Private Act.

An Act to authorize the Construction of a Railway from Adelaide to Glenelg, and for other purposes.

[Assented to, 23rd November, 1871.]

WHEREAS a Joint-Stock Company, under the name of "The Adelaide, Glenelg, and Suburban Railway Company, Limited," has been lately incorporated under "The Companies Act, 1864," in the City of Adelaide, in the Province of South Australia, for the purposes (amongst others), of constructing a railway in and from King William-street, in the City of Adelaide, to the jetty in the Town of Glenelg, in the said Province, and of obtaining an Act to enable it to do so, and has been duly registered as a company under the Companies Act, and has adopted certain rules and regulations for the government of the said company, and is willing at its own expense to carry into execution, maintain, and work the said undertaking: And whereas great advantage would result to the public from the construction, maintenance, and working of such a railway, but the said company is unable, without the authority of Parliament, to construct, maintain, or work such a railway: And whereas it is, therefore, expedient to confer upon it all such rights, powers, privileges, and immunities as may be useful or necessary for enabling it to construct, maintain, and work such a railway—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:—

1. This Act may for all purposes be cited as "The Adelaide, Name of Act. Glenelg, and Suburban Railway Act, 1871."

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2. The
2. The following Ordinances and Acts, and parts thereof respectively, are incorporated with, and form portion of this Act, except where they are, or any of them is, expressly varied by it, namely, the whole of "The Railways Clauses Consolidation Act," and the whole of "The Lands Clauses Consolidation Act."

3. The meanings which have been assigned by all or any of the hereinbefore mentioned Ordinances or Acts to certain words and expressions shall, in construing this Act, be attributed to those words and expressions respectively wherever they occur herein, unless there be in the subject or context something repugnant to such meanings, or unless those meanings have been expressly varied by this Act:

Whenever in the subject-matter or context of the passage hereof in which any such word or expression occurs there is contained something repugnant to such meaning, then that meaning shall not be attributed thereto, but such word or expression shall, in that passage, receive such construction as shall best enable the company to accomplish the purposes expressed in this Act:

The expression "the Company" shall mean "The Adelaide, Glenelg, and Suburban Railway Company, Limited;" and the expression "railway" shall include "tramway;"

The words "the Governor, with the advice and consent of the Legislative Council," shall, whenever they occur in any Act or Ordinance, or in any part of any Act or Ordinance, incorporated herewith, include in their meaning, for the purposes of this Act, "the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province;"

In the 9th and 10th sections of "The Railways Clauses Consolidation Act" the words "Surveyor-General" shall, for the purposes of this Act, include in their meaning "Deputy Surveyor-General" and "Acting Surveyor-General."

4. The Adelaide, Glenelg, and Suburban Railway Company, Limited, has been duly and lawfully incorporated and registered as a company under "The Companies Act, 1864," for the purpose (amongst others) of making, maintaining, and working a railway in and from King William-street, in the City of Adelaide, to the jetty in the Town of Glenelg, in the said Province, and is by this Act authorized and empowered, subject to the provisions of this Act, and of the Ordinances and Acts, incorporated herewith, to make, maintain, and work within the limits of deviation shown on the deposited plans and sections, the railway hereinafter described with all proper stations, approaches, works, and conveniences connected therewith; and may enter upon, take, and use such of the lands delineated on the said plans and described in the deposited books of reference, as may be required for those purposes, whether the same do or do not form part of the Park Lands, or of the public or Government reserves:
Provided that the piece of the reserve to be taken for the purposes of the company at Glenelg aforesaid shall not exceed in depth from the jetty road one hundred feet or thereabouts. The railway here-inbefore referred to and authorized by this Act is a railway seven miles, one furlong in length, commencing in King William-street in the City of Adelaide, at the place where Grenfell-street and Currie-street join it, and terminating at that end of the Jetty-road in the Town of Glenelg which is next to the jetty there.

5. Notwithstanding anything contained in "The Municipal Corporations Act, 1861," "An Act to Amend the Municipal Corporations Act, 1861," "The Municipal Corporations Amendment Act, 1863," or "The Corporations Amendment Act, 1865-6," or any other Law, Ordinance, or Act, such portions of the Park Lands, and public reserves, as are within the City of Adelaide, the municipality of Unley, the District of Brighton, and the corporate Town of Glenelg, and are required for the purposes of the railway as the same are delineated on the said plans and described in the said books of reference, shall, from the time at which this Act shall take effect, be and are hereby declared to be under the sole and absolute care, control, and management, and in the sole and absolute use of the company; but the company shall not by virtue of this Act, or of any Act, or part of any Act herewith incorporated, or by means of uninterrupted possession and enjoyment, or otherwise howsoever, except by means of some future Act of the Parliament of the Province of South Australia, become the absolute owners thereof.

