ANNO TRICESIMO SECUNDO

VICTORIAE REGINAE.

Private Act.

An Act to authorize the construction of a Railway from Adelaide to Glenelg, to be called "The Adelaide Marine and Suburban Railway," and for other purposes in connexion therewith.

[Assented to, 30th January, 1869.]

WHEREAS great public advantage would arise from the construction of a railway from Adelaide to Glenelg, in the Province of South Australia: And whereas William Wadham of Adelaide, in the said Province, auctioneer, and Richard Bowen Colley, of Adelaide, aforesaid, agent, are willing to construct the said railway, and have deposited with the Surveyor-General, plans and sections of the undertaking, showing the lines and levels thereof, together with the quantity of land required to be used for forming such railway, and the warehouses, goods-sheds, termini, and stations required for the purposes of such railway and the approaches thereto, together with a book of reference containing the names of the owners and occupiers, or reputed owners or occupiers of such lands—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. The said William Wadham and Richard Bowen Colley, their executors, administrators, and assigns, shall be and are hereby (subject to the provisions and conditions hereinafter contained) empowered to construct such railway, and the warehouses, goods-sheds, termini, and stations required for the purposes of such railway, described in such plans and in the plans to be deposited as hereinafter mentioned.

2. From

 hade of reference containing the names of the owners and occupiers, or reputed owners or occupiers of such lands—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. The said William Wadham and Richard Bowen Colley, their executors, administrators, and assigns, shall be and are hereby (subject to the provisions and conditions hereinafter contained) empowered to construct such railway, and the warehouses, goods-sheds, termini, and stations required for the purposes of such railway, described in such plans and in the plans to be deposited as hereinafter mentioned.

2. From
2. From and after the passing of this Act, it shall be lawful for the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, and they are hereby authorized and empowered by themselves, their deputies, agents, officers, and workmen to enter upon the grounds of any person or corporation, and any park land or public reserve, and to survey and take levels of the same or any part thereof; and to enter upon, use, accept, purchase, take, and hold lands as shall or may be deemed necessary for the purposes of the said railway in accordance with the plans to be deposited as hereinafter mentioned.

3. The Adelaide terminus of the said railway shall be at and upon the piece of land known as the Bath Reserve.

4. Notwithstanding anything in the Municipal Corporations Act of 1861, or the Municipal Corporations Amendment Act of 1863, contained, the portion of the Park Lands required for the purposes of the said railway, as the same is delineated and described in the said plans and books of reference, shall be, and the same is hereby declared to be under the care, control, and management of the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators and assigns, for the purposes of the said railway: Provided always that the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, shall pay to Her Majesty and to the Corporation of the City of Adelaide such sum by way of compensation for the use of the land placed under their care, control, and management, as last aforesaid, as shall be mutually agreed upon, or shall be fixed and ascertained in the manner provided by the Lands Clauses Consolidation Act for the settlement of questions of disputed compensation.

5. Such portions of the public or Government reserves as may be required for the purposes of the said railway, as the same are delineated and described in the said plans and books of reference, shall be, and are hereby declared to be under the care, control, and management of the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, for the purposes of the said railway: Provided always that the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, shall pay to Her Majesty such sum by way of compensation for the use of the land placed under their care, control, and management, as aforesaid, as shall be mutually agreed upon, or shall be fixed and ascertained in the manner provided by the Lands Clauses Consolidation Act for the settlement of questions of disputed compensation.

6. The "Railways Clauses Consolidation Act," No. 7 of 1847, and the "Lands Clauses Consolidation Act," No. 6 of 1847, and any amendments thereof respectively shall be incorporated with and form part of this Act, so far as applicable to the same.

7. In
7. In making the said railway it shall be lawful for the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, to deviate from the plan of the said railway to any extent not exceeding, in any town, village, street, or road, ten yards; and in any other place not exceeding thirty yards, and from the levels not more than five feet in any other place.

8. Subject to the provisions in the said "Railways Clauses Consolidation Act" contained, in reference to the crossing of roads on a level, it shall be lawful for the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, in the construction of the railway by this Act authorized to be made, to carry the same on the level across the roads delineated and mentioned in the said plans and book of reference: Provided that the said railway shall be carried under the existing City and Port Railway at the costs of the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, and the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, shall construct convenient footways and permit free passages across such level crossings, and shall construct and maintain gates as provided in the "Railways Clauses Consolidation Act" at the crossings of the said railway over the roads known as the Port and Bay Roads, and at such other crossings as the Commissioner of Railways may from time to time direct or appoint: And provided that, when required by notice in the South Australian Government Gazette, to be signed by the Chief Secretary, the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, shall forthwith, at their own costs, erect a bridge for the purpose of carrying the road known as the Morphett-street Road across the said railway, and that the crown of such bridge shall be at such a level as may be fixed by the Governor in Council, so as to ensure the crossing of the said road at a proper level.

9. It shall be lawful for the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, to lay down rails to any wharf if the owner thereof shall consent thereto: Provided that the owner of any such wharf shall be at liberty to lay down rails to the said railway of the same gauge as that used on the said railway: And provided also, that no such rails shall pass over or along any road without the consent of the authorities, having the care, control, or management thereof.

