect and also to sell and dispose of the said lands again in manner by this Act directed without incurring any penalties or forfeitures.

Capital to be
£1,000,000, divided
into 40,000 shares of
£25 each.

Periods and amounts
of Calls.

II. That the Capital Stock of the Company hereby established shall be One million pounds sterling and shall be divided into Forty thousand Shares of twenty-five pounds each and upon taking any share every Subscriber shall pay to the Chairman or other proper Officer of the said Company the sum of Fifty shillings sterling for every share which shall be so taken and shall pay the remaining amount of every such share to such person or persons and in such parts or proportions as the Directors of the said Company shall deem necessary and from time to time call for and require: Provided always that no such Call shall exceed the sum of Five pounds for or in respect of any one share and that no Call or Calls be made but at the distance of one month at the least from the last Call and that Notice of every such Call shall be given in the *Victoria Government Gazette* and in one or more of the Newspapers published in the City of Melbourne fourteen days at the least before the day appointed for the payment of the same.

Liability of Share-
holders.

III. That if any execution either at Law or in Equity shall have been issued against the property or effects of the said Company, and if there cannot be found sufficient whereon to levy such execution then such execution may be issued against any of the Shareholders to the extent of twice the amount of their shares in the capital of the Company: Provided always, that no such execution shall issue against any Shareholder except upon an order of the Court in which the action suit or other proceeding shall have been brought or instituted made upon motion in open Court after sufficient notice in writing to the persons sought to be charged and upon such motion such Court may order execution to issue accordingly and for the purpose of ascertaining the names of the Shareholders and the amount of their respective shares it shall be lawful for any person entitled to any such execution at all reasonable times to inspect without fee the register of Shareholders required to be kept in the office of the said Company as aforesaid: Provided further that nothing herein contained shall extend to charge or make liable any Shareholder of the said Company or his real or personal estate, with or for any debt or demand whatever due or to become due from or by the said Company for any of the matters or things authorized by this Act to be made done or completed beyond the extent of his shares in the Capital of the said Company as aforesaid any law custom or usage to the contrary thereof in anywise notwithstanding.

Reimbursement of
Shareholders.

IV. That if by means of any such execution any Shareholder shall have paid any sum of money beyond the extent of twice the amount of his share in the said Company he shall forthwith be reimbursed such additional sum by the Directors out of the funds of the Company.

Interest on over due
Calls.

V. That if before or on the day appointed for the payment of any call any Shareholder shall not pay the amount of such call he shall be liable to pay interest for the same at the rate of fifteen pounds *per centum per annum* from the day appointed for the payment of such call to the time of the actual payment thereof.

Advances from Share-
holders on Interest.

VI. That it shall be lawful for the said Company if they think fit to receive from any of the Shareholders who shall be willing to advance the same all or any part of the moneys due upon their respective shares beyond the sums actually called for and to pay interest at a rate not exceeding ten pounds *per centum per annum* upon the principal moneys so paid in advance or so much thereof as shall from time to time exceed the amount of the calls then made upon the shares in respect of which such advances shall be made.

VII.

VII. That the money to be raised or received by the said Company by virtue of this Act shall be laid out and applied in the first place in paying and discharging all costs and expenses incurred in applying for obtaining and passing this Act and all other expenses preparatory or relating thereto and the remainder of such money shall be applied in and towards the purchasing of lands and making and maintaining the said Railway and other works and in otherwise carrying this Act into execution.

Application of Money
to be raised by Depo-
sits and Calls.

VIII. That before declaring any share forfeited the Directors shall cause notice in writing of their intention to declare such share to be forfeited to be left at or transmitted by post to the usual or last known place of abode of the person appearing by the aforesaid Register of Shareholders to be the proprietor of such share and if the holder of any such share shall be beyond the limits of this Colony or if his or their last place of abode be not known to the said Directors or if the interest in any share shall be known by the said Directors to have become transmitted otherwise than by transfer and so the address of the party to whom the said share may for the time being belong shall not be known to the said Directors the said Directors shall give public notice of such intention in the *Victoria Government Gazette* and also in one or more of the newspapers published in the City of Melbourne and the several notices aforesaid shall be given twenty-one days at least before the said Directors shall make such declaration of forfeiture.

Notice of Forfeiture.

IX. That it shall be lawful for any Shareholder and his executors or administrators to sell and dispose of any share to which he shall be entitled subject to the provisions herein contained and the form of assignment of shares may be in the following words or to the like effect varying the names and descriptions of the contracting parties as the case may require—

Shares may be sold.

"I	of	in con-	Form of Assignment of Shares.
"sideration of	paid to me by		
"of	do hereby sell assign and transfer		
"to the said	share [or shares as the		
"case may be] numbered	of and in the		
"Melbourne, Mount Alexander, and Murray River Railway Company'			
"to hold unto the said	his executors administrators and		
"assigns subject to the several conditions on which I held the same			
"immediately before the execution hereof and I the said	do		
"hereby agree to purchase and hold the said share [or shares] subject			
"to the same rules orders restrictions and conditions.			
"As witness our hands the	day of	A.D. 18 ."	

X. That there shall be six Directors of the said Company who (except as hereinafter mentioned) shall be proprietors of at least twenty shares each, and who shall be elected by the Shareholders of the said Company by ballot in the manner hereinafter provided that not less than three Directors shall constitute a Board for the transaction of business of which the Chairman of the Company shall always be one except in case of sickness or necessary absence in which case the Directors present may choose one of their number as Chairman at that meeting in his stead and that the Chairman shall vote at the Board as a Director and in case of there being an equal number of votes for or against any question before them he shall have the casting vote. And that such Directors shall be entitled to take and receive to their own use out of the funds of the Company for their loss of time in the performance of their duties under the Provisions of this Act and in carrying the same into execution the sum of twelve pounds for and in respect of each and every meeting which shall be holden by them during the year such sum of twelve pounds to be divided equally between the Directors who shall have attended such meeting at the commencement thereof

Board of Directors.

Quorum.

thereof and remained there during the continuance and up to the termination thereof or in such other mode as the Directors shall fix and determine: Provided always that the amount of such remuneration to the Directors shall in no one year exceed in the whole the sum of six hundred pounds: Provided that if the payment of any interest upon any of the capital of the said Company shall be guaranteed by the Government two of the said Directors shall from time to time be appointed by the Lieutenant-Governor for such periods and in such manner during the continuance of such guarantee as to the Lieutenant-Governor shall seem meet and it shall not be necessary that the persons so to be appointed Directors shall be Shareholders of the said Company: Provided that no Government Officer so appointed a Director shall receive any remuneration whatever from the said Company.

XI. That the Directors shall have the management and superintendence of the affairs of the said Company and they may lawfully exercise all the powers of the Company except as to such matters as are directed by this Act to be transacted by a general meeting of the Company but the exercise of all such powers shall be in accordance with and subject to the provisions of this Act and also to the controul and regulation of any general meeting of the said Company specially convened for the purpose but not so as to render invalid any Act done by the Directors prior to any resolution passed by such general meeting.

XII. That except as otherwise provided for by this Act the following powers of the Company that is to say the choice and removal of the Directors the determination as to the amount of money to be borrowed as to the augmentation of capital and the Declaration of Dividends shall be exercised only at a general meeting of the Company.

XIII. That Shareholders shall be entitled to vote either by themselves or their agents lawfully appointed or by proxy according to the following scale that is to say for any number of shares up to and inclusive of five shares one vote for any number above five shares and not exceeding ten shares two votes for any number above ten shares and not exceeding fifteen shares three votes for any number above fifteen shares and not exceeding twenty shares four votes for any number above twenty shares and not exceeding fifty shares five votes for any number above fifty shares and not exceeding one hundred shares six votes for any number above one hundred shares and not exceeding five hundred shares seven votes and for any number exceeding five hundred shares eight votes: Provided always that no Shareholder shall be entitled to vote at any meeting unless he shall have paid all the calls then due upon the shares held by him.

