ANNO QUADRAGESIMO PRIMO ET QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ.

A.D. 1878.

Private Act.

An Act to authorise the construction, maintenance, and working of a Railway for Steam Power in, to, from, and between the City of Adelaide and the Town of Glenelg, and other places adjacent thereto, or in the neighborhood thereof, and a Railway or Tramway for Steam Power or Horse Traction in, to, from, and between Glenelg aforesaid and the Township of Brighton and other places adjacent thereto or in the neighborhood thereof, and for other purposes.

[Assented to, 30th November, 1878.]

WHEREAS a Joint Stock Company under the name of the “Holdfast Bay 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 for steam power in, to, from and between a point to the north of the Sheep and Cattle Market in the City of Adelaide, at the Government line of railway near the second signal station, west from the Adelaide Railway Station, to the Jetty at Glenelg, in the said Province; and a Railway or Tramway for steam power or horse traction in, to, from, and between the north-eastern boundary of Glenelg Ward, in the said Town of Glenelg, at the junction of the Brighton and Bay Roads to the Township of Brighton, to a point at or near the “Thatched House Tavern,” and of obtaining an Act of Parliament to enable it to do so, and has been duly registered as a Company under the said 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 public and local advantage
advantage would result from the construction, maintenance, and working thereof, but the said Company is unable without the authority of Parliament to construct, maintain, or work such railways or railway and tramway: 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 railways or railway and tramway: And whereas plans of the proposed railways or railway and tramway, showing the lines and levels thereof, and the lands required for the purposes thereof, together with a book of reference containing the names of the owners or occupiers, or reputed owners or occupiers of such lands, were deposited in the office of the Surveyor-General, at Adelaide, on the twenty-fifth day of July one thousand eight hundred and seventy-eight, and an amended plan, together with a book of reference, was deposited in the office of the Surveyor-General, at Adelaide, on the eighteenth day of September, one thousand eight hundred and seventy-eight—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. This Act may be cited for all purposes as the "Holdfast Bay Railway Act, 1878."

2. Except so far as the same shall be inconsistent with this Act, there shall be incorporated with this Act the following Ordinances and Acts and parts thereof respectively, that is to say, the "Lands Clauses Consolidation Act," being No. 6 of 1847, "The Railways Clauses Consolidation Act," being No. 7 of 1847, and the Act No. 26 of 1855-6, intituled "An Act to amend the Lands Clauses Consolidation Act," so far as the same are severally applicable to this Act: Provided that when under the provisions of this Act any right or easement in or over any lands now or hereafter vested in or under the control and management of the Corporation of the City of Adelaide is purchased or acquired, such right or easement shall be deemed to exist only so long as such land shall be used for railway purposes.

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: and for the purposes of this Act the expression "The promoters of the undertaking" whenever used in the "Lands Clauses Consolidation Act," shall mean the "Holdfast Bay Railway Company, Limited"—

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
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 "Holdfast Bay Railway Company, Limited," and the expression "railways" shall include "tramways":

The expression "the deposited plan" shall mean the plan of the railways and the book of reference thereto hereinbefore referred to:

The expression "The Commissioner of Public Works" shall mean the Commissioner of Public Works or the Commissioner of Railways for the Province of South Australia for the time being:

The expression "street" shall mean any public street, road, footpath, or place:

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. The "Holdfast Bay Railway Company, Limited," has been duly and lawfully incorporated and registered as a company under "The Companies Act of 1864," for the purposes (amongst others) of making, maintaining, and working such railways as are hereinbefore referred to, and is by this Act authorised and empowered subject to the provisions of this Act, and of the Ordinances and Acts incorporated herewith, to lay down, construct, maintain, and work, within the limits of deviation shown in the deposited plans and sections the railways 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, acquire, and use such of the lands delineated and described in the deposited plans as they may require for such purposes: Provided that in respect of lands now or hereafter vested in or under the control or management of the Corporation of the City of Adelaide, the said Company shall be entitled to purchase or acquire only a right or easement over such lands, determinable as is before provided.

