

COOKBUNDOON
SLATE QUARRY
TRAMWAY.

An Act to enable a Company called "The Cookbundoon Slate Company (Limited)" to construct a Tramway from the Cookbundoon Slate Quarries to the Great Southern Railway. [19th December, 1881.]

Preamble.

WHEREAS certain persons now residing in the Colony of New South Wales have opened and established certain slate quarries on a parcel of land situate near Mannafield in the county of Argyle and with others have formed themselves into a Company called "The Cookbundoon Slate Company (Limited)" and in order to facilitate communication between the said slate quarries and the Great Southern Railway such Company is desirous of constructing a tramway from their said slate quarry to the Great Southern Railway but as part of such proposed tramway is intended to be made upon and pass through lands believed to be the property of the Crown and private persons respectively the same cannot be made without Legislative authority And whereas the said slate quarries are likely to prove beneficial to the Colony and the public are concerned in promoting such an increase in and facilities for the supply of slate for local consumption as would result from the construction of the said proposed tramway and the traffic on the Great Southern Railway would be increased thereby it is therefore desirable to authorize by Legislative enactment the construction of the said tramway subject to the provisions hereinafter contained upon payment of compensation to the several parties through whose land the same shall pass for such portion of their respective lands as may be required to be taken and occupied thereby Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Authority to construct tramway and connect same with Great Southern Railway.

1. It shall be lawful for the said Company to make and construct a tramway from the southern boundary of their said land into and through the land belonging to Augustine M. Betts and into and through Crown land and into and through land said to belong to Moore and into and through Crown lands and into and through land said to belong to William Wallace and into and through Crown lands and into and through John Frost's land and into and through James Sample's land the said tramway line crossing a certain parish road and also the road from Goulburn to Greenwich Park and terminating at a point on the Great Southern Railway at or near the Mannafield Platform and to effect if necessary a junction between said line and the Great Southern Railway in accordance with section ninety-nine of the "Government Railways Act of 1858" such tramway to be in the line described in the Schedule but so that the same shall not occupy at any part thereof (except near the junction of the Great Southern Railway) a greater space in breadth than sixty-six feet And also that the said Company may take and occupy three acres of land or any lesser area at the junction of the said tramway with the Great Southern Railway or the said road to Greenwich Park as aforesaid.

Site of tramway shall be vested in the Company without conveyance.

2. The ground and soil of so much of the site of the tramway as passes over the lands of the said owners of lands respectively and over Crown land together with such rights of ingress egress and regress upon the adjacent land as may be necessary for the making and

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and repair thereof shall be vested by virtue of this Act and without the necessity of any conveyance in the Company for the purposes of the tramway Provided that no lands vested in the Commissioner for Railways shall by virtue of this Act be vested in the Company and nothing herein contained shall prevent the said owners from carrying on any mining operations beneath the said tramway which shall not interfere with the safety of the said tramway and the traffic thereon and the Company shall have no further right to the soil of the said lands beneath the surface than shall be requisite for the formation and repair of the said road by cutting embanking sinking wells or otherwise Provided also that if in the exercise of the powers hereby granted it be found necessary to cross cut through sink raise or use any part of any road whether carriage road or horse road so as to render it impassable for or dangerous or inconvenient to the persons entitled to the use thereof the Company shall before the commencement of any such operations cause a sufficient road to be made instead of any road interfered with and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly as may be And the Company before they use the said lands of the said owners of lands respectively and the said Crown land for any of the purposes as aforesaid shall if required so to do separate the same by a sufficient fence from the land adjoining thereto with such gates as may be required for the convenient occupation of such land and shall also to all private roads used by them as aforesaid put up fences and gates in like manner in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads and in case of any difference between the owners or occupiers of such roads and lands and the Company as to the necessity for such fences and gates then the said Company shall put up and erect such fences and gates as any two Justices of the Peace shall deem necessary for the purposes aforesaid on application being made to them.

3. The tramway shall be open to the public use upon payment of a toll to the Company of a sum not exceeding three pence per ton per mile in respect of every ton of goods for every transit the party seeking transit supplying and loading his own trucks or waggons and the Company supplying locomotive power and all trucks when emptied shall be conveyed on their return free of cost Provided always that it shall not be compulsory on the Company to supply locomotive power unless the party seeking transit guarantee and bring one hundred tons at least during the twelve working hours and give notice of same at least twenty-four hours previously The tramway shall at all times be open to the public upon payment of a toll to the Company of a sum not exceeding two pence per ton per mile in respect of every ton of goods for every transit if the party seeking transit supply the locomotive power as well as the trucks and waggons Provided that so long as the Company shall be willing to supply locomotive power no other person shall use locomotive power on the line Provided that if the tramway shall be damaged by parties who shall themselves use the tramway for transit and supply locomotive power the Company shall be entitled to compensation for such damage to be recovered either by action in the Supreme Court of New South Wales or if such damage do not exceed the sum of twenty pounds summarily before two Justices and in estimating such damage the Company shall be entitled not only to compensation for the cost of repairing and restoring the tramway but to the consequential damage (if any) sustained by reason of the suspension of transit or otherwise.