6. Such portion of the said railway and all buildings, stations, and other works connected therewith, as shall be within the boundaries of the Corporation of the City of Adelaide, shall be liable to be assessed for the purpose of declaring and levying all rates which from time to time may be declared upon rateable property by virtue of "The Municipal Corporations Act, 1861," or of any Act amending the same; and the company shall pay all rates lawfully declared and made on such assessment in pursuance and under the provisions of the said Act, or of any Act amending the same; and all the rating and assessment clauses of the said Act shall be deemed to be incorporated with this Act, except as altered thereby: Provided that such assessment as aforesaid shall be made upon the same principles as if such railway were to be assessed for the poors' rate in England: Provided also, that save as in this clause provided, neither the said railway nor any buildings, stations, or other works connected therewith, nor the carriages, engines, or other things used in working the same shall be liable to the payment of any licence fees, or any municipal, district, or other local rates or taxes whatever.

7. The railway hereby authorized to be made shall not, without the written consent of the Mayor of the City of Adelaide, signed by himself, and countersigned by the Town Clerk, and having the common seal of the Corporation affixed thereto, pass through the enclosed part of any square in the City of Adelaide; and shall not, without the like consent, pass over, or at all encroach upon, any portion of the pathways in the said City.

8. Those
8. Those portions of the railway which pass through, across, or along any street in the City of Adelaide or in the Corporate Town of Glenelg, shall be constructed and maintained in such a manner as not to cause any impediment to the use by the public of any part of such streets, for the purpose of traffic or otherwise, and the public shall at all times be entitled to the free and uninterrupted use of every part of such streets, save when any train, waggon, carriage, or other conveyance of the company shall be passing or about to pass any part thereof, or be standing thereon; and at any such time the public shall not be entitled to the use of any such part of such street: Provided that the said company shall not, except at such places as may from time to time be appointed for that purpose by the Corporations of the said City or Town respectively, permit or suffer any carriage or truck, with or without horses, to stand longer than may be necessary for loading or unloading, or for taking up or letting down passengers, nor by means of any carriage or truck, or other vehicle, interrupt any public crossing, or wilfully cause any obstruction in any thoroughfare; and for any breach hereof, the said company shall be liable to a penalty not exceeding Five Pounds, to be recovered in a summary way before any Justice of the Peace of the said Province.

9. Notwithstanding any provision contained in the Act No. 6 of 1858, and intitled “An Act to Amend the Railways Clauses Consolidation Act, No. 7 of 1847,” the company shall, whenever thereunto required, in writing, signed by the said Mayor and countersigned by the Town Clerk, and having the common seal of the Corporation affixed thereto, at the point at which the railway passes from the Park Lands into South-terrace, erect, and at all times maintain a good and sufficient gate across the railway, and shall employ a proper person to open and shut such gate; and such person shall, under a penalty of Forty Shillings for every default herein, keep such gate constantly closed except while any train, waggon, carriage, or other conveyance of the company is passing or about to pass that point. The gate shall be of such dimensions and so constructed, as when closed to prevent cattle or horses from passing out of the Park Lands to South-terrace, or from South-terrace into the Park Lands: Provided the Mayor for the time being, of the said City may, at any time, and from time to time, by writing, signed as aforesaid, and under such seal as aforesaid, dispense with the necessity of such gate and gatekeeper being so kept as aforesaid, and thereupon the provision hereinbefore contained shall cease to be obligatory on the said company, until they may be again required to fulfil the same by the Mayor for the time being, by writing, signed and sealed as aforesaid.

10. That part of the railway which passes through the Park Lands shall be well and sufficiently fenced along both sides thereof by the company, and the company shall at all times keep such fences in good and sufficient repair.

11. The
11. The rails of every portion of the railway which passes along or through any street within the City of Adelaide, or the Corporate Town of Glenelg, shall be laid and maintained in such a manner that the top of the rails shall not rise higher than the level of any such street; and in no case shall be so laid as to rise above the level of the road, or interfere with the traffic passing across such rails.