XIV. That the votes may be given either personally or by proxies being Shareholders authorized by writing according to the form following—
(that is to say)

"I _____ of _____ of
 "do hereby appoint _____ of
 "one of the Proprietors of the Melbourne Mount Alexander and Murray
 "River Railway Company to be my proxy in my name and in my behalf to
 "vote and give my assent to or dissent from any business relating to the
 "said Company that shall be mentioned or proposed at any General or
 "Special Meeting of the said Company to be from time to time holden
 "or any adjournment thereof if I shall not be present in such
 "manner as he shall think fit. In witness whereof I have hereunto
 "set my hand this _____ day of _____ 185 "

Or in a form to the like effect under the hand of the Shareholder nominating
 such proxy as in Clause 76 8 Vict. c. 16. Provided always that the same
 person shall not vote as proxy for any number of persons who together
 shall be entitled to more than twenty votes.

XV.

XV. That twenty Shareholders representing Two thousand shares shall constitute a quorum at any General Meeting of the said Company.

Quorum at General Meetings.

XVI. That the following clauses of the statute of the Imperial Parliament being "*The Companies Clauses Consolidation Act 1845*" shall be incorporated in this Act (that is to say)

Certain Clauses in the "Companies' Clauses Consolidation Act" incorporated.

With respect to the distribution of the capital of the Company into shares

Clauses numbered respectively from 6 to 11 both inclusive and schedule A in the said Act annexed referred to in clause 11 and clauses 12 and 13.

With respect to the transfer or transmission of shares

Clauses numbered respectively from 15 to 20 both inclusive.

With respect to the payment of subscription and the means of enforcing the payment of calls

Clauses numbered respectively 21 and 22 and from 25 to 28 both inclusive.

With respect to the forfeiture of shares for non-payment of calls

Clauses numbered respectively 29 and from 31 to 35 both inclusive.

With respect to the General Meetings of the Company

Clauses numbered respectively from 66 to 74 both inclusive and from 77 to 80 both inclusive.

With respect to the appointment and rotation of Directors to be elected by the shareholders of the said Company as aforesaid

Clauses numbered respectively from 83 to 89 both inclusive.

With respect to the proceedings and liability of the Directors

Clauses numbered respectively 92 93 94 97 98 99 100.

With respect to the appointment and duties of Auditors

Clauses numbered respectively from 101 to 108 both inclusive.

With respect to the accountability of the Officers of the Company

Clauses numbered respectively from 109 to 114 both inclusive.

With respect to the keeping of accounts and the right of inspection thereof by the shareholders

Clauses numbered respectively from 115 to 119 both inclusive.

With respect to the making of dividends

Clauses numbered respectively from 120 to 123 both inclusive.

With respect to the power of making bye-laws

Clauses numbered respectively from 124 to 127 both inclusive.

With respect to giving of notices

Clauses numbered respectively from 135 to 141 both inclusive.

With respect to the recovery of damages not specially provided for and penalties

Clauses numbered respectively from 142 to 151 both inclusive, and from 153 to 158 both inclusive.

With respect to appeal

Clauses numbers 159 and 160.

XVII. That before commencing any line of railroad by this act authorized to be made the said Company shall by some qualified engineer by them to be appointed as aforesaid cause to be made and taken levels and surveys of the country and lands through which such line of railroad is intended to be carried together with a map or plan of the said line and of the lands through which it is to pass and also a book of reference in which shall be entered the name or names of the owners lessees and occupiers if known of each and every portion of the said land through which such line of Railroad shall pass with a description of the said land setting forth all the bearings of such railroad and the quantity of such land which shall or may be required for the purpose of making such railroad.

Plan of Line and Book of Reference.

XVIII. That when and so often as the said Company shall have determined upon making any line of Railroad the said Company shall by advertisement

Notice of intention to make Railroad.

advertisement in the *Victoria Government Gazette* and in one or more of the Melbourne newspapers at least thirty days before the commencement of the formation of any such road give notice that they intend to make the said Railroad between certain places therein to be specified according to a map or plan to be seen in the office of the said Company in Melbourne.

Map and Book of Reference to be kept.

XIX. That the said map or plan and book of reference shall be kept in the office of the said Company at Melbourne and exhibited at all convenient times for public examination from the day of the date on which such notice shall be first published And all persons shall and may have free liberty and permission at all proper and convenient times to view and examine the said map or plan and book of reference.

Unintentional Errors in Book of Reference not to prevent the execution of the Act.

XX. That no advantage shall be taken of or against the said Company or any interruption be given to the making of any such Railway and other works on account of any error or omission in the said book of reference but it shall be lawful for the said Company by themselves their deputies agents officers surveyors servants and workmen to enter into and upon and to take and use for the purposes of this Act any lands or grounds set out and described in the said map or plan notwithstanding any such error or omission in case it shall appear to any two Justices of the Peace acting for the district or place in which such lands or grounds shall be situated and be certified by writing under their hands that such error or omission proceeded from mistake.

Power to enter upon and take Lands.

XXI. That for the purposes and subject to the provisions of this Act it shall be lawful for the said Company their successors agents and workmen and all other persons by them authorized and they are hereby empowered to enter into and upon the lands of the Crown and also of any person or corporation whatsoever and to survey and take levels of the same or of any part thereof and to ascertain and stake or set out and appropriate for the purposes herein mentioned such parts thereof as may be necessary for the laying out making constructing and the convenient operation of such Railways and all other works matters and conveniences as are hereby authorized to be made and in or upon such lands or any lands adjoining thereto to bore dig cut trench embank and drain and also to remove or lay take carry away and use any earth gravel stone timber or any other materials or things which may be dug or obtained therein or otherwise in the execution of any of the powers of this Act and which may be proper or necessary for making maintaining altering repairing or using any such Railway and other works by this Act authorized or which may obstruct the making maintaining altering repairing or using the same respectively according to the true intent and meaning of this Act without any previous agreement with the owner or occupier of such lands and also to make or construct upon across under or over any such Railway or other works or any lands streets hills vallies roads rivers canals brooks streams or other waters such inclined planes tunnels embankments aqueducts bridges roads ways passages conduits drains piers arches cuttings and fences as the said Company shall think proper and also to alter the course of any rivers canals brooks streams or water courses during such time as may be necessary for constructing tunnels bridges or passages over or under the same and also to divert or alter the course of any roads or ways or to raise or sink any roads or ways in order the more conveniently to carry the same over or under or by the side of any such Railway and to make drains or conduits into through or under any lands adjoining such Railway for the purpose of conveying water from or to such Railway and also in or upon such Railway or any lands adjoining or near thereto to erect and make such toll and other houses ware-houses yards stations engines and other works and conveniences connected with any such Railway as the said Company shall think proper and also from time to time to alter repair or discontinue the before mentioned works or any of them and to substitute others in their stead and where any such Railway shall pass through any woodlands or forests it shall be lawful for

Remove Materials.

Construct Inclined Planes, Tunnels, &c.

Alter the Course of Rivers, &c.

And of Roads, &c.

And to erect Toll-houses, Warehouses, &c.

the

And all such conveyances and assurances as aforesaid shall be good valid and effectual in the law to all intents and purposes and shall operate and be as a merger of all outstanding terms of years and be a complete and effectual bar to all estates tail and other estates rights titles remainders reversions limitations trusts and interests whatsoever: Provided always that after any lands which the said Company are by this Act authorised to take without the previous consent of the owner or occupier shall have been set out ascertained and appropriated for the purposes herein mentioned such lands and the fee simple and inheritance thereof together with the yearly profits thereof and all the estate use trusts and interests of any person therein shall thenceforth be vested in and become the sole property of the said Company to and for the purposes of this Act for ever and it shall not be necessary to obtain a conveyance thereof from the owner or person interested in such lands.

Conveyance dispensed with.

The word "grant" in Conveyances from the Company to amount to certain Covenants.