4. And be it enacted that it shall be lawful for the owners or occupiers of the lands traversed by the said tramway to lay down upon

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their own lands any collateral branches of tramway to communicate with the said tramway for the purpose of bringing carriages to or from or upon the said tramway and the Company shall if required at the expense of such owners or occupiers make openings in the rails and such additional lines of tramway as may be necessary for effecting such communication in places where the communication can be made with safety to the public and without injury to the said tramway and without inconvenience to the traffic thereupon and the Company shall not take any rate or toll or other moneys for the passing of any passengers goods or other things along any branch so to be made by any such owner or occupier or other person but this enactment shall be subject to the following restrictions and conditions (that is to say)—

No such tramway shall run parallel to the said tramway—the Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose with which such communication would interfere nor upon any inclined plane or bridge nor in any tunnel.

The persons making or using such branch tramways shall be subject to all by-laws and regulations of the Company from time to time made with respect to passing upon or crossing the tramway and otherwise and the persons making or using such branch tramways shall be bound to construct and from time to time as need may require to renew the off-set plates and switches according to the most approved plan adopted by the Company under the direction of their engineer.

Power to divert or alter roads.

5. For the purposes and subject to the provisions hereinafter contained it shall be lawful for the Company their deputies agents servants and workmen and all other persons by them authorized and empowered to divert or alter the course of any road or way crossing the tramway or to raise or sink any road or way in order the more conveniently to carry the same over or under or by the side of the tramway.

Penalty for not substituting a road.

6. If the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted and such penalty shall be paid to the Trustees Commissioners Surveyor or other persons having the management of such road if a public road and shall be applied for the purposes thereof or in case of a private road the same shall be paid to the owner thereof and every such penalty shall be recoverable with costs by action in any of the superior Courts.

Road repairs.

7. If in the course of making the tramway the Company shall use or interfere with any road they shall from time to time make good all damage done by them to such road and if any question shall arise as to the damage done to any such road by the Company or as to the repair thereof by them such question shall be referred to the determination of two Justices and such Justices may direct such repairs to be made in the state of such road in respect of damage done by Company and within such period as they may think reasonable and may impose on the Company for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such Justices shall seem fit and any such penalty shall be paid to the surveyor or other person having the management of the road interfered with by the Company if a public road and be applied for the purposes of such road or if a private road the same shall be paid to the owner thereof Provided always the said Justices shall have regard to and shall make full allowance for any tolls that may have been paid by the Company on such road in the course of the using thereof.

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8. Until the Company shall have made the bridges or other owners crossing. proper communications which they shall under the provisions herein contained have been required to make between lands intersected by the tramway and no longer the owners and occupiers of such lands and any other persons whose right-of-way shall be affected by the want of such communications and their respective servants may at all times freely pass and repass with carriages horses and other animals directly but not otherwise across any part of the tramway made in or through their respective lands solely for the purpose of occupying the same lands or for the exercise of such right-of-way and so as not to obstruct the passage along the tramway or to damage the same nevertheless if the owner or occupier of any such lands have in his arrangements with the Company received or agreed to receive compensation for or on account of any such communications instead of the same being formed such owner or occupier or those claiming under him shall not be entitled so to cross the tramway.

9. If the tramway cross any public highway or parish road on a level the Company shall erect and at all times maintain good and sufficient gates across such road on each side of the tramway where the same shall communicate therewith and shall employ proper persons to open and shut such gates and such gates shall be kept constantly closed across such roads on both sides of the tramway except during the time when horses cattle carts or carriages passing along the same shall have to cross such tramway and such gates shall be of such dimensions and so constructed as when closed to fence in the tramway and prevent cattle or horses passing along the road from entering upon the tramway and the person intrusted with the care of such gates shall cause the same to be closed as soon as such horses cattle carts or carriages shall have passed through the same under a penalty not exceeding forty shillings for every default therein Provided always that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road shall be kept closed across the tramway to order that such gates shall be kept so closed instead of across the road and in such case such gates shall be kept constantly closed across the tramway except when engines or carriages passing along the tramway shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

10. In case of accidents or slips happening or being apprehended to the cuttings embankments or other works of the said tramway it shall be lawful for the Company and their workmen and servants to enter upon the land adjoining thereto at any time whatsoever for the purpose of repairing or preventing such accidents and to do such works as may be necessary for the purpose but in every such case the Company shall within forty-eight hours after such entry make a report to the Secretary for Public Works specifying the nature of such accident or apprehended accident and of the works necessary to be done and such powers shall cease and determine if the said Secretary shall after considering the said report certify that their exercise is not necessary for the public safety Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of and shall be executed with all possible dispatch and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works the amount of which compensation in case of any dispute about the same shall be settled by arbitrators in the manner hereinafter mentioned And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said tramway.

