An Act to amend "The Wallaroo Railway Act" and "The Wallaroo Railway Amendment Act," and for the incorporation of the "Kadina and Wallaroo Railway and Pier Company, Limited"; and for the adjustment and increase of the capital, limitation of liability of members, and simplification of the title, of the said Company; and to authorize the extension by the said Company of the Moonta Branch of the Kadina and Wallaroo Railway; and for other purposes.

[Assented to, 15th October, 1875.]

WHEREAS all the powers granted to Apollos Harrison Gouge by "The Wallaroo Railway Act," and by "The Wallaroo Railway Amendment Act," and the lands and hereditaments granted, demised, or leased pursuant to the said Acts, are now vested in and are the property of the "Kadina and Wallaroo Railway and Pier Company, Limited": And whereas it is expedient to amend "The Wallaroo Railway Act" and "The Wallaroo Railway Amendment Act": And whereas it was by the articles of association of the Company agreed that the capital of the Company should be Fifty Thousand Pounds, divided into five thousand shares of Ten Pounds each, with power to increase the said capital as in the said articles of association mentioned: And whereas the capital of the Company has been increased to Sixty Thousand Pounds, consisting of six thousand shares of Ten Pounds each: And whereas the sum of Ten Pounds has been paid in respect of each of the said six thousand shares: And whereas the plant and effects of the Company have been from time to time increased by appropriating accumulated profits, and in consequence thereof, the value of the said hereditaments and of the existing plant, machinery, and property...
property of the Company is estimated to be of the value of Ninety Thousand Pounds: And whereas it is desirable to incorporate and to adjust and increase the capital of the Company: And whereas it is desirable to provide for limiting the liability of the members, and simplification of the title, of the Company, and it is also desirable to confer upon the Company certain powers as hereafter more particularly mentioned, for the purpose of enabling the Company more efficiently to carry out such objects as are herein mentioned, and to extend the said railway: And whereas the consent of Her Majesty, signified under the hand of His Excellency Anthony Musgrave, Esquire, Governor of the said Province, has been given to the said Kadina and Wallaroo Railway and Pier Company, Limited, to construct on the shore of the sea at Moonta Bay the railway hereinafter mentioned—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. This Act may be cited as “The Wallaroo Railway Further Amendment Act.”

2. “The Wallaroo Railway Act,” “The Wallaroo Railway Amendment Act,” and “The Companies Act, 1864,” shall, so far as the same are applicable, be incorporated with, and form part of, this Act.

3. The following words and expressions in this Act, and in the Acts herewith incorporated, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction—

The expression “The Company,” or “The Corporation,” shall mean the Company incorporated by this Act:

The expression “The undertaking” shall mean the making and constructing the railway, with proper works and conveniences connected therewith, and all other works by this Act authorized to be executed:

The words “Directors” and “Secretary” shall respectively mean the Directors and the Secretary for the time being of the Company:

The word “Lands” shall include messuages, lands, tenements, and hereditaments of any tenure:

The word “Person” shall include a corporation, whether aggregate or sole:

The word “Lease” shall include an agreement for a lease or any mineral claim:

The word “Owner” shall be understood to mean any person or corporation who, under the provisions herein contained, is enabled to sell, convey, or demise lands to the Company:

The
The expression "Railway" shall mean the railway and the works connected therewith, already constructed, or by this Act authorized to be constructed.

4. Such and so many persons, corporations, and companies as have already become, or at any time or times hereafter shall or may under and in accordance with the covenants, clauses, articles, conditions, stipulations, regulations, and provisions contained in the said articles of association, dated the fifteenth day of June, one thousand eight hundred and sixty-five, hereinbefore mentioned, or in any supplemental articles of association duly made and executed, or to be made and executed, become holders or proprietors of shares of or in the capital for the time being of the Company, shall, for the purposes aforesaid (but subject, nevertheless to the conditions, restrictions, regulations, and provisions hereinafter contained), be one body politic and corporate in name and in deed by the name of the "Kadina and Wallaroo Railway and Pier Company, Limited," and by the name of the "Kadina and Wallaroo Railway and Pier Company, Limited," shall and may sue any person or persons, body or bodies politic and corporate, whether a member or members of the corporation or not, and may be sued in all Courts whatsoever, at law or in equity, and may prefer, lay, and prosecute any indictment, information, and prosecution against any person or persons whomsoever for any stealing, embezzlement, fraud, forgery, crime, or offence; and in all indictments, informations, and prosecutions, it shall be lawful to state the money, goods, effects, bills, notes, securities, or other property of the Company to be the money, goods, effects, bills, notes, securities, or other property of the Corporation, and to designate the Company or copartnership by its corporate name for the time being, whenever for the purpose of any allegation of an intent to defraud or otherwise howsoever such designation shall be necessary; and the Corporation shall have perpetual succession, with power to hold, sell, demise, or otherwise dispose of lands, and a common seal, which may be altered, varied, and changed from time to time at the pleasure of the Corporation.

