ANNO QUADRAGESIMO QUINTO ET QUADRAGESIMO SEXTO

VICTORIAE REGINAE.
A.D. 1882.

******************************************************************************

Private Act.

An Act to authorise "The Glenelg, Brighton, and Marino Tramway Company, Limited," to construct, maintain, and work a tramway by horse traction in and between certain parts of the Town of Glenelg and the Townships of New Glenelg, Somerton, Brighton, Old Brighton, Shoreham, and Dover, and for other purposes.

[Assented to, November 17th, 1882.]

WHEREAS the construction, maintenance, and working of tramways in and between certain parts of the Town of Glenelg and the Townships of New Glenelg, Somerton, Brighton, Old Brighton, Shoreham, and Dover, 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 Glenelg, Brighton, and Marino Tramway Company, Limited," with the objects, amongst others, of constructing, maintaining, and working such tramways as are hereinbefore referred to, and obtaining an Act of the Parliament of the Province 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 requisite 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:

1. This Act may be cited for all purposes as "The Glenelg, Brighton, and Marino Tramway Act, 1882."

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

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

   The expression "the Company" shall mean "The Glenelg, Brighton, and Marino Tramway Company, Limited":

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

   The expression "the deposited plan" 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 twelfth day of August, one thousand eight hundred and eighty-two, as amended by a plan deposited in the said office on the ninth day of October, one thousand eight hundred and eighty-two:

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

   The expression "the undertaking" shall mean the undertaking hereby authorised.

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, with all proper rails, plates, works, sidings, junctions, stations, approaches, and conveniences connected therewith.

5. The tramways hereinbefore referred to, and authorised by this Act, are as follows—A single line of tramway, three miles three furlongs two chains and ninety links in length, commencing at the junction of the Adelaide and Glenelg Road with the Brighton Road; thence along the said Brighton Road to the junction of the said Brighton
Brighton Road with the Folkestone Road, Dover, with a branch line of tramway one furlong one chain and eighty links in length, commencing at a point one mile three furlongs and two chains from the commencement of the said tramway; and thence passing along the Somerton Road to the junction of the said Somerton Road with Scarborough-street; and thence along Scarborough-street to a point distant eighty-five links north of the northern side of the said Somerton Road.

6. The centre line of every tramway, except where the line of such tramway shall be a curve, and except in the case of the turn-outs shown on the said deposited plan, shall be as follows—that is to say:—In the Brighton Road (between the letters A and B on the deposited plan) such centre line shall run parallel with and on the western side of the centre line of the said road, at a distance of not more than ten feet therefrom; in the Brighton Road (between the letter B, in the said deposited plan, and the terminus at the junction of the Brighton Road with the Folkestone Road, Dover), such centre line shall run parallel with and on the eastern side of the centre line of the said road, at a distance of not more than ten feet therefrom; and in the Somerton Road the centre line shall run parallel with and on the southern side of the centre line of such road, at a distance of not more than eight feet four inches therefrom.

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

8. Every tramway line shall be constructed and maintained with two rails, to be laid at a distance of four feet eight and a half inches from each other, and shall be constructed and maintained in such a manner that the uppermost surface of every rail shall be on a level with the surface of the street, and the rails used in the construction of every tramway shall be of iron or steel, and of the weight of not less than twenty pounds to the yard. And such rails shall be grooved, the groove in no case exceeding one and a quarter inches in width, and shall be guarded on the outside with wood or stone, to the satisfaction of the street authorities.

9. 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 about to pass 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, or for the purpose of passing at any turn-out or siding.

10. Nothing
10. 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.

11. 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.

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

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

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

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

13. 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.

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

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

i. They shall, with all convenient speed, and in all cases within three weeks at the most from the time of opening or breaking up the same (unless the street authority thereof shall enlarge such time), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance,
maintenance, and renewal of the tramways) fill in the ground and make good the surface, and generally restore the portion of the street so opened or broken up to as good a condition as that 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 or district 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.

16. 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.

17. 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 giving 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
45° & 46° VICTORIÆ, PRIVATE ACT.

The Glenelg, Brighton, and Marino Tramway Act.—1882.

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

18. 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 powers, such persons shall be subject to the following restrictions—

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

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

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

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

19. 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,
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 any of such mains or pipes, tubes, wires, or apparatus, 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, or 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:

The Company shall not remove or displace any of the mains or pipes, valves, siphons, 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, siphons, 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, to the satisfaction of such person or his surveyor or engineer, or in case of disagreement between such person, or his surveyor, or engineer, and the Company, to the satisfaction of an engineer to be appointed by the Corporation of the Town of Glenelg or the Corporation of the Town of Brighton:

iii. The
iii. The Company shall not lay down such pipes contrary to the regulations of any Act of Parliament.