5. The railway for steam power hereinbefore firstly referred to and authorised by this Act, is as follows—

A railway, No. 1, six miles sixty-five chains and thirty links or thereabouts in length, commencing at a point to the north of the Sheep and Cattle Market, in the City of Adelaide, at the...
the Government lines of railway, near the second signal station, west from the Adelaide Railway Station, thence running in a south-westerly direction across Park Lands, then crossing a road leading to River Torrens, then through the olive plantation at the south of the Gaol, crossing the road leading to the Corporation Slaughterhouse, crossing portion of Park Lands Road leading to Gaol Olive Plantation to a point on the Port Road, crossing same with the level unaltered at a point below the intersection of the Gaol Road with the Port Road, thence crossing the West Park Lands to a public road known as the Mile End Road, to the junction of a road known as Dodd's Road with such last-named public road, thence through Sections 2 and 3, crossing a district road to Hilton, and through Sections 4 and 5, then crossing the Hilton Road, thence through Section 50, crossing a district road, onwards through other portion of Section 50, thence through Sections 2031, 52, 93, 2033, and 88, thence through building allotments in the Township of Hayhurst, crossing Long-street, and through other building allotments in the said township, thence crossing a district road known as Plympton Road, through Sections 108 and 104, crossing a private road on the level, then through Section 156, crossing Morphett Road, in a westerly direction, onwards through Section 152, crossing a private road leading to Sir John Morphett's house, then through same section and onwards through Section 183, then crossing Allison-street and through town allotments in the Town of Glenelg, being part of Section 184, to the junction of the Brighton and Bay Roads, thence along the Bay Road, crossing a portion of the Corporation Reserve, and onwards to the junction of the Bay Road and Althorpe Place, thence along Althorpe and Victoria Places to the Jetty Road, therefrom to the jetty.

6. The railway or tramway for steam power or horse traction hereinbefore secondly referred to and authorised by this Act is as follows—

A railway or tramway (No. 2) for steam power or horse traction two miles and seventy-seven chains or thereabouts in length, commencing at a point at the north-eastern boundary of Glenelg Ward at the junction of the Brighton and Bay Roads; thence in a southerly direction along the Brighton Road, crossing the line of rails of "The Adelaide, Glenelg, and Suburban Railway Company, Limited," on the level at the junction of such railway with the said Brighton Road, thence along the Brighton Road crossing the main road leading from Tapley's Hill to Port Adelaide, therefrom direct to the Thatched House Tavern, in Brighton aforesaid, along the said Brighton Road:

Provided
Provided that in the event of the construction of the said railways or either of them across any bridge or bridges on any street or road, the street authority shall, at the request and cost of the Company, widen any such bridge or bridges for the purpose of accommodating the increased traffic.

7. The compensation to be paid by the Company in respect of any land entered upon, or taken for the purposes of the railways, or either of them, shall, unless otherwise fixed by agreement, be the compensation payable under "The Lands Clauses Consolidation Act" and "The Railways Clauses Consolidation Act," but so that the same shall not exceed what would have been payable if the value of such land had been assessed six calendar months before the entering upon and taking of the said lands for the purposes of the railways, or either of them.

8. It shall be lawful for the Company to connect the rails of the Company with the rails on the Jetty, and use the line of rails on the said Jetty, to facilitate the carriage of goods and Her Majesty's mails, but for no other purpose.

9. 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 and the corporate towns of Glenelg and Brighton, 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: Provided that nothing in this Act contained shall be construed to give the Company any power or authority whatsoever to erect, construct, or place upon any lands or streets within the limits and under the control of the said Corporation of Adelaide, and taken or enclosed by the Company for the purposes of the railways, any station, workshops, sheds, or other conveniences calculated to cause obstructions in the said lands or streets.

10. In each and every year dating from the opening for traffic of the line of railway No. 1, the Company shall pay to the Corporation of Adelaide the annual sum of Seventy-five Pounds, payable yearly for the right of using the lands enclosed for the purposes of a railway and crossing of roads within that portion of the City of Adelaide between the western boundary of the said city and the junction of the Company's
pany's railway with Her Majesty's railway at the north of the sheep and cattle market. Such annual sum of Seventy-five Pounds shall form portion of the general revenue of the Corporation of the City of Adelaide, and shall be recoverable from the Company in like manner as rates levied by virtue of the "Municipal Corporations Act, 1861" are recoverable: Provided such annual sum of Seventy-five Pounds shall be in lieu and instead of all other municipal rates and taxes which might otherwise, from time to time, be payable by the Company by virtue of the "Municipal Corporations Act, 1861," or any other Act or Acts of Parliament amending or altering the same.

