ANNO QUADRAGESIMO ET QUADRAGESIMO PRIMO

VICTORIÆ REGINÆ.

A.D. 1877.

Private Act.

An Act to authorize the construction, maintenance, and working of Tramways for Steam or Horse Traction in and between certain parts of the City of Adelaide and the Towns of Unley, Unley Park, Goodwood, Upper and Lower Mitcham, West Mitcham, and Townships and other places suburban or adjacent thereto, and for other purposes.

[Assented to, 21st December, 1877.]

WHEREAS the construction, maintenance, and working of tramways for steam or horse traction in and between certain parts of the City of Adelaide and the Towns of Unley, Unley Park, Goodwood, Upper and Lower Mitcham, West Mitcham, and Townships, and other places suburban or adjacent thereto, in such a manner as not to impede or injure ordinary traffic, would be of great local and public advantage: And whereas a Joint Stock Company has been lately registered and incorporated under “The Companies Act, 1864,” by the name of “The Adelaide, Unley, and Mitcham Tramway Company, Limited,” with the objects (amongst others), of constructing, maintaining, and working such tramways as are hereinbefore referred to, and of obtaining an Act of the Parliament of South Australia for empowering and better enabling the Company to carry out its objects: And whereas the said Company is willing at its own expense to construct, maintain, and work the said tramways in manner hereinbefore mentioned, but the authority of Parliament is requisite to enable the Company so to do, and it is, therefore, desirable to confer on the Company all rights, powers, privileges, and immunities necessary or convenient for the construction, maintenance, and working of such tramways—Be it therefore Enacted by the Governor of the Province of South Australia, with the
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 for all purposes as "The Adelaide, Unley, and Mitcham Tramways Act, 1877."

2. Except so far as the same shall be inconsistent with this Act, there shall be incorporated with this Act the Lands Clauses Consolidation Act; the Act No. 26 of 1855-6, intituled "An Act to amend the Lands Clauses Consolidation Act," and the following portions of the Railways Clauses Consolidation Act, namely—

With respect to the construction of the railway and the works connected therewith, so far as the same relates to the mode and powers of construction, deviations, and correction of errors and omissions; with respect to the temporary occupation of lands near the railway during the construction thereof; with respect to the engines and carriages to be brought on the railway; with respect to the conveyance of mails by railways; with respect to the conveyance of military and other forces on railways; with respect to the settlement of disputes by arbitration; with respect to the provisions to be made for affording access to the Special Act to all parties interested:

Provided always that nothing contained in "The Lands Clauses Consolidation Act," or in the said Act, No. 26 of 1855-6, intituled "An Act to amend the Lands Clauses Consolidation Act," shall be held to authorize or in any way empower the Company to compulsorily purchase or acquire any portion of the Park Lands or any other public reserve, or any portion of the public roads, streets, or squares, of the City of Adelaide, or any other town in and through which the tramways of the Company shall pass.

3. In the construction of this Act, unless there shall be something in the subject matter or context repugnant to such meanings—

The meanings which have been assigned by "The Lands Clauses Consolidation Act" and "The Railways Clauses Consolidation Act" to certain words and expressions shall be attributed to such words and expressions wherever they occur herein:

The expression "the Company" shall mean "The Adelaide, Unley and Mitcham Tramway Company, Limited."

The expression "the tramways" shall mean the tramways by this Act authorized, or any part thereof; and tramways shall include railways:

The expression "the deposited plans" shall mean the plan of the tramways and the book of reference thereto, which were deposited in the office of the Surveyor-General on the sixth day of November, one thousand eight hundred and seventy-seven.
The expression "street" shall mean any public street, road, footpath, or place along or across which the tramways are authorized to be laid:

The expression "the street authority" shall mean the persons having the control or management of the street in respect of which such expression shall be used, if the same shall be used in respect of any particular street, but if such expression shall not be used in respect of any particular street, it shall mean any persons having the control or management of any street.

4. Subject to the provisions of this Act, the Company may make, form, lay down, construct, maintain, and work on the lines shown in the deposited plans the tramways hereinafter described, or such portion thereof as the Company may think expedient, with all proper rails, plates, works, sidings, junctions, stations, approaches, and conveniences connected therewith, and may enter upon, purchase, take, and use such of the lands delineated and described in the deposited plans.

The tramways hereinafter referred to, and authorized by this Act, are as follows:

Tramway No. 1.—Ninety-five chains or thereabouts in length, beginning at a point marked A on plan, at or near the junction of Victoria-square and Flinders-street, thence passing eastward along Flinders-street to the junction of Flinders and Pulteney-streets; thence southward along Pulteney and Hanson-streets, to a point north of Hurtle-square; thence along Carrington-street to the west side of Hurtle-square, and passing along the west side of the said square to a point on the south side of the square, and returning on the east side of the said square to the point before mentioned on the north side of the square, and from the aforesaid point on the south side of the said square along Hanson-street, to a point marked B on plan on South-terrace, as shown upon the plan, together with all the crossings of all streets and roads included in the above route.

Tramway No. 2.—Three miles and seventy-seven chains, or thereabouts, beginning at a point on South-terrace, at or near the junction of Hanson-street and South-terrace, marked B on plan, and thence passing southwards along the road known as the Unley Road, to a point in the said road nearly opposite the Torrens Arms, marked C on plan; thence eastward and south-eastward along a road known as the Torrens Arms Road, to a point nearly opposite the centre of the northern boundary of Section No. 246, Survey B, known as Torrens Park, marked D on plan; thence eastward along a road abutting on the northern boundary of the said Torrens Park, to a point on the said road opposite the eastern boundary of the said Torrens Park, marked E on plan; thence in a southeasterly direction, passing through a block of land part of Section 248, known as Mitcham, to a point in a road known as the Institute.
tute Road; and thence southward to a point at or near the junction of the said Institute Road with the main street of Mitcham, marked F on plan; thence eastward along the said main street to a point at or near the junction of the said main street with another street, which last is at right angles with the said main street, the said junction being known as Taylor's, marked H on plan; thence in a north-easterly direction along Taylor's Road to a point at or near the junction of the said road with Maitland-street; and thence along Maitland-street to a point in Section No. 892, Survey B, marked J, as shown upon the plan, together with all crossings of streets and roads included in the above route.

Tramway No. 3.—Three miles and sixty-two chains, or thereabouts, beginning at a point in Main-street, Mitcham, marked G on plan; thence passing south-south-easterly through Allotment No. 70 in the Township of Mitcham, to a road on the east side of the said Allotment; thence southerly to a Government road forming the north boundary of the Government reserve; thence south-south-easterly along the north and east bank of Brownhill Creek to a siding marked K on plan, at or near the said creek; thence following the bank of the creek in a southerly and then easterly direction, to a point on Section No. 1,094, Survey B, marked L on plan; and from the siding at K before mentioned, doubling north-westward across the creek to the west side thereof, and skirting the west bank of the creek first in a north-west, then nearly westerly direction, to a point near the south-east corner of Mitcham Cemetery; thence along the southern boundary of the said cemetery to the south-west corner thereof; thence south-westerly to a point in the Blythwood Road, opposite to the road to Prince's Quarry; thence southerly along the said road to a point at or near a culvert on the said quarry road, marked M on plan; thence westerly and south-westerly near the north-east boundary of Section 247 to a point in Section 1140, known as Temme's Quarry, marked N on plan. Together with a loop line beginning at or near the north-eastern angle of Mitcham Reserve, and passing along Taylor's Road and through the triangle joining No. 2 Section at Taylor's, marked II, as shown upon the plan, together with all crossings of streets and roads included in the above route.