20. 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 Glenelg, or the Corporation of the Town of Brighton, or the street authority, or any other person, or with any sewers or works to be made or executed by the said Corporations, or either of them, street authority, or other person, or in any way affects the sewerage or drainage of the district under their control, or under the control of any of them, the Company shall not commence any tramway or work until they shall have given to the street authority, Corporation, or other person, 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, Corporation, or other person, with all necessary particulars, nor until such street authority, Corporation, or person, 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, Corporation, or person in the execution of the said works, and shall provide new, altered, or substituted works in such manner as the said street authority, Corporation, or person 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, Corporation, or person 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, Corporation, or person, 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, Corporation, or person aforesaid, and be maintained by them, as the case may be, as any sewers or works now or hereafter may be.

21. The Company shall be answerable for all accidents, damages, and injuries happening through the default or act 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.

22. The tramways shall be completed fit for traffic within two years from the passing of this Act, or within such further period not exceeding one year as the Governor may allow, and upon the expiration
tion of such two years, or such further period, if any, the powers by 
this Act granted to the Company for constructing the tramways shall 
cease to be exercisable.

23. The Company shall at all times keep the tramways in good 
repair and working order, and after the end of the said period 
the Company shall provide cars in sufficient numbers to travel along 
the tramways from the Dover terminal station to the terminal 
station at the other end of the main tramline at least six times each 
way between the hours of seven o'clock in the morning and eleven 
o'clock in the evening of every day except Sunday.

24. The Company shall at their own expense at all times main- 
tain and keep in good condition and repair with such materials and 
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 consent in writing), fill 
in the ground and make good the surface, and to the satisfaction of 
the said street authority restore the portion of road upon which 
such tramway was laid, and clear away all surplus paving or 
metalling material or rubbish occasioned by such work; and they 
shall in the meantime cause the place where the street is opened or 
broken up to be fenced and watched, and to be properly lighted at 
night: Provided always, that if the Company fail to comply with 
the provisions of this section, the street authority, if they think fit, 
may themselves, at any time after seven days' notice to the Com- 
pany, open and break up the road, and do, instead of the Company, 
the work necessary for the paving, repair, and maintenance of the 
road to the extent in this section above mentioned, 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, and no car shall travel along any street in the Town of 
Glenelg or in any of the towns or townships through which the 
tramway shall pass at a greater speed than shall be allowed by law, 
or by the by-laws of the street authority of the street through which 
such car shall travel.

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

Penalty for using 
tramways.
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.

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.

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:

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 shepherdimg 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.

30. The Company may demand and take for every passenger
conveyed upon the tramways, for the use of the tramways and car
and motive power, and every other expense incidental to the con-
voyance of such passengers, 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 and
take tolls and charges as for three miles, and for every fraction of a
mile beyond three miles the Company may demand tolls and charges
as for a mile.

31. Every person travelling upon the tramways may take with
him his ordinary personal luggage without any charge being made;
but so that the weight of such luggage shall not exceed twenty-eight
pounds.

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

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

34. 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.

35. 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 of the Peace for the said province, or until he be otherwise discharged by due course of law.

36. 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 authorised servant of the Company, or any constable or Justice of the Peace, to require any parcel that he may suspect to contain any such goods to be opened in order to ascertain the fact.

37. 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.

38. If, 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 provision shall come into force—

1. The Governor may, by order under his hand, require the Company
The Glenelg, Brighton, and Marino Tramway Act.—1882.

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 think 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 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 following sub-section 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 such 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 or secretary for the time being of such street authority
authority (whose certificate shall be final and conclusive with reference thereto), shall, on demand, be repaid by the Company to the street authority:

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 or secretary 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 costs 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.

39. 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 or secretary of such street authority (whose certificate shall be final and conclusive with reference thereto), shall, on demand, be repaid by the Company to the street authority; and if the Company fail to pay the amount so certified within one calendar month after delivery to them of such certificate, or a copy thereof, the street authority (without prejudice to any other remedy which they may have for the recovery of the amount) may sell and dispose of the materials of the tramways so removed, and apply the proceeds of such sale in manner provided by the last preceding section.

40. 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 same to its original state and condition, and to sell and dispose of the materials of the tramways in manner hereinbefore
before 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 or secretary of the street authority, whose certificate shall be final and conclusive) of the removal of the tramways, and restoration of the street, and of and incidental to the sale, and the balance, if any, of the proceeds of the sale, shall be paid over by the street authority to the Company.