11. Those portions of the railways which pass through, across, or along any street in the City of Adelaide, or in the Corporate Towns of Glenelg and Brighton, 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 towns 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 other than in the ordinary course of its business; but it shall not be lawful for the Company to permit or suffer any engine, carriage, or truck to stop at any street crossing within the boundary of the City of Adelaide for any purpose whatsoever; 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.

12. Notwithstanding any provision contained in the Act No. 6 of 1858, and intituled "An Act to amend the Railways Clauses Consolidation Act," No. 7 of 1847, the Company shall, whenever thereunto required, in writing, signed by the Mayor of the City of Adelaide, 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 olive plantation on to and crosses the Port Road to the Park Lands, erect, and at all times maintain good and sufficient gates across the railway, and shall employ a proper person to open and shut such gates, 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 gates shall be of such dimensions and so constructed as when
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closed to prevent cattle and horses from passing out of the olive plantation or into the same, and out of the Park Lands to the Port Road, or from the Port Road to 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.

13. That part of the railway which passes through the Park Lands within the boundary of the City of Adelaide shall be well and sufficiently fenced, so as to resist the trespass of both small and great cattle along both sides thereof by the Company, and the Company shall at all times keep such fences in good and sufficient repair; and such fences when erected shall be distant apart one chain, and no more.

14. The rails of every portion of the railways which pass along or through any street within the City of Adelaide and the Corporate Towns of Glenelg and Brighton, or along any public road, shall be laid and maintained in such a manner that the top of the rail 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; but it shall be lawful for the Company to raise the level of any road where it may be found necessary for the purposes of the railways as shown on the deposited plans, the said Company making compensation to persons whose land, estate, or interest is injuriously affected by such alteration of levels: such compensation to be assessed and ascertained in the manner provided by the Lands Clauses Consolidation Act.

15. That part of “The Railways Clauses Consolidation Act” which was enacted “with respect to works for the accommodation of lands adjoining the railway,” 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 railways, as to the lands adjoining the other parts of the railways.

16. In construing this Act, together with the aforesaid part of “The Railways Clauses Consolidation Act,” the respective Corporations of the City of Adelaide and the Towns of Glenelg and Brighton shall be deemed to be the owners and occupiers of such portions of the Park Lands, public reserves, public roads, streets, and thoroughfares as are within the City of Adelaide and the Towns of Glenelg and Brighton respectively, and as adjoin those portions of the Park Lands, public reserves, public roads, streets, and thoroughfares, and as are required for the purposes of the railways, 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.

17. Subject
17. 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, or such rules or regulations as may hereafter be adopted in addition to such rules and regulations, or in substitution thereof, or of any part thereof.

18. Every railway line shall be constructed and maintained with rails to be laid at a distance of five feet three inches from each other, and the rails used in the construction of every railway shall be of iron or steel, and of the weight of not less than forty pounds to the yard.

19. The Company shall be bound at all times to keep the said railways 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 Commissioner of Public Works 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 on any part of the said railways and undertakings are not in good and efficient repair and working condition, it shall be lawful for the Commissioner of Public Works, 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 Commissioner of Public Works 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 authorised to sue for damages or penalties might employ under the provisions of the said Acts.

20. The Company and the Commissioner of Public Works for the time being, for and on behalf of Her Majesty's Government of South Australia, may enter into arrangements, contracts, and agreements for and in respect of the following purposes, that is to say—The making of openings by means of all proper switches, points, and crossings in the lines of railway of Her Majesty at the junction of the Company's railway with Her Majesty's railways, near the second signal station, at the north of the sheep and cattle market, in Adelaide, aforesaid.

The passage of any engines, trains, trucks, vans, waggons, or other carriages of the Company over and along all or any of the lines of railway of Her Majesty's Government, which shall hereafter be laid down, for the carriage of passengers or goods between the Adelaide Railway Station for the time being, or any other station that may hereafter be substituted in place of the present Adelaide Government Railway Station and the junction of the railways of the
the Company with the said lines of Her Majesty's railways at the point near the second signal station, at the north of the sheep and cattle market, in Adelaide, aforesaid, and the general use by the said Company of such railways, and of the stations, works and conveniences belonging thereto.

