

VICTORIA.

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SESSION 1888.

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# REPORT

FROM THE

SELECT COMMITTEE OF THE LEGISLATIVE ASSEMBLY

UPON THE

CAPE PATTERSON AND KILCUNDA  
JUNCTION RAILWAY BILL,

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE

AND

MINUTES OF EVIDENCE.

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MELBOURNE:

DUFFUS BROS., PRINTERS, 68 FLINDERS LANE EAST.

1888.

EXTRACTED FROM THE VOTES AND PROCEEDINGS.

TUESDAY, 17<sup>TH</sup> JULY, 1888.

3. PETITION.—Mr. L. L. Smith presented a petition from Nathaniel Levi, of the city of Melbourne, advertising agent, praying that the House would give him leave to bring in a Bill to authorize the construction of the Cape Patterson and Kilcunda Junction Railway and for other purposes, and that the House would be pleased to pass the same. Ordered to lie on the Table.

WEDNESDAY, 25<sup>TH</sup> JULY, 1888.

10. CAPE PATTERSON AND KILCUNDA JUNCTION RAILWAY BILL.—Mr. L. L. Smith moved, pursuant to notice, That Standing Orders Nos. 10, 27, and 51, relating to Private Bills, be dispensed with so far as regards a Bill to authorize the construction of the Cape Patterson and Kilcunda Junction Railway, and for other purposes.

The Report of the Examiners of Petitions for Private Bills, endorsed on the Petition, was read by the Clerk, and is as follows :—

“ We hereby certify that we have examined into the compliance by the Petitioner for this Bill with the Standing Orders relating to the introduction of Private Bills, and have the honor to report to your Honorable House as follows :—

“ 1. That the Petitioner has complied with all the Standing orders relating to the introduction of Private Bills, excepting Nos. 10, 27, and 51.

“ 2. That the Petitioner, in certain details, has not complied with Standing Orders Nos. 10 and 27. We are of opinion that full compliance with the said Orders may be dispensed with.

“ 3. No deposit has been made in the Treasury in compliance with Standing Order No. 51, the agent for the promoter stating that, as there was no subscription contract necessary, Standing Order No. 51 did not apply in this case. The Examiners having carefully considered the point, find that on 26th July 1876, in the case of the Rosstown Railway Bill, and on the 16th July 1884, in the case of the Rosstown Extension Bill, the Examiners for Private Bills reported to your Honorable House that the Petitioner in each case had made no deposit in the Treasury, as required by the Private Bill Standing Order, for the same reason as urged by the agent with reference to the present Petition, and that your Honorable House did not on either occasion insist on the Standing Order being complied with.

“ T. COOPER,  
“ GEO. H. JENKINS, } Examiners.”

The Clerk read the following Report of the Standing Orders Committee, viz. :—

“ That the Committee approve of the Report of the Examiners, and recommend that the Petitioners be permitted to proceed with the Bill in each of the following cases, viz. :—

“ 1. The Australasian Dramatic and Musical Association Fund Bill.

“ 2. The Sandhurst and Northern District Trustees, Executors, and Agency Company Bill.

“ 3. The Guardian Trustees and Executors Company Bill.

“ 4. Cape Patterson and Kilcunda Junction Railway Bill.”

Debate ensued.

Question—That Standing Orders, Nos. 10, 27, and 51, relating to Private Bills, be dispensed with so far as regards a Bill to authorize the construction of the Cape Patterson and Kilcunda Junction Railway, and for other purposes—put and resolved in the affirmative.

11. CAPE PATTERSON AND KILCUNDA JUNCTION RAILWAY BILL.—Mr. L. L. Smith moved, pursuant to notice, That he have leave to bring in a Bill to authorize the construction of the Cape Patterson and Kilcunda Junction railway, and for other purposes.

Question—put and resolved in the affirmative.

Ordered—That Mr. L. L. Smith and Mr. Jones do prepare and bring in the Bill.

Mr. L. L. Smith then brought up a Bill intituled "*A Bill to authorize the construction of the Cape Patterson and Kilcunda Junction Railway, and for other purposes,*" and moved, That it now be read a first time.

Question—put and resolved in the affirmative—Bill read a first time.

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WEDNESDAY, 10<sup>TH</sup> OCTOBER, 1888.

12. CAPE PATTERSON AND KILCUNDA JUNCTION RAILWAY BILL.—Mr. L. L. Smith moved, pursuant to notice, That the Bill to authorize the construction of the Cape Patterson and Kilcunda Junction Railway, and for other purposes, be now read a second time.

Debate ensued.

Question—put and resolved in the affirmative.—Bill read a second time.

Ordered—That the Bill be committed to a Select Committee.

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WEDNESDAY, 17<sup>TH</sup> OCTOBER, 1888.

13. CAPE PATTERSON AND KILCUNDA JUNCTION RAILWAY BILL.—Mr. L. L. Smith moved, pursuant to notice, That the Select Committee on the Cape Patterson and Kilcunda Junction Railway Bill consist of Mr. D. M. Davies, Mr. Langridge, Mr. McLellan, Mr. Patterson, and the Mover, and that the promoters have leave to print the evidence taken before such Committee; four to be the quorum.

Question—put and resolved in the affirmative.

## R E P O R T .

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THE SELECT COMMITTEE of the Legislative Assembly, to which was referred the "*Bill to authorize the construction of the Cape Patterson and Kilcunda Junction Railway, and for other purposes,*" have the honor to report to your Honorable House as follows :—

1. Your Committee, having examined witnesses in support of the Preamble of the Bill, have amended it, in order to provide that the plans according to which the line is to be constructed, shall be those in the custody of the Clerk of the Legislative Assembly, and to provide for an alteration of route desired by the Shire of Phillip Island, and have agreed that the Preamble as amended do stand part of the Bill.

2. Your Committee, having had under their consideration the Standing Orders of your Honorable House relating to Private Bills, numbered respectively 78, 86, and 91, with its subsections A, B, and C, have the honor to report to your Honorable House that, in their judgment, the Standing Orders referred to are not applicable to the present case.

