ANNO TRICESIMO NONO ET QUADRAGESIMO

VICTORIÆ REGINÆ.

A.D. 1876.

Private Act.

An Act to authorize the construction, maintenance, and working of Tramways for Horse Traction in and between certain parts of the City of Adelaide and the Town of Kensington and Norwood, and places suburban thereto, and for other purposes.

[Assented to, 27th October, 1876.]

WHEREAS the construction, maintenance, and working of tramways for horse traction in and between certain parts of the City of Adelaide and the Town of Kensington and Norwood, and places suburban thereto, in such a manner as not to impede or injure ordinary traffic, would be of great local and public advantage: And whereas a Joint Stock Company has been lately registered and incorporated under "The Companies Act, 1864," by the name of the "Adelaide and Suburban Tramway Company, Limited," with the objects (amongst others), of constructing, maintaining, and working such tramways as are hereinbefore referred to, and of obtaining an Act of the Parliament of South Australia for empowering and better enabling the Company to carry out its objects: And whereas the said Company is willing at its own expense to construct, maintain, and work the said tramways in manner hereinbefore mentioned, but the authority of Parliament is requisite to enable the Company so to do, and it is, therefore, desirable to confer on the Company all rights powers, privileges, and immunities necessary or convenient for the construction, maintenance, and working of such tramways—Be it therefore enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

A

I. This
Short title.

1. This Act may for all purposes be cited as the "Adelaide and Suburban Tramways Act, 1876."

Incorporation.

2. "The Lands Clauses Consolidation Act" shall be incorporated with and form part of this Act.

Interpretation.

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

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

The expression "the Company," shall mean the "Adelaide and Suburban Tramway Company, Limited:"

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

The expression "the deposited plans," shall mean the plan of the tramways and the book of reference thereto, which were deposited in the office of the Surveyor-General on the sixteenth day of November, one thousand eight hundred and seventy-five, and the plans which were deposited in the said office on the twenty-sixth day of May, one thousand eight hundred and seventy-six.

The expression "street" shall mean any public street, road, footpath, or place along or across which the tramways are authorized to be laid:

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

Power to make tramways.

4. Subject to the provisions of this Act, the Company may make, form, lay down, construct, maintain, and work on the lines shown in the deposited plans the tramways hereinafter described, or such portion thereof as the Company may think expedient, with all proper rails, plates, works, sidings, junctions, stations, approaches, and conveniences connected therewith, and may enter upon, purchase, take, and use such of the lands delineated and described in the deposited plans, and also such land situate at the corner of Rundle-street, Kent Town, and Young-street, and at the corner of Sydenham-road and Beulah-road, and at the corner of Kensington-terrace and the Parade, Norwood, as they may require for such purposes: Provided that no tramway shall be carried or maintained across the Adelaide and Glenelg Railway, so as to obstruct the traffic on the said railway.

5. The
5. The tramways hereinbefore referred to and authorized by this Act are as follows—

A tramway, No. 1, four miles and twenty-seven chains or thereabouts in length, commencing at a point on the Kensington-road, situate at or near the junction of such road, with the road forming the east boundary of Kensington, and thence passing along the Kensington-road, High-street, Kensington-terrace, the Parade, the Kent-road, Young-street, Rundle-street Kent Town, Rundle-road, Rundle-street Adelaide, the east side of King William-street to a point near the north side of Victoria-square, thence round Victoria-square on the east, south, and west sides thereof to a point to the west of the point lastly hereinbefore mentioned, and thence along the west side of King William-street to North-terrace, and including two junctions between the parts of the tramway on the east and west sides of King William-street, and to be formed, one in that part of King William-street which is situated between Town Acres 78 and 79, and the other in that part which is situated between Grenfell-street and Currie-street and Pirie-street and Waymouth-street:

A tramway, No. 2, one mile and forty chains or thereabouts in length, commencing at a point on the Kensington-road, situate at or near the junction of such road with the road forming the east boundary of Kensington, and thence passing along such last-mentioned road, Regent-street, the Parade East, Kensington-terrace, and the Parade to a point on the Parade situate at or near the junction of the Parade and the Sydenham-road:

A tramway, No. 3, sixty chains or thereabouts in length, commencing at a point on the Parade situate at or near the junction of the Parade and the Sydenham-road, and thence passing along the Sydenham-road and the Beulah-road across the south-west corner of Allotment 24 of Section 260, Norwood, and across the Brownhill Creek-road, into Rundle-street, Kent Town, and along Rundle-street, Kent Town, until it joins the tramway No. 1, hereinbefore described at or near the junction of Young-street and Rundle-street, Kent Town:

A tramway, No. 4, thirty-three chains and fifty links or thereabouts in length, commencing at a point in Rundle-street, Adelaide, situate between Town Acres 38 and 87, and thence passing along Pulteney-street round the north-west corner of Hindmarsh-square and along Grenfell-street into King William-street, joining the tramway No. 1 hereinbefore described at a point in King William-street, situate between Town Acres 140 and 141:

A tramway, No. 5, two hundred and forty-two chains and seventy-three links or thereabouts in length, commencing at a point on
on North-terrace, at the termination of tramway No. 1 hereinbefore described, and thence passing along the west side of the City Bridge-road and the City Bridge, John-street and Poole-street, thence along Brougham-road, thence along the west side of O'Connell-street to Barton-terrace, thence in a reverse direction along the east side of O'Connell-street, as far as the north-west end of Brougham-road, to a junction with part of the same tramway hereinbefore described, thence from a junction of the same tramway, at the south end of the Brougham-road, along the east side of Poole-street, John-street, the City Bridge and the City Bridge-road and King William-street to a double junction with tramway No. 1 hereinbefore described:

A tramway, No. 6, sixty chains and eighty links or thereabouts in length, commencing at a point of tramway No. 1, situate between the south side of Victoria-square and Town Acre 408, thence along the west side of King William-street as far as South-terrace, thence in a reverse direction across the line of The Adelaide, Glenelg, and Suburban Railway Company, Limited, to a point on the east side of King William-street, between Town Acres 638 and 639, thence along the east side of King William-street to a point on tramway No. 1, hereinbefore described, situate between the south side of Victoria-square and Town Acre No. 409:

Provided that in the event of the construction of that part of the tramway, No. 1, which lies between the points of commencement and termination of the tramway No. 3, the tramway No. 3 shall not be constructed, and vice versa: Provided also, that in the event of the construction of the tramways Nos. 1 and 2, across the bridge on the Parade, the street authority shall at the request and cost of the Company widen the said bridge, for the purpose of accommodating the increased traffic.

6. The centre line of every tramway shall be the centre line of the street in which such tramway shall be laid, or shall run parallel therewith at a distance of not less than seven feet six inches therefrom, except where the line of such tramway shall be a curve, as shown in the deposited plans, and except as to the tramway joining the tramways on the east and west sides of King William-street, and except as to the tramways on the east and west sides of King William-street and O'Connell-street, the centre lines whereof shall be as follows:—The centre line of the tramways on the east side of King William-street and O'Connell-street shall run parallel with the centre line of the street, at a distance of not less than ten feet nor more than twenty-five feet therefrom, and the centre line of the tramways on the west side of King William-street and O'Connell-street shall run parallel with the centre line of the street, at a distance of not less than ten feet nor more than twenty-five feet therefrom.
7. It shall not be lawful for the Company to alter the levels of any street.

8. The tramway No. 3, and that portion of the tramway No. 1 which lies between the point of commencement of the tramway No. 3 and a point on the Rundle-road situate at or near the junction of the Rundle-road and East-terrace, may be constructed and maintained with double lines, but all other tramways shall be constructed and maintained with single lines.

9. Every tramway line shall be constructed and maintained with two rails, to be laid at a distance of four feet eight and a-half inches from each other, and shall be constructed and maintained in such a manner that the uppermost surface of every rail shall be on a level with the surface of the street, and the rails used in the construction of every tramway shall be of iron or steel, and of the weight of not less than twenty pounds to the yard.

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

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

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

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

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 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 of the Director.
superintendence and to the reasonable satisfaction of the street authority thereof, unless such authority refuses or neglects to give such superintendence at the time specified in the Company's notice, or discontinues the same during the work:

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

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

15. The Company shall not, without the consent of the street authority thereof, open or break up at any one time and place a greater length than fifty 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.

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

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

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

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

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

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

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

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

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

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

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

ii. Before
Adelaide and Suburban Tramways Act.—1876.

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

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

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

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

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

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

III. 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 telegraph.

21. Where any of the tramways or any other work connected therewith interferes with any sewer, drain, watercourse, defence, or work under the jurisdiction or control of the Corporation of the City of Adelaide, or the street authority, or with any sewers or works to be made or executed by the said Corporation or street authority, or in any way affects the sewerage or drainage of the district under their or any of their control, the Company shall not commence any tramway or work until they shall have given to the street authority fourteen days' previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of such street authority for the time being, with all necessary particulars, nor until such street authority shall have signified their approval of the same, unless they do not signify their approval, disapproval, or other directions within fourteen days after service of the said notice and particulars as aforesaid; and the Company shall comply with and conform to all reasonable directions and regulations of such authority in the execution of the said works, and shall provide new, altered, or substituted works in such manner as the said street authority shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to, or by reason of the tramways, and shall save harmless the street authority against all Company not to disturb pipes until they have laid down others for continuing the supply of water and gas.

Pipes not to be laid contrary to Acts.