5. The Board of Directors for the time being of the Company shall have the custody of the common seal of the Company or Corporation, and the form thereof, and all other matters relating thereto, shall from time to time be determined by the Board of Directors of the Company or Corporation, in the same manner as is or may be provided in and by the said articles of association, or any such supplemental articles of association as aforesaid, for the determination of other matters by such Board; and the said Board shall have power to use the common seal of the Corporation for the concerns and affairs thereof, and under seal to authorize and empower any person without such seal to execute any deeds and to do all or any such other matters or things as may be required to be executed and done on behalf of the Company within the said Province and in conformity with the provisions of the articles of association, or of any such supplemental articles of association as aforesaid, or of this Act; but it shall not
not be necessary to use the corporate seal in respect of any of the ordinary business of the Company, or for the appointment of an attorney or solicitor for the prosecution or defence of any suit or proceeding.

Division of capital.

6. Notwithstanding anything in the said recited Acts, or in the articles of association of the Company contained, the capital of the Company shall be One Hundred Thousand Pounds, divided into twenty thousand shares of Five Pounds each; and the proprietor of each Ten Pound share existing at the time of the passing of this Act shall be entitled to be the proprietor, in lieu of each such share, of three (3) of the said shares of Five Pounds each, which shall be considered as fully paid up; and shall be entitled to have certificates for shares by this Act created, in lieu of the existing shares; and the proprietor of every ten of such Five Pound shares shall be entitled to have allotted to him one additional share of Five Pounds each for every such ten shares held by him; such Five Pounds per share to be paid in such manner as is provided by the said articles of association, and the balance of shares unallotted shall be disposed of by the Directors as they shall deem best.

Alteration of articles of association.

7. From and after the coming into operation of this Act, the articles of association of the Company shall be read and construed, and take effect, as if

Clause 6.

The words "Fifty Thousand Pounds, divided into five thousand shares of Ten Pounds each," in the fifth clause of the said articles of association, were struck out, and the words "One Hundred Thousand Pounds, divided into twenty thousand shares of Five Pounds each," inserted in lieu thereof: the words and figures "The shares numbered 1 to 2,500 both inclusive," in the fifth clause of the said articles of association, were struck out, and the words and figures "The shares numbered 1 to 18,000, both inclusive," inserted in lieu thereof; and the words and figures "2,501 to 5,000, both inclusive," in the said fifth clause of the said articles of association, were struck out, and the words and figures "18,001 to 20,000, both inclusive," inserted in lieu thereof:

Clause 12.

The words and figures "2,501 to 5,000," in the twelfth clause of the said articles of association, were struck out, and the words and figures "18,001 to 20,000" inserted in lieu thereof; and the words and figures "1 to 2,500 inclusive," in the said twelfth clause, were struck out, and the words and figures "1 to 18,000, both inclusive," inserted in lieu thereof:

Clause 75.

The words and figures "from 2,501 to 5,000," in the seventy-fifth clause of the said articles of association, were struck out, and the words and figures "from 18,001 to 20,000," inserted in lieu thereof; and the word and figures "1 to 2,500" in the said seventy-fifth clause, were struck out, and the word and figures "1 to 18,000" inserted in lieu thereof; and the word and figures "1 to 5,000" in the said seventy-fifth clause were struck
struck out, and the word and figures “1 to 20,000” inserted in lieu thereof; and the word “Bay” were inserted after the word “Moonta,” in the said seventy-fifth clause:

And as if the words “twenty-five shares,” in the fifty-ninth clause of the said articles of association, were struck out, and the words “one hundred shares” inserted in lieu thereof.