10. The power of the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, for the compulsory purchase of lands for the purpose of this Act, shall not be exercised after the expiration of one year from the passing of this Act.

11. The said William Wadham and Richard Bowen Colley, their executors, administrators, and assigns, shall be bound to provide conveyances.
conveyances for and convey all military, police, and other forces when proceeding on duty, and all public mails and public stores, or stores belonging to a public department, in the ordinary trains free of charge, subject in other respects to the "Railways Clauses Consolidation Act;" and, in the event of war or civil commotion, the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, shall, on the requisition of the Local Government, place the whole of the resources of the railway at its disposal at the charges actually incurred.

12. The Government shall have power at all reasonable times to enter into and upon the said railway, and to establish and lay down a line of electrical telegraph for Her Majesty's Service, and to use the same without any charge: Provided that the work to be done in laying down such line shall be done in such a manner as not to obstruct the working of the railway.

13. The said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, shall be bound at all times to keep the said railway and whole undertaking in good and efficient repair and working condition; and in case it shall appear to the Governor, upon the report of any inspector, appointed pursuant to the "Railways Clauses Consolidation Act," that the works in any part are not in good and efficient repair and working condition, it shall be lawful for the Governor, after such notice as to him shall seem fit and proper, and on default by the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, to direct the necessary repairs and works to be performed at the cost of the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, by persons to be appointed by the Governor in that behalf, and the cost of executing such repairs and works, and all charges connected therewith, shall and may be recovered from the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, at the suit of the Crown, before any competent jurisdiction, in like manner and by such means as any person aggrieved or otherwise authorized to sue for damages or penalties might employ under the provisions of the said Acts.

14. The gauge to be used on the said railway shall be similar to the gauge at present used on the South Australian Railways, that is to say, five feet three inches.

15. The rails to be used in the construction of the railway and branches shall be of iron, of the weight of not less than forty pounds to the yard; the propelling power shall be locomotive engines.

16. The said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, or assigns, shall provide trains in sufficient number for ordinary traffic, to travel along the railway from

from one end to the other of each trunk, branch, or junction line, twice each way on every working day; and no train shall travel on the said line at a greater speed than twenty-five miles an hour; and any engine-driver driving an engine on the said railway at a greater speed than twenty-five miles an hour shall be liable to a penalty not exceeding Twenty Pounds, and to be imprisoned and kept to hard labor for any period not exceeding six calendar months.

17. The undertaking shall be completed within two years from the passing of this Act, and at the expiration of the said period the powers of this and other Acts incorporated herewith for executing the same, or otherwise in relation thereto, shall cease to be exercised: Provided always that it shall be lawful for the Governor from time to time, by Proclamation in the South Australian Government Gazette, to extend the said period for the opening and completion of the said railway for any period or periods not exceeding in the whole twelve calendar months.

18. If the said railway shall not be completed within two years from the passing of this Act, or within any such extended period or periods as aforesaid, this Act shall be deemed to have ceased and determined, and thereupon all and every the grants of land which shall be made by or on behalf of Her Majesty, for the purpose of the said railway, and the right and privileges conferred by this Act shall be utterly null and void, and the land and privileges shall revert to and vest in Her Majesty as fully and effectually as if no grant had been made or privileges conferred; and all fittings and materials forming part of the said railway, which shall be found on the said land, and all lands taken or purchased under the authority of this Act, shall be forfeited to and become the property of Her Majesty.

19. It shall be lawful for the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, to demand any tolls for the use of the said railway not exceeding the following, that is to say—

In respect of the tonnage of all articles conveyed upon the railway or any part thereof, not in this Act otherwise particularly specified, not exceeding the rate of Ninepence per ton per mile:

For every carriage of whatever description, having more than two wheels, not being a carriage adapted and used for travelling over a railway and not weighing more than one ton, carried or conveyed on a truck or platform, whether belonging to the company or otherwise, per mile not exceeding One Shilling per ton; and for every fractional part of a ton beyond one ton which any carriage may weigh, a pro rata charge per mile:

For every truck, being a carriage used and adapted for travelling over
over a railway and not weighing more than one ton, per mile not exceeding Ninepence; and for all goods conveyed upon the railway in such trucks or carriages, not exceeding Threepence per ton per mile; and for every fractional part of a ton beyond one ton, a pro rata charge per mile.

In respect of passengers and animals conveyed upon the railway in carriages, whether belonging to the said William Wadham and Richard Bowen Colley, their executors, administrators, or assigns, or not—

For every person conveyed in or upon such carriage, being a first-class carriage or compartment of a carriage, per mile not exceeding Twopence:

For every person conveyed in or upon such carriage, being a second-class carriage or compartment of a carriage, per mile not exceeding Three Halfpence:

For every horse, mule, ass, or other beast of draught or burthen, not exceeding Sixpence per mile:

For every ox, cow, bull, or neat cattle conveyed upon the railway, per mile, Twopence each:

For every calf, sheep, lamb, pig or other smaller animals, per mile, One Penny each:

Provided always, that for every fraction of a mile a full mile may be charged, and that for any shorter distance than three miles three miles may be charged for.