For protection of sewers.
all and every expense to be occasioned thereby, and all such works shall be done under the direction, superintendence, and control of the Engineer or other officer or officers of the street authority, at the reasonable costs, charges, and expenses in all respects of the Company, and when any new, altered, or substituted work as aforesaid, or any work or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the Company under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the street authority, and be maintained by them, as the case may be, as any sewers or works now or hereafter may be.

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

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

24. The tramways shall be constructed, fit for traffic, within two years from the passing of this Act, or within such further time, if any, not exceeding twelve months from the end of such two years, as the Governor may see fit to allow, and upon the expiration of the said two years, or of such further time (if any) as may have been allowed as aforesaid, the powers by this Act granted to the Company for constructing the tramways shall cease to be exercisable.

25. The Company shall at all times keep the tramways in good repair and working order, and after the end of the said two years, or of such further time (if any) as may have been allowed pursuant to the preceding section for constructing the tramways, the Company shall provide cars in sufficient numbers to travel along the tramways from South-terrace to the point of commencement of the tramway No. 1, at least twenty times each way between the hours of seven o'clock in the morning and ten o'clock in the evening of every day except Sunday.

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

27. The cars of the Company shall be drawn by horses, and each car shall be furnished with a brake which can be worked at each end of such car, and no car shall extend beyond the outer edge of its wheels more than eleven inches at each side, and no car shall travel on the tramways at a speed greater than shall be allowed by law, or by the by-laws of the street authority of the street in which such car shall be travelling; and any person driving any car on the tramways at a greater speed 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.

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

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

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

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

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

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

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

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

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

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

32. The Company may demand and take for every passenger conveyed upon the tramways, for the use of the tramways 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 Twopence per mile; but so that for every passenger conveyed for a distance less than three miles, the Company may demand 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 tolls and charges for a mile: Provided that the Company shall not demand or take any tolls or charges exceeding in all the sum of Threepence for the conveyance of any passenger from or to South Adelaide to or from Kent Town, and the sum of Sixpence for the conveyance of any passenger from or to South Adelaide to or from Kensington.

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

34. 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 last preceding section.

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

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

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

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

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

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

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

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

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

III. Within six calendar months after service upon the Company of the order of the Governor directing the removal or modification of the tramways, or if the Company shall have given notice as aforesaid of their desire that the question as to the necessity or expediency of such removal or modification should be referred, then, within six calendar months after the publication of the award of any arbitrator appointed by the Governor directing the removal or modification of the tramways, or within such earlier time if any as may be limited by such order or award, the Company shall remove or modify the tramways pursuant to the directions contained in such order or award, and the Company shall make good the street in which the tramways removed or modified were or are situate to the reasonable satisfaction of the street authority thereof:

Provided that if any modification which the Company may be required to make in the tramways by any such order or award shall be beyond their then existing powers, the Company shall, as soon as conveniently may be, apply to Parliament for the necessary powers to make such modification, and the provisions contained in the next paragraph shall not have effect until the expiration of three calendar months after the Bill to be introduced into Parliament by the Company in compliance with this provision shall have become law, unless such Bill shall be rejected by Parliament or withdrawn:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46. 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
be attended with danger or annoyance to the public, or hindrance to the Company in the lawful use of the tramways, it shall be lawful for the Company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to the penalty incurred by the offender.

47. 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*.

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

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

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

51. 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.
ceed against criminally for any offence committed by him in respect of the property of the Company in like manner and in all respects as if he were not a shareholder and had no such interest.

52. Every proceeding under this Act for any omission, default, offence, or act to which any penalty is attached, where no other mode of proceeding is by this Act provided, may be had and taken before and be heard and determined in a summary way by any Special Magistrate or two Justices of the Peace, under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, intituled “To Facilitate the Performance of the duties of Justices of the Peace out of Sessions with respect to Summary Convictions and Orders,” or of any Act now in force or hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders, and all convictions and orders made by such Magistrate or Justices may be enforced as in the said Ordinance or in any other Act as aforesaid is or shall be provided.

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

54. In each year after the year one thousand eight hundred and seventy-seven the Company shall pay to the street authority of every street in which they shall construct the tramways, rates calculated on the sum of Two Hundred Pounds as the annual value of the tramways for every mile in length of the streets of such street authority, along which such tramways shall be constructed, in the same manner as rates declared and levied upon rateable property by virtue of the “Municipal Corporations Act, 1861,” or of any Act amending the same, and such rates shall form portion of the general revenue of such street authority: Provided that save as in this section provided neither the tramways nor any works connected therewith, nor the cars, horses, rolling-stock, or other things used in working the tramways, shall be liable to the payment of any municipal, district, or other local rates or taxes whatever.

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

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

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

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

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

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

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

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

A. MUSGRAVE, Governor.