3. In compliance with the 90th Standing Order, your Committee have the honor to report—

- (1.) That inasmuch as it is the intention of the promoter to construct the line himself, and not by a Company, subdivisions 1, 2, 3, 4, 5, and 6 of such Standing Order do not apply to the Bill.
- (2.) That there are no planes on the railway proposed to be worked by assistant engines.
- (3.) That there are no peculiar engineering difficulties in the proposed line.
- (4.) That there are no tunnels in the proposed line.
- (5.) That in the line proposed the gradients and curves are generally favorable, and the steepest gradient is 1 in 50, and the smallest radius of a curve is 40 chains.
- (6.) The length of the proposed railway is ten miles and fifty-eight chains. The proposed railway starts in the Crown Lands south of the Government Road bounding allotment 15, parish of Woolamai, at Kilcunda, at a point distant 30 chains or thereabouts from the terminus of the Western Port tramway or railway, and connecting therewith, and terminates on the ground held by the promoter under mineral lease No. 756. The gauge upon which it is proposed to construct the railway is 3 feet 6 inches.

- (7.) It is not intended that the railway shall pass on a level over any main public road.
- (8.) The amount of the estimate of the cost or other expenses to be incurred up to the time of the completion of the railway is £17,729 1s. Your Committee consider the evidence on this point is satisfactory, and fully supports the estimates; and that the amount of such estimates is fully adequate for the purposes of a railway of the proposed character.
- (9.) That no report from any department of the Government in regard to the Bill or the objects thereof, has been referred by your Honorable House to your Committee.
- (10.) The whole of the lands proposed to be used are Crown Lands, and the Board of Land and Works have expressed themselves as neuter.

There are no owners or occupiers who have dissented.

- (11.) The name of the engineer examined in support of the Bill is Bernard A. Smith; and no engineer was examined in opposition to it.
- (12.) No petitions against the preamble of the Bill or any of its clauses have been referred to your Committee.
- (13.) Your Committee consider that there are no engineering difficulties whatever in the projected line of railway, and are satisfied as to the plans of the project in an engineering point of view, and, after duly considering the evidence, your Committee are of opinion that the privileges sought for by the promoter ought to be granted.

4. Your Committee have to report specially that they have not fixed the rates to be charged, as they are of opinion that the matter can be better arranged by leaving the rates to be approved by the Board of Land and Works as provided by the Bill.

5. Your Committee have proceeded through the several clauses of the said Bill, and have carefully noted the amendments they have deemed it expedient to make therein.

6. Your Committee have now the honor to lay before your Honorable House the said Bill as so amended by them.

Committee-room,

24th October, 1888.

# PROCEEDINGS OF THE COMMITTEE.

TUESDAY 23RD OCTOBER, 1888.

*Members present :*

Mr. McLellan,  
Mr. Langridge,

Mr. Patterson,  
Mr. L. L. Smith.

The Clerk read the extract from the Votes and Proceedings of the Legislative Assembly of the 17th October, 1888, appointing the Committee.

Mr. L. L. Smith was called to the Chair.

The Members present signed the Declaration required by Standing Order No. 2.

The Petition for the Bill was read.

Mr. McIntyre appeared as Counsel, and Mr. George Godfrey as Agent, for the Promoter.

The Certificate of the Clerk of Private Bills, showing that Mr. George Godfrey had duly entered an appearance as Agent in the Private Bill Office, was laid before the Committee.

The following documents, previously deposited in the Private Bill Office, were laid before the Committee by the Clerk :—

1. Plan and section.
2. Book of reference.
3. Notice of application for the Bill.
4. George Godfrey entering appearance as Agent.
5. Bill.
6. Petition for Bill.
7. Declaration of Agent.
8. Estimate of expense.
9. List of Owners, Lessees, and Occupiers, under Standing Order, No. 16.
10. Notice for first reading.
11. Notice for second reading.
12. Notice for appointing Select Committee.
13. Notice of first Meeting of Committee.

The Preamble of the Bill was read.

The following letter was laid before the Committee and read :—

Griffith's Point, October 20, 1888.

*The Chairman of Select Committees, Parliament House.*

SIR,—I have the honor to forward herewith a copy of the letter from this Council to Mr. Nathaniel Levi, according its assent to the Cape Patterson and Kilcunda Junction Railway.

Yours obediently,

H. BONWICK,

Acting Secretary, Shire of Phillip Island.

30th May, 1888.

*Nathaniel Levi, Esq., Melbourne.*

SIR,—In reply to your communication of the 12th inst., requesting this Council to assent to the construction of the “Cape Patterson and Kileunda Junction Railway,” and also to the “Bill” for the same, I am instructed to say that the Council will accord its assent as asked for, provided that the line is constructed along the South side of the existing surveyed road on Sheet No. 1 (as shown by tracing enclosed herewith) so as to avoid the necessity of more than one level crossing, and also to obviate traversing the said road as proposed in the plan—which is considered highly objectionable. And provided, furthermore, that the Company keep and maintain the level crossing referred to always in a proper state of repair, to the satisfaction of the Shire Engineer.

Yours very obediently,

LOUIS LE GOULD, C.E.

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Mr. McIntyre addressed the Committee in support of the Preamble.

Thomas Bergin, Griffith's Point, was called in, and examined by Mr. McIntyre.

Witness examined by the Committee.

Bernhard A. Smith, civil engineer, was called in, and examined by the Committee.

Witness examined by Mr. McIntyre.

George Godfrey, Parliamentary agent for the promoter of the Bill, was called in, and examined by the Committee.

Nathaniel Levi, promoter of the Bill, was called in, and examined by Mr. McIntyre.

Witness examined by the Committee.

Room cleared.

Committee deliberated.

B. A. Smith was again called, and further examined.

Counsel and parties called in.

The Preamble was amended by omitting the words “Board of Land and Works” in line 21, and inserting in lieu the words, “Clerk of the Legislative Assembly.”