5. Before laying down that portion of the Tramway No. 2, which lies between the points marked C and G upon the deposited plan, the Company shall, whenever any of the roads traversed by such portion of the Tramway No. 2, shall be of a width of less than sixty feet, purchase at their own cost sufficient land on either side of such road to make the width of such road in all cases not less than sixty feet, and unless the street authority agree to make and form such road themselves, shall, before laying down and forming such portion of Tramway No. 2, at their own cost and expense, form, make, and metal such roads so that they shall form properly metalled roads; and as soon as such roads shall have been so made and metalled the Company...
pany shall, at the request and cost of the street authority of the streets which may have been so widened, execute all necessary conveyances and assurances to vest such lands so purchased by the Company for the purpose of widening such roads in such street authority: Provided that the Company shall be authorized to lay down a portion of the said tramway, extending in a south-easterly direction, three chains from the junction of the Unley Road and the Torrens Arms Road, on a road of not less than forty-three feet in width.

6. Before opening for public traffic that portion of Tramway No. 2 which lies between the points marked B and C on the deposited plan, the Company shall, at their own cost, properly form and metal, fit for ordinary traffic, such portion of the road as may be necessary in order to secure a metalled roadway of not less than twelve feet in width on each side of the tramway.

7. The centre line of every tramway shall be the centre line of the street in which such tramway shall be laid, or shall run parallel therewith at a distance of not less than five feet six inches therefrom, except where the line of such tramway shall be a curve, as shown in the deposited plans.

8. It shall not be lawful for the Company to alter the levels of any street without the consent of the street authority.

9. Every tramway line shall be constructed and maintained with two rails, to be laid at a distance of four feet eight and a-half inches from each other, and shall be constructed and maintained in such a manner that the uppermost surface of every rail shall be on a level with the surface of the street, and the rails used in the construction of every tramway shall be of iron or steel, and of the weight of not less than twenty pounds to the yard; and no rail shall be used in the construction of any tramway which will leave an opening of greater width than that left by the rails known as Larson’s patent rails, and no such rail shall leave an opening of more than one inch and a half between the perpendiculars of such rail.

10. Every tramway shall be constructed and maintained in such a manner as not to cause any impediment or injury to the use by the public for the purpose of traffic of any street wherein the same shall be laid, and the public shall at all times be entitled to the free and uninterrupted use of every part of such street, save when any conveyance of the Company shall be passing over or be about to pass over any part thereof, or be standing thereon, and then the public shall not be entitled to the use of the part of such street over which such conveyance shall be passing or about to pass, or upon which conveyance shall be standing: Provided that no such conveyance shall stand at any point in any street other than a terminus of the tramways, except for the purpose of taking up or setting down passengers.

11. Nothing
11. Nothing in this Act contained shall be construed to give the Company any right to the soil of any street in which they shall construct any tramway other than a right of user thereof for the purposes of this Act.

12. Subject to the provisions of this Act, the Company may from time to time open and break up any street for the purpose of making, forming, laying down, constructing, maintaining, or renewing the tramways.

13. Whenever the Company proceed to open or break up any street—

i. They shall give to the street authority thereof notice of their intention, specifying the time at which they will commence operations, and the portion of street proposed to be opened or broken up, such notice to be given seven days at least before the commencement of operations:

ii. They shall not open or break up any street except under the superintendence and to the reasonable satisfaction of the street authority thereof, unless such authority refuses or neglects to give such superintendence at the time specified in the Company's notice, or discontinues the same during the work:

iii. They shall pay to the street authority all reasonable costs incurred on account of such superintendence.

14. If any person shall wilfully obstruct any person acting under the authority of the Company in the lawful exercise of his powers in setting out or making, forming, laying down, repairing, or renewing any tramway, or shall deface or destroy any mark made for the purposes of setting out the line of any tramway, or shall wilfully damage or destroy any property of the Company, he shall, for every such offence, forfeit to the Company a sum not exceeding Five Pounds.

15. The Company shall not, without the consent of the street authority thereof, open or break up at any one time and place a greater length than one hundred yards of any street, and they shall leave an interval of at least three hundred yards between any two places at which they shall open or break up any street at the same time.

16. As soon as the Company shall have opened or broken up any portion of any street—

i. They shall, with all convenient speed, and in all cases within three weeks at the most from the time of opening or breaking up the same (unless the street authority thereof shall enlarge such time), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance,
maintenance, and renewal of the tramways) fill in the ground and make good the surface, and generally restore the portion of the street so opened or broken up to as good a condition as that to which it was before it was opened or broken up, and to the reasonable satisfaction of the street authority thereof, and clear away all surplus metal, material, or rubbish occasioned thereby, and remove the same to such spot in the municipality wherein any such street shall be situated, as the street authority of such street shall direct:

11. They shall in the meantime cause the place where the street is broken up to be properly lighted at night, for the protection of man and beast.

17. If the Company shall in any respect fail to comply with the provisions of the preceding section they shall for every such offence (without prejudice to any other remedy against them) be liable to a penalty not exceeding Twenty Pounds, and to a further penalty not exceeding Five Pounds, for each day during which any such failure shall continue after the first day on which such penalty is incurred; and all such penalties shall go and belong to the street authority of the street in question.

18. Nothing in this Act contained shall take away any power for the time being vested in any street authority to open or break up any street in which any tramway shall be laid for any necessary purpose of laying down, repairing, altering, removing, examining, or inspecting any sewer, gully, gutter, drain, watercourse, defence, or work, or altering the levels of any street: Provided that in the event of the levels of any street being altered, the Company shall alter the levels of the tramways to correspond with such alteration: Provided also, that in the exercise of such power the street authority and Company shall be subject to the following provisions—

1. The street authority shall cause as little detriment or inconvenience to the Company as circumstances will admit:

ii. Before commencing any work whereby the traffic on the tramways may be interrupted, or whereby the safety of any persons using the tramways may be endangered, the street authority shall (except in cases of urgency, in which cases no notice shall be necessary), give to the Company notice of their intention to commence such work, specifying the time at which they will commence, and which shall not be earlier than forty-eight hours after the time of the giving such notice:

iii. If the street authority for the purpose of enabling them to execute the work shall so require, by any notice given as aforesaid, the Company shall either stop their traffic on that portion of the tramways where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work, and the street authority shall thereupon complete the work with all reasonable expedition:

iv. If
40° & 41° VICTORIÆ, PRIVATE ACT.

The Adelaide, Unley, and Mitcham Tramways Act.—1877.

iv. If it shall become necessary to remove the tramways from any part of any street to enable any such work to be effected, it shall be lawful for the Company to lay down the tramways so removed in some adjacent and convenient position, and after such work shall have been effected to replace the tramway in its original position, and the cost of such laying down and replacing shall be borne by such persons.

Preservation of power of other persons.

19. Nothing in this Act contained shall take away any power for the time being vested in any persons to open or break up any street on which any tramway shall be laid for any necessary purpose of laying down, repairing, altering, removing, examining, or inspecting any pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes; but in the exercise of such power such persons shall be subject to the following restrictions—

i. They shall cause as little damage or inconvenience to the Company as circumstances will admit:

ii. Before commencing any work whereby the traffic on the tramway may be interrupted, or whereby the safety of any persons using the tramway may be endangered, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the Company notice of their intention to commence such work, specifying the time at which they will commence, and which shall not be earlier than forty-eight hours after the time of the giving of such notice:

iii. They shall not execute such work, so far as it immediately affects the tramways, except under the superintendence and to the reasonable satisfaction of the Company, unless the Company refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the work:

iv. If it shall become necessary to remove the tramway from any part of any street, to enable any such work to be effected, it shall be lawful for the Company to lay down the tramway so removed in some adjacent and convenient position, and after such work shall have been effected, to replace the tramway in its original position, and the cost of such laying down and replacing shall be borne by such persons.