The management, maintenance, and repair of the said railways, or such of them as shall be used by the Company, and the costs and expenses of such management, maintenance, and repairing, and the mode of conducting the traffic.

The charges or other consideration to be paid by the Company to Her Majesty's Government under such arrangement and agreement.

The construction and erection at or adjoining the Adelaide Railway Station for the time being, or such other station as may hereafter be substituted by Her Majesty's Government in lieu of the present Adelaide Railway Station, of all necessary and convenient offices, approaches, bridges, stairs, and platforms for the proper working of the railways and the convenience of the public.

And the contract and agreement which shall be so made and entered into, may, from time to time, in the discretion of the Commissioner of Public Works for the time being, be altered and varied as shall be deemed expedient.

If any dispute or difference shall arise between Her Majesty's Government and the Company, or the Directors thereof for the time being (except where it is otherwise by this Act specially provided for) as to the provisions in this Act contained, or under any arrangement, contract or agreement entered into by Her Majesty's Government and the Company in pursuance of this Act, or as to the terms or conditions of any such arrangement, contract or agreement, then and in any such case every such difference or dispute shall, from time to time, when and as the same shall arise, be settled by arbitration in manner provided by the "Railways Clauses Consolidation Act" with respect to the settlement of disputes by arbitration.

21. The Company shall provide trains in sufficient number for ordinary traffic to travel along the railways 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 over the line of railway No. 1; 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 for any period not exceeding six calendar months; and no train, engine, car, or truck shall travel at a speed greater than twelve miles per hour over the line of railway No. 2; and any engine or tramway driver who drives any engine or horses on the last mentioned line at a greater speed than twelve miles per hour, shall be liable to a penalty not exceeding Five Pounds, or to be imprisoned for any period not exceeding six calendar months: Provided that in the event of consent being given, as hereinafter provided, to use locomotive engines on the said railways within the streets of Glenelg and Brighton and Brighton District Council, no such engine shall travel along any such street at a greater speed than six miles per hour.
miles per hour; and no locomotive engine shall travel along that portion of the line of railway within the boundary of the City of Adelaide at a greater speed than twelve miles per hour; and on any breach thereof the driver of such engine shall be liable to a penalty of Five Pounds, or to be imprisoned for any period not exceeding six calendar months.

22. The trains of the Company of the line of railway No. 1 shall be drawn by locomotive engines, and the trains of the Company of the line of railway No. 2 shall be drawn by horses or locomotive engines: Provided that the locomotive engines shall not be used in any street of the Corporate Towns of Glenelg and Brighton 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.

23. 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.

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

1. 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 the street proposed to be opened or broken up, such notice to be given seven days at least before the commencement of operations:

2. 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 neglect to give such superintendence at the time specified in the Company's notice or discontinue the same during the work.

25. If any person shall wilfully obstruct any person acting under the authority of this Act in the lawful exercise of the powers of setting out, making, forming, laying down, repairing, or renewing the railways, or shall deface or destroy any mark made for the purpose of setting out the line of the railways, or shall wilfully damage or destroy any property of the Company, he shall for every such offence forfeit to the Company a sum not less than Five Pounds.

26. 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 two hundred yards of any street, and they shall leave an interval of at least one hundred yards between any two places at which they shall open or break up any street at the same time.

27. As soon as the Company have opened or broken up any street—

1. They shall with all convenient speed, and in all cases within twenty-one
twenty-one days at the most from the time of opening or breaking up the same, unless the street authority shall enlarge such time, complete the work on account of which they opened or broke up the same, and subject to the formation, 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 condition as that it was before it was opened or broken up, and to the reasonable satisfaction of the street authority thereof, and clear away all surface material, metal, or rubbish occasioned thereby:

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

28. 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.

29. Nothing in this Act contained shall take away any power for the time being vested in the street authority to open or break up any street in which the tramways 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; but in the exercise of such power the Company and street authority 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:

11. Before commencing any work whereby the traffic on the railways may be interrupted or whereby the safety of any persons using the railways 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 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 railway 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.