Question—That the Preamble as amended has been proved—put and resolved in the affirmative.

Clause 1 read, and passed.

Clause 2 read, and passed.

Clause 3 read.

Standing Orders No. 88 and 104 were read.

B. A. Smith was again called, and further examined.

Clause 3 amended, and passed.

Clause 4 read, amended, and passed.

Clause 5 read.

Standing Order No. 92 was read.

*Committee adjourned until to-morrow at eleven o'clock.*

WEDNESDAY, 24TH OCTOBER, 1888.

*Members present :*

	MR. L. L. SMITH, in the Chair ;	
Mr. D. M. Davies,		Mr. Patterson.
Mr. Langridge,		

The parties were called in.

Mr. D. M. Davies signed the Declaration required by Standing Order No. 2.

The Committee resumed the consideration of Clause 5.

Clause 5 passed.

Clause 6 read and passed.

Clause 7 read and passed.

Clause 8 read.

Standing Order No. 96 was read, and held not to apply in this case.

Clause 8 amended, and passed.

Clause 9 read.

Standing Order No. 93 was read.

Clause 9 passed.

Clause 10 read.

Standing Order No. 103 was read.

Mr. Godfrey addressed the Committee.

At the desire of the Government this Clause was omitted, as the Committee concurred in the view that the provision was not desirable.

Clause 11 read.

Standing Order No. 86 read.

Clause 11 passed.

New Clause A read, and passed, and ordered to be Clause 2 of the Bill.

Standing Order No. 102 was read.

*Ordered*—That a Clause as contained in this Order be added to the Bill.

Standing Orders Nos. 78, 90, and 91 were read and considered by the Committee.

The Preamble was again considered, and was verbally amended to agree with the alteration in route desired by the Phillip Island Shire Council. The plan was altered at the direction of the Committee to the same effect.

The draft report was read paragraph by paragraph and adopted.

*Ordered*—That the Chairman report the Bill with its amendments to the House.

*Committee adjourned.*



# MINUTES OF EVIDENCE.

TUESDAY, 23RD OCTOBER, 1888.

*Members present:*

	Mr. L. L. SMITH, in the Chair;	
Mr. Langridge,		Mr. Patterson.
Mr. McLellan,		

Declaration under Standing Orders read.

Petition of Nathaniel Levi in favour of the Bill was read.

*Mr. McIntyre*, instructed by *Mr. Godfrey*, appeared in support of the Bill, and handed in a certificate of appearance.

*The Clerk* stated that the usual papers had been sent to the office and approved of, and the same were placed on the Table, also letter from the Shire Council of Phillip Island, dated 30th May, 1888.—[*The same was read.*]

The Preamble of the Bill was read.

*Mr. McIntyre* was heard to address the Committee on behalf of the Bill.

Thomas Bergin, examined.

1. *By Mr. McIntyre*.—What are you?—A merchant.
2. Where do you reside?—In Griffith's Point and at Anderson's Inlet.
3. Have you long been residing in that district?—About 17 years.
4. Do you know the country round about everywhere?—Yes, very well.
5. Are you aware of any coal seams in the district?—Yes.
6. Do you know the road that this proposed railway is to take?—Yes, very well.
7. Will that pass through country with coal-bearing seams?—Yes, it will pass over a level country from Kileunda, and coal has been found, I may say, all along the coast line close to it.
8. And then you think it would be a great public advantage to have such a railway constructed?—Yes, I think it would be a great public advantage, more particularly for people down there.
9. In what way for people down there?—It will bring, of course, much more population. It will develop a new country, and open up coal seams which I know to be there.
10. And which at present cannot be worked at?—And which at present cannot be worked at. The only reason they have not been worked is for the want of means of transit.
11. If this railway were opened the coal would be conveyed from this district to Griffith's Point?—Yes.
12. Is that a safe port?—A very safe, convenient harbour, and accessible either for entering or going away.
13. And very convenient to Melbourne, I suppose?—Yes, very convenient to Melbourne. The coal could be shipped from there, you may say, to any place, but there would be a ready sale for the coal at the jetty's head.
14. Do you know the Griffith's Point line?—Yes.

15. What effect would the proposed line have on that?—I consider that would bring a large passenger traffic to Griffith's Point. The new country lately opened by the late Land Act, that is from Kilcunda, from Powlett River, Wonthaggie, and Tarwin Lower, including Jumbunna East, that is an extensive rich country, and it is lately all taken up. But passenger traffic from that country would come to the Cape Patterson terminus all of which would, of course, go by steamer from Griffith's Point to Crib Point.

16. *By the Committee.*—What is that distance?—About 12 miles. That new country near Anderson's Inlet and Cape Patterson has lately, every inch, been taken up, and although very large settlement is made there; there are no reefs, and is at the extreme end of the Phillip Island Shire and the extreme end of the Alberton Shire, so it is almost impossible so far from the centres of the shires to get roads made, so that I can see if the Cape Patterson line were made, it would have a passenger traffic for pretty nearly all that country, because their road is in common there by the Crib Point line.

17. *Mr. McIntyre.*—So that would act as a feeder to the Government line at Crib Point?—Yes.

18. *By the Committee.*—You say this would be for the benefit of the people there?—Yes.

19. I do not think you have made that clear in what way it would be a benefit?—Well, the improvement of property and the circulation of money, and the employment of the people.

20. At the present time there are very few people there?—Not along where this line is run there are not many people, but close to it there are.

21. And this would cause a settlement, you think?—I do.

22. Have you any knowledge whatever with regard to coal in that district?—Yes.

23. Have you seen it with your own eyes?—I have seen, with my own eyes, a solid seam at Cape Patterson which I measured to be over 3 feet.