Provision as to waterworks and gas companies.

20. For the purpose of making, forming, laying down, maintaining, repairing, or renewing any of their tramways, the Company may from time to time, where and as far as it is necessary, alter the position of any mains or pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes, subject to the following restrictions, that is to say—

i. Before laying down or altering a tramway in a road in which any mains or pipes, tubes, wires, or apparatus may be laid
(other than private service pipes), the Company shall, whether they contemplate altering the position of any such mains or pipes, tubes, wires, or apparatus or not, give seven days' notice to the person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, of their intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such person that the construction of the tramway as proposed would endanger the same, or interfere with or impede the supply of water or gas, or the telegraphic or other communication, such person may give notice to the Company to lower or otherwise alter the position of the said mains or pipes, tubes, wires, or apparatus, in such manner as may be considered necessary. And all alterations to be made under this section shall be made with as little detriment and inconvenience to the person to whom such mains, pipes, tubes, wires, or apparatus may belong, or by whom they are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such person, of their or his surveyor or engineer, if they or he think fit to attend after receiving not less than twenty-eight hours' notice for that purpose, which notice the Company are hereby required to give:

11 The Company shall not remove or displace any of the mains or pipes, valves, syphons, plugs, tubes, wires, or apparatus, or other works belonging to or controlled by any such person, or do anything to impede the passage of water or gas, or the telegraphic or other communication into or through such mains or pipes, without the consent of such person, or in any other manner than such person shall approve, until good and sufficient mains, pipes, valves, syphons, plugs, and other works necessary or proper for continuing the supply of water or gas, or telegraphic or other communication, as sufficiently as the same was supplied by the mains or pipes, tubes, wires, or apparatus proposed to be removed or displaced, shall at the expense of the Company have been first made and laid down in lieu thereof and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other Company, or of such person; or in case of disagreement between such surveyor and engineer and the Company, as an engineer appointed by the Corporation of the City of Adelaide shall direct:

111. The Company shall not lay down such pipes contrary to the regulations of any Act of Parliament relating to such water or gas or other Company, or relating to telegraphs.

21. Where any of the tramways or any other work connected therewith interferes with any sewer, drain, watercourse, defence, or work under the jurisdiction or control of the Corporation of the City of
of Adelaide, or the street authority, or with any sewers or works to be made or executed by the said Corporation or street authority, or in any way affects the sewerage or drainage of the district under their or any of their control, the Company shall not commence any tramway or work until they shall have given to the street authority fourteen days' previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of such street authority for the time being, with all necessary particulars, nor until such street authority shall have signified their approval of the same, unless they do not signify their approval, disapproval, or other directions within fourteen days after service of the said notice and particulars as aforesaid; and the Company shall comply with and conform to all reasonable directions and regulations of such authority in the execution of the said works, and shall provide new, altered, or substituted works in such manner as the said street authority shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to, or by reason of the tramways, and shall save harmless the street authority against all and every expense to be occasioned thereby; and all such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the street authority, at the reasonable costs, charges, and expenses in all respects of the Company; and when any new, altered, or substituted work as aforesaid, or any work or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the Company under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the street authority, and be maintained by them, as the case may be, as any sewers or works now or hereafter may be.

22. The Company shall be answerable for all accidents, damages, and injuries happening through the act or default of the Company, or of any person in their employment, by reason or in consequence of any of the works of the Company, and shall indemnify all street authorities and persons from all damages and costs in respect of such accidents, damages, and injuries.

23. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the end of three years from the passing of this Act.

24. The Tramways Nos. 1 and 2 shall be constructed, fit for passenger traffic between Adelaide and Mitcham, within two years from the passing of this Act, or within such further time, if any, from the end of such two years, as the Governor may see fit to allow; and upon the expiration of the said two years, or of such further time (if any) as may have been allowed as aforesaid, the powers by this Act granted to the Company for constructing such portion of the tramways shall cease to be exerciseable, except as regards such portion of the tramway as shall then be completed.

25. The
25. The Tramway No. 3 shall be constructed, fit for traffic, within three years from the passing of this Act, or within such further time (if any) from the end of such three years, as the Governor may see fit to allow, and upon the expiration of the said three years, or of such further time (if any) as may have been allowed as aforesaid, the powers by this Act granted to the Company for constructing such portions of the tramway shall cease to be exerciseable, except as regards such portion thereof as shall then be completed.

26. The Company shall at all times keep the tramways in good repair and working order, and after the end of the said two years, or of such further time (if any) as may have been allowed pursuant to the preceding section for constructing the tramways, the Company shall provide cars in sufficient numbers to travel along the tramways from the Adelaide terminal station to the Mitcham terminal station, at least six times each way between the hours of seven o'clock in the morning and eleven o'clock in the evening of every day except Sunday.

27. The Company shall at their own expense at all times maintain and keep in good condition and repair with such materials in such manner as the street authority shall direct, and to their satisfaction, so much of any road whereon any tramway of the Company is laid as lies between the rails of the tramway, and so much of the road as extends eighteen inches beyond the rails of and on each side of any tramway of the Company. If the Company abandon their undertaking or any part of the same, and take up any tramway or part of any tramway belonging to them, they shall with all convenient speed and in all cases within six weeks at the most (unless the said street authority otherwise consents in writing,) fill in the ground and make good the surface, and to the satisfaction of the said street authority restore the portion of road upon which such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work; and they shall in the meantime cause the place where the street is opened or broken up, to be fenced and watched, and to be properly lighted at night: Provided always, that if the Company fail to comply with the provisions of this section, the street authority, if they think fit, may themselves, at any time after seven days’ notice to the Company, open and break up the road, and do the work necessary for the paving, repair, and maintenance of the road to the extent in this section above mentioned instead of the Company, and the expense incurred by the said street authority in so doing shall be repaid to them by the Company.

28. The cars of the Company shall be drawn or propelled by motive power. The cars of the Company shall be drawn or propelled by horses or (with the annual written consent of the street authorities) engines; such engines to be noiseless and smokeless engines, or such other engines as may from time to time be approved of by the street authorities of the streets, through and in which it is intended and sought to use the same. Each engine shall be fitted with
with a self-acting brake, and no engine or car shall travel along any street in the City of Adelaide or in any of the towns or townships through which the tramways shall pass at a greater speed than shall be allowed by law, or by the by-laws of the street authority of the street through which such engine or car shall travel.

29. The Company may use on the tramways cars with flange wheels, or wheels specially or particularly adapted to run on a grooved rail, and subject to the provisions of this Act, the Company shall have the exclusive use of the tramways.

30. If any person other than the Company (except by agreement with the Company) shall wilfully use the rails of the tramways for the purpose of driving or propelling any conveyance thereon, such person shall forfeit and pay to the Company a sum not exceeding Twenty Pounds for every such conveyance using, and for every time that it uses, such rails.

31. The Company and any other person may from time to time make and enter into and carry into effect contracts, agreements, and arrangements for or with reference to the use by such other person of the tramways, and the tolls, rates, and charges to be paid for such use, and the terms and conditions of such user, and all incidental matters.

32. If any person, without lawful excuse, the proof whereof shall lie on him, shall wilfully do any of the following things, namely—

1. Interfere with, remove, or alter any part of a tramway of the Company, or of the works connected therewith:

2. Place or throw any stones, dirt, wood, refuse, or other material on any part of any tramway:

3. Do, or cause to be done, anything so as to hinder or obstruct any car lawfully using the tramways, or to endanger the lives of persons thereon or therein:

4. Hinder or obstruct, or endeavor to hinder or obstruct, any person from getting in or out of any car lawfully using the tramways, either by shepherding such car or otherwise:

5. Or knowingly aid or assist in the doing of any such thing:

he shall for every such offence, in addition to any proceedings by way of indictment or otherwise to which he may be liable, forfeit to the Company a sum not exceeding Twenty Pounds.