20. In the said tolls shall be included the toll for the use of the carriages and of the engines for drawing or propelling the said carriages on the said railway, and no further charge than is hereinbefore stated shall be made by the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, or assigns, for the use of the said engines: Provided, that nothing herein contained shall prevent the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, or assigns, from charging for the use of engines, and carriages for special or express trains: And provided also, that it shall be lawful for any person or persons to lay down branch lines to the said railway of the same gauge as the railway.

21. In addition to the prescribed tolls for the conveyance of articles, the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, may charge a reasonable sum for loading or unloading: Provided always, that the owners of goods shall be at liberty to employ their own servants for loading and unloading, subject to the regulations of the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, or assigns—

With respect to all articles, except stone and timber, their weight shall be determined according to avoirdupois weight:

With respect to stone and timber, except wood for fuel, sixteen cubic feet of stone, forty cubic feet of hard wood, and fifty cubic feet of other timber, and two thousand two hundred and forty pounds of wood for fuel, shall be deemed one ton, and so in proportion for every smaller quantity:

Provided that any quantity less than half a ton may be charged for as half a ton.

22. And with respect to small packages and single articles of great weight—Be it Enacted, That notwithstanding the rate of tolls hereinbefore prescribed, the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns, may lawfully demand the tolls following, that is to say—

For the carriage of small parcels on the railway not exceeding twenty-eight pounds in weight, not exceeding Three Half-pence per mile:

For any parcel not exceeding fifty-six pounds in weight, not exceeding Twopence per mile:

For any parcel not exceeding one hundred and twelve pounds in weight, not exceeding Threepence per mile:

And not exceeding One Penny per mile for every additional twenty-eight pounds weight:

Provided always, that articles sent in large aggregate quantities, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but such terms shall only apply to single parcels in separate packages.

For the carriage of any one boiler, cylinder, or single piece of machinery, or single piece of timber, stone, or other single article, the weight of which shall exceed two tons, the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, or assigns shall demand such sum as they shall think fit.

23. In all cases where any article, matter, or thing, not being a small parcel shall be carried or conveyed along the said railway and branches for so short a distance that the rate or sum authorized to be demanded or received for the carriage of the same shall not amount to the sum of Three Shillings per ton, the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns shall be at liberty to demand and receive such sum not exceeding Three Shillings per ton as they shall think fit, anything in this Act contained to the contrary notwithstanding.

24. The
24. The owners or consignees of articles shall remove the same from the stations or termini of their destination on the said railway within twelve hours after their arrival there, unless such arrival shall be between the hours of four in the evening and seven in the morning, and in that case every such removal shall be made within six hours after such arrival in the morning, and in default of such removal shall be liable to demurrage at and after the rate of Two Shillings and Sixpence per ton; and further, if not removed after the expiration of twenty-four hours, at and after the rate of One Shilling per ton for the next twenty-four hours, or any part thereof: Provided nevertheless, that if such articles be not removed from such stations or termini of their destination before the expiration of one week after their arrival, it shall be lawful to and for the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, and assigns to charge and receive the sum of Two Shillings and Sixpence per ton, per week, for the warehouse rent thereof.

25. Every passenger travelling on the railway may take with him, free of charge, his ordinary luggage, not exceeding one hundred weight for every first-class passenger, and not exceeding sixty pounds for every second-class passenger.

26. The Governor may, at any time, upon giving to the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, or assigns, twelve months' notice in writing, of such being his desire, to purchase the said line of railway and works, paying for the same such a sum as may be determined by the valuation of two indifferent persons, one to be chosen by the Governor, and one by the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, or assigns, with power to such valuator to appoint an umpire in case of disagreement, but so that such valuation shall not include the value of any portion of the Park Lands or of any public road or reserve held by them, the said William Wadham and Richard Bowen Colley, their heirs, executors, administrators, or assigns, under and by virtue of the powers hereof, but the value only of their interest therein.

27. None of the powers or authorities hereby given to or conferred upon the said William Wadham and Richard Bowen Colley, their heirs, administrators, and assigns shall be exercised or be available until the whole of the capital required to carry out the undertaking shall be bona fide subscribed, and further and complete plans and sections of the undertaking, showing the lines and levels thereof, together with the quantity of land required to be used for forming such railway, and also the estimates thereof shall have been approved by the Governor in Council, and a notice of such approval, and of its having been shewn to the satisfaction of the said Governor in Council that such capital has been actually and bona fide subscribed shall have been published in the South Australian Government Gazette, and such plans shall forthwith, after approval, be deposited with
32º VICTORIÆ, PRIVATE ACT.


with the Surveyor-General, and shall be deemed to be the plans referred to in this Act.

28. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such.

29. Nothing in this Act contained shall be deemed to affect any right, title, or interest of Her Majesty, Her heirs, or successors.

30. In citing this Act in other Acts and in legal instruments, it shall be sufficient to describe it as “The Adelaide Marine and Suburban Railway Act.”

In the name and on behalf of the Queen I hereby assent to this Act.

F. G. HAMLEY, Governor.