24. Do you know anything of the estimated quality of that coal?—Yes.

25. What character does it bear?—It is very high quality.

26. In what way?—By the analysis of Mr. Cosmo Newbery.

27. You have seen that yourself?—Yes, I gave three-quarters of a ton of that coal to Captain Payne when he had command of the surveying steamer at Griffith's Point, that was lying there for two months and when he returned he said it was far superior to any coal he ever burned in the steamer, and that it made 25 revolutions per minute more than the Newcastle coal, and altogether he said it was a first-class coal.

28. Have you any personal pecuniary interest in this scheme of Mr. Levi's?—None whatever.

29. Merely as one of the public you come here?—Only as one of the public interested in the advancement of the place.

30. You lived there for 17 years?—Yes.

31. Have you known of any ventures which have failed in consequence of not having facilities of transit there?—Yes, the whole thing has been a failure for the want of transit accommodation.

32. You think then the opening of this would, at any rate, have a tendency of developing thoroughly the coal districts of that place?—Yes, I believe there would be coal pits opened all down along the place to Mr. Levi's place.

33. Is it possible from there that it would assist in any way the Bass Valley line, they have been applying for in developing the coalfields there?—No, I do not think so. The Bass Valley has coal in it too.

34. But could they join this line?—Yes, the Bass Valley will join this line at Bourne Creek. Mr. Montague's survey—the original survey of the Great Southern Line was in that direction and his survey is there still, and there is very little doubt but that that line will be constructed.

35. Then I understand by that, if the coal were got from Cape Patterson it would not only supply the people of Melbourne, as I understand, but also up-country as well by the branch line from the Bass Valley going on to Powong, and so on?—Yes, according to what Mr. Speight said, the district will be brought into the general railway system of the colony, the coal can be sent from that place anywhere.

36. You have no personal interest in this?—No.

37. *By the Committee.*—You say they are likely to discover coal between Cape Patterson, between Mr. Levi's mine and Kilcunda?—Yes.

38. Along this line?—Yes.

39. Should we reserve, do you think, power for other companies that might be started along this proposed line to take running powers over this line?—I think so.

40. *To Mr. McIntyre.*—Do you provide for that?—

41. *Mr. McIntyre.*—It would be open to the public the same as other lines. The Board of Land and Works controls the tolls. The Bill says “Such tolls or freight as may be fixed and determined by the Board of Land and Works, and under such other conditions and restrictions as may be mutually agreed upon.”

42. *The Witness.*—The Board of Land and Works have power over the Kilcunda line also.

43. *By the Committee.*—Are there any coalfields being worked there just now?—No, not to any extent.

44. Are the Kilcunda mines lying idle?—There are some men working there, supplying steamers that call there.

45. What seams of coal have they there?—The Kilcunda seam averages about 2 feet, in some places about 27 inches.

46. They have got the railway right up to them, and yet they are not working them vigorously?—No, not vigorously.

47. What is the cause of that?—There are a variety of reasons. I believe the proprietors had to knock off, so to speak, for want of means. I believe it would pay if it were worked properly.

48. Now, you stated there is a coal seam in Mr. Levi's leases 3 feet thick; you have measured it yourself?—It is on the beach opposite Mr. Levi's selection; I have measured it myself—3 feet and over—a solid good coal.

49. What area might that seam cover, do you think?—It is impossible for me to tell. But according to Mr. McKenzie, the coal-viewer, it goes to Traralgon. I believe there is any quantity of it.

50. Have you any reasons for your belief?—I tell you how my conviction comes about. When I went down there first I went to look if there was any coal there, and I went out to Cape Patterson and the beach was plainly washed, and old Davis brought me there and said, “This is the Cape Patterson seam,” and I got bulrushes and I measured it, and you could dance on it, and it measured 3 feet good, and I came to the conclusion it was a good coal country, and I settled there. Also I saw the same seam in Bury's shaft; then I procured Mr. Selwyn's report, and I found he stated that that seam that I saw on the beach was 3 feet 6 inches where it was got inland—a bed.

51. What is the distance between?—Not very far—not more than perhaps 10 or 15 chains where it was got inland. That shaft had fallen in, and I, together with a few others, made an attempt to clean up the shaft and see what was there, and when we went down it was full of mullock, but we got up a block of coal about 2 feet cube from the lower seam and had it tested, and it proved it was beautiful coal.

52. You have been a resident there for 17 years?—Yes.

53. And you firmly believe that there is sufficient coal there to pay for the construction of this railway and for the working of the claims in a *bona fide* manner?—Firmly I do believe that.

54. And that there is a prospect of benefit to the public, both in the construction of the railway and the working of the coal?—I verily believe it.

55. Will you give some more facts as to the outcropping of coals you have seen in this district, because your evidence has been very meagre in that respect—how many coal seams have you seen, what thickness have you seen, and what area?—I can do that.

56. Have you any special knowledge of coal mining?—No, I have had an opportunity of going with every coal-viewer and examiner that has come there since I went there and I learned a good deal of them, sufficient to convince me the coal is there. I offered to rent the Kilcunda Company's railway myself for 20 years, I believed I would make money by it.

57. You have no knowledge of coal, but you went to see that coal was there?—Yes.

58. Having gone there you set up as a storekeeper, from the fact of having seen the coal there?—Yes.

59. And since then you have done remarkably well?—I have.

60. *By Mr. McIntyre.*—Have you been down the shafts?—Yes.

61. *By the Committee.*—What developments of coal have you seen there?—There has been no developments.

62. None at all?—Very little of the Kilcunda coal mine.

63. No, I mean come to the other point, begin at Mr. Levi's leases?—There has been about 2000 tons taken up there and sent to market from Cape Patterson, but there is no shipping place safe to stay in, and the Government of the day, in Mr. McCulloch's time, laid down very heavy moorings there but the first heavy sea that came in swept the moorings and all away.

64. What I want is a detailed account of the seams—you have seen them with your own eyes. You said there was one seam three feet thick, have you seen any more seams there?—No.

65. You have seen the Bury one?—Yes, I have seen the two seams in Bury's shafts, the top one is over three feet and the under one over two feet, there is 12 feet in between them.