With respect to Tolls of all kinds:

33. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act (that is to say)—

For all passengers, animals, or goods, conveyed on the railway for a distance less than three miles, the Company may demand tolls and charges as for three miles: For
For a fraction of a mile beyond three miles, or beyond any greater number of miles, the Company may demand tolls and charges on animals and goods for such fraction in proportion to the numbers of quarters of a mile contained therein; and if there be a fraction of a quarter of a mile, such fraction shall be deemed a quarter of a mile; and, in respect of passengers, every fraction of a mile beyond an integral number of miles, shall be deemed a mile:

For a fraction of a ton, the Company may demand tolls according to the numbers of a quarter of a ton in such fraction; and if there be a fraction of a quarter of a ton, such fraction shall be deemed a quarter of a ton:

With respect to all articles except stone and timber, the weight shall be determined according to the usual avoirdupois weight: Provided that double rates may be charged on furniture, musical instruments, and other light goods, measuring more than two and a half cubic feet to one hundred pounds weight:

With respect to stone, fourteen cubic feet of stone shall be deemed one ton weight, and so in proportion for any smaller quantity:

And with respect to timber, not exceeding twenty feet in length—

Cedar logs and baulk timber, forty cubic feet to the ton:
Deals and boards, fifty cubic feet to the ton:
Palings, five feet in length, five hundred to the ton:
Palings, six feet in length, four hundred to the ton:
Laths, in bundles, imported, thirty-five bundles per ton; colonial, thirty bundles per ton:
Hardwood and other timber, by dead weight:
Timber exceeding twenty feet in length, by special agreement.

34. With respect to small parcels and single articles of great weight, notwithstanding the rates prescribed by this Act, the Company may demand and take any tolls not exceeding the following, that is to say—

For the carriage on the railway of small parcels, as follows—

For any parcel not exceeding twenty-eight pounds in weight, three half-pence per mile:
For any parcel not exceeding fifty-six pounds in weight, twopence per mile:
For any parcel not exceeding one hundred and twelve pounds in weight, threepence per mile:
For any parcel or article exceeding that weight, one penny per mile for every additional twenty-eight pounds in weight:

Provided
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 the term "small parcels" shall apply only 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 Company shall demand such sum as they shall think fit:

Provided always that the Company shall not be bound to have a sufficient staff or appliances for loading or placing in, or unloading or taking out of their stations, carriages, trucks, or conveyances any article exceeding one hundred and twelve pounds in weight; but the person wishing to transmit the same shall, if required by the Company so to do, have the same loaded or placed, at his own expense and risk, in the carriage, truck, or other conveyance provided by the Company for that purpose, and shall also, if required by the Company so to do, undertake to have the said articles unloaded from the carriage, truck, or other conveyance, and removed from the Company’s premises at his own expense and risk, and within a reasonable time after the arrival of the said carriage, truck, or other conveyance, at the place to which the Company had undertaken to carry the said article.

35. It shall not be lawful for the Company to load or unload any stone, timber, or other heavy goods, or any other goods (other than ordinary passengers' luggage) in or upon any public street or road without the consent of the street authority of such street or road.

36. The maximum rate of charge to be made by the Company for the conveyance of passengers upon the tramways, including the tolls for the use of the tramways, and for carriages and steam or horse power, and every other expense incidental to such conveyance, shall not exceed the following, that is to say—

For every passenger conveyed the sum of two pence per mile.

37. The maximum rate of charge to be made by the Company for the conveyance of animals and goods on the tramways, including the tolls for the use of the tramways, and for waggons or trucks and steam or horse power, and for every other expense incidental to the conveyance (except a reasonable charge for loading and unloading goods at any terminal station in respect of those animals or goods, and for removal, delivery, and collection thereof, and for any other service incidental to the business or duty of a carrier, where any such service is performed by the Company) shall not exceed the following sums, that is to say—

For every horse, ass, mule, or other beast of burden, sixpence per mile:

For every ox, cow, bull, or neat cattle, twopence per mile:
For every calf, sheep, lamb, pig, or other small animal, one penny per mile:

For every carriage, piece of machinery, or for any other goods, the sum of one shilling per ton per mile.

38. Every passenger travelling upon the tramways may take with him his ordinary personal luggage without any charge being made for the carriage thereof, but so that the weight of such luggage shall not exceed twenty-eight pounds.

39. No station shall be considered a terminal station in regard to any goods conveyed on the tramways, unless such goods have been received theretof direct from the consignor, or are directed to be delivered thereto to the consignee, or to some other person on account of the consignor or consignee.

40. No provision in this Act contained shall prevent the Company from taking (over and above the charges by this Act limited for the conveyance of animals or goods of any description, and by agreement with the owners or persons in charge thereof), and increased charges, either by reason of any special service performed by the Company in relation thereto, or in respect to the conveyance by passenger trains of animals or of goods (other than small parcels).

41. The owners, consignors, or consignees of animals or goods carried on the tramways, shall remove the same from their place of destination within a reasonable time after their arrival, to be fixed by the Company by by-law, and in default of such removal such owners, consignors, or consignees, shall be liable to pay to the Company such reasonable charge until such removal, as shall be fixed by the Company by by-law.

42. A list of all the tolls and charges authorized by this Act to be taken, and which shall be demanded by the Company, shall be exhibited in some conspicuous place in the inside of each of the cars used by the Company upon the tramways.

43. The tolls and charges authorized by this Act to be taken, and which shall be demanded by the Company, shall be paid to such persons and at such places upon or near the tramways, and in such manner and under such regulations as the Company shall by notice to be annexed to the list of tolls appoint.

44. If any person travelling, or having travelled in or on any car of the Company shall avoid or attempt to avoid payment of his fare, or if any person having paid his fare for a certain distance shall proceed in or on any such car beyond such distance, and shall not pay his fare for the additional distance, or shall attempt to avoid payment thereof; or if any person refuse or neglect on arriving at the point to which he has paid his fare to quit such car, every such person
person shall for every such offence forfeit to the Company a sum not exceeding Forty Shillings.

45. It shall be lawful for any officer or servant of the Company, and all persons called by him to his assistance, to seize any person who shall be discovered to be committing any offence in the preceding section mentioned, and whose name and residence shall be unknown to such officer or servant, and to detain such person until he can be conveniently taken before a Justice, or until he be otherwise discharged by due course of law.

46. No person shall carry on the tramways any aquafortis, oil of vitriol, gunpowder, or other goods which may be of a dangerous nature; and if any person shall carry such goods on the tramways he shall forfeit any sum not exceeding Twenty Pounds for every such offence; and it shall be lawful for any authorized servant of the Company, or any constable or Justice of the Peace, to require any parcel that they may suspect to contain any such goods to be opened in order to ascertain the fact.

47. The restrictions in this Act contained as to the tolls and charges which the Company may demand and take for the conveyance of passengers shall not extend to any special car, but shall apply only to the ordinary cars appointed by the Company from time to time for the conveyance of passengers.