30. Nothing in this Act contained shall take away any power for the preservation of rights of other persons.
the time being vested in any persons to open or break up any street on which the railways 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—

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

11. Before commencing any work whereby any traffic on the railways may be interrupted or whereby the safety of any persons using the railways 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 shall not be earlier than forty-eight hours after the time of giving such notice:

111. They shall not execute such work so far as it immediately affects the railways 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 railways 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 railways so removed in some adjacent and convenient position, and after such work shall have been effected to replace the railways in their original position, and the cost of such laying down and replacing shall be borne by such persons.

31. For the purpose of making, forming, laying down, maintaining, repairing, or removing any of their railways, 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, poles, or apparatus for telegraphic or other purposes subject to the following restrictions, that is to say—

1. Before laying down or altering a railway in a road in which are any telegraph poles and wires or 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 poles and wires, mains or pipes, tubes, or apparatus, or not, give seven days' notice to the person to whom such mains or pipes, tubes, poles, wires, or apparatus may belong, or by whom they are controlled, of their intention to lay down or alter the railways, 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 railways 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
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, or their or his surveyor or engineer, if they or he think fit to attend, after receiving not less than twenty-four 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, poles, 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, poles, 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 or engineer and the Company, as an engineer appointed by the street authority:

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.

52. Where any of the railways or any other work connected therewith interferes with any sewer, drain, water-course, defence, or work under the jurisdiction or control of the street authority, or with any sewers or works to be made or executed by the street authority, or in any way affects the sewerage or drainage of the district under their control, the Company shall not commence any railway 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, or 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 the 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.
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33. 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 the street authority and all persons from all damages and costs in respect of such accidents, damages, and injuries.

34. 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 railway of the Company is laid as lies between the rails of the railways and so much of the road as extends eighteen inches beyond the rails of and on each side of any railway of the Company.

35. If the Company abandon the undertaking, or any part of the same, and take up the railways, they shall, with all convenient speed, and in all cases within six weeks at the most (unless the said street authority otherwise consent in writing), fill in the ground and make good the surface, and to the satisfaction of the said street authority restore the portion of the road upon which the railways were laid, 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 or the preceding 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 the said section mentioned instead of the Company, and the expense incurred by the street authority in so doing shall be repaid to them by the Company.

36. That portion of the railway situate within the City of Adelaide shall be completed within six calendar months from the day of the commencement of the construction of such portion, and the railways shall be completed within three years from the passing of this Act, or within such further time from the end of such three years as the
the Governor by Proclamation in the Government Gazette shall see fit to allow.

37. The Municipal Corporation of any city or town through which the said railway shall have running powers shall be at liberty to alter the level of existing drains or construct new drains, and for this purpose may, after reasonable notice, enter upon the said railway and construct any new or alter any existing drain without being liable to compensate the said Company for any loss caused by the interruption of such railway.

38. If the railways shall not be completed within three years from the passing of this Act, or within such further time as may be allowed pursuant to the preceding section, all the rights and privileges conferred on the Company by this Act shall, except as regards such parts of the railways as shall then be completed, cease to be exercisable; and all fittings and materials forming such part of the railways as shall then be incomplete which shall be found in any street shall be forfeited to and become the property of the street authority.

39. The Railway, No. 1, may be constructed with double lines, or may be constructed with a single one, and another line added at any time thereafter, and the Railway No. 2, with the consent of the street authority may be constructed with double lines, or may be constructed with a single line without such authority, and the street authority may at any time thereafter grant permission for the construction of another line.

40. If any person (except by agreement with the Company) shall wilfully use the railways for the purpose of driving or propelling any conveyance thereon, such person shall forfeit and pay to the Company the sum of Twenty Pounds for every such conveyance using and for every time it uses the railways.

41. 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 railways, and the tolls, rates, and charges, to be paid for such use, and the terms and conditions of such user, and all incidental matters, and may also enter into and carry into effect any contract with Her Majesty's Government, whereby Her Majesty's Government may acquire running powers for the trains of the Government of South Australia over the Company's lines, or visa versa, and may unite or amalgamate with any other person, authority, or Company.