XXIV. That in all conveyances to be made by the said Company under or in pursuance of this Act the word "grant" shall operate as and be construed and adjudged in all courts of judicature to have the operation of express covenants to or with the respective grantees therein named and the successors heirs executors administrators or assigns of such grantees according to the quality or nature of such grantees interest therein and the estate or interest therein expressed to be thereby conveyed by or from the said Company for themselves and their successors that they the said Company notwithstanding any act or default done by them were at the time of the execution of such conveyances seised or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance in fee simple free from all incumbrances done or occasioned by them or otherwise for such estate or interest as therein expressed to be thereby granted free from incumbrances done or occasioned by them and that the purchaser thereof his heirs and assigns successors and assigns or executors administrators and assigns (as the case may be) shall quietly enjoy the same against the said Company and their successors and all claiming under them and be indemnified and saved harmless by the said Company and their successors from all incumbrances committed by the said Company and also for further assurance at the expense of such grantees respectively their heirs executors administrators or assigns of such lands and premises by the said Company or their successors and all claiming under them unless except and so far as the same shall be restrained and limited by express particular words contained in such conveyances and all such grantees and their several successors heirs executors administrators and assigns respectively according to their respective quality or nature and the estate or interest expressed to be conveyed shall and may in all actions to be brought assign breach or breaches of covenant as they might do in case such covenants were expressly inserted in such conveyances.

Breadth of Land for Railway.

Houses, &c. not to be injured.

Crown Land.

XXV. That the lands to be taken or used for the line of any Railway hereby authorised to be made shall not exceed one hundred yards in width except where greater width shall be judged necessary for waggons and other carriages to turn remain stand in lie or pass each other or for raising embankments for crossing valleys or low grounds or in cutting through high ground or for the erection or establishment of any fixed or permanent machinery toll house warehouses wharf or other erections and buildings or for excavating removing or depositing earth or other materials: Provided always that nothing herein contained shall authorise the said Company or any person acting under their authority to take injure or damage for the purposes of this Act any messuage dwelling-house or other permanent building or the immediate appurtenances thereof or to enter upon any lands appropriated or conveyed to any other Railway Company without the consent in writing of the owner and occupier thereof or of such Railway Company respectively: Provided also that nothing in this Act contained shall be construed to affect the rights of the Crown in any ungranted lands within the said Colony or to authorise the said Company to enter upon or take

take possession of any such land without the previous permission of the Lieutenant-Governor of the said Colony.

XXVI. That the said Company in making the said Railway and other works by this Act authorized shall have full power and authority to deviate from the line delineated on the said map or plan with such deviation in the section as may be necessary in consequence thereof: Provided always that no such deviation shall extend to a greater distance in any town than one hundred yards or in any other place than three hundred yards from the line so to be delineated upon the said plan nor shall such deviation extend into the lands or property of the Crown or of any person whose name is not mentioned in the said books of reference unless the same shall have been omitted by mistake and unless the fact that such omission proceeded from mistake shall have been certified in manner hereinbefore provided for in cases of unintentional errors in the said books of reference.

Company not to deviate from the Plan to any extent exceeding 100 yards and 300 yards without consent.

XXVII. That after any land shall have been taken for the use of the said Railway and other works the Company shall forthwith separate the same and keep the same permanently separated from the lands adjoining to such Railway and other works with good and sufficient posts rails hedges ditches mounds or other fences.

Company to fence off Railway from adjoining lands.

XXVIII. That if in the exercise of the powers hereby granted it be found necessary to cross cut through raise sink or use any part of any road whether carriage-road or horse-road either public or private so as to render it impassable for or dangerous or very inconvenient to passengers or carriages or to the persons entitled to the use thereof the said Company shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be.

Substitution of Roads

XXIX. That where any bridge shall be erected for carrying any public highway or occupation road over the said Railway the road over such bridge shall be formed and shall at all times be continued of the width of not less than fifteen feet and the ascent of every such bridge shall not be more than one foot in twenty feet and a good and sufficient fence shall be made on each side of every such bridge which fence shall not be less than four feet above the surface of such bridge.

Regulations as to width and ascent of Bridges for carrying Roads over the Railway.

XXX. That as soon as four thousand shares of the capital stock of the said Company shall have been actually subscribed for and the sum of Twenty thousand pounds paid up it shall be lawful for the said Company and they are hereby authorized and empowered to make and construct a Railway or Railways with one or more sets of rails or tracks and all other proper works and conveniences connected therewith and to procure such stationary or locomotive steam engines and carriages waggons and other machinery and contrivances and obtain such real or personal property as may be necessary for the making and maintaining the said Railway or Railways and for the transport of passengers and merchandise thereon and for the other purposes of this Act and may hold and possess the land over which the said Railway shall pass and such adjoining lands as may be required according to the provisions of this Act such Railway to commence at the City of Melbourne aforesaid and proceed to Williams Town in the Colony of Victoria and from the said City of Melbourne towards the River Murray passing through such parishes counties townships or places in the said Colony of Victoria as may be deemed the most advantageous route for constructing a Railway from the said City of Melbourne to the River Murray: Provided that detailed plans and sections of each portion of the proposed line of Railway as shall from time to time be proposed by the said Company to be constructed shall be submitted to the Lieutenant-Governor and Executive Council for approval and that no such portion of

Commencement of Works.

And purchase Lands

the

the line of Railway shall be commenced upon until one month after the approval thereof by the Government shall have been signified to the Company and been published by advertisement in the *Victoria Government Gazette* or until the expiration of two months after the plans shall have been submitted to the Lieutenant-Governor for approval as aforesaid and no objection to such plans shall have been made or given.

Proof of Subscription
of that amount.

XXXI. That a certificate under the hand of the Colonial Treasurer, that the whole of the said sum of twenty thousand pounds has been actually paid up as aforesaid (and which Certificate such Colonial Treasurer is hereby authorized and required to grant on application made to him by the said Company on being satisfied thereof) shall for all purposes whatsoever be conclusive evidence that the whole of the said sum of twenty thousand pounds has been actually paid up as aforesaid.

Completion of Line.

XXXII. That in case the said Company shall not have wholly completed such lines of Railway as they are empowered by this Act to construct within seven years from and after the passing thereof then and in such case all the powers and authorities given to the said Company by this Act shall wholly cease and determine and all the estate and title of the said Company of and in any real or personal property acquired by them shall thereupon *ipso facto* be vested in Her Majesty the Queen for the benefit of the public.

Mortgagees to convey
to the Company.

XXXIII. That all persons and corporations having any mortgage on any lands which shall be required to be taken or used for the purposes of this Act (and whether entitled thereto in their own right or in trust and whether in possession of such lands by virtue of any mortgage or not) and whether such mortgage shall affect such lands solely or jointly with any other lands which shall not be so required shall on tender by the said Company or by any person by them authorised of the principal money and interest due on such mortgage and the just costs if any then due together with the amount of six calendar months interest on the said principal money immediately alien release assign and transfer the respective interests of such mortgagees in the lands which shall be so required to the said Company or to such persons and in such manner as they shall appoint and which alienation release assignment and transfer may be of the like form as the conveyance by this Act directed to be used in cases of conveyance of lands or as near thereto as the circumstances of the case will permit or in any other form or in case such mortgagees shall have notice in writing from the said Company that they will pay off the principal money and interest which shall be due on such mortgage at the end of such six calendar months to be computed from the day of giving such notice then at the end of such six calendar months on the payment of the principal money and interest so due together with any just costs then due such mortgagees shall alien release assign and transfer their respective interests in the lands which shall be so required for the purposes of this Act to the said Company or as they shall direct and in case any such mortgagee shall refuse to alien release assign or transfer as aforesaid on such tender or payment then all interest on every such mortgage debt shall from thenceforth cease and determine: Provided always that in case any such mortgagee shall neglect or refuse to alien release assign or transfer as aforesaid then upon payment of the principal money and interest and the costs (if any) due on any such mortgage as aforesaid into the Colonial Treasury at Melbourne at or at any time after the end of six calendar months from the day of giving such notice as aforesaid or in lieu of such notice and in addition to the said other monies of six calendar months interest in advance for the use of such mortgagee the Colonial Treasurer shall give a receipt for the said money and thereupon or upon such alienation release assignment or transfer by any such mortgagee as aforesaid all the estate right title interest use trust property claim and demand

demand of such mortgagee and of all persons in trust for him or for whom he shall be trustee shall vest in the said Company and the said Company shall be deemed to be in the actual legal and equitable possession of the premises and estate comprised in such mortgage or so much thereof as shall be required for the purposes of this Act to all intents and purposes whatsoever