8. The several covenants, clauses, articles, conditions, stipulations, and provisions contained in the said articles of association, and in any such supplemental articles of association as aforesaid, and the several regulations, alterations, and provisions to be made under, or by virtue, or in pursuance thereof, are and shall be deemed and considered to be, and shall be the by-laws for the time being of the Company or Corporation, save and except in so far as any of them are or shall or may from time to time be altered, varied, or repealed by, or shall or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act, or of any of the laws or statutes in force in the said Province, subject nevertheless to be, and the same may be amended, altered, or repealed, either wholly or in part, in the manner provided in and by the said Acts of Parliament incorporated herewith, or articles of association, or any such supplemental articles of association as aforesaid: Provided always, that any regulation, provision, or by-law made by the Company, either under or by virtue of the said Acts of Parliament incorporated herewith, articles of association or any such supplemental articles of association as aforesaid, or of this Act, in opposition to the general scope or true intent and meaning of the said articles of association, or any such supplemental articles of association as aforesaid, or of this Act, shall have no effect.

9. The capital or joint stock for the time being and all funds and property of the Company, and the several shares therein, and the profits and advantages to be derived therefrom, shall be and be deemed to be personal estate, and be transmissible accordingly, subject to the regulations and provisions of the said articles of association, and any such supplemental articles of association as aforesaid.

10. As often as any alteration in or addition to the articles of association of the Company, or in or to any such supplemental articles of association as aforesaid, or in or to the rules and regulations shall be made, a copy of such alterations and additions shall be filed in the Supreme Court of South Australia by the secretary within sixty days from and after the day on which the same shall commence and take effect; and the same copies shall be open for inspection at all reasonable times by any person requiring to inspect the same, on payment of the fee of One Shilling for each such inspection: And if any such secretary shall omit or neglect so to file such copies of any alterations and additions as aforesaid within the time herein directed for filing the same, he shall be subject and liable to a penalty
penalty of not exceeding One Hundred Pounds, to be recovered by action in the Supreme Court, or any other Court of competent jurisdiction in South Australia, by any person who shall sue for the same; and the secretary of the Company shall, within thirty days from and after the first day of January in each and every year, cause a true and correct list of the names of all the persons who shall be then existing shareholders or members of the Company, registered as such in the register of shareholders, with their respective places of abode and descriptions, as appears in such registers, and the number of shares held by them respectively, to be recorded on oath in the said Supreme Court, and the same shall be open for inspection at all reasonable times, by any person requiring the same, on payment of a fee of One Shilling for each inspection; and if any such secretary shall omit or neglect to cause such list to be recorded in manner aforesaid, or falsify any such list, he shall be subject and liable to a penalty of not exceeding One Hundred Pounds, to be recovered by action in the said Supreme Court, or any other Court of competent jurisdiction in the said Province, by any person who shall sue for the same; and every person whose name shall be so recorded as aforesaid, shall be considered, taken, and held to be a member or shareholder of the Company, and shall be liable to be sued as such, subject to the limitation herein contained, until a new list of the names of the members or shareholders of the Company shall be so recorded as aforesaid, or until he or she, having ceased to be a member of the Company, shall have given notice in the Government Gazette of his or her retirement from the Company: Provided always, that after the time when any member of the Company shall cease to be entered on such list, so to be recorded as aforesaid, as a member of the Company, or after the time of so giving such notice as aforesaid, such member shall not be in any way liable to contribute to the assets of the Company, or be responsible or liable for or on account of any contract, engagement, debt, or liability thereof, whether such contract or engagement had been made or entered into, or debt or liability become due, or been incurred, during the time he or she continued to be a member of the Company, or otherwise: And provided also that no individual shareholder or member of the Company shall be liable for any debts incurred by the same, except so far as he or she may be liable under the provisions of this Act and the said articles of association and supplemental articles of association.