66. What depth is the bottom one?—Sixty-seven feet from the surface.

67. Will it take much capital to develop Mr. Levi's mine?—The chief capital is required to construct a good substantial carrying line, I think.

68. You think there is plenty of coal there to warrant the expense?—I believe I am warranted in saying there is coal all over the district. The diamond drill cut coal wherever it was put down.

69. Have you seen any reports of the different engineers?—Yes.

70. Have you found any computation they have made with regard to any matters of that kind?—Yes, I have read the computations of Mr. Reginald Murray, and he says the Kilcunda seam contains 24·20 tons to the acre.

71. How did he arrive at that?—From the working of the seams. By taking its thickness, and a good deal off that thickness, to arrive at what it would really yield at the lowest; it was 2,400 tons per acre, and then the coal along the coast and inland. I calculated that seam alone would yield 300,000,000 of tons, which at our present rate would give a supply of coal for 770 years.

72. You have calculated that large calculation yourself?—Yes.

73. Could you give us the data that guided you in the calculation?—Yes. If you take the consumption of the present day, and divide it into 300,000,000 tons, you would find I am right—770 years.

74. I do not understand that way of calculation?—Then I cannot help you.

75. You say 2,400 tons to the acre?—That is Reginald Murray's estimate.

76. How much money would it take to work an acre to obtain that amount; that seems very little coal to the acre?—I cannot say.

77. I am speaking of the Kilcunda seam now, not the other, which is twice as much nearly. Have you seen in Mr. Levi's area any calculations made, as his results from the borings that have been made, and the tests that have been applied by the borers—have you seen any accounts of that?—I have been present when the bores were driven at Cape Patterson. I saw the coal pretty nearly every time between 3ft. 10in. to 2ft. 10in.

78. Here is the Kilcunda report of the diamond drills, the second report by the Secretary for Mines and Water Supply. Have you read this account from the Kilcunda report on Kilcunda, and also on Cape Patterson?—I have not read those.

79. You do not know anything about Mr. Christopherson's report?—I have seen it published.

*The witness withdrew.*

Bernhard Alexander Smith, examined.

80. *By Mr. McIntyre.*—What are you?—Civil engineer.

81. Did you survey this proposed Cape Patterson and Kilcunda Junction Railway?—Yes, I did.

82. Do you produce the survey?—The plans are before the Committee.

83. Did you survey with anyone?—With an assistant. I went down over the road and chose the route with him, and he took the measurements required, and these are the results of the work.

84. Will it be a line difficult of construction?—No, except at one point. There may be a little difficulty the first mile of the line.

85. It will be a safe line for public traffic?—Yes, perfectly safe.

86. Does it go along the coast or inland?—It follows the coast within, I think, about a mile from the coast. It is quite close to it.

87. Did you notice any coal?—Yes.

88. Any quantity of it?—No, I did not see it in very large quantities. I saw that outcropping at Cape Patterson, but only the small seams, 6 to 8 inches thick, running along the coast.

89. It struck you as being coal-bearing country?—I have been down the mines at Kilcunda, and I have seen the coal lying at the surface of the mines at Cape Patterson.

90. *By the Committee.*—My constituents have sent in a memorial signed on their behalf by Louis Le Gould, Shire Engineer, and also from the acting Secretary of the Shire of Phillip Island, stating they have no objection to this line, provided the line is constructed along the south side of the existing surveyed road on sheet No. 1, as shown on the tracing herewith.

91. Is your line surveyed according to the requirements of this shire at all?—It can be altered so as to go south of that road. At the time of making that survey the road was not defined at that point, and it was only after the plans were completed we could define the exact position of the road.

92. Will this not be objected to by the shire?—No; we shall keep it below the road, as they asked us to do.

93. So as to avoid the necessity of more than one level crossing, and also to avoid traversing the road, as proposed in the plan?—That is shown here.

94. You are acting in accordance with what the shire want?—Yes.

95. What work has been done in searching for coal at Cape Patterson?—I have seen four shafts put down at different places.

96. What depth?—There was water in them, and I could not see down them.

97. You do not know anything about the coal that was obtained, the thickness?—No, nothing at all at Cape Patterson. I know it at Kileunda. At Cape Patterson it was the outcropping on the coast that I saw—that is not the same they are working in the mine.

98. What planes on the railway are proposed to be worked by assistant engines, either stationary or locomotive, with the respective lengths and inclinations of such planes?—None.

99. Are there any peculiar engineering difficulties in your proposed line?—None.

100. Are there any tunnels?—No.

101. In the lines proposed are the gradients generally favourable or otherwise?—*They are.*

102. What is the steepest gradient?—One in 50 for a length of 38 chains.

103. What is the smallest curve?—Forty chains radius.

104. The length between the termini of the main line?—The length of the main line is about ten miles and a half.

105. Are there any branches to it?—No.

106. What is the terminus?—At the Kileunda end it joins on to the existing line of railway, about 38 chains from the end of the line.

107. Where does it commence?—Commencing at that point.

108. Where does it end?—At Mr. Nathaniel Levi's mine.

109. Can you give any indications by which this can be put down in the report?—Yes, commencing in Mineral Lease 756, Cape Patterson, and terminating in allotment 15, parish of Woolamai, at Kileunda.

110. What gauge is it proposed to be?—The gauge is the narrow gauge, the three feet six inches.

111. Is it intended that this railway shall pass at the level on any main public road?—At the commencing point we did propose it should start on the level, but they have asked us to start on the south so it will not. We intend to comply with that, not crossing any road.

112. It crosses no main public road on the level?—No.

113. Do you think that that is a fair average estimate of the cost?—Yes, I think it is a very fair estimate, I think the work could be done approximately for that price.

114. Can you inform me at all of the number of assents, dissents and neuters on the line?—No.

115. *By Mr. McIntyre.*—Do you know the gauge of the Kileunda line?—Three feet six inches.

116. Will the proposed railway be the same as the Kileunda?—Yes.

*The witness withdrew.*

George Godfrey, examined.