XXXIV. That in all cases in which any lands subject to any mortgage shall be required for the purposes of this Act which lands shall be of less value than the principal monies interests and costs secured thereon or in which a part only of any lands subject to any mortgage shall be required for the purposes of this Act and the mortgagee thereof shall not consider the remaining part of such lands to be a sufficient security for the money charged thereon or shall not be willing to release the part required for the purposes of the Act from the principal or mortgage money and all interest due or to become due thereon and all costs the value of such lands or (as the case may be) of such part of the said lands as shall be so required for the purposes aforesaid and also the compensation (if any) for any damage done shall be settled and agreed upon by and between such mortgagee and the person entitled to the equity of redemption of such lands on the one part and the said Company on the other part and in case of any difference between them then such value and compensation shall be determined by the verdict of a jury in the same manner as in other cases of difference and the amount of such value or compensation being so agreed upon or determined as aforesaid shall be paid to such mortgagee in satisfaction of his claim so far as the same will extend and such mortgagee shall thereupon alien release assign or transfer all his interest in such mortgaged lands the value whereof shall have been agreed upon or determined as aforesaid or in case of his neglecting or refusing to alien release assign or transfer as hereinbefore directed then the amount of such value and compensation shall be paid into the Colonial Treasury at Melbourne to the credit of such mortgagee as by this Act is provided in cases of a like nature and such payment to the mortgagee or into the Treasury as last aforesaid shall be and be accepted in satisfaction of the claim of such mortgagee so far as the same will extend and also in full discharge and exoneration of such part of the mortgaged premises as shall be so taken or used from all principal and interest costs and other moneys due or secured thereon and thereupon such mortgaged lands shall become absolutely vested in the said Company and the said Company shall be deemed to be in the actual possession thereof to all intents and purposes whatsoever: Provided nevertheless That all mortgagees shall have the same powers or remedies for recovering or compelling payment of their mortgage money or the residue thereof (as the case may be) or the interest thereof respectively upon and out of the residue of the mortgaged lands not required for the purposes aforesaid as they would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage: Provided also That when a part only of any lands subject to any mortgage shall have been taken for the purposes of this Act as aforesaid and the value of the lands so taken shall on the assignment thereof to the said Company have been paid to the mortgagee thereof in part satisfaction of his mortgage debt a memorandum of what shall have been so paid shall be indorsed on the deed creating such mortgage at the time of executing such assignment to the said Company and shall be signed by such mortgagee and a copy of such memorandum shall at the same time (if required) be furnished by the said Company at their expense to the person entitled to the equity of redemption of the lands comprised in such mortgage deed.

Where the Mortgage Money exceeds the value of the Land or a part only of the Land taken.

XXXV. That on or before the expiration of one calendar month next after notice in writing from the said Company or their Agent duly authorized

Parties to deliver a Statement of the particulars of their Estates and Amount of Compensation claimed by them.

alized of their intention to take or use any lands or any part thereof for the purposes of this Act shall have been given to any person or corporation seised possessed of or interested in or authorized by this Act to accept and receive satisfaction and compensation for the value of the same or any estate share or interest therein or charge thereon or for any injury or damage sustained on account of the execution of this Act such person or corporation shall deliver or cause to be delivered at the office of the Secretary of the said Company a statement in writing of the particulars of the estate share interest or charge which he or they claim to be entitled to or to be authorized to receive satisfaction and compensation for and of the injury or damage sustained by him or them and of the amount of the sum of money which he or they may expect or be willing to receive in satisfaction and compensation for the value of such estate share interest or charge and for such injury or damage respectively.

Corporations and persons capacitated to sell, and Owners and Occupiers may agree for satisfaction and Compensation.

XXXVI That all trustees corporations and other persons hereby capacitated or enabled to sell and convey lands and the owner and occupier of any lands taken or used for the purpose of any Railway or other works hereby authorized may accept and receive satisfaction for the value of such lands taken or used as aforesaid and also compensation for the damages sustained or which may be sustained by the making or completing the said works and also of and by reason of the severing or dividing of the same lands and for and on account of the detriment injury damage loss inconvenience or prejudice which may be sustained by such trustees corporations or other persons in such gross sums as shall be agreed upon between the said owner occupier or other person interested in the said lands and the said Company and in case the said Company and the several parties interested in any such lands cannot or do not agree as to the amount or value of such satisfaction and compensation the same shall be ascertained and settled by surveyors to be appointed as hereinafter is directed.

Differences, how Settled.

XXXVII. And for settling all differences which may arise between the said Company and the several owners of or persons interested in any land which shall or may be taken used damaged or injuriously affected by the execution of any of the powers hereby granted and for determining the amount of compensation to be paid by the said Company in respect of any such lands: Be it enacted That upon the application of either party or in case the owner or person entitled to such compensation shall be absent from the Colony or cannot be found then upon application by the said Company it shall be lawful for any two Justices in Petty Sessions assembled in the district in which such are situated and having no interest in the matter by writing under their hands to nominate and appoint three able practical surveyors for determining what compensation shall be paid by the said Company to the owner or person interested in such lands and such surveyors or any two of them shall determine the same accordingly and shall annex to their valuation a declaration in writing subscribed by them of the correctness thereof and such valuation shall be binding and conclusive upon all parties: Provided always that the said surveyors in assessing such compensation are authorized and empowered and shall take into consideration the enhancement in value of the adjoining land belonging to the party to whom compensation is to be made by the increased facilities of access to the different stations and termini of such Railway in reduction of such compensation.

Mode of Valuation.

Notice of Appointment of Surveyors.

XXXVIII. That before making any such application to the Justices aforesaid either party shall give at least fourteen days notice to the other of his or their intention to make such application and where the owner or person interested in the land shall be absent from the Colony or cannot be found notice of such intention shall be given by the said Company by advertisement in the *Victoria Government Gazette* and in one or more of the

the Melbourne newspapers describing the premises in respect of which compensation is to be assessed fourteen days at the least before making such application. And that if before the said surveyors or any two of them shall have made their valuation as aforesaid any or either of the said surveyors appointed as aforesaid shall die or become incapable to act in the matter the said Justices may nominate and appoint in writing some other surveyor to act in his place and every surveyor so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former surveyor at the time of such his death or disability as aforesaid.

Substitution of Surveyor.

XXXIX. That before such surveyors shall enter upon the duty of making such valuation as aforesaid they shall severally in the presence of such Justices or one of them make and subscribe a declaration at the foot of such nomination in the words following (that is to say)—

Declaration by Surveyor.

" I A.B. do solemnly and sincerely declare that I will
"faithfully impartially and honestly according to the best of my skill and
"ability execute the duty of making the valuation hereby referred to me
"Made and subscribed }
"before me }
" " A.B.

J.P.

And if any surveyor shall corruptly make such declaration or having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanour and that the said nomination and declaration shall be annexed to the valuation to be made by such surveyors and shall be delivered to the Chairman or Secretary of the said Company and shall be preserved by the said Company and they shall at all times produce the said valuation and other documents on demand to the owners of the land comprised in such valuation and to all other parties interested therein and allow copies of the same to be made by such owner if required.

Production of such Documents.

XL. That all the expenses of and incident to every such valuation shall be borne by the said Company.

Expenses to be borne by Company.

XLI. That in all cases where compensation shall be assessed or determined as aforesaid the Directors of the said Company for the time being shall at the next half-yearly meeting of the said Company lay before the said Company the said valuation and the said Company is hereby required to pay the amount of the said compensation to the party lawfully entitled thereto or to his agent duly authorized in this behalf within thirty days next after such valuation shall have been so delivered as aforesaid.

Time for Payment of Compensation.