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Construction of
bridges over roads.

11. Every bridge to be erected for the purpose of carrying the tramway over any road shall be built in conformity with the following regulations (that is to say):—

The width of the arch shall be such as to leave thereunder a clear space of not less than thirty feet if the arch be over a public highway and of twenty feet if over a parish road and of twelve feet if over a private road

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet if the arch be over a main road and fifteen feet for a space of ten feet if over a public carriage road and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet the clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private road

The descent made in the road in order to carry the same under the bridge shall not be more than one foot in thirty feet if the bridge be over a public highway one foot in twenty feet if over a parish road and one foot in sixteen feet if over a private road not being a tramroad or railroad or if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad.

12. Every bridge erected for carrying any road over the tramway shall be built in conformity with the following regulations (that is to say):—

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet and on each side of the immediate approaches of such bridge of not less than three feet

The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a public highway and twenty-five feet if a parish road and twelve feet if a private road

The ascent shall not be more than one foot in thirty feet if the road be a main road one foot in twenty feet if a parish road and one foot in sixteen feet if a private road not being a tramroad or railroad or if the same be a tramroad or railroad the ascent shall not be greater than the ruling gradient of such tramroad or railroad.

13. Provided always that in all cases where the average available width for the passing of carriages of any existing road within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the tramway the width of such bridges need not be greater than such average available width of such roads but so nevertheless that such bridges be not of less width in case of a public highway or parish road than twenty feet Provided also that if at any time after the construction of the tramway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof the Company shall be bound at their own expense to increase the width of the said bridge to such extent as they may be required by the trustees or surveyors of such road not exceeding the width of such road as so widened or the maximum width herein prescribed for a bridge in the like case over or under the tramway.

The width of the
bridges need not
exceed the width of
the road in certain
cases.

Existing inclination
of roads crossed or
diverted need not be
improved.

14. Provided also that if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same or the inclination of such portion of any road as may be preserved to be altered or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved by the Company then the Company may carry any such road over or under the tramway or may construct such altered or substituted road at an

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an inclination not steeper than the said mesne inclination of the road so to be crossed or of the road so requiring to be altered or for which another road shall be substituted.

15. The Company shall make and at all times thereafter maintain Works for benefit of the following works for the accommodation of the owners and occupiers ^{owners.} of lands adjoining the tramway (that is to say)—

Such and so many convenient gates bridges arches culverts and ^{Gates bridges &c.}

passages over under or by the sides of or leading to or from the tramway as shall be necessary for the purpose of making good any interruptions caused by the tramway to the use of the lands through which the tramway shall be made and such works shall be made forthwith after the part of the tramway passing over such lands shall have been laid out or formed or during the formation thereof

All sufficient posts rails hedges ditches mounds or other fences for ^{Fences.}

separating the land taken for the use of the tramway from the adjoining lands not taken and protecting such lands from trespass or the cattle or the owners or occupiers thereof from straying thereon by reason of the tramway together with all necessary gates made to open towards such adjoining lands and not towards the tramway and all necessary stiles and such posts rails and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require and the said other works as soon as conveniently may be

Also all necessary arches tunnels culverts drains or other passages ^{Drains.}

either over or under or by the sides of the tramway of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the tramway as before the making of the tramway or as nearly so as may be and such works shall be made from time to time as the tramway works proceed

Also proper watering-places for cattle or compensation in lieu ^{Watering-places.}

thereof where by reason of the tramway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering-places and such watering-places shall be so made as to be at all times sufficiently supplied with water as theretofore and as if the tramway had not been made or as nearly so as may be and the said Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering-places

Provided always that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the tramway nor to make any accommodation works with respect to which the owners and occupiers of the land shall have agreed to receive and shall have been paid compensation instead of the making them.

16. If any person omit to shut and fasten any gate set up at either side of the tramway for the accommodation of the owners or ^{Penalty on persons omitting to fasten gates.} occupiers of the adjoining lands so soon as he and the carriage cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding ten pounds.