42. The Company may, from time to time, borrow for the purposes of this Act, on mortgage or bond, or partly on mortgage and partly on bond, any sum of money not exceeding in the whole Twenty-five Thousand Pounds, and which any general meeting of the Company shall authorise the borrowing; but no money shall be borrowed until two-thirds of the capital of Thirty Thousand Pounds shall have been subscribed
subscribed for, and one half of such subscribed capital 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 him that two-thirds of the capital has been issued and accepted, and that one half of such subscribed capital has been paid up, 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.

43. Upon any application to a Justice for such certificate, there shall be produced to him a copy of the resolution authorising 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 resolution.

44. Upon the production to the Justice of such certified copy, and of the books of the Company (if he requires their production), and of such other evidence (if any) 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.

45. 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 re-borrowed for the purpose of paying off any then existing mortgage or bond of the Company, the power to borrow shall not be exercised without the authority of a general meeting of the Company.

46. 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 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 mortgage or bond shall contain any provision securing or purporting to secure further advances.

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

48. Notwithstanding that any such mortgage comprises future calls on the shareholders of the Company, the moneys paid in respect
respect of each such call shall, unless the 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.

49. 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 authorised or otherwise howsoever.

50. 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 such mortgage, or bond, or by any person authorised to act on behalf of any such mortgagee, bond-creditor, or person.

51. Any person entitled to any such mortgage or bond may from time to time transfer his right or 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.

52. Within thirty days after the date of the execution of each such deed of transfer, if it should 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 hereinafter prescribed with respect to the original 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
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. 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.

53. 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. If times for payment of interest be not named in any bond or 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.

54. 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 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.

55. Repayment of the whole or 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 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.

56. If in any mortgage or bond a time for the repayment of the principal money be not fixed, the person entitled thereto may at any time after the expiration of one year from the date of such mortgage or bond demand repayment of such principal moneys, and payment of all (if any) arrears of interest due thereon: Provided that a notice 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 giving 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.

57. If
57. If in any mortgage or bond a time for the repayment of the moneys be not fixed, the Company may at any time after the expiration of one year from the date of any such mortgage or bond respectively pay to the person entitled thereto the principal moneys secured thereby respectively, and all arrears of interest (if any) due thereon; provided a notice expressing the intention of the Company to make such 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 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 giving of such notice entitled to such principal moneys and interest, and such person shall personally or by some agent authorised 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.

58. Every such notice of an intention to demand repayment of the principal moneys secured by any 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 pay such principal moneys and interest 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 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 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.

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

60. All
60. 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 on the payment of such debt or debts and the interest due thereon. In order to authorise 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.

61. 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 become 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 equity for such arrears of interest, by an application to be made in the manner hereinafter mentioned, require the appointment of a receiver.

62. 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.

63. 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 such Judge 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 behalf of the Company, appoint some fit person to receive the whole or a sufficient 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 full payment of such interest, and full payment 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 sum and tolls, and in paying over the same to the applicants.

64. 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 or sums of money which are liable to pay such interest and 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 other 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.

65. 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 paid by him to the Company.

66. 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.

67. 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 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 railways.

68. Nothing in this Act 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 authorised.

69. The Company shall, if called upon by the Commissioner of Public Works, carry Her Majesty's mails upon the said railway from and between Adelaide and Glenelg.

70. It shall be lawful for Her Majesty's Government, if it shall think fit, subject to the provisions hereinafter contained, at any time after the completion of the railways, and within a period of twenty years, to purchase the said railways, with all their hereditaments, stock, privileges, and appurtenances, in the name and on the behalf of Her Majesty, upon giving to the Company six calendar months' previous notice, in writing, of such intention, and upon payment of a sum equal to not more than twenty years, or less than twelve
two twelve years, purchase of the annual divisible profits, estimated on the average of the then next preceding five years: And if any dispute or difference shall arise between Her Majesty's Government and the Company, or the Directors thereof, for the time being, as to the amount of purchase-money to be paid for the said railways, within the maximum and minimum sums last aforesaid, then and in any such case such difference or dispute shall be settled by arbitration in manner hereinafter contained: Provided, nevertheless, that in the event of Her Majesty's Government exercising such right of purchase as aforesaid within a period of five years from the completion of the said railways, the amount to be paid by Her Majesty's Government shall not be restricted within the twelve years' and twenty years' purchase of the divisible profits as last aforesaid; but the whole question of price, unless agreed upon, shall be referred to arbitration as hereinafter mentioned: And provided further, that if at any time after five years from the completion of the said railways Her Majesty's Government shall elect to purchase the said railways as aforesaid, and the Company shall not have earned from the said railways a sum equal to Five Pounds per centum per annum upon the capital stock of the Company in addition to all debentures and loans made to the Company for the then next preceding five years, the amount to be paid by Her Majesty's Government shall not be restricted within the twelve years' and twenty years' purchase of the divisible profits as aforesaid, but the whole question of price, unless agreed upon, shall be referred to arbitration as hereinafter mentioned: And with respect to arbitration hereinbefore referred to, two arbitrators shall be appointed by the Commissioner of Public Works and 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," with respect to the settlement of disputes by arbitration, provided that the Commissioner of Public Works shall not be compelled to complete the purchase if, one month at least before the making of the award, he shall give to the Company written notice of his election not to complete, and thereupon the Company may continue to work the railways, and the Commissioner of Public Works shall pay to the Company the costs of and incidental to the reference and award.