XLII. That all persons in possession of any lands which shall be required or be intended to be taken or used for the purposes of this Act and who shall have no greater interest than as tenants at will or lessees for a year or as tenants from year to year shall respectively deliver up possession of such property to the said Company or to such person as the said Company shall appoint to take possession of the same at the expiration of six calendar months next after notice to that effect shall have been given by the said Company to or left at the last known place of abode of such respective tenants or lessees in possession or left upon the said premises or at such other time after the expiration of six calendar months as in such notice they shall be respectively required whether such notice be given with reference to the time of the commencement of such tenants holding or not and whether such notice be given before or after the said premises shall be purchased by the said Company and in case any such tenant or lessee or person in possession as aforesaid shall refuse to give up such possession as aforesaid it shall be lawful for the said Company to issue their precept to the sheriff of the said Colony of Victoria to deliver possession of the said premises to such person as shall in such precept be nominated to receive the same and the said sheriff is hereby required to deliver possession of the said premises accordingly and to levy and satisfy such

Tenants at will, for a year, or from year to year, to deliver up Possession on Notice.

such costs as shall accrue upon or by reason of the issuing and execution of such precept on the person so refusing to give up possession by distress and sale of his goods and chattels

How Interest of Tenants to be settled.

XLIII. That where any such tenant or lessee who shall be required to deliver possession of any premises occupied by him before the expiration of his term or interest therein shall give to the said Company previous notice in writing thereof and state the period of such unexpired term or interest the said Company shall and they are hereby required to make or tender to such tenant or lessee before they shall issue their precept as aforesaid to the Sheriff satisfaction recompence or compensation for the value of his unexpired term or interest in the said premises which satisfaction recompence or compensation in case of difference shall be ascertained and determined in the same manner as is hereinbefore provided for in the case of purchase of Lands.

Persons holding under Leases to produce the same.

XLIV. That in all cases in which any party shall claim any satisfaction recompence or compensation for or in respect of any unoccupied term or interest which he shall claim to be possessed of or entitled unto in any lands mines or minerals intended to be taken or used under the authority of this Act under or by virtue of any demise or lease or agreement for lease or grant thereof the said Company are hereby authorised to require such party to produce or show the lease or agreement for lease demise or grant in respect of which such claim to satisfaction recompence or compensation shall be made and if the same shall not be produced or shown within thirty days after demand made by the Secretary of the said Company or by any person by him authorised the party claiming such satisfaction recompence or compensation shall be considered and treated as a tenant holding only from year to year.

Persons in Possession to be deemed presumptively entitled.

XLV. That where any question shall arise in reference to the provisions aforesaid or otherwise upon this Act touching the title of any party to any lands or to any interest in any lands or to any compensation in respect of damage done to any lands or to any money to be paid into the Colonial Treasury at Melbourne for the purchase of any lands or of any estate right title or interest in any lands to be taken or used in pursuance of this Act, or for compensation as aforesaid the parties respectively who shall have been in possession or receipt of the rents or profits of such lands at the time of such purchase and all persons and corporations claiming under such parties or under or consistently with the possession of such parties shall be deemed to have been lawfully entitled to such lands or such interest therein or to such money as aforesaid according to such possession unless the contrary shall be shown to the satisfaction of the said Company.

Compensation to be made for temporary Damage.

XLVI. And whereas in making and executing the said Railway and the several other works by this Act authorised it may be necessary for the said Company their agents and workmen to enter upon and take temporary possession of some parts of the lands adjoining to the line of the said Railway and other works for the purpose of laying or depositing and working thereon the earth clay stones bricks slates timber lime and other materials or of manufacturing such clay into bricks or for forming temporary roads or approaches to and from the said works and inasmuch as certain Surveyors to be appointed by two Justices of the Peace for the said Colony of Victoria are directed by this Act to assess a compensation for the damage and injury done to such adjoining lands by the exercise of the powers and authorities by this Act granted cannot either upon view or from evidence form a just opinion of the permanent injury which will be sustained by the owners or proprietors of such adjoining lands by the exercise of the powers and authorities aforesaid until the works shall have been completed it is expedient that the said Company their agents and workmen should be empowered to enter upon such adjoining lands for the purposes aforesaid without having previously made such payment tender or investment of money as hereinbefore mentioned: Be it therefore enacted That notwithstanding any

any thing in this Act contained it shall be lawful for the said Company their agents and workmen and they are hereby empowered to enter upon the lands of any person or corporation whatsoever adjoining or lying near to the said Railway and other works by this Act authorized to be made and maintained or any of them or any part thereof respectively for the purpose of laying depositing working or manufacturing upon such lands or upon any part thereof respectively any earth clay stones bricks slates timber lime or other materials or for forming temporary roads or approaches to and from the said works they the said Company their agents and workmen doing as little damage as may be in the exercise of the several powers hereby granted to them and making compensation for such temporary occupation or temporary damage of the said lands to the owners and occupiers thereof such compensation in case the parties differ about the same to be settled and recovered in manner hereinbefore provided in cases of disputes as to the value of lands through or upon which the said Railway and other works are intended to be made and the compensation for any damage sustained by reason of the execution of any of the works by this Act authorized: Provided always That the said Company shall and they are hereby required to make such compensation and satisfaction for the permanent damage or injury (if any) which may have been done to the said lands by the exercise of any of the powers and authorities aforesaid within two calendar months after the completion of such portion of the said Railway and other works as shall pass or be constructed over such lands: Provided also that before it shall be lawful for the said Company to make such temporary use as aforesaid of the lands adjoining or lying near the said Railway or works the said Company shall and they are hereby required to give twenty-one days notice of such their intention to the owners and occupiers of such lands and to separate and set apart by sufficient railings or fencings so much of the lands as shall be required to be so used as aforesaid from the other lands adjoining thereto: Provided also that it shall not be lawful for the said Company to make such temporary use of any such lands as aforesaid lying at a greater distance than two hundred yards from the said Railway nor to make bricks or place a steam engine upon any of such lands at any place which shall not be distant at least four hundred yards from any dwelling-house without the leave of owner or occupier thereof in writing first obtained for that purpose.

XLVII. That if in the execution of any of the powers of this Act any land shall be cut through and divided so that what shall be left thereof on both sides or on either side of the said railway shall be less than five statute acres in quantity and the owner of any such land shall not have any other land adjoining to that which shall be so left on either side of the said Railway then and in every case if such owner shall so require but not otherwise the said Company shall also purchase the land so left on both sides or either side of the said Railway being less than five statute acres in quantity as aforesaid the value thereof to be ascertained (if the parties differ about the same) in the same manner as is directed concerning any land to be taken or used for the purposes of this Act or in case such owner as aforesaid shall have any other land adjoining to that which may so left he may require the said Company to throw the same into the adjoining land of such owner by removing the fences and levelling the sites thereof in a sufficient and workmanlike manner.

XLVIII. That if any person or corporation by this Act authorized to sell and convey any lands shall be applied to by or on behalf of the said Company to treat for sell dispose of or convey any part of any house warehouse building or manufactory in the actual occupation of one person or several persons jointly and shall by notice in writing to be left with the Secretary of the said Company within twenty-one days after such application signify his inclination or desire to treat for sell dispose of and convey the whole of such house warehouse building or manufactory and if it shall happen that the said Company shall not think proper or be willing to purchase the whole

Where small parcels of land are intersected, Company compellable to purchase the whole.

Company compellable to purchase the whole of any house or building.

of

of such house warehouse building or manufactory then and in every such case nothing in this Act contained shall extend or be construed to extend to compel such person or corporation interested therein to treat for sell dispose of or convey or to authorize the said Company to take or use part only or less than the whole of such house warehouse building or manufactory anything herein contained to the contrary thereof in anywise notwithstanding.

Company may sell
lands not wanted for
the purposes of this
Act.