12. That part of "The Railways Clauses Consolidation Act" which was enacted "with respect to works for the accommodation of lands adjoining the railways," shall apply as well to the lands adjoining such portions of the Park Lands, public roads, streets, squares, and thoroughfares as are required for the purposes of the railway as to the lands adjoining the other parts of the railway.

13. In construing this Act, together with the aforesaid part of "The Railways Clauses Consolidation Act," the respective Corporations of the City of Adelaide and of the Town of Glenelg shall be deemed to be the owners and occupiers of the lands adjoining such portions of the Park Lands, public reserves, public roads, streets, squares, and thoroughfares as are within the City of Adelaide and the Town of Glenelg respectively, and as are required for the purposes of the railway; and the word "lands" shall, in addition to the meaning assigned to it by "The Railways Clauses Consolidation Act," include Park Lands, public reserves, public roads, streets, squares, and thoroughfares.

14. Subject to the provisions of "The Companies Act, 1864," the company shall be governed by, and its affairs shall be administered, in accordance with the rules and regulations contained in the articles of association which have been adopted by the company, and duly and lawfully registered by the Registrar of Companies under that Act.

And with respect to the Borrowing of Money by the company on mortgage or bond:

15. 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 three-fourths of the capital of Twenty-two 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 three-fourths 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 bona fide, and is held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same.

16. Upon
16. 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.

17. 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 aforesaid, and his certificate shall be sufficient evidence that such proof was so given.

18. 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.

19. 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.

20. 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 indentures of mortgage, and of the future calls (if comprised therein) payable by the shareholders according to the sums in such indentures 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.

21. 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,
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.

22. 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 the 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.

23. 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 mortgagee, or bond-creditor of the company, or by any person interested in any such mortgage or bond, or by any person authorized to act on behalf of any such mortgagee, bond-creditor, or person.

24. 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.

25. 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
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.

26. The interest of the mortgage debts and bond debts respectively shall, at the times named in the mortgages and bonds respectively 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.

27. 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.

28. 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.

29. If in any indenture of 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.

30. 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
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 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.

31. 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.

32. 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.

33. All
Enforcing payment by a receiver.

33. 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 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.

When appointment of receiver may be required to enforce payment of interest.

34. 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.

To enforce payment of principal.

35. Whenever any mortgage debt or debts of the company have, without the consent of the mortgagee, remained unpaid for six months after they became payable, 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.

To whom application for receiver shall be made.

36. 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.

Payment of tolls, &c., to the receiver.

37. After such appointment has been made by a Judge, and after a true copy of the order whereby such appointment is made has
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 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.

38. 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.

39. 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.

40. All interest for the time being due on any moneys 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 hereinafter 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.

With respect to the quantity of land for extraordinary purposes and the time for exercising compulsory powers of purchase, and for completing the railway:

41. The quantity of land to be taken by the company for the extraordinary purposes mentioned in "The Railways Clauses Consolidation Act" shall not exceed fifty acres.

42. The powers of the company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act.

43. The railway shall be completed within two years from the passing of this Act, unless the Governor with the advice and consent of the Executive Council shall (and he is hereby empowered...
empowered to) extend, for a time not greater than one year, the said period of two years; and upon the expiration of the said period of two years, or of the period (if any) to which the same has been extended, as the case may be, each and all of the powers by this Act granted to the company for executing the railway or otherwise in relation thereto, shall cease to be exercised, except as to so much of the railway as shall then be completed; and it shall then be lawful for the respective Corporations of the City of Adelaide, of Unley, and of Glenelg, and of the District of Brighton, to resume the sole and absolute possession, care, control, and management of the whole or any part of the park lands, public reserves, public roads, streets, squares, and thoroughfares which have been taken by the company under this Act, but on which the works of the railway have not been completed.

With respect to crossing roads on the level, and the alteration of roads:

44. Subject to the provisions contained in "The Railways Clauses Consolidation Act," and in any Act altering or amending it, the company may, in constructing the railway, carry it with a single line of railway only whilst the railway shall consist of a single line, and afterwards with a double line of railway only across and on the level of the public roads, streets, and thoroughfares shown on the deposited plans.