11. Any action or suit may be brought by the Company against any shareholder or shareholders to recover any sums of money due and payable to the Company for or in respect of any call or calls made by virtue of this Act, or of the said articles of association, or of any such supplemental articles of association, as aforesaid; and in any such action or suit it shall not be necessary to set forth the special matter, but it shall be sufficient for the Company to declare and allege that the defendant or defendants is or are the holder or holders of such or so many share or shares in the
the capital of the Company, and is or are indebted to the Company in such sum or sums of money as the call or calls in arrear shall amount to, for such and so many call or calls of such or so many sum or sums of money upon such or so many share or shares belonging to the said defendant or defendants (as the case may be) whereby an action had accrued to the Company by virtue of this Act; and on the trial or hearing of such action or suit it shall not be necessary to prove the appointment of the Directors, or any of them, who made such call or calls, or any other matters, except that the defendant or defendants at the time of making any such call or calls, was or were a holder or holders of the share or shares in the capital of the Company (of which fact the books of the Company shall be conclusive evidence), and that such call or calls was or were in fact made; and that such notice thereof was given as directed by the said articles of association, in that behalf; and the Company shall thereupon be entitled to recover what shall appear due upon such call or calls.

12. The Company shall not be bound in any manner by any trusts, charges, equitable interests or demands affecting any share or shares of the capital standing in the name of any person or persons as the ostensible owner or proprietor thereof, or be required to take notice of such trusts or equitable interests or demands; but the receipt of the person or first of several joint persons in whose name or names the shares shall stand in the books of the Company shall, notwithstanding such trusts or equitable interests or demands, and notice thereof to the Company, be a good, valid, and conclusive discharge to the Company for or in respect of any dividend or other money payable by the Company in respect of such shares; and a transfer of the said shares by the person or persons in whose name or names such shares shall so stand shall be binding and conclusive, so far as the Company is concerned, against all persons claiming by virtue of such trusts or equitable interests or demands or otherwise: Provided always, that it shall be competent for the Directors of the Company, if they shall think fit so to do, to withhold payment of the dividends on any such shares, and to refuse to sanction the transfer of such shares, in any case in which the Company shall have had notice of any claim under an alleged trust or equitable interest or demand, if such claim shall appear to the said Directors to be well founded: Provided also, that nothing herein contained shall be deemed or taken to interfere with or abridge the right or power of a Court of Equity to restrain the payment of any dividend or other money payable by the Company in respect of any shares, or the transfer of any shares, or to direct the payment of such dividends or other money by the Company, or the transfer of any shares by the person or persons in whose name or names they may stand, in such mode as such Court may think fit.

13. In any action, suit, or other proceeding, civil or criminal, at law or in equity, this Act shall be sufficient evidence of the title of the Company not bound by trusts, &c.

Proviso.

Simplification of title.
the Company to the powers, rights, and immunities granted by "The Wallaroo Railway Act" or "The Wallaroo Railway Amendment Act" to the said Apollos Harrison Gouge, and his assigns, without producing evidence of any assignment thereof from the said Apollos Harrison Gouge or his assigns to the Company.

14. The "Kadina and Wallaroo Railway and Pier Company, Limited," is by this Act authorized and empowered, subject to the Acts incorporated herewith, to make, maintain, and work, within the limits of deviation shown on the deposited plans and sections, the railway hereinafter described, with all proper stations, approaches, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference as may be required for those purposes, whether the same do or do not form part of the public or Government reserves or roads, or of the lands situate below high-water mark. The railway hereinafter referred to and authorized by this Act, is a railway two miles and thirty-eight chains in length and is a continuation or extension of the Moonta Branch of the said Kadina and Wallaroo Railway from the point marked A in the said deposited plan, which point marked A, is situated on or adjacent to Mineral Section or claim 965, comprised in lease 268, on Yorke's Peninsula, at the junction with or adjoining to the northwesterly boundary of the present terminus there of the said railway; and thence extending or running through part of the said Mineral Section or claim 965; thence through waste lands of the Crown, formerly mineral application 5521; thence through Mineral Sections 5043 and 5044, comprised in mineral lease 506; thence through waste lands of the Crown, formerly mineral application 5333; thence across a certain public road; thence along a certain public road laid out through Section No. 141; thence across a road intersecting the said road, also laid out on the said Section No. 141; and thence along the said road laid out through the said Section No. 141; and thence across a road intersecting the said last-mentioned road, also laid out on the said Section No. 141; thence along the said road laid out through the said Section No. 141 to the point marked B in the said plan, on or adjacent to the Government Reserve; thence along the said last-mentioned road; thence across the Government road laid out between the said Section No. 141 and high-water-mark; thence on or along the shore of the sea to the Government Jetty in Moonta Bay, to the point marked C in the said plan, with an alternative line commencing at the said point marked B; and thence across the said Government road, between high-water-mark and the said Section No. 141, on or along the shore of the sea to the point marked D on the said plan; and the said continuation shall be deemed to be a continuation or extension of the undertaking or railway authorized to be constructed or executed by "The Wallaroo Railway Act" and "The Wallaroo Railway Amendment Act" aforesaid.