XLIX. And whereas by means of the purchases which the said Company are empowered or are required to make by virtue of this Act they may happen to be seised or possessed of more lands than will be necessary for the effecting the purposes of this Act or of lands not applicable to the purposes hereof: Be it therefore enacted That it shall be lawful for the said Company after the completion of the said Railway to contract for and to sell either by public auction or private contract and by any deed under their common seal and for such consideration as they may deem reasonable to convey to the purchasers thereof any part of such superfluous lands or any estate or interest purchased by the said Company in such lands or any part thereof in such manner as they shall deem most advantageous and such contracts sales and conveyances from the said Company shall be valid and effectual to all intents and purposes: Provided always That the said Company before they shall dispose of any such superfluous lands shall first offer the same to the person or to the several persons whose lands or premises shall immediately adjoin the lands so proposed to be sold such persons being when such lands are to be sold in the Colony of Victoria and conveniently to be found and capable of entering into a contract for the purchase of such lands and such respective persons in case they shall be desirous of purchasing the same shall signify their desire and intention in that behalf to the said Company within fourteen days after such offer of sale shall have been made and in case such persons shall decline to avail themselves of such offer or shall neglect to signify their desire and intention to purchase such lands for the space of fourteen days the right of pre-emption of every such person so declining or neglecting in respect of the lands so included in such offer of sale shall cease and a declaration pursuant to an Act passed in the ninth year of the Reign of Her present Majesty Queen Victoria intituled "An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the Government of New South Wales and to substitute Declarations in lieu thereof and for the Suppression of Voluntary and Extra-judicial Oaths and Affidavits" made before any Justice of the Peace for the district or place where such lands may be situated by some person not interested in such lands stating that at the time when such lands shall have been sold the person entitled to such right of pre-emption was not in the Colony of Victoria or was not to be found or was not capable of entering into a contract for the purchase of such lands or that such offer was made by or on behalf of the said Company and that such offer was refused or was not accepted by the person to whom the same was made within the space of fourteen days from the time of making the same shall in all courts whatsoever be sufficient evidence and proof of the fact or facts therein stated and in case any such person as last aforesaid shall be desirous of purchasing any such lands and such person and the Company shall not agree with respect to the price thereof then the price thereof shall be ascertained and determined in the same manner as any other satisfaction recompense or compensation for any lands taken or used by the said Company is by this Act directed to be made and determined and the expense of hearing and determining such difference shall be borne and paid in like manner as in this Act is directed with respect to the disputed value of lands to be taken or used by the said Company *mutatis mutandis* and the money produced by the sale which shall be made by the said Company of such lands as aforesaid shall

shall be applied to the purposes of this Act and all conveyances which shall be made by the said Company pursuant to the authority by this Act in them reposed shall be judged sufficient to vest in the purchaser such estate as shall have been agreed for or shall be expressed or meant and intended to be conveyed and granted by any such conveyance.

L. That upon payment of the money which shall arise from the sale of any lands or of any interest therein belonging to the said Company which shall be sold by the said Company under the authority of this Act or upon payment of any money under this Act it shall be lawful for any two Directors of the said Company or for the Secretary or any other Officer appointed by the said Directors for the purpose to sign and give a receipt for the money so paid which receipt shall be a sufficient discharge to all persons for the purchase money for such lands or interests as shall be sold or for such other money as in such receipt shall be expressed to be received and such persons shall not afterwards be answerable or accountable for any loss misapplication or non-application of such purchase money or other money or of any part thereof.

Company on Payment
of Money to give Re-
ceipts.

LI. That in consideration of the great charges and expenses which the said Company must necessarily incur and sustain in making and maintaining the said Railway and other the works hereby authorized to be made, it shall be lawful for the said Company from time to time and at all times hereafter to ask demand take recover and receive to and for the use and benefit of the said Company a toll for and in respect of all passengers and property of every description which shall be conveyed or transported upon such Railway or in the carriages connected therewith as aforesaid at such rates per mile as shall be established from time to time by the Directors of the said Company not exceeding for each passenger by the first class of carriage six pence for the second class of carriage four pence and for the third class of carriage two pence and not exceeding for the carriage of goods wares and merchandise for each and every ton nine pence per mile and so in proportion for any less quantity that the transportation of persons and property the construction of cars and carriages the weight of loads and all other matters and things in relation to the use of such Railway shall be in conformity to such rules regulations and provisions as the said Directors or the majority of them shall from time to time prescribe and direct and that such Railway may be used by any person or persons who may comply with such rules and regulations: Provided always that the said Company shall and will convey all persons whomsoever who shall be ready and apply to be conveyed five minutes before the time fixed for starting of each and every train and provided also that if the rates tolls or dues charged by the said Company under and by virtue of this Act shall be found excessive it shall and may be lawful for the Lieutenant-Governor with the advice of the Executive Council of the Colony of Victoria to reduce the said rates tolls or dues so as that the same shall not produce to the said Company a greater rate of clear annual profits divisible upon the subscribed and paid-up capital stock of the said Company than twenty-five pounds annually for every one hundred pounds of such capital and in order that the true state of the said Company shall be known it shall be the duty of the Chairman and Directors thereof to publish in the *Government Gazette* and to file in the office of the Colonial Secretary of this Colony for the information of the Lieutenant-Governor and Executive at the expiration of every six months after any part of the said Railway shall have been opened as aforesaid a just and true statement and account of the moneys by them disbursed and laid out in making and completing the said Railway in manner aforesaid and also of the amount of tolls and revenues of the said Railway and of the annual expenditure and disbursements in maintaining and keeping up the same during the said six months the said several accounts and statements to be signed by the Accountant and countersigned by the

Tolls allowed.

Scale of Tolls.

Statements to be filed
in the Colonial Secre-
tary's Office.

Chairman

Chairman of the said Company, and by such Accountant verified by solemn declaration to be made before any one of Her Majesty's Justices of the Peace or before a Notary Public in manner hereinbefore mentioned and subject to such audit as His Excellency the Lieutenant-Governor for the time being shall direct.

A List of Tolls to be exhibited.

LII. That the said Company shall cause to be painted on boards and to be affixed and continued and renewed as often as the same shall be obliterated or defaced to or upon every toll-house or building at which any of the rates or tolls by this Act authorised shall be collected or received in some conspicuous place in large and legible characters, an account or list of the several rates and tolls which the said Company shall from time to time direct and appoint to be taken and which shall be payable by virtue of this Act and in case any owner or master of or person having or assisting in the charge of any carriage passing upon the said Railway or any collector of the rates or tolls aforesaid shall after and whilst such account or list shall be affixed as aforesaid demand or take more than the amount thereon specified such owner master collector or other person as aforesaid shall forfeit and pay any sum not exceeding twenty pounds for every such offence And that if any person shall wilfully pull down deface or destroy any board which shall have been set up or affixed by virtue or in pursuance hereof, or any stone or mark set up to denote distances on the said Railway or shall actually or constructively concur or aid therein he shall on conviction forfeit and pay a sum not exceeding fifty pounds for every such offence And that the rates or tolls hereby authorised to be taken shall be paid to such persons at such places upon or near the said Railway and in such manner and under such regulations as the said Company shall by notice to be annexed to the account or list of rates or tolls direct or appoint and in case of refusal or neglect on demand to pay such rates or tolls as have accrued due unto the respective persons appointed to receive the same as aforesaid the said Company may in case such rates or tolls shall amount to or exceed the sum of fifty pounds sue for and recover the same by an action of debt or upon the case in any court of competent jurisdiction or the person to whom such rates or tolls ought to have been paid may and he is hereby empowered whether such rates or tolls shall amount to the sum of fifty pounds or not to seize the goods articles and other things for and in respect whereof any such rates or tolls ought to have been paid or any part thereof and the carriage laden therewith or any other goods articles or things belonging to the person liable to pay such rates or tolls and detain the same until such payment shall be made together with all reasonable charges for such seizure and detention and if such goods articles and things shall not be redeemed within seven days next after the taking thereof the same shall be sold and such rates tolls and charges satisfied thereout and the surplus proceeds thereof (if any) be applied as the law directs in cases of distress for rent.

Penalty for defacing or destroying Boards.

How Tolls are to be recovered in default of payment.

Receipt of Minors and Lunatics.

LIII. That if any money be payable from the said Company to any Shareholder or other person being a minor idiot or lunatic the receipt of the Guardian of such minor or the receipt of the Committee of such idiot or lunatic shall be a sufficient discharge to the said Company for the same.

Profits reserved.

LIV. That before apportioning the profits to be divided among the Shareholders the said Directors may if they think fit set aside therefrom such sum as they may deem proper to meet contingencies or for enlarging repairing or improving the works connected with the said Railway and the branches thereof or any part thereof and may divide the balance only among the Shareholders.

Increase of Capital.