45. It shall not be lawful for the company, in shunting any trains, to pass a train over any level crossing, or at any time to allow any train, engine, carriage, or truck belonging to the company to stand across the same; and the company shall be subject to, and shall abide by all such regulations with regard to the crossing of roads on the level, and with regard to the speed at which trains may pass the level crossing, as may from time to time be approved of or made by the Governor of the Province of South Australia with the advice and consent of the Executive Council.

46. In altering, for the purposes of this Act, the levels of all the roads crossed by the railway, the company may make the roads of any inclination, not steeper than the inclinations shown on the deposited plans.

With respect to the deposit and the repayment thereof:

47. Whereas, pursuant to the Standing Orders of the House of Assembly, a sum of Eleven Hundred Pounds, being not less than five per centum on Twenty-two Thousand Pounds, the amount of the estimate of the expense of the undertaking by this Act authorized, has been deposited in the names of Richard Bowen Colley, William Mair, Christian Schilling, William Rodolph Wigley, and Gavin David Young (being the present directors of the said company), in the Public Treasury of the Province of South Australia in respect of the application to the Parliament of the said Province for this Act; therefore the said sum so deposited shall not, nor shall the interest or
or dividends thereof, except upon the execution and deposit of a bond such as is hereinafter mentioned be paid or transferred to or on the application of the person or persons by whom that sum was deposited unless the company shall, before the expiration of the period limited by this Act for the completion of the railway, or of any extension of such period, either open the railway for the public conveyance of passengers or prove to the satisfaction of the Treasurer for the time being of the said Province that the company have paid up one-half of the amount of the capital by this Act authorized to be raised by means of shares, and have expended for the purposes of this Act a sum equal in amount to such one-half of the said capital; and if the said period shall expire before the company shall either have opened the railway for the public conveyance of passengers, or have given such proof as aforesaid to the satisfaction of the said Treasurer, the sum so deposited, and the interest and dividends (if any) thereof shall, immediately from and after the expiration of the said period, be forfeited to Her Majesty, Her heirs or successors, and shall be paid and transferred by the said Treasurer to the account of the general revenue of the said Province, and when so paid and transferred shall be carried to and form part of the consolidated fund of the said Province: Provided that if, at any time after the passing of this Act, a bond in twice the amount so deposited shall have been executed by the company (such bond to be prepared to the satisfaction of the said Treasurer), conditioned for the payment to Her Majesty, Her heirs or successors, of the sum so deposited, if the company shall not, within the time limited for the completion of the railway, either open the railway for the public conveyance of passengers, or prove to the satisfaction of the said Treasurer that the company have paid up one-half the amount of the capital of the company, and have expended, for the purposes of this Act, a sum equal in amount to such one-half of the said capital, and if the said bond shall have been deposited with the said Treasurer, then such sum of money, and the interest or dividends (if any) thereof shall be paid to, or on the application of, the Directors for the time being of the said company; and the moneys to be recovered on such bonds shall be dealt with in like manner as the said sum of money, and the interest or dividends thereof, would have been dealt with under this Act if such bond had not been executed and deposited as aforesaid; and the certificate of the said Treasurer that such bond has been executed and deposited as aforesaid, and that such proof has been given to his satisfaction as aforesaid, shall be sufficient evidence of the facts so certified.

With respect to tolls of all kinds:

48. 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.

49. 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 unladen 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.

50. The maximum rate of charge to be made by the company for the conveyance of passengers upon the railway, including the tolls for the use of the railway, and for carriages and locomotive power, and every other expense incidental to such conveyance, shall not exceed the following, that is to say—

For every passenger conveyed in or on a first-class carriage the sum of two pence per mile.

For every passenger conveyed in or on a second-class carriage the sum of three half-pence per mile.

For every passenger conveyed in or on a third-class carriage the sum of one penny per mile.

51. The maximum rate of charge to be made by the company for the conveyance of animals and goods on the railway, including the tolls for the use of the railway, and for waggon or trucks and locomotive 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 burthen, 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.

52. Every passenger travelling upon the railway may take with him his ordinary luggage, not exceeding one hundred and twenty pounds in weight for first-class passengers, one hundred pounds in weight for second-class passengers, and sixty pounds in weight for third-class passengers, without any charge for the carriage thereof being made.

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

54. The foregoing restrictions as to the charges to be made for the conveyance of passengers on the railway shall not extend to any special train run thereon, but shall apply only to the ordinary and express trains appointed from time to time by the company for the conveyance of passengers and goods upon the railway.