48. If at the time after the tramways shall have been for one year opened for public traffic, it shall be represented in writing to the Governor by the street authority of any street in which the tramways are laid that, in the opinion of such street authority, the tramways, or some specified part thereof, are, or is, dangerous or inconvenient to the public, and ought to be removed or modified, the following provisions shall have the effect—

1. The Governor may, by order under his hand, require the Company to remove or modify the tramways or the part thereof specified as aforesaid:

2. If the Company, within one calendar month after the service of such order, shall give notice in writing under their common seal to the Governor, that they desire that the question as to the necessity or expediency of the removal or modification ordered shall be referred to the decision of an arbitrator to be appointed by the Governor, the question shall be referred accordingly; and upon the application either of the Company or of the street authority, the Governor shall appoint some impartial person as arbitrator, and the award of the arbitrator with reference to the question referred to him shall be final and conclusive as against all parties, and the arbitrator by his award may, if he thinks fit, direct the removal or modification of the tramways:

iii. Within
III. Within six calendar months after service upon the Company of the order of the Governor directing the removal or modification of the tramways, or if the Company shall have given notice as aforesaid of their desire that the question as to the necessity or expediency of such removal or modification should be referred, then, within six calendar months after the publication of the award of any arbitrator appointed by the Governor directing the removal or modification of the tramways, or within such earlier time if any as may be limited by such order or award, the Company shall remove or modify the tramways pursuant to the directions contained in such order or award, the Company shall make good the street in which the tramways removed or modified were or are situate to the reasonable satisfaction of the street authority thereof: Provided that if any modification which the Company may be required to make in the tramways by any such order or award shall be beyond their then existing powers, the Company shall, as soon as conveniently may be, apply to Parliament for the necessary powers to make such modification, and the provisions contained in the next paragraph shall not have effect until the expiration of three calendar months after the Bill to be introduced into Parliament by the Company in compliance with this provision shall have become law, unless such Bill shall be rejected by Parliament or withdrawn:

iv. If the Company fail to remove or modify the tramways in accordance with the order or award, as the case may be, or to make good the street in manner aforesaid, the removal, modification, or making good may be effected by the street authority of the street in which such tramways are situate, and the amount of the cost thereof, certified by the clerk for the time being of such street authority (whose certificate shall be final and conclusive with reference thereto) shall be repaid to the street authority by the Company on demand:

v. If the Company fail to pay the amount so certified within one calendar month after delivery to them of the certificate or a copy of the certificate of the clerk of the street authority, the street authority (without prejudice to any other remedy which they may have for the recovery of the amount) may sell and dispose of any materials of the tramways removed or modified which may remain in their hands, either by public auction or private sale, for such price as the street authority shall think fit, and may out of the proceeds of such sale, pay and reimburse themselves the amount of the cost certified as aforesaid, and all charges and expenses of and incidental to such sale, and the balance (if any) of the proceeds of such sale shall be paid by the street authority to the Company.

49. If at any time after the opening of the tramways for traffic the Company shall discontinue the working thereof for the space of six months in consequence of dis-
The Adelaide, Unley, and Mitcham Tramways Act.—1877.

six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the Company), it shall be lawful for the street authority of any street to remove the tramways situate in such street, the working whereof shall be so discontinued as aforesaid, and the amount of the cost of such removal and making good, certified by the clerk for the time being of such street authority (whose certificate shall be final and conclusive with reference thereto), shall be repaid to the street authority by the Company on demand; and if the Company fail to pay the amount so certified within one calendar month after delivery to them of such certificate, or a copy thereof, the street authority (without prejudice to any other remedy which they may have for the recovery of the amount), may sell and dispose of the materials of the tramways so removed, and apply the proceeds of such sale in manner provided by the last preceding section.

50. If at any time hereafter it shall appear to any street authority that the Company are insolvent so that they are unable to carry out the undertaking with advantage to the public, and the street authority shall make a presentation to that effect to the Governor, the Governor may direct an inquiry into the truth of the representation, and if the referee shall find that the Company are so insolvent, the Governor may by order under his hand declare that the powers of the Company under this Act shall cease and determine on the expiration of six months from the date of such order, and (unless Parliament shall in the meantime otherwise declare) such powers shall cease and determine accordingly; and it shall be lawful for the street authority of any street at any time after the expiration of the said six months to remove the tramways situate in such street, and to restore the same to its original state and condition, and to sell and dispose of the materials of the tramways in manner hereinbefore mentioned, and out of the proceeds of such sale to pay and reimburse themselves the amount of the costs (to be certified by the clerk of the street authority, whose certificate shall be final and conclusive) of the removal of the tramways, and restoration of the street, and of and incidental to the sale, and the balance, if any, of the proceeds of the sale, and shall be paid over by the street authority to the Company.

51. Every inquiry which by this Act the Governor is empowered to direct shall be made in accordance with the following provisions—

1. The inquiry shall be held before an officer (hereinafter called the referee) to be appointed in that behalf by the Governor, and the appointment of the referee shall be in writing which shall specify all the matters referred to him:

11. Ten days' written notice at the least shall be given by the referee to the Company, and to the street authority upon whose representation the Governor shall have directed the inquiry, of the time and place at which the inquiry is to be commenced:

111. The
111. The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time, as may be necessary, to such time and place as he may think fit:

iv. The referee, either on the application of the Company or of the street authority aforesaid, shall by summons require the attendance before himself, at a place and time to be mentioned in such summons, of any person to be examined as a witness before him; and every person summoned shall attend the referee in obedience to such summons, and answer all questions touching the matter to be inquired into:

v. The referee shall administer an oath to any person summoned or tendered as a witness on the inquiry:

vi. The referee shall make his report to the Governor in writing, and shall deliver copies of his report upon request to all or any of the parties to the inquiry:

vii. The referee shall have power to direct by and to whom the costs, or any part of the costs of the inquiry, shall be paid, and he shall also fix the amount thereof:

viii. The referee shall for all purposes be deemed to be an arbitrator, and his appointment shall be deemed to be a submission to arbitration between the parties to the inquiry in respect of the matters thereby referred to him, and his report shall be deemed to be, and shall have the effect of and be dealt with as, an award made upon such submission, and every such submission on the application of any party interested in the inquiry may be made a rule of the Supreme Court.

52. It shall be lawful for the Company from time to time to make by-laws for preventing the commission of any nuisance in or upon any car, or on any of the premises of the Company, and for regulating the travelling upon or using and working of the tramways, and the conduct of the officers and servants of the Company, and generally for providing for the management of the affairs of the Company, and it shall also be lawful for the Company from time to time to repeal or alter any such by-laws: Provided that such by-laws be not repugnant to law.

53. Any person offending against any by-law of the Company shall forfeit for every such offence any sum not exceeding Five Pounds, to be imposed by the Company in such by-laws as a penalty for any such offence; and if the infraction or non-observance of such by-laws be attended with danger or annoyance to the public, or hindrance to the Company in the lawful use of the tramways, it shall be lawful for the Company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to the penalty incurred by the offender.
54. A copy of all by-laws made by the Company shall be sealed with the seal of the Company, and submitted for approval to the Governor, who, on being satisfied that the same are framed in conformity with law, and are reasonable and proper, may confirm the same by writing under his hand; and no by-laws made by the Company shall have any force or effect until the expiration of fourteen days after a copy of such by-laws and of the confirmation thereof by the Governor shall have been published in the Government Gazette.

55. It shall be lawful for the Governor at any time to notify to the Company his disallowance of any by-laws then in force, and the time at which the same shall cease to be in force; and no by-laws which shall be so disallowed shall have any force or effect after the time fixed by the notice of such disallowance, saving in so far as any penalty may have been then already incurred under the same: Provided that a copy of such notice shall be published in the Government Gazette; and the time of disallowance fixed by such notice shall not be earlier than fourteen days after the date of the first publication of such notice.

56. The production of a copy of the Government Gazette containing any notice purporting to be a copy of any by-laws of the Company, and of the confirmation thereof by the Governor, or of the disallowance by the Governor of any by-laws of the Company, shall in all cases and for all purposes be deemed to be conclusive evidence that such by-laws have been duly made and confirmed or disallowed, in manner stated in such notice.