LV. That it be lawful for the said Company to raise any further sum or sums of money not exceeding altogether five hundred thousand pounds in addition to the said capital of one million of pounds for executing completing

pleting and maintaining the Railways and other works hereby authorized and the said Company are hereby authorized and empowered to raise any such further sum or sums by contributing amongst themselves, or by the admission of other persons as subscribers to the said Company and by issuing new shares of twenty-five pounds each to such contributors or subscribers but so that each such contributor or subscriber shall not pay a less price than twenty-five pounds for each new share and that all such new shares shall be and be deemed personal estate and be dealt with and be transmissible accordingly: and every corporation and person who shall contribute and pay upon or in respect of such new shares or who may become entitled thereto and their several and respective successors executors administrators and assigns shall be and are hereby declared to be owners or proprietors of shares in the said Company and shall become entitled to and incorporated with the said Company.

LVI. That whenever the Directors of the said Company shall determine to issue new shares under the provisions of this Act they shall by advertisement published in the *Victoria Government Gazette* and at least one other newspaper published in Melbourne aforesaid and in the *London Gazette* and at least one other newspaper published in London signify the number of new shares proposed to be issued and the lowest price intended to be taken for the same respectively and the proprietors of the original shares shall within a period to be stated in such advertisement but not less than thirty days from the publication thereof be entitled to the option of taking all or any of such new shares in preference to any other person and that such proprietors of the original shares who within such period of thirty days may signify in writing to the Secretary of the said Company in Melbourne or to the lawfully authorized agent of the said Company in London to be delivered at the respective offices of the said Company in Melbourne and London their desire to partake in the distribution of such new shares shall as between themselves be entitled to have so many of such new shares allotted to them respectively as shall be in proportion to the number of the original shares then belonging to them respectively and the Directors shall set apart for the purposes aforesaid and specify in such advertisements the proportionate number of such new shares as the proprietors resident in Victoria and the proprietors not resident there shall respectively have such option of purchasing.

Pre-emption of New Shares.

LVII. That in case any such proprietor of original shares shall not within the period to be fixed for such purpose by the Directors of the said Company (and which shall not be less than thirty days) pay the price or deposit to be required on any such new share to be allotted to him then (and without prejudice to the remedies of the said Company against any such proprietor who shall neglect to pay the same) it shall be lawful for the said Directors to allot any such share to any other proprietor or person whomsoever at such price for each share as the said Directors may think proper but not less than twenty-five pounds for the same respectively.

Subsequent allotment.

LVIII. That in case it shall at any time be thought expedient by the said Company to raise any sum or sums of money by way of loan it shall be lawful for the said Company by any order

Borrowing on Mortgage.

order of any general meeting of the said Company to borrow and take up at interest in addition to the money which the said Company are authorized by the thirteenth clause of this Act to receive in advance from the Shareholders any such sum as to them shall seem meet and convenient not exceeding at any time one half part of the amount of the capital of the said Company then actually paid up and the said Company after an order shall have been made for that purpose by any general meeting are hereby authorized and empowered to assign the property of the said Company and the rates arising or to arise by virtue of this Act or any part thereof (the costs and charges of assigning the same to be paid out of the said rates) as a security for any such sum of money to be borrowed as aforesaid with interest to such person or his trustee as shall advance the same all which said mortgages or assignments shall be made under the Common Seal of the said Company and in the words or to the effect following (that is to say)

Form of Mortgage.

"No.

"The Melbourne Mount Alexander and Murray River
 "Railway Company by virtue of an Act passed in the
 "year of the reign of Her present Majesty Queen Victoria in-
 "titled 'An Act to incorporate a Company to be called The
 "Melbourne, Mount Alexander and Murray River Railway Com-
 "pany.' In consideration of the sum of
 " paid to the said Company by of
 " doth assign unto the said
 "his (or her) executors administrators and assigns the Railways
 "and other works of the said Company and all and singular the
 "rates arising by virtue of the said Act and all the estate right
 "title and interest of in and to the same. To hold unto the
 "said his (or her) executors administrators
 "and assigns until the said sum of
 "together with interest for the same after the rate of
 "for every one hundred pounds for a year shall be fully paid
 "and satisfied. Given under the Common Seal of the said Com-
 "pany this day of in the year of our
 "Lord one thousand eight hundred and ."

And all and every the person and persons to whom such mort-
 gage or assignment shall be made shall be equally entitled one
 with the other to his her or their proportion or proportions of the
 said rates and premises according to the respective sums in such
 mortgages or assignments mentioned to be advanced without
 any preference by reason of the priority of date of any such
 mortgage or assignment or any other account whatsoever and
 an entry or memorial of every such mortgage or assignment
 containing the number and date thereof and the name or names
 of the person or persons with the proper additions to whom the
 same shall have been made and of the sum borrowed together
 with the rate of interest to be paid thereon shall within fourteen
 days next after the date thereof be entered in a book or books
 to be kept by the Secretary or other proper officer of the said
 Company which said book or books shall and may be perused at
 all reasonable times by any of the proprietors mortgagees or
 creditors of the said Company or other person interested therein
 without

shall not in any event exceed one-half part of the amount of the capital of the said Company actually paid up.

Mortgage Security for
Dividend or Interest
guaranteed by Govern-
ment.

LXII. That in case Her Majesty's Government of the said Colony shall at any time enter into any agreement with the said Company to guarantee to the Shareholders of the said Company the payment of any sum or sums of money either as dividend or as interest on the paid-up capital of the said Company at any rate to be agreed on between Her Majesty's said Government and the said Company it shall be lawful for the said Company (if Her Majesty's Government shall require the same) to assign or mortgage the property of the said Company and the rates arising or to arise by virtue of this Act or any part thereof as a security for any such sum or sums of money as shall be so guaranteed to be paid by the said Government to the Shareholders of the said Company in pursuance of such guarantee.

Right of Purchasing
the Railway.

LXIII. That whatever may be the rate of divisible profits on the said Railway it shall be lawful for Her Majesty's Government if it shall think fit subject to the provisions herein-after contained at any time after the expiration of ten years and within twenty-one years from the completion of the Railway to purchase the said Railway with all its hereditaments stock and appurtenances in the name and on behalf of Her Majesty for the use of the public upon giving to the said Company six calendar months' notice in writing of such intention and upon payment of a sum equal to twenty-five years purchase of the annual divisible profits, estimated on the average of the three years then next preceding or at the option of Her Majesty's Government upon the payment of the sum of two hundred and fifty pounds for every one hundred pounds of the capital stock of the Company in addition to guaranteeing the payment of all debentures and loans lawfully made to the said Company.

Mails, &c., under di-
rection of Chief Post-
master.

LXIV. That it shall be lawful for the Chief Postmaster of Victoria for the time being acting for and on behalf of Her Majesty's Government, by notice in writing under his hand delivered to the said Company to require that the mails or post letter bags shall from and after a day to be named in such notice (being not less than fourteen days from the delivery thereof) be conveyed and forwarded by the said Company on their Railway either by the ordinary trains of carriages at such hours or times in the day or night as such Chief Postmaster shall direct together with the guards appointed and employed by such Chief Postmaster in charge thereof and thereupon the said Company shall from and after the day named in such notice at their own cost provide sufficient carriages and engines on the said Railway for the conveyance of such mails and post letter bags to the satisfaction of such Chief Postmaster and to receive and take up carry and convey by such ordinary or special train of carriages or otherwise as need may be all such mails and post letter bags as shall for that purpose be tendered to them or any of their officers servants or agents by any officer of the Post-office and also receive take up carry and convey in and upon the carriage or carriages carrying such mails or post letter bags the guards in charge thereof and shall receive
take

take up and deliver and leave such mails or post letter bags and guards at such places in the line of such Railway or Railways on such days and on such hours or times in the day or night and subject to all such reasonable regulations and restrictions as to speed of travelling places times and durations of stoppages and times of arrival as such Chief Postmaster shall in that behalf from time to time order or direct: Provided always that the rate of speed to be required shall in no case exceed the maximum rate of speed prescribed by the Directors of the said Company for the conveyance of passengers by their first class trains, nor shall the Company be responsible for the safe custody or delivery of any mail bags so sent.

Rate of Speed.