55. 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), any 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).

With respect to the removal of goods:

56. The owners, consignors, or consignees of animals, goods, or articles, shall remove the same from the station or terminus at their destination on the railway within six hours after their arrival there, unless such arrival happens between the hours of four o'clock in the afternoon of one day and six o'clock in the morning of the next day; and if the arrival happens between the two last-mentioned hours, then the animals, goods, or articles shall be removed by the owners, consignors, or consignees thereof before nine o'clock of the same morning; and, in default of such removal, the owners, consignors or consignees shall be liable to pay to the company demurrage at and after the rate of a shilling per head, and two shillings and sixpence per ton respectively for every complete period of twenty-four hours after such arrival, until such removal is completely effected: Provided that Sunday shall not be counted.
With respect to the accountability of the officers of the company and remedies against them:

57. Before any person entrusted with the custody or control of moneys of the company, whether such person be the treasurer, collector, or other officer of the company, shall enter upon his office, the directors shall take from him sufficient security for the faithful execution of his office and of all the duties thereof, and for the due accounting for all moneys of the company that shall come to his hands.

58. Every officer employed by the company shall from time to time when required by the directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all moneys received by him on behalf of the company, and such account shall state how and to whom and the purposes to which such moneys have been paid; together with such account such officer shall deliver the receipts and vouchers for all such payments; and every such officer shall pay to the directors or to any person appointed by them to receive the same, all moneys which shall appear to be owing from him on the balance of such accounts.

59. If any such officer fails to render such account, or to produce and deliver up (when required by the directors) all the vouchers and receipts in his possession or power which relate to such accounts, or to pay the balance thereof, or if for three days after being thereunto required he fails to deliver up to the directors, or to any person appointed by them to receive the same, all papers, deeds, writings, property, effects, matters, and things in his possession or power relating to his office or to the execution of the duties thereof, or of this Act or any Act incorporated herewith, or belonging to the company, then, on complaint thereof being made by one of the directors to a Justice of the Province of South Australia, such Justice shall summon such officer to appear before two or more Justices, at a time and place set forth in such summons, to answer such charge; and on the appearance of such officer in obedience to such summons (or in his absence on proof that it was served on him personally, or was left at his last known place of abode) such Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either on his confession or on inspection of the account, that any moneys of the company are in his hands or are owing by him to the company, such Justices may order him to pay the same; and, if he fails when ordered, to pay the amount forthwith, it shall be lawful for the Justices to grant a warrant to levy the same by distress, or in default thereof, to commit the officer to gaol, there to remain without bail for a period not exceeding three months, unless the amount be sooner paid, and upon payment of the same, within the three months, such officer shall forthwith be set free.

60. If any such officer refuses to make out such written accounts, or

Punishment of officers

Security to be taken from officers entrusted with moneys.

Officers to account on demand.

Summary remedy against any officer failing to account.
or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, deeds, or writings, property, effects, matters, or things in his possession or power belonging to the company, such Justices may lawfully commit such officer to gaol, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power relating to such accounts, and have delivered up all books, papers, deeds and writings, property, effects, matters and things, if any, in his possession or power belonging to the company.

61. If any director or other person acting on behalf of the company shall make oath that he has good reason, on grounds stated in his affidavit or deposition, to believe, and that he does believe that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the Justice, before a complaint grounded on such affidavit or deposition is made, instead of issuing his summons, to issue his warrant for bringing such officer before such two Justices as aforesaid; but no person executing such warrant shall keep such officer in custody for more than four hours without bringing him before some Justice; and it shall be lawful for the Justice before whom such officer may be brought, either to discharge him, if he thinks there is not sufficient ground for his detention, or to order him to be detained in custody so as to be brought before two Justices at a time and place to be named in such order, unless such officer give bail to the satisfaction of such Justice for his appearance before such Justices to answer the complaint of the company.

62. No such proceeding against or dealing with any such officer as aforesaid shall deprive the company of any remedy which they might otherwise have against such officer or any surety of his.

63. In the foregoing sections in this part of this Act, “With respect to the accountability of the officers of the company and remedies against them,” the word “Officer” shall mean the person by whom the alleged offence is supposed to have been committed, and notwithstanding that he may have ceased to hold office before any proceedings are taken against him.