71. The Company may demand and take for every passenger conveyed upon the railways for the use of the railways and cars, and for motive power and every other expense incidental to the conveyance of such passenger, any tolls or charges not exceeding the sum of two pence per mile, but so that for every passenger conveyed for a distance less than three miles, the Company may demand and take tolls and charges as for three miles; and for every fraction of a mile beyond three miles or beyond any greater integral number of miles, the Company may demand and take tolls and charges for one mile.

72. The
72. The Company may demand and take for all animals and goods carried on the railways, including tolls for the use of the railways, and of cars, waggons, and trucks, and for motive power, and every other expense incidental to such carriage (except a reasonable charge for loading and unloading such 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 shall be performed by the Company) any tolls or charges not exceeding the following:—

For every horse, ass, mule, or any other beast of burthen, Sixpence per mile:

For every bull, ox, cow, or neat cattle, Twopence per mile:

For every calf, sheep, lamb, goat, dog, pig, or other small animal, One Penny per mile:

For all other goods, One Shilling per ton per mile:

Provided nevertheless that with respect to small parcels not exceeding in weight one hundred and twelve pounds each, and also with respect to single articles of great weight the Company may demand and take any tolls or charges not exceeding the following:—

For every parcel not exceeding twenty-eight pounds in weight. Three Halfpence per mile:

For every parcel exceeding twenty-eight pounds, and not exceeding fifty-six pounds in weight, Twopence per mile:

For every parcel exceeding fifty-six pounds, and not exceeding one hundred and twelve pounds in weight, Threepence per mile:

For every additional one hundred and twelve pounds weight of any article after the first one hundred and twelve pounds, and up to one ton, threepence per mile:

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, and for the carriage of any single article, the weight of which shall exceed one ton, the Company may demand and take such tolls and charges as they may think fit.

73. The following provisions shall apply to the fixing of all tolls and charges payable under the preceding section:

For all animals or goods conveyed on the railways for a distance of less than three miles the Company may demand and take tolls and charges for three miles:

For every fraction of a mile beyond three miles, or beyond any greater integral number of miles, the Company may demand and take tolls and charges according to the number of quarters of a mile contained therein, and if there be a fraction of
Holdfast Bay Railway Act.—1878.

of a quarter of a mile, such fraction shall be deemed a quarter of a mile:

For every fraction of a ton, except in cases of small parcels and single articles mentioned in the said section, the Company may demand and take tolls and charges according to the number of quarters 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:

The weight of all goods except stone and timber shall be determined according to the usual avoirdupois weight:

For determining the weight of stone fourteen cubic feet shall be deemed one ton in weight, and so in proportion for any smaller quantity:

For determining the weight of timber not exceeding twenty feet in length, the following shall be deemed one ton weight:

Forty cubic feet of cedar logs or bulk timber:
Fifty cubic feet of deals or boards:
Five hundred palings five feet in length:
Four hundred palings six feet in length:
Thirty-five bundles of imported laths:
Thirty bundles of Colonial laths.

74. The Company may demand and take double the usual tolls and charges in respect of furniture, musical instruments, and other light goods measuring more than two and a-half cubic feet to one hundred pounds weight.

75. Every passenger travelling upon the railways 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.

76. The Company shall not be bound, unless they shall think fit, to carry any animals or goods other than passengers' luggage not exceeding the weight mentioned in the preceding section.