15. The undertaking shall be completed within three years from the
The Wallaroo Railway Further Amendment Act.—1875.

the passing of this Act; and, at the expiration of such period, the powers of this and the recited Acts for executing the same or otherwise in relation thereto shall cease to be exercised, except as to such part of the undertaking as shall then be completed.

16. If the undertaking shall not be completed within three years from the passing of this Act, or within such further period as shall be appointed, as hereinafter mentioned, it shall be lawful for the Governor, by Proclamation published in the Government Gazette, to declare the operation of this Act to have ceased and determined as to such part of the said railway as shall be incomplete and unfit for the conveyance of passengers or goods: and thereupon all and every the grants of land which shall have been made by or on behalf of Her Majesty for the purpose of the said undertaking, and the rights and privileges conferred by this Act, shall, so far as the same shall relate to such part of the undertaking as shall remain unfinished or incomplete, be utterly null and void, and such part of the said lands and privileges as aforesaid shall revert to and re-vest in Her Majesty as fully and effectually as if no grant had been made thereof, or privileges conferred; and all fittings and materials forming such part of the said railway as shall be incomplete as aforesaid, which shall be found on the said land shall be forfeited to and become the property of Her Majesty: Provided that the Governor may, by Proclamation, to be published in the Government Gazette, extend the period for the opening and completion of the said railway, or any part thereof.

17. For the purposes of this Act the said "Kadina and Wallaroo Railway and Pier Company, Limited," may hold lands from the Crown.

18. Nothing in this Act contained shall prejudice or affect the rights or remedies of the Company against any individual shareholder, or against any other person or persons whomsoever, or the rights and remedies of any individual shareholder or other person or persons against the Company, or prejudice the shareholders or other persons as between themselves as private individuals in respect of any business matter or thing that may, before this Act shall come into operation, have been done, entered into, or have arisen in pursuance of, under, or by reason of the said articles of association, or any clause or clauses thereof respectively.

19. Every secretary, accountant, or other officer, clerk, or servant of the Company shall, notwithstanding such secretary, accountant, or other officer, clerk, or servant of such Company shall or may be a shareholder and have a joint interest in the property of the Company, be liable to be proceeded against criminally for any offence committed by such secretary, accountant, or other officer, clerk, or servant in respect of the property of the Company, in like manner and in all respects as if such secretary, accountant, or other officer, clerk, or servant were not a shareholder and had no such joint interest.

20. Every
20. Every proceeding under this Act for omissions, defaults, acts, or offences, to which any penalty is attached, where no other method of proceeding is by this Act provided, shall be had and taken, and may be heard and determined in a summary way by any Special Magistrate or two Justices of the Peace, under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, "To Facilitate the Performance of the Duties of Justices of the Peace out of Sessions with respect to Summary Convictions and Orders," or of any Act now or hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders, and all convictions and orders may be enforced as in the said Ordinance, or in any other Act as aforesaid, is or shall be provided.

21. Every person who, upon examination on oath under the provisions of this Act, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

22. One moiety of all penalties of sums of money recovered under this Act shall, where the application thereof is not otherwise provided for, be paid to the informer, and the other moiety to the Treasurer on behalf of Her Majesty, Her heirs and successors, for the public uses of the said Province, and for the support of the Government thereof.

23. This Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others within the said Province without being specially pleaded.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

A. MUSGRAVE, Governor.