With respect to the making of By-Laws:

64. It shall be lawful for the company from time to time to make such by-laws as they think fit for the purpose of regulating the conduct of the officers and servants of the company, and for the providing for the due management of the affairs of the company in all respects whatsoever; and from time to time to alter or repeal any such by-laws, and make others: Provided that such by-laws be not repugnant to laws of the Province of South Australia; and such by-laws shall be reduced into writing, and shall have affixed thereto the common seal of the company, and a printed copy of such by-laws shall be given to every officer and servant of the company who may be affected thereby.

65. It
65. The company may, by such by-laws, impose such reasonable penalties, not exceeding Five Pounds, for any one offence as the company may think fit on all persons being officers or servants of the company who may offend against such by-laws.

66. All by-laws made by the company shall be framed so as to allow the Justice before whom it may be sought to recover any penalty imposed thereby, to order a part only of such penalty to be paid, if such Justice thinks fit.

67. The production of a written or printed copy of the by-laws of the company, having an impression of the common seal of the company affixed thereto, shall be sufficient evidence of such by-laws, in all cases of prosecution thereunder.

With respect to keeping the railway in efficient working order:

68. The company shall be bound at all times to keep the said railway and the whole undertaking in good and efficient repair and working condition, and to work the same daily; and in case it shall appear to the Governor for the time being of the said Province, upon the report of any inspector appointed pursuant to "The Railways Clauses Consolidation Act," that the works in any part of the said railway and undertaking are not in good and efficient repair and working condition, it shall be lawful for such Governor, after such notice given to the company as to him shall seem fit and proper, and on default by the company, to direct the necessary repairs and works, to be executed at the cost of the company by persons to be appointed by the Governor in that behalf, and the cost of executing such repairs and works, and all charges connected therewith, shall and may be recovered from the company at the suit of the Crown, in any court of competent jurisdiction, in like manner and by such means as any person aggrieved or otherwise authorized to sue for damages or penalties might employ under the provisions of the said Acts.

With respect to the gauge, and the nature of the rails, the running of trains, and the traction power:

69. The gauge to be used on the railway shall be one of five feet and three inches, and the rails used in the construction of the railway shall be of iron, and of the weight of not less than forty pounds to the yard.

70. The company shall provide trains in sufficient number for ordinary traffic to travel along the railway from one end to the other thereof, at least three times each way on every day: No such train shall travel at speed greater than thirty miles per hour; and any engine-driver who drives any engine on the said railway at a speed greater than thirty miles an hour, shall be liable to a penalty not exceeding Five Pounds, or to be imprisoned and kept to hard labor for any period not exceeding six calendar months: Provided
ded that in the event of consent being given, as hereinafter provided, to use locomotive engines on the said railway within the streets of any corporate city or town, no such engine shall travel along any such street at a greater speed than six miles per hour.

71. The trains of the company shall be drawn by horses or by locomotive engines: Provided that the locomotive engines shall not be used in any street of any corporate city or town without the written consent of the Mayor thereof for the time being, signed by himself and countersigned by the Town Clerk, and having the common seal of the corporation affixed thereto.

72. Nothing in this Act contained shall affect any right, title, or interest of Her Majesty, Her heirs, or successors.

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

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

JAMES FERGUSSON, Governor.

SCHEDULE.
SCHEDULE.

Form of Indenture of Mortgage.

The Adelaide, Glenelg, and Suburban Railway Company, Limited, mortgage deed. By virtue of an Act of the Parliament of the Province of South Australia, passed in the Session held in the years of 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, Glenelg, and Suburban Railway Company, Limited, in consideration of the sum of £ paid to us by

of 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 the 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 Adelaide, Glenelg, and Suburban Railway Company, Limited, their successors, or assigns calendar months' notice in writing; neither shall the said Adelaide, Glenelg, and Suburban Railway 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, or 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.


Bond, number £

By virtue of an Act of the Parliament of the Province of South Australia, passed in the Session held in the 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, Glenelg, and Suburban Railway Company, Limited, in consideration of the sum of £ to us in hand paid by
35° VICTORÌÆ, PRIVATE ACT.

Adelaide, Glenelg, and Suburban Railway Act.—1871.

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 eight hundred and , which will be in the year of our Lord one thousand 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 or 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 Glenelg and Suburban Railway Company, Limited, to , and bearing date the day of , 18 , for securing the sum of £ , and £ interest [if the transfer is made by 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