77. The Company shall not be bound to have a sufficient staff or appliances for loading or placing in or unloading from or taking out of their stations or cars any animals or goods; but the person wishing to forward the same shall, if required by the Company, at his own expense and risk, have the same loaded or placed in the car provided by the Company, and shall also, if required by the Company, undertake to have and have the said animals and goods unloaded from and taken out of such car and removed from the Company's premises at his own expense and risk, and within a reasonable time after the arrival of the car at the place to which the Company shall undertake to carry the said animals and goods.

78. The
78. 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 train or car, but shall apply only to the ordinary cars appointed by the Company from time to time for the conveyance of passengers.

79. Nothing herein contained shall prevent the Company from demanding and taking, by agreement with the owners or persons in charge of any animals or goods carried on the railways, any tolls or charges in excess of those hereinbefore limited, either by reason of any special services performed by the Company in relation thereto, or in respect to the conveyance, by passenger cars, of animals or goods.

80. The owners, consignors, or consignees of animals or goods carried on the railways 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.

81. A list of all the tolls and charges authorised 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 railways.

82. The tolls and charges authorised 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 railways, and in such manner and under such regulations as the Company shall, by notice to be annexed to the list of tolls, appoint.

83. If any person travelling, or having travelled, in or on any carriage or 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 train or 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 shall refuse or neglect on arriving at the point to which he has paid his fare to quit such car, every such person shall, for every such offence, forfeit to the Company a sum not exceeding Forty Shillings.

84. 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, whose name and residence shall be unknown to such officer or servant, and detain such person until he can be conveniently taken before a Justice, or until he be otherwise discharged by due course of law.
Dangerous goods not to be carried.

85. No person shall carry on the railways 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 railways, he shall forfeit to the Company any sum not exceeding Twenty Pounds for every such offence; and it shall be lawful for any authorised servant of the Company, or any constable, or Justice of the Peace, to require any parcel that he may suspect to contain any such goods to be opened in order to ascertain the fact.

By-laws.

86. 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 railways, 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 carrying out the objects and purposes of this Act; 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.

Penalty for offending against by-laws.

87. 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 railways, 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.

By-laws to be confirmed by Governor.

88. 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*.

Governor may disallow by-laws.

89. 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-law which shall be so disallowed shall have any force or effect after the time fixed by the notice for 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.

Evidence.

90. The production of a copy of the *Government Gazette*, containing
taining 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.

91. 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 have been 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.

92. Before any person entrusted with the custody or control of moneys of the Company, whether such person be 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.

93. 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 interests.

94. 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 purpose 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.

95. Every proceeding under this Act for any omission, default, offence or act to which any penalty is attached, where no other mode
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 convi-
cctions 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.

96. If any such officer refuses to make out such written accounts,
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 re-
lating 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.

97. If any Director, or other person acting on behalf of the Com-
pany, 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.

98. 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.

99. In the foregoing sections of this part of the 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 not-
withstanding that he may have ceased to hold office before any
proceedings are taken against him.

100. There shall be an appeal to the Local Court of Adelaide of

Full
Holdfast Bay Railway Act.—1878.

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 in 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, and 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.

101. 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 Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.
SCHEDULE.

FORM OF MORTGAGE.

HOLDFAST BAY RAILWAY COMPANY (LIMITED).

Mortgage, No. £

By virtue of the "Holdfast Bay Railway Act, 1878," we, the "Holdfast Bay 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 the interest, payable half-yearly for the same at the rate of £ every one hundred pounds by the year, be satisfied.

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.

£

By virtue of the "Holdfast Bay Railway Act, 1878," we, the Holdfast Bay Railway Company, Limited, in consideration of the sum of £ to us paid by

of

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, on the day of one thousand eight hundred and

the principal sum of £, together with interest for the same at the rate of £ for every £100 by the year, payable half-yearly 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

Attested and registered by Secretary.

FORM 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 "Holdfast Bay Railway
Railway Company, Limited," to and hereinafter the day of 18, for securing the sum of £ and interest after the rate of £ for every one hundred pounds by the year [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 undertaking tolls, moneys, and property thereby assigned"]). In witness thereof I have hereunto set my hand and seal this day of one thousand and