41. 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, of the time and place at which the inquiry is to be commenced, shall be given by the referee to the Company, and to the street authority upon whose representation the Governor shall have directed the inquiry:

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, upon request, deliver copies of his report 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
interested in the inquiry may be made a rule of the Supreme Court.

42. 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 payment or collection of tolls and charges, 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.

43. Any person offending against any by-law of the Company shall forfeit for every such offence any sum not exceeding Five Pounds, to be imposed by the Company in such by-laws as a penalty for any such offence; and if the infraction or non-observance of such by-laws be attended with danger or annoyance to the public, or hindrance to the Company in the lawful use of the tramways, it shall be lawful for the Company summarily to interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to the penalty incurred by the offender.

44. 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.

45. 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.

46. The production of a copy of the Government Gazette, containing a copy of any by-laws purporting to be the by-laws of the Company, and the confirmation thereof by the Governor, or a notice 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 therein appearing.

47. Every
47. 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.

48. 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.

49. 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 "An Ordinance 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.

50. In every case of the adjudication of a fine or pecuniary penalty under this Act, and of the non-payment thereof, any Justice of the Peace may commit the offender or person making default in payment to any gaol in the said province for any time not exceeding three calendar months; the imprisonment to cease on payment of the sum due, and the costs of such proceedings as may have been taken for the recovery thereof; but this section shall not affect any remedy under the said Ordinance No. 6 of 1850.

51. 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.
pointed 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 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.

52. In each year after the year one thousand eight hundred and eighty-three, the Company shall pay to the Corporation of the Town of Glenelg, the Corporation of the Town of Brighton, and the District Council of Brighton respectively, rates calculated on the sum of One Hundred Pounds as the annual value of every mile in length of the tramways along any street in the Town of Glenelg, the Town of Brighton, or the District of Brighton respectively, in the same manner as rates declared and levied upon ratable property by virtue of “The Municipal Corporations Act, 1880,” or of any Act amending the same, and such rates shall form portion of the general revenue of such Corporations or District Council respectively: 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.

53. The Corporation of the Town of Brighton 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, such Corporation.

54. 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.

55. The Company may at any time after the passing of this Act from time to time make, enter into, and carry into effect contracts, agreements, and arrangements with the Glenelg, New Glenelg, and Somerton Tramway Company, Limited, for or with reference to the working of the undertaking and in relation to the traffic on the tramways.

56. The Company, prior to engaging any treasurer, collector, receiver, or other officer, to be entrusted with the collection or custody of any moneys in connection with or for the use of the tramways hereby authorised, shall receive from such officer a bond, with
with sufficient sureties, conditioned in such an amount as the Directors of the Company may deem sufficient, as security for the faithful execution of his office.

57. All moneys at any time becoming due to the Company by any of its members in respect of calls made upon shares not fully paid up, but subscribed for the purpose of constructing and maintaining the tramways hereby authorised, shall be debts due to the Company by such members respectively, and recoverable by action accordingly.

58. The said Company shall cause to be kept full and accurate accounts of all moneys received and expended under the provisions of this Act, and shall cause such accounts to be balanced once at least in every year.

59. The Company shall, once at least in every year, cause such accounts to be submitted to an auditor or auditors, to be appointed by the members of the Company; and such auditor or auditors shall, for the purpose of assisting him or them in the preparation of a full, true, and impartial report, be supplied by the Directors of the Company with all books, accounts, memoranda, and vouchers relating in anywise to the affairs of the Company.

60. The remuneration of such auditor or auditors shall be fixed by the members of the Company at the time of his or their appointment, and shall be payable out of the funds of the Company.

61. The Company shall also, once in every year at the least, cause to be prepared an account in abstract of the total amount realised by the said fees, tolls, charges, and other payments hereby authorised to be made, and also of all outgoings, debts, expenses, and liabilities incurred by or on behalf of the Company for the past year, under the several and distinct heads of receipts and expenditure, together with a statement of the balance of the account, duly audited, which statement shall be signed and certified by such auditor or auditors and by the Chairman of the Directors of the Company; and the Company shall cause to be transmitted one copy of such account, free of charge, to the Auditor-General of the said province, on or before the thirty-first day of January in every year.

62. In the event of the Company not forwarding such account at the time hereinbefore provided, they shall forfeit and pay a sum or penalty of Five Pounds for every day during which the said account is withheld from the Auditor-General.

63. The said account shall, after due inspection by the Auditor-General, be filed by him in his office, and shall be open to the inspection of the public at all reasonable hours on payment of the sum of One Shilling.