117. *By Mr. McIntyre.*—You are the Parliamentary agent for the promoter?—I am.

118. Did you attend before the Examiners of Private Bills in this matter?—Yes.

119. Have you the number of assents, dissents, and neuters?—I have handed the numbers in.

120. Do you know whether, in a report from any department of the Government, the Bill has been referred by the House to the Committee?—It has been; a report from the Examining Committee that the standing orders have been complied with. There are no dissents to this Bill. Every one was served and there were no dissents whatever.

121. The name of the engineer is Mr. Bernhard Smith?—Yes. I may say we handed in to the examiner the only letter—the letter from the shire.

*The witness withdrew.*

Nathaniel Levi, examined.

122. *By Mr. McIntyre.*—What are you?—I am an advertising agent.

123. And the promotor of this Bill?—Yes.

124. Did you have any correspondence with the Secretary of the Department of Mines and Water Supply relative to coal at Cape Patterson?—I had repeated.

125. Is that one of the letters you received from the department?—Yes.

126. Will you kindly read it to the Committee?—“Department of Mines and Water Supply, Melbourne, 12th September, 1883.—Sir, I have the honor to forward herewith, for your information, a copy of the report of Mr. R. A. F. Murray, Geological Surveyor, on the coal seam recently discovered in the shaft of the Victoria Coal Mining Co. at Cape Patterson. I have the honor to be, Sir, your most obedient servant, T. Couchman, Secretary for Mines and Water Supply. N. Levi, Esq., Railway Advertising Office, Hobson's Bay Railway Station, City.”

127. And Mr. Murray's report you believe to be a correct statement?—I do.

128. A correct account of the form of coal that is down there?—Yes. It has been further examined since then. We engaged a diamond drill, allowed the drill to go down, and we got in three bores down all in seams of coal similar to what there were in May, 1885. At Cape Patterson we got the coal at 142 feet. We got a two feet nine seam at 108 feet seven in one bore. We cut two feet ten at 113 feet, and we cut two feet nine at 108 feet three, over an area of 60 acres, under the supervision of the Government. Mr. Kopke was in charge of the drill, and we had a man of the name of Ronaldson to supervise as well, a report of which is in the *Blue Book, 1886*—Second Report of the Secretary of Mines and Water Supply. This is their own record. Of course there were several other smaller seams of coal cut, which I have not referred to.

129. *By the Committee.*—Is there anything about the Bury?—No, not in this; but I have some documents bearing on that,

130. Can you show them?—Yes, dated 1863.

131. Whom is that signed by?—Alfred R. Selwyn.

132. He was what?—Government geologist. This is the report with reference to the payment of the reward for the discovery of an available coalfield. It was Bury's; it is mine now, distinct from the other lease. It is dated 12th March, 1858, in which he reports the total thickness of available coal about five feet, or about 3,420,000 tons per square mile. He reported to the Honorable the Chief Secretary that that had been the result of the three feet nine seam which had been cut and shown and exposed.

133. His reputation as a geologist stood very high?—I believe it did.

134. He is in Canada now?—Yes. His reputation was very high, and he was very valuable. He says 3,420,000 tons of available coal.

135. Have you visited the Cape Patterson coalfield lately?—No.

136. You did not go down with Messrs. Speight and Langtree?—I did not. I was asked to go with Sir James Hector, but I had a message after that I should not go. I may state that that report of Mr. Selwyn has been further confirmed by John Linward Stewart, surveyor, 2nd February, 1864. He estimates the yield of coal from the Rock and Queen veins only on Mr. Bury's to be 3,200,000 tons.

137. Bury's selection you hold under lease?—Yes, and that is part of the ground the railway passes through.

138. One of these two leases?—Yes.

139. When you say your own ground, both grounds, this ground and the other is yours?—Yes, under lease.

140. One of these two leases was Bury's?—Yes, it was mine, then he got it, and then it came to me again. I estimate I have between 11,000,000 and 12,000,000 tons of coal, from different reports I have had furnished to me at different times.

141. You are aware that some Government officers went down recently to examine this Cape Patterson field?—I do not think they went to Cape Patterson. I think they went no further than Kilcunda.

142. In your answer you are alluding to the visit of Sir James Hector and Mr. Reginald Murray, not to Mr. Speight and Reginald Murray and Mr. L. L. Smith?—They went down about the railway.

143. What have you done in a practical way to prove this?—I have spent several thousands of pounds—£7000.

144. And the result?—The result was raising about 2000 tons of coal many years ago, 20 odd years ago, and we constructed a line of railway or tramway about a mile and a half the reverse way to Bass Strait, and we found that the strong south-westerly gales (that is made from where the same ground is held now) were so fierce that the vessels had to leave their moorings. We owned two ships and we put cargoes of coal on board by carrying it in bullock teams to the beach, and then getting it on board those vessels in small boats. The result was we could get no insurance. The vessels would run away and be out some time before they could come back again.

145. What quantity of coal have you put on the Melbourne market up to the present date?—We ceased working then.

146. What quantity have you brought to Melbourne?—Between 1000 and 2000 tons.

147. Was that good coal?—Splendid, and sold at very high rates.

148. Suppose you had the power to construct this railway, what quantity could you supply annually to the Melbourne market?—After the pits were fairly opened, according to competent authorities, they would raise from 1,500 to 2,000 tons a week.

149. Could you compete with the Newcastle coal?—I have not the slightest doubt. Of course we are entitled to a small benefit. If we paid the same working rates as they do, we should still have the advantage of what is known as the wharfage rate here, that is payable by New South Wales. I believe that is a shilling a ton, and the shipment from Griffith's Point round to Melbourne would be extremely low, as we should also have the advantage of all the South Australian business coming to Griffith's Point, which has a splendid harbour. Vessels carrying from 800 to 1,200 tons could lie there safely.

150. At what price could you send coal to Melbourne if you had the Bill?—At a maximum cost of 15 shillings per ton, not the selling price.

