ANNO QUADRAGESIMO ET QUADRAGESIMO PRIMO

VICTORIAE REGINAE.

A.D. 1877.

Private Act.

An Act to authorize the construction, maintenance, and working of Tramways for Horse Traction, or Steam Power, in and between certain parts of the Town of Port Adelaide, Portland Estate, Alberton, Queenstown, Cheltenham, and other places suburban or adjacent thereto, and for other purposes.

[Assented to 21st December, 1877.]

WHEREAS the construction, maintenance, and working of tramways for horse traction, or steam power, in and between certain parts of the Town of Port Adelaide, Portland Estate, Alberton, Queenstown, and Cheltenham, and other places suburban or adjacent thereto, in such a manner as not to impede or injure ordinary traffic, would be of great local and public advantage: And whereas a Joint Stock Company has been lately registered and incorporated under “The Companies Act, 1864,” by the name of “The Port Adelaide, Queenstown, Alberton, and Portland Estate 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
Incorporation.

1. This Act may for all purposes be cited as the “Port Adelaide and Suburban Tramway Act, 1877.”

2. “The Lands Clauses Consolidation Act” shall be incorporated with and form part of this Act: Provided, however, that nothing in this Act or in the Lands Clauses Consolidation Act shall be held to authorize or in any way empower the Company to compulsorily purchase or acquire any portion of Park Lands or any other Public Reserve.

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

The meanings which have been assigned by “The Lands Clauses Consolidation Act” to certain words and expressions shall be attributed to such words and expressions wherever they occur herein, except as hereinbefore provided in clause 2:

The expression “the Company” shall mean “The Port Adelaide, Queenstown, Alberton, and Portland Estate Tramway Company, Limited.”

The expression “the tramways,” shall mean the tramways by this Act authorized, or any part thereof, including the works, sidings, junctions, stations, and approaches thereto:

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 twenty-fourth day of October, and the seventh day of November, both in the year one thousand eight hundred and seventy-seven.

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

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

4. Subject to the provisions of this Act, the Company may make, form, lay down, construct, maintain, and work on the lines shown in the deposited plans the tramways hereinafter described, or such portion thereof as the Company may think expedient, with all proper
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.

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

One hundred and eighty-three chains or thereabouts in length, beginning at a point marked A on plan at the junction of the Port-road with St. Vincent-street, Port Adelaide, thence south-easterly along the southerly side of the Main-road from Port Adelaide passing the Townships of Portland Estate, Queenstown, and Alberton, and terminating at a point on the Port-road opposite the north-eastern corner of Allotment No. 71, part of the subdivisions of Section 418, in the Hundred of Yatala, laid out as the Township of Albert Park.

6. It shall not be lawful for the Company to alter the levels of any street.

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

8. 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.

9. 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.

10. Subject
10. 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.

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

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

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

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

12. 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.

13. 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.

14. 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.
occaisoned thereby, and remove the same to such spot in the municipality wherein any such street shall be situated, as the street authority of such street shall direct:

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

15. 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.

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

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

11. 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:

111. 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:

1111. 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 tram-
way 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.

17. 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 permit:

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 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.

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

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

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

20. 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.

21. 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.

22. 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, except as regards such portion thereof as shall then be completed.

23. 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 said
said tramway along the whole line thereof at least four times each way between the hours of six o'clock in the morning and twelve o'clock in the evening of every day.

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

25. The cars of the Company shall be drawn or propelled by horses, or, with the annual written consent of the street authorities, by engines, such engines to be noiseless and smokeless engines, or such other engines as may from time to time be approved of by the street authorities of the streets through and in which it is intended and sought to use the same, 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 fourteen 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.

26. 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.

27. If any person other than the Company (except by agreement with the Company) shall wilfully use the rails of the tramways for the...
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.

Company may make arrangement for use of tramways.

28. 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.

Penalties for interference with Company's use of tramways.

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

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

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

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

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

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

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

Tolls and charges.

30. 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 Threepence per mile; but so that for every passenger conveyed for a distance less than two miles, the Company may demand tolls and charges as for two miles.

Passenger may take luggage.

31. 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.

Company not bound to carry goods.

32. 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.

Company not to load or unload heavy goods, stone, or

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

34. 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.

35. 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.

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

37. 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.

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

39. 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.

40. 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,
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—

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

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

iii. Within 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 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.

41. 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 law-
ful 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 pro-
ceeds of such sale in manner provided by the last preceding section.

42. 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 Gover-
nor may direct an inquiry into the truth of the representation, and
if the referee shall find that the Company are insolvent, the Gover-
nor 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.

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

i. 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:

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 men-
tioned 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 arbi-
trator, and his appointment shall be deemed to be a submis-
sion 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 inter-
ested in the inquiry may be made a rule of the Supreme
Court.

44. It shall be lawful for the Company from time to time to make

by-laws
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.

45. 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 hinderance 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 hinderance, and that without prejudice to the penalty incurred by the offender.

46. 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.

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

48. 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.

49. 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
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.

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

51. 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.

52. 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.

53. In each year after the year one thousand eight hundred and seventy-nine 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 rateable 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
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.

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

55. 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.

56. 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 Town of Port Adelaide to purchase the said tramways and the whole undertaking on giving to the Company six calendar months' notice in writing of such intention, on payment to the Company of an amount to be ascertained as follows, that is to say: Two arbitrators shall be appointed by the said Corporation, two arbitrators by the Company, and all matters relating to such purchase shall be submitted to the decision of such arbitrators, and in all other respects such arbitration shall be conducted in accordance with, and under and subject to the Railways Clauses Consolidation Act, No. 7 of 1847: Provided that the said Corporation shall not be compelled to abide by the event of the award, if the said Corporation shall give to the Company one month's notice in writing to that effect, and thereupon the Company shall be at liberty to carry on and work the said tramway: And provided also, that the said Corporation shall pay the cost of the reference and award, and all costs and charges incidental thereto.

57. 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
and conditions by this Act imposed on the Company with respect to the several matters above mentioned in the same manner and to the same extent and effect as if the said Corporation had been authorized by this Act to construct such tramways, and had been named in this Act instead of the Company.

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

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

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

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

WM. F. DRUMMOND JERVOIS, Governor.