

An Act to authorize