LXV. That if the said Chief Postmaster shall require any special train for the conveyance of such mails post letter bags and mail guards the said Company shall be entitled to such reasonable remuneration to be paid by the Chief Postmaster for the conveyance thereof as shall (either prior to or after the commencement of such service) be fixed and agreed on between such Chief Postmaster and the said Company or in case of difference of opinion between them, the same shall be referred to the award of two persons one to be named by such Chief Postmaster and the other by the said Company and if such two persons cannot agree on the amount of remuneration or compensation then to the umpirage of some third person to be appointed by such two first-named persons previously to their entering upon the enquiry; and the said award or umpirage as the case may be shall be binding and conclusive on the said parties, and their respective successors and assigns.

Payment for Mails.

LXVI. That in all references to be made as last aforesaid the Chief Postmaster or the said Company as the case may be shall nominate his or their arbitrator within six days after notice from the other party or in default it shall be lawful for the arbitrator appointed by the party giving notice to name the other arbitrator and such arbitrators shall proceed forthwith in the reference and make their award therein within twenty-one days after their appointment or otherwise the matter shall be left to be determined by the umpire and if such umpire shall refuse or neglect to proceed and make his award for the space of twenty-one days after the matter shall have been referred to him, then a new umpire shall be appointed by the two first-named arbitrators who shall in like manner proceed and make his award within twenty-one days or in default be superseded and so on *toties quoties*.

Nomination of Arbitrators and Umpire.

LXVII. That whenever it shall be necessary for the public service that any of the officers or soldiers of Her Majesty's Forces of the Line Ordinance Corps Marines Militia or Police Force or any person or persons whomsoever in the employment of the Government and then in the actual discharge of some public duty should travel by or use the said Railway the Directors thereof shall and are hereby required to permit such forces respectively with their baggage stores arms ammunition and other necessities and things and such other persons as aforesaid to be conveyed at the usual hours of starting at such prices during the first year after the completion of the Railway as shall be charged by the Company for the conveyance of other passengers and after

Troops conveyed.

after the expiration of the first year at one half the customary charges for the time being to the public.

Electric Telegraphs.

LXVIII. That the said Company, on being required so to do by Her Majesty's Colonial Government shall be bound to allow every person or persons duly authorised in that behalf with servants and workmen at all reasonable times to enter into or upon the lands of the said Company and to establish and lay down upon such lands adjoining the line of the said Railways or any of their branches a line of electrical telegraphs for Her Majesty's service and to give him and them every reasonable facility for laying down the same and for using the same for the purpose of receiving and sending messages on Her Majesty's service without any remuneration to the Company: Provided always that subject to a prior right of use thereof for the purposes of Her Majesty's service such telegraph may be used by the Company for the purposes of the Railway and the public.

Propulsion of Trains.

LXIX. That the only mode of propelling any carriage waggon truck or other vehicle on the said Railway shall be by traction by the locomotive engine being attached to the front of each train of vehicles unless in case of any accident it shall be found absolutely necessary for the protection of life or property to apply the locomotive power behind.

Junction with other Railways.

LXX. That if any other Railway Company incorporated by law shall build and construct any other Railway from any place or places in this Colony it shall be lawful for the said Railway Company so building and constructing the said other Railway to form a junction with the main trunk line or any branch thereof which may be built and constructed by the said Melbourne Mount Alexander and Murray River Railway Company at such point or points place or places, as may be desired or considered most advantageous by such Railway Company and the said Melbourne Mount Alexander and Murray River Railway Company shall convey and transport all passengers goods chattels and merchandise of every kind so arriving at the said junction onwards and backwards to their respective destinations at all convenient and usual times on the said trunk line or any branch thereof without any unnecessary delay or hinderance subject to the payment of such rates tolls or dues per mile as may be agreed upon.

Future Legislation.

LXXI. That nothing herein contained shall be deemed or construed to exempt the Railway by this Act authorized to be made from the provisions of any general Act relating to this Act or of any general Act relating to Railways in this Colony which may hereafter pass during the present or any future session of the Legislature or from any future alteration or repeal of this Act under the authority of the Legislature.

Obstructing free course of Railway.

LXXII. That if any person shall throw any gravel stones or rubbish or any matter or thing upon any part of any Railway to be made by virtue of this Act or shall drive or permit to wander stray or be driven upon any such Railway or the approaches thereto any horse ass sheep swine or other beast or cattle of any kind or shall wilfully obstruct hinder or prevent any person in the

the execution of this Act, or shall do any other act matter or thing to obstruct the free passage of any such Railway or any part thereof, every person so offending in any of the cases aforesaid shall forfeit and pay to the said Company for every such offence any sum not less than ten pounds and not exceeding one hundred pounds.

LXXIII. That if any person shall wilfully or maliciously and to the prejudice of the said Company break injure damage throw down destroy steal carry or take away any part of any Railway or other works to be made by virtue of this Act every such person shall be judged guilty of felony and every person so offending and being thereof lawfully convicted shall be liable at the discretion of the court to be kept to hard labour on the roads or other public works in Victoria for any term not exceeding ten years or be imprisoned for any term not exceeding three years.

Injuries to Works.

LXXIV. That if any one shall obstruct or prevent any person employed by the said Company in setting out the line of the said railway or engaged in the construction thereof or of any part thereof or shall pull up or remove any stakes that may have been driven into the ground for the purpose of setting out the line of the said railway he shall forfeit and pay any sum not less than ten pounds and not exceeding one hundred pounds for every such offence.

Penalty on Persons obstructing the Works.

LXXV. That if any person shall wilfully obstruct or impede any officer agent or servant of the said Company in the execution of his duty upon any railway or upon or in any of the stations or other works or premises connected therewith or if any person shall wilfully trespass upon any such railway or any of the stations or other works or premises connected therewith and shall refuse to quit the same upon request to him made by any officer agent or servant of the said Company every such person so offending and all others aiding or assisting therein shall and may be seized and detained by any such officer agent or servant or any person whom he may call to his assistance until such offender or offenders can be conveniently taken before some Justice of the Peace in the district or place wherein or near which such offence shall be committed and upon conviction thereof before such Justice as aforesaid (who is hereby authorised and required upon complaint to him upon oath to take cognizance thereof and to act summarily in the premises) shall in the discretion of such Justice forfeit to Her Majesty any sum not exceeding one hundred pounds.

Obstructing Officers of Company or Trespassing upon Railway.

LXXVI. That if any person shall wilfully make any false statement as to any material particular in any declaration made and subscribed by him under the provisions of this Act he shall be deemed guilty of a misdemeanour and punished accordingly.

False Declaration.

LXXVII. That the Justice or Justices by or before whom any fine penalty or forfeiture under this Act shall be imposed may when the application thereof is not otherwise provided for award not more than one-half thereof to the informer and shall award the remainder to Her Majesty Her heirs and successors for the public uses of the said Colony and in support of the Government thereof.

Application of Penalties.

LXXVIII.

Rules for interpretation.

LXXVIII. That where in this Act any word is used importing the singular number or masculine gender only the same shall be understood also to include several matters several persons and females as well as males ; and when the word " lands " is used the same shall be understood to include tenements and hereditaments and where the word " Corporation " is used the same shall be understood to mean any body politic corporate or collegiate civil or ecclesiastical aggregate or sole and where the word " Railway " is used the same shall be understood to mean and comprehend every road constructed by the said Company which shall be used or intended to be used for the purpose of a Railway or Railways or Tram Road or Tram Roads unless in any of the cases aforesaid it be otherwise specially provided or there be something in the subject or context repugnant to such construction and in the Clauses and Sections herewith incorporated the expression " special Act " shall mean this Act and the word " prescribed " shall be construed to refer to any matter prescribed or provided for by this Act and the expression " the undertaking " shall mean the construction of a Railway from the City of Melbourne to Mount Alexander and the Murray River and all works in connection therewith and any other works or undertakings by this Act authorized to be constructed or executed and the expression " Company " shall mean the aforesaid Melbourne Mount Alexander and Murray River Railway Company and the expression " Director " and the expression " Shareholder " shall mean Director and Shareholder respectively of the aforesaid Company.