64. The
64. The Company shall not have power to raise by loan or mortgage any sum or sums of money exceeding one-third part of the capital of the Company, nor shall it be lawful for the Company, or any person or persons acting on its behalf, to raise any sum or sums of money whatsoever, whether on loan or mortgage, unless and until an amount equal to one-half of the capital of the Company shall have been fully paid up by the members thereof.

65. Whereas, pursuant to the Standing Orders of the Legislative Council of this province, a sum of Three Hundred and Forty Pounds, being one-twentieth of the amount of the estimate in respect of the tramways authorised by this Act, has been deposited in the Treasury of the said province—Be it Enacted that the said sum of Three Hundred and Forty Pounds so deposited as aforesaid, in respect of the application for this Act, shall not be paid or transferred to or on the application of the person or persons depositing the same, or their successors or representatives, unless the Company shall, previously to the expiration of the period limited by this Act for completion of the tramways hereby authorised to be made, either open the said tramways for the public conveyance of passengers or prove to the satisfaction of the Commissioner of Public Works that the Company have paid up one-half of the amount of the capital of the Company as fixed by the memorandum of association thereof, and have expended for the purposes of this Act a sum equal in amount to such one-half of the said capital; and if the said period shall expire before the Company shall either have opened the tramways for the public conveyance of passengers or have given such proof as aforesaid to the satisfaction of the Commissioner of Public Works, the said sum of money, deposited as aforesaid, shall be applied in the manner hereinafter specified, and the certificate of the said Commissioner shall be sufficient evidence of the fact so certified: Provided that if the aforesaid conditions for repayment of the said sum of Three Hundred and Forty Pounds shall be complied with, such sum shall thereupon be repaid by the Treasurer to the said Company.

66. The said sum of money deposited as aforesaid shall be applicable, and, after due notice in the Government Gazette, shall be applied towards compensating any person whose property may have been interfered with or otherwise rendered less valuable by the commencement, construction, or abandonment of the said tramway, or any portion thereof; or who may have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act, and for which injury or loss no compensation, or inadequate compensation, shall have been paid; and also in compensating all street authorities for the expenses incurred by them in taking up any tramway or materials connected therewith, placed by the Company in or on any road vested in or maintainable by such street authorities respectively, and in making good all damages caused to such roads by the construction or abandonment of such tramway, and shall be distributed in satisfaction...
faction of such compensation as aforesaid, in such manner and in such proportions as to the Supreme Court or any Judge thereof may seem fit; and if no such compensation shall be payable, or if a portion of such sum shall have been found sufficient to satisfy all just claims in respect of such compensation, then the said sum of money or such portion thereof as may not be required as aforesaid shall be forfeited to Her Majesty, and accordingly be paid or transferred to and form part of the revenue of the province in such manner as the said Court or Judge thinks fit to order on application of the Attorney-General, or, in the discretion of the Court, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid or transferred to such receiver, or to the liquidator or liquidators of the Company, or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof.

67. If the tramways authorised by this Act shall not be completed within the period limited by this Act, then, on the expiration of such period, all the powers by this Act granted to the Company for making, completing, and working the said tramways, or otherwise in relation thereto, shall cease to be exercised.

68. It shall not be lawful for the Company to employ any part of the capital raised by means of calls or of any power of borrowing for the purpose of paying any sum or sums of money as interest or dividends upon such calls.

69. At any time after the expiration of fourteen years from the time of the passing of this Act, it shall be lawful for the Government to purchase the said tramways and undertaking, at a price to be determined as follows, that is to say: Two arbitrators shall be appointed by the Government, and two arbitrators by the Company, and all matters relating to such purchase shall be submitted to the decision of such arbitrators, and in all other respects such arbitration shall be conducted in accordance with and under and subject to the “Railways Clauses Consolidation Act,” No. 7 of 1847: Provided that the Government shall not be compelled to abide by the event of the award if the Government shall give to the Company one month’s notice in writing to that effect, and thereupon the Company shall be at liberty to carry on and work the said tramways: And provided also, that the Government shall pay all costs of the reference and award, and all costs and charges incidental thereto.

70. Nothing herein contained shall be deemed or construed to exempt the tramways by this Act authorised to be made from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future Session of Parliament, or from any future revision and alteration, under the authority of Parliament, of the maximum rates of fares and charges authorised by this Act.
71. If at any future time the Government shall construct or erect any line or lines of tramway or railway, the construction or erection of which may, or may be supposed to injuriously affect, whether by competition or otherwise, the lines of tramway hereby authorised, the Company shall not be entitled to receive or claim any compensation from the Government by reason of such damage or injury.

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

73. This Act shall be deemed and taken to be a public Act, and shall be judicially 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 JEROVIS, Governor.