151. And you could send from 1,500 to 2,000 tons a week at that?—After the pits were fairly in working order.

152. Have you made any calculation of the extent of coal your leases may contain?—Personally I have not. I have taken professional gentlemen's opinion. I have had Mr. Ronaldson, who was in the employment of the Kilcunda Company for some period of time, and in the three bores put down here in 60 acres, they estimate half a million tons.

153. So there is no danger of the coal supply being exhausted after the line has been constructed, in a very short time?—Not the slightest, from all the information I have received. I have letters, I could not speak personally; I do not profess to be a geologist. I am guided by other people's opinion.

154. In entering into this as a speculation do you calculate anything as to the haulage by other leaseholders over your line on their way from Kilcunda?—Not at the present time. In the future it would be a consideration no doubt. I only want to deal with them on the same basis as the Government deal with them.

155. You do not take that as an item of profit now?—No.

156. You are willing to proceed with the undertaking independently of all that?—Entirely. I had a gentleman recently who came out from England, I sent down a little time ago, and here is the report. He was very much impressed. He is now in Queensland. I have no doubt we have coal there that will last for years and years.

157. At Point Griffith's you have stated you have good facilities for shipping. Is that well sheltered?—As far as I am informed by nautical men.

158. What depth of water have you at the jetty?—Vessels drawing, I believe, 22 feet of water can lie alongside. The late Captain Ferguson, the Chief Harbor Master, reported favourably on that over 20 years ago. You can go in whichever way the wind is blowing. There are two entrances.

159. Is it a cove or a bay or an inlet?—It is the Western Port.

160. The two vessels you mentioned, the names of those do not matter; why could you not utilize those vessels?—That was at the open-roadstead, because the fierce south-west gales would dash them on to the shore.

161. Was that the only reason. Was there nothing about insurances?—Of course we could not get insurance on the vessels, and the expenses were so great it was impossible--- the means of transit. It would cost something enormous to go and get a load of coal.

162. Very few people know where it is. Is the bay at Griffith's Point a bay or a harbour?—It is a bay, and you go in and are perfectly sheltered. There are the eastern and western entrances; a vessel can go in one way and go out the other.

163. *By Mr. McIntyre.*—They say that is where we should be attacked in case of war, being so safe?—Yes.

164. Has the plan and section with the book of reference containing the names of owners been deposited at the office of the Board of Land and Works?—Yes.

165. Are you willing at your own expense to construct this railway?—I am.

166. *By the Committee.*—Most of this line runs through Government land?—All of it.

167. Only a certain portion of it is land on lease?—There is not any of that that is land on lease. Those grazing areas are reserved; the Government did not issue the licenses at the time, although the grazing areas are shown.

168. What control will you have over this line that goes to Griffith's Point. There is an ugly part here that may be required in the form of the country—will you alter that?—We propose to make the junction just as it is shown on the tracing by the plans deposited. That has been very carefully surveyed. That is the most difficult point, the Kilcunda peoples' part. Ours is an easy line; ours has about nine miles of almost level country. There is only a mile and a half with any gradients.

169. But the Kilcunda Company's tramway is constructed already?—Yes, that was the difficult part. The people have given their consent to pass through the grazing areas.

170. How far is Griffith's Point from Crib Point Railway across the water?—About twelve miles and a half.

*The witness withdrew.*

171. *Mr. McIntyre* was heard further to address the Committee.

172. *By the Committee (to Mr. Levi).*—Are the amendments in the Bill as suggested by the Government, deposited in the Private Bill Office?—Yes, all but one, that I hold in my hand; the report of the Premier—the whole of the amendments, with one exception, which would be for the Committee to determine on. The Premier stated "he (Mr. Gillies) desired to say further, without discussing any differences of opinion there might be as to the value of the Cape Patterson coalfield that, in connection with the Bill, he would ask honorable members, when it was in committee, to omit the clause empowering the Government to purchase the line, and its proprietors to sell it to the Government." I want to explain that was not in the list of amendments proposed by the Honorable the Attorney-General, and I have put that in as well, because it was not asked to be done, and it is for the Committee to determine.

*The witness withdrew.*

Bernhard Alexander Smith, re-called, and further examined.

173. *By the Committee.*—Will you inform us, you said that at the Board of Land and Works you had deposited plans of this kind. Are these a copy?—Yes.

174. The Committee wish to know then whether you have made provision in accordance with the desire of the Phillip Island Council in regard to this deviation, in keeping on the south side of the road?—No, that letter came after this power of deviation was put on the plan.

175. So you have not altered the plans to meet the desire of the Council?—No, they had been lodged before that letter was received.

176. That will have to be amended and initialed by the Chairman. How can we give power to you without that?—There would be no difficulty in doing that. Only dotting the line on this side instead of that.

177. What distance is the line to be removed from its present position?—Those deviation lines are put on about ten chains from the line. They are not exact measurements.

178. Is the road shown?—Yes, in dotted lines.

*The witness withdrew.*



The Committee-room was cleared.

The Committee deliberated.

The counsel and parties were again called in.

179. *The Chairman (to Mr. McIntyre).*—Will you have any objection to making the Bill read “The Clerk of the Legislative Assembly,” in place of “The Office of the Board of Land and Works,” that is to say, they have been deposited with the Clerk of the Legislative Assembly, because we must have some certified plan to show which is the plan?—

*Mr. McIntyre.*—I have no objection.

The preamble, as amended, was passed.

Clause 1 was read and passed.

Clause 2 was read and passed.

Clause 3 was read and passed, with amendment.

Standing Orders 87 and 88 were read.

180. *Mr. McIntyre.*—The engineer says it will not cross the road.

181. *By Mr. McIntyre (to Mr. Smith).*—Will this cross the level road?—No, it can be kept clear of the level road. It cuts off a part of a road at one place, and we should have to arrange with the council to deviate the road to some slight extent.

Standing Order 104 was read.

182. *Mr. McIntyre.*—The limit of deviation will keep it within a certain distance.—(*To Mr. Smith.*)—Will you supply to the Committee information about the exact length of this line?—It is 10 miles and 58 chains.