57. Every notice by this Act required to be given by, or to the Company, shall be in writing or print, or partly in writing or partly in print, and shall be signed by the Company, street authority, or persons giving the same, or by their secretary or clerk; and such notice shall be deemed to have been duly given if left at the principal office of the Company, street authority, or persons to whom the same shall be intended to be given, or if posted in a registered letter, prepaid, addressed to such Company, street authority, or persons, or their secretary or clerk, at their principal office: Provided that if such notice shall be posted as aforesaid, the same shall be deemed to have been given at the last moment of the day on which the same ought to be delivered at such principal office in the ordinary course of post.

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

59. Every proceeding under this Act for any omission, default, offence, or act to which any penalty is attached, where no other mode
of proceeding is by this Act provided, may be had and taken before and 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, intituled "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 in force 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 made by such Magistrate or Justices may be enforced as in the said Ordinance or in any other Act as aforesaid is or shall be provided.

60. There shall be an appeal to the Local Court of Adelaide of Full Jurisdiction only from every conviction by any Special Magistrate or Justices for any offence against this Act; and from every order dismissing any information or complaint, or from any other order made by such Magistrate or Justices under this Act, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance No. 6 of 1850, for appeals to Local Courts, or any Act to be hereafter in force regulating such appeals; but the Local Court of Adelaide aforesaid shall also have power to make such order as to the payment of the costs of the appeal as it shall think fit, although such costs may exceed Ten Pounds.

And with respect to the Borrowing of Money by the Company on Mortgage or Bond:

61. The Company may from time to time borrow, for the purposes of this Act, on mortgage or bond, such sum of money, not exceeding in the whole Twenty Thousand Pounds, as any general meeting of the Company shall authorize the borrowing of; but no money shall be borrowed until two-thirds of the capital of Twenty-five Thousand Pounds shall have been subscribed for, and one-half thereof paid up; nor until the Company has proved to the satisfaction of a Justice of the Province of South Australia, and obtained from him a written certificate, signed by himself, to the effect that satisfactory proof has been given to him that two-thirds of the capital has been issued and accepted, that one-half thereof has been paid up, and that not less than one-tenth part of the amount of each separate share has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same.

62. Upon any application to a Justice for such certificate, there shall be produced to him a copy of the Company's order authorizing the borrowing of the money, and such copy shall be certified by one of the directors, or by the secretary of the Company, to be a true copy of such order, and shall be to the Justice sufficient evidence of the facts that the requisite amount of capital has been issued and accepted and paid up, and that such order has been duly made.

63. Upon
63. Upon production to the Justice of such certificate, and of the books of the Company (if he requires their production), and of such (if any) other evidence as he shall think sufficient, he shall grant a certificate to the effect as aforesaid, and his certificate shall be sufficient evidence that such proof was so given.

64. The Company, if it repays the whole or any part of any sum of money borrowed on mortgage, or on bond, under the powers granted in that behalf by this Act, may again borrow the whole or a portion of the amount paid off, and so from time to time; but, unless the money be reborrowed for the purpose of paying off any then existing mortgage or bond of the Company, the power to re-borrow shall not be exercised without the authority of a general meeting of the Company.

65. Every mortgage and bond for securing the repayment of money borrowed by the Company shall be made by deed under the common seal of the Company, and the consideration shall be truly stated therein; and every such indenture of mortgage or bond shall be in the respective forms set forth in the Schedule to this Act annexed, or in some form to the like effect; but no such indenture of mortgage shall contain any provision securing, or purporting to secure, further advances.

66. The respective mortgagees and their assigns of the Company shall one with another be entitled to their respective proportions of the tolls, sums, and premises comprised in their respective indenture of mortgage, and of the future calls (if comprised therein) payable by the shareholders according to the sums in such indenture of mortgage respectively mentioned to have been advanced by the respective mortgagees, and to be repaid respectively the sums so advanced, with interest at the rate mentioned in such indentures of mortgage, without any preference one above another by reason of priority of the date of any such indenture of mortgage, or of the meeting at which the borrowing of the money secured thereby was authorized.

67. Notwithstanding that any such mortgage security comprises future calls on the shareholders of the Company, the moneys paid in respect of each such call shall, unless the indenture of mortgage expressly provides the contrary, be received by the Company and applied to its purposes; and any shareholder of the Company who shall, without notice in fact of such express provision having been made, pay to the Company any money in respect or on account of any such call, shall not be liable for the same or any part thereof to the mortgagee.

68. The respective obligees in such bonds, and their assignees, shall, rateably, according to the amount of the moneys secured thereby, be entitled to be paid out of tolls or other property or effects of the Company, the respective sums mentioned in such bonds,
and intended to be thereby secured, without any preference one
above another by reason of priority of date of any such bond, or of
the meeting at which the borrowing of the moneys thereby secured
was authorized, or otherwise howsoever.

69. A register of mortgages and bonds shall be kept by the
secretary of the Company, and within fourteen days after the date
of any such mortgage or bond, an entry or memorial specifying
the number and the date of such mortgage or bond, and the sum
of money secured thereby, and the names of the parties thereto,
with their proper additions, shall be made in such register, which
may at all reasonable times be perused without fee or reward by
any shareholder, or mortgagor, or bond-creditor of the Company, or
by any person interested in such mortgage or bond, or by any person
authorized to act on behalf of any such mortgagee, bond-creditor or
person.

70. Any person entitled to any such mortgage or bond may, from
time to time, transfer his right and interest therein to any other
person, and every such transfer shall be made by a deed in which
the consideration for the transfer shall be truly stated, and every
such transfer shall be according to the form in the Schedule to this
Act annexed, or in a form to the like effect; and every deed of
transfer in which the consideration is not truly stated shall be void.

71. Within thirty days after the date of the execution of each
such deed of transfer (if it be executed within the Province of South
Australia), or within thirty days after its arrival therein (if it be
executed elsewhere), it shall be produced to the Company’s secretary,
who shall thereupon cause an entry or memorial thereof to be made,
in the manner hereinbefore prescribed, with respect to the original
indenture of mortgage or bond. After such entry or memorial has
been made, the transferee named in such deed of transfer shall be
entitled under it to the full benefit of the original mortgage or
bond, in all respects; and the person by whom such transfer has
been made shall not have power to make void, release, or discharge
the mortgage or bond so transferred, or the whole or any part of the
money thereby secured. For making such entry the Company may
demand, from the person requiring it to be made, the sum of Two
Shillings and Sixpence, but the Company shall not be bound to make
such entry until such sum has been paid, nor shall the Company be
in any manner responsible to such transferee in respect of such
mortgage or bond, until such entry has been made, and the secretary
has been paid such sum of Two Shillings and Sixpence, and duly
required to make such entry. Every such deed of transfer which is
executed out of the said Province, or a copy thereof, shall, within
thirty days after its execution, be transmitted to the Company’s
secretary for registration.

72. The interest of the mortgage debts and bond debts respectively
shall, at the times named in the mortgages and bonds respectively
for
for payment of such interest, be paid to the several persons entitled thereto, and in preference to any dividends payable to the shareholders of the Company, but shall not be transferred except by deed. If times for payment of the interest be not named in any bond or indenture of mortgage, the interest on the moneys thereby respectively secured shall be paid half-yearly, and the first payment thereof shall be made at the expiration of six months from the date at which the moneys thereby respectively secured were paid to the Company.

73. The Company may, if they think proper, fix a day on which the principal moneys so borrowed with the interest thereon shall be repaid, and shall on or before that day repay the same to the person entitled thereto; and the day (if any) so fixed shall be specified in the bond or indenture of mortgage. If the whole or any part of the principal moneys so borrowed or of the interest (if any) due thereon shall on the day after that specified for the repayment thereof remain unpaid, the person entitled thereto may forthwith sue the Company, for the recovery thereof.