17. The Company shall not be entitled to any mines of coal ^{Minerals not to pass.} iron-stone slate or other minerals under any land whereof the surface is vested in them by virtue of this Act except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized and such mines shall not be deemed to vest in the said Company.

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Compensation clause.

18. If within twenty-eight days after the passing of this Act the said persons through whose lands the tramway shall pass or any of them and the Company shall not agree as to the amount of compensation to be paid by them for the said lands belonging to the said parties or any of them or for any damage that may be sustained by them or him by reason of the execution of the works or if any other question as to compensation shall arise under this Act the amount of such compensation shall be settled by arbitrators appointed in accordance with the Act thirty-first Victoria number fifteen intituled "*An Act to make Arbitrations more effectual*" and all the provisions of the said Act shall apply to arbitrations under this Act.

Appointment of arbitrators.

Compensation for temporary permanent or recurring injuries.

19. The Company shall make compensation and satisfaction to the said owners and occupiers—the amount of such compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided—for temporary permanent or recurring injury and all other damage loss costs charges and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Company of any of the matters and things hereby required to be performed by them or otherwise.

Compensation to be made for temporary occupation.

20. In every case where the Company shall take temporary possession of lands by virtue of the powers hereby granted it shall be incumbent on them within one month after their entry upon such lands upon being required so to do to pay to the occupier of the said lands the value of any crop or dressing that may be thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of their lands and they shall also from time to time during their occupation of the said lands pay half-yearly to such occupier or to the owner of the lands as the case may require a rent to be fixed by two Justices in case the parties differ and shall also within six months after the completion of the railway pay to such owner and occupier or deposit in the bank for the benefit of all parties interested as the case may require compensation for all permanent or other loss damage or injury that may have been sustained by them by reason of the exercise as regards the said lands of the powers hereby granted including the full value of all claystone gravel sand and other things taken from such lands.

Company may make by-laws.

21. For the purpose of regulating the conduct of the officers and servants of the Company and for providing for the due management of the affairs of the Company in all respects it shall be lawful for the Company subject to the provisions herein mentioned from time to time to make such by-laws and regulations as they shall think fit Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act or to any resolutions of any general meeting of shareholders and such by-laws shall be reduced into writing and shall have affixed thereto the common seal of the Company and a copy of such by-laws shall be given to every officer and servant of the Company affected thereby and such by-laws may specify a maximum and minimum penalty for any breach thereof such penalty to be proceeded for and recovered under the provisions of the Act eleventh and twelfth Victoria chapter forty-three Provided always that any by-laws of the said Company relating to penalties must be first approved of by the Attorney-General of the Colony for the time-being.

Evidence of by-laws.

Lands belonging to Commissioner for Railways not to be taken.

22. The production of a printed or written copy of the by-laws of the Company having the common seal of the Company affixed thereto shall be sufficient evidence of such by-laws in all proceedings under the same.

23. Nothing in this Act shall be deemed to authorize the said Company to take or enter upon any lands belonging to the Commissioner for Railways or to alter or to interfere with the Great Southern Railway

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Railway or any of the works thereof further or otherwise than is necessary for making the junction and inter-communication between the railways without the previous consent in writing in every instance of the Commissioner for Railways.

24. The Commissioner for Railways shall from time to time Commissioner may erect signals and appoint watchmen and switchmen. erect such signals and conveniences incident to the junction either upon his own lands or on the lands of the Company and may from time to time appoint and remove such watchmen switchmen and other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

25. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of Working of signals to be under regulations of Commissioner. the Commissioner for Railways.

26. Nothing herein contained shall alter repeal or otherwise affect the "Government Railways Act of 1858." Government Railways Act of 1858 not altered or repealed.

27. In this Act the word "Owner" shall mean any person or corporation who under the provisions of this Act would be able to sell Interpretation clause. land to the Company.

28. This Act may be cited as the "Cookbundoon Slate Quarry Short title. Tramway Act of 1881."

THE SCHEDULE HEREINBEFORE REFERRED TO.

COMMENCING at a point on the southern boundary of the land of the Company and passing in a southerly direction through lands of A. M. Betts thence through Government lands to Moore's land and through that land in a similar direction to other Crown lands and through that land in a similar direction to Wallace's land and through that land in a similar direction to other Crown lands and through that land in a similar direction to the boundary of Frost's land thence through that land to the boundary of James Sample's land thence through that land to the road from Goulburn to Greenwich Park and across that road to the Great Southern Railway at or near Mannafield Platform and the said tramway line to cross any other parish roads lying between the said slate quarries and the Great Southern Railway.