Clause 3 was passed.

Clause 4 was read and passed as amended.

Clause 5 was read.

Standing Order 92 was read.

*Mr. McIntyre.*—On that point, I think that is a provision that will ensure the completion of the line within that period. If not completed within that period all the concessions go away, and the works revert to the State.

*Adjourned until to-morrow at eleven o'clock.*

WEDNESDAY, 24TH OCTOBER, 1888.

*Members present:*

MR. L. L. SMITH, in the Chair;  
 Mr. D. M. Davies, | Mr. Patterson.  
 Mr. Langridge, |

*Mr. Godfrey* said he appeared without his learned friend, Mr. McIntyre, who was engaged elsewhere.

Clause 5 was read and passed.

*Mr. Langridge* asked why Clause 6 was struck out.

*Mr. Godfrey*.—I think that Clause was struck out from a desire on the part of the Government that the Board of Land and Works should have nothing to do with it. There is a proposed new Clause in lieu of Clause 6, suggested by the Hon. the Attorney-General, which certainly makes the Bill unintelligible.

*The Chairman*.—Mr. Wrixon handed that over to me and said he would agree with the Bill provided these alterations, which he then handed to me, were included in the Bill. I took that to Mr. Levi in the House, and he said that he would consult his solicitor. Subsequently he informed me his solicitor had agreed to that and saw no objection.

*Mr. Patterson*.—Tell us what that new Clause means.

*Mr. Godfrey*.—The new Clause is as follows:—The expressions "railway company" "company" "directors" "secretary or clerk" in Part III. of "The Public Works Statute 1865" shall include the promoter his executors administrators and assigns. It seems absurd to put that in as Clause 6.

Moved, seconded and carried—That Clause 6, proposed to be omitted, stand part of the Bill.

On Clause 8 being read the Chairman asked if Standing Order 96 had been complied with.

*Mr. Godfrey* said that had relation to a public company, a railway company, and would not apply to an individual carrying on a railway.

On Clause 10 being read the Chairman said that the Government particularly desired that this Clause should not be in. If they wanted to purchase the line they could pass a Bill through the House at any moment.

Standing order 108 was read.

*Mr. Godfrey* pointed out on behalf of the promoter that he had personally no desire for this Clause to remain part of the Bill, but the Standing Order was imperative that it should be in every railway Bill. If the Clause were omitted in defiance of that Standing Order there might be trouble afterwards, but the promoter was perfectly satisfied to have it or not, just as the Committee desired.

Clause 10 was omitted.

On Clause 11 being read *Mr. Godfrey* said that Standing Order 86 was always put in to protect shareholders, but it had no relation to an individual who constructed a railway. It was simply a limitation that they should not borrow to the extent of more than 50 per cent. of their paid-up capital unless the Committee should report that such restrictions should be removed.

Standing Order 78 was read.

*Mr. Godfrey* submitted that the 9th Clause did away with the necessity of going any further into Standing Order 78—all parties were protected by the 9th Clause.

*The Committee* decided that the Standing Order did not apply.

Standing Order 90 was read.

*The Committee* decided that paragraphs 1 to 6 did not apply.

Standing Order 91 was read.

*Mr. Godfrey*.—That does not apply in this case.

Standing Order 102 was read.

*Mr. Godfrey.*—The only general Act of Parliament referring to railways is the one bringing the railways under the Commissioners of Railways, and I would submit that that clause should not go in.

After some discussion it was decided that a Clause, as in Standing Order No. 102 should form part of the Bill.

*Mr. B. A. Smith.*—It says “Starting in Section 15, Parish of Woolamai.” If we are made to go south of the Government road it will no longer be in Section 15; Section 15 finishes at the Government road.

183. *By the Committee.*—Where will it be when it is altered?—On the Crown land south of the road.

184. Is this your estimate of the cost?—Yes.

185. What is the rate of speed?—That was not taken out. It could be worked up to 35 or 40 miles an hour.

186. Are you a qualified engineer?—I am.

187. I see you have got down in the bridges and culverts Bourne Creek bridge £583 15s. That is a wooden bridge?—Yes.

188. What sort of place is it—is it liable to flood?—No, some water can come down.

189. Then there is the Powlett River bridge—are these bridges more in the shape of culverts?—They are culverts practically—the Bourne Creek bridge is the only high one. They are bridges in the sense of passing over waterway.

190. You have only £354 for the bridge over the Powlett River?—Yes.

191. I have been over a bridge over the Powlett River—it is about as far as from here, to that second ink-bottle—[*pointing*]. It is made of large logs?—Small piles.

192. Is this country liable to flood?—Yes.

193. Then it ought to be provided for?—It is; the quantities have been carefully taken out; we have considered it carefully. This Bourne Creek bridge, though it is not the largest on the line, comes out the heaviest on the estimates. The Powlett River Bridge is the largest, but the other costs more to construct.

*Mr. Godfrey.*—The contract taken by the Government for the erection of a bridge over the Powlett River for themselves is £318.

194. *By the Committee.*—You, as the engineer, are clearly of opinion that the provision made on this estimate is sufficient for the purpose?—Yes, I am.

195. How many miles is it?—Ten and a-half miles; there is no difficulty except just at the start; it is all sand; the 56,000 yards of cutting comes in in the first mile or so; there is some heavy cutting there.

196. It is not anticipated that a railway of this character will travel more than 20 miles an hour or so?—No.

197. Will you fence it in?—No, I do not know that any fencing is to be done.

198. The estimate is over £1500 a mile?—Yes.

199. There is no rolling stock in this estimate?—No.

The Preamble was altered by the Engineer.

200. *By the Committee.*—Does the alteration now made in the plan before me, No. 17, comply with the wishes of the Shire of Phillip Island, as laid before the Committee?—

*Mr. Smith.*—Yes, it does.

*Ordered*—That the Bill, with amendments, be reported to the House.