74. Repayment of the whole or of any part of the principal moneys so borrowed, and payment of the interest thereon, shall in all cases be made at the Company's principal office or place of business, unless some other place be named for that purpose in the indenture of mortgage or bond; and the Company shall always have its principal office or place of business in the City of Adelaide, in the Province of South Australia.

75. If in any indenture or mortgage or bond a time for the repayment of the principal money be not fixed, the person entitled thereto may at or at any time after the expiration of one year from the date of such indenture of mortgage or bond, demand repayment of such principal moneys, and payment of all (if any) arrears of interest due thereon, provided that a notice (in writing, or in print, or in both,) of the intention to make such demand, has at least six months before the making thereof, been given to the Company by or on behalf of the person who, at the time of the giving of such notice, is entitled to such principal moneys; and if the whole or any part of the principal moneys, or of the interest (if any) due thereon, shall at the expiration of one week from the day on which such demand is made remain unpaid, the person entitled thereto may forthwith sue the Company for the recovery thereof.

76. If in any indenture of mortgage or bond a time for repayment of the principal moneys be not fixed, the Company may at, or at any time after the expiration of one year from the date of any such indenture of mortgage or bond respectively, repay to the person entitled thereto the principal moneys secured thereby respectively, and pay all (if any) arrears of interest due thereon, provided that a notice (in writing, or in print, or both), expressing the intention of the Company to make such repayment and payment, and requiring the person entitled
entitled to such principal moneys and interest to attend, on a day named in such notice, at the principal office or place of business of the Company (or if a place has been named for that purpose in the indenture of mortgage or bond, then requiring attendance at such place) has, at least six months before the day in such notice named for such attendance, been given by the Company to the person who is at the time of the giving of such notice entitled to such principal moneys and interest, and such person shall, personally, or by some agent authorized by him in writing to receive such principal moneys and interest, and to give a proper discharge for the same, attend on the day and at the place named in such notice, and receive such principal moneys and interest, and give a proper discharge therefor.

77. Every such notice of an intention to demand repayment of the principal moneys secured by any indenture of mortgage or bond, and payment of the interest thereon, shall be delivered to the secretary of the Company, or left at its principal office or place of business; and every such notice of an intention on the part of the Company to repay such principal moneys, and pay the interest thereon, shall be delivered to the person entitled thereto, or shall be left at, or sent by post to, some place situate within the Province of South Australia, and named in the indenture of mortgage or bond, as his address, or to such other address within the said Province as the person for the time being entitled to such principal moneys and interest, shall, from time to time, furnish in writing to the Company. If an address is not mentioned in the indenture of mortgage or bond, and the person entitled to the principal moneys and interest has not furnished an address in writing to the Company, then such notice shall be given by an advertisement published once in the South Australian Government Gazette, and in some one or more of the newspapers, which shall then be published daily in the City of Adelaide.

78. Whenever the Company has given (as in this Act is provided) to any such mortgagee or bond creditor, notice of their intention to repay the principal moneys and pay the interest thereon at a time when the Company is entitled to make such repayment and payment, then, from and after the day named in such notice for such repayment and payment, interest shall cease to accrue on, or be payable in respect of, such principal moneys, unless the Company shall fail to make such repayment and payment on the day named in such notice for that purpose, if the person entitled to such principal moneys and interest personally, or by some agent authorized by him in writing to receive such principal moneys and interest and to give a proper discharge therefor, attends on the day named in such notice at the Company's principal office or place of business to receive the principal moneys and interest, and to give a proper discharge for the same.

79. All or any of the mortgagees of the Company may severally, or in conjunction with each other, enforce, by obtaining the appointment of a receiver, the payment of arrears of interest due on any mortgage.
mortgage debt or debts due to him or them, or the repayment of such debt or debts, and payment of the interest due thereon. In order to authorize the appointment of a receiver the amount owing to the applicant mortgagee or mortgagees for interest or for principal moneys shall not be less than the sum of Five Thousand Pounds in the whole.

80. Whenever the arrears of interest due to any mortgagee or mortgagees of the Company amount to the sum of One Thousand Pounds, and have remained unpaid for thirty days after the day or days on which they became payable, the person or persons to whom such arrears of interest are due may, after having respectively made on the Company a written demand for payment thereof, but without prejudice to his or their right to sue at law or in equity for such arrears of interest, by an application to be made in the manner hereinafter mentioned, require the appointment of a receiver.

81. Whenever any mortgage debt or debts of the Company have, without the consent of the mortgagee, remained unpaid for six months after they became repayable, and amount to the sum of Two Thousand Pounds, the person or persons to whom they are due may, after respectively making on the Company a written demand for the repayment of the respective sums due to them, but without prejudice to his or their right to sue at law or in equity for any such mortgage debt or debts, together with all arrears of interest due thereon, require the appointment of a receiver in the manner hereinafter mentioned.

82. Every application for a receiver under either of the last two sections shall be made to a Judge of the Supreme Court of the Province of South Australia; and they may, when any such application has been made, after hearing the applicant mortgagee or mortgagees, or any practitioner of the Supreme Court of the Province of South Australia, acting on his or their behalf, and if the Company oppose such application, after hearing them by their secretary, or by some such practitioner acting on the behalf of the Company, appoint some fit person to receive the whole, or a competent part of the tolls or moneys liable to the payment of such interest, or the repayment of such mortgage debt or debts, as the case may be, until there has been made full payment of such interest, and full repayment of such mortgage debt or debts, as the case may be, together with all costs of the applicants, properly or necessarily incurred in making, or in respect of the said application, and also all costs, charges, and expenses, properly or necessarily incurred in receiving and collecting the aforesaid sums and tolls, and in paying over the same to the applicants.

83. After such appointment has been made by a Judge, and after a true copy of the order whereby such appointment is made, has been delivered to the Company’s secretary, or left at its principal office or place of business, all tolls and sums of money which are liable
liable to pay such interest and repay such principal, and which the Company may receive, shall be paid by the several persons receiving them, or by the Company to the person appointed receiver thereof by such order; and shall be received by him to the use of the applicant mortgagee or mortgagees, and his or their transferees; and shall be applied by the receiver to pay, in the first place, all the aforesaid costs, charges, and expenses; and the surplus, if any, shall be applied in paying to the applicants, rateably, the amounts due to them respectively.

84. The power and authority of the receiver shall determine whenever all such costs, charges, and expenses, arrears of interest, and mortgage debt or debts have been fully paid, and the surplus receipts, if any, shall be then paid by him to the Company.

85. At all reasonable times the Company's books of account shall be open to the inspection of every mortgagee and bond-creditor of the Company, and of any person acting on his behalf, and every such mortgagee, bond-creditor, or person shall be entitled to make extracts therefrom without fee or reward.

86. All interest for the time being due on any money borrowed on mortgage under this Act, and all such principal moneys from the times at which they respectively are advanced, shall have against the Company and against the property, from time to time, of the Company, priority over all other claims on account of any debt to be incurred or engagement to be entered into by them: Provided always that such priority shall not prejudice or affect any claim, right, or remedy against the Company or their property, in respect of any rent charge to be granted by them in pursuance of "The Lands Clauses Consolidation Act," or any Ordinance or Act whereby it has been amended; nor shall any provision hereinbefore contained prejudice or affect the lien of any unpaid vendor for the unpaid purchase-money of any land taken from him by the Company for the purposes of the railway.

87. In each year after the completion of Tramway No. 1 the Company shall pay to the street authority of every street in which they shall have constructed any part of the Tramway No. 1 rates calculated on the sum of Two Hundred Pounds, and in each year after the completion of the Tramway No. 2 the Company shall pay to the street authority of every street in which they shall have constructed any part of the Tramway No. 2 rates calculated on the sum of Fifty Pounds, and in each year after the completion of the Tramway No. 3 the Company shall pay to the street authority of every street in which they shall have constructed any part of Tramway No. 3 rates calculated on the sum of Twenty Pounds, as the respective annual values of the said Tramways Nos. 1, 2, and 3, for every mile in length of the streets of such street authority along which such Tramways shall be constructed, in the same manner as rates declared and levied upon rateable land.
rateable property by virtue of the Municipal Corporations Act, 1861, or of any Act amending the same; and such rates shall form portion of the general revenue of such street authority: Provided that save as in this section provided neither the tramways nor any works connected therewith, nor the cars, horses, rolling-stock, or other things used in working the tramways shall be liable to the payment of any municipal, district, or other local rates or taxes whatever.

88. At any time after the expiration of fourteen years from the passing of this Act, and before six months thereafter, and at any time after the expiration of every period of seven years thereafter, and before six months after any such period, it shall be lawful for the Corporation of the City of Adelaide to purchase the said tramways and the whole undertaking, on giving to the Company six calendar months' notice in writing of such intention, on payment to the Company of an amount to be ascertained as follows, that is to say—Two arbitrators shall be appointed by the said Corporation, two arbitrators by the Company, and all matters relating to such purchase shall be submitted to the decision of such arbitrators; and in all other respects such arbitration shall be conducted in accordance with and under and subject to the Railways Clauses Consolidation Act, No. 7 of 1847: Provided that the Corporation shall not be compelled to abide by the event of the award, if the said Corporation shall give to the Company one month's notice in writing to that effect, and thereupon the Company shall be at liberty to carry on and work the said tramways: And provided also that the said Corporation shall pay the cost of the reference and award, and all costs and charges incidental thereto.

89. In the event of a sale of the undertaking being made to the said Corporation under the provisions of this Act, the Corporation shall be subject to the provisions of this Act with respect to the construction, maintenance, use, and working of the tramways hereby authorized, and the conveyance and regulation of the traffic thereon, and shall be bound to perform and observe all the obligations and conditions by this Act imposed on the Company with respect to the several matters above-mentioned, in the same manner and to the same extent and effect as if the said Corporation had been authorized by this Act to construct such tramways, and had been named in this Act instead of the Company.

90. If the said Corporation purchase the undertaking as aforesaid, they may lease from time to time, to any person or body, the right of use of the tramways so acquired by the said Corporation, and of demanding and taking in respect thereof the tolls and charges authorized by this Act; or they may leave the said tramways so acquired by them open to be used by the public, and may demand and take the tolls and charges authorized by this Act; or they may place and run carriages thereon and demand and take tolls and charges in respect of the use of such carriages, not exceeding the tolls and charges authorized by this Act.

91. The
The Adelaide, Unley, and Mitcham Tramways Act.—1877.

91. The Corporation of the City of Adelaide shall have the like power of making and enforcing rules and regulations, and of granting licences with respect to all carriages using the tramways, and to all drivers, conductors, and other persons having charge of or using the same, and to the standings for the same, as they are for the time being entitled to make, enforce, and grant, with respect to the hackney carriages and the drivers, and other persons having the charge thereof, and to the standings for the same in the streets of or under the control of the Corporation.

92. Nothing in this Act shall limit or affect the power of any street authority to regulate the passage of any traffic along or across any street in which the tramways shall be constructed, and such street authority may exercise any such power as well on as off the tramways, and with respect as well to the traffic of the Company as to the traffic of other persons.

93. Nothing in this Act contained shall affect any right, title, or interest of Her Majesty, Her heirs, or successors. And nothing herein contained shall be construed to give the Company any claim to compensation in the event of the Government being at any time hereafter authorized to construct any line or lines of railway or tramway, the construction of which may or may be supposed to injuriously affect the undertaking hereby authorized.

94. This Act shall be deemed and taken to be a Public Act, and shall be judicially noticed as such within the Province without being specially pleaded.

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

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULE.
SCHEDULE

Form of Indenture of Mortgage.


By virtue of an Act of the Parliament of the Province of South Australia, passed in the Session holden in the and years of the reign of Her Majesty Queen Victoria (No. ), and intituled

and of all and every other the Ordinances and Acts relating to our undertaking, we, The Adelaide, Unley, and Mitcham Tramway Company, Limited, in consideration of the sum of £ paid to us by do assign unto the said h executors, administrators, and assigns, the said undertaking [and (in case the loan shall be in anticipation of the capital authorised to be raised) all future calls on shareholders], and all the tolls and sums of money arising by virtue of the said Act, and all the estate, right, title, and interest of the Company in the same, to hold unto the said h executors, administrators, and assigns, until the said sum of £ , together with interest, payable half-yearly, for the same, at the rate of for every One Hundred Pounds by the year, be satisfied. The principal to be payable on day of , 18 , as hereinafter mentioned; and in the same time the said Company, in respect of the said principal sum, to pay to the bearer of the coupons or interest warrants hereto annexed at the times specified therein the several sums mentioned in such warrants: Provided also, and these presents are made upon this express condition, that the said h executors, administrators, or assigns shall not nor will call in or require payment of the said principal sum or any part thereof on the said day of , 18 , or any time thereafter, nor take any proceedings for recovering the same, without first giving to the said The Adelaide, Unley, and Mitcham Tramway Company, Limited, their successors or assigns, calendar months’ notice in writing; neither shall the said The Adelaide, Unley, and Mitcham Tramway Company, Limited, their successors or assigns, pay off the said principal sum, or any part thereof on the said day of , 18 , or at any time thereafter, without first giving the like notice to the said h executors, administrators, or assigns in the manner pointed out by the above-mentioned Act; and that such payment shall not be required to be made or accepted at any period other than the day of in any year.

Given under our common seal this day of , in the year of our Lord one thousand eight hundred and .

Attested and registered by Secretary.

Form of Bond.

The Adelaide, Unley, and Mitcham Tramway Company, Limited.

Bond No. £ .

By virtue of an Act of the Parliament of the Province of South Australia, passed in the Session holden in the and years of the reign of Her Majesty Queen Victoria (No. ), and intituled and of all and every other the Ordinances and Acts relating to our undertaking, we, The
The Adelaide, Unley, and Mitcham Tramways Act.—1877.

The Adelaide, Unley, and Mitcham Tramway Company, Limited, in consideration of the sum of £ to us in hand paid by of , do bind ourselves and our successors unto the said , h executors, administrators, and assigns in the penal sum of £:

The condition of the above obligation is such that if the said Company shall pay to the said , h executors, administrators, or assigns [at ], on the day of , which will be in the year of our Lord one thousand eight hundred and eight hundred and together with interest for the same at the rate of £ per centum per annum, payable half-yearly on the day of and the day of in each year, then the above-written obligation is to become void, otherwise to remain in full force.

Given under our common seal this day of , one thousand eight hundred and

Form of Deed of Transfer of Mortgage or Bond.

I, of , in consideration of the sum of £ paid to me by , of , do hereby transfer to the said , h executors, administrators, and assigns, a certain bond [or mortgage as the case may be] number in the Register of the Company, and made by The Adelaide, Unley, and Mitcham Tramway Company, Limited, to , and bearing date the day of , 18 , for securing the sum of £ , and £ interest [if the transfer is made by the deed endorsed on the security, omit all the words after “assigns,” and substitute “the within security”] and all my right, estate, and interest in and to the money thereby secured. [If the transfer be one of a mortgage, add these words—“and in and to the tolls, moneys, and property thereby assigned”] In witness hereof I have hereunto set my hand and seal, this day of , one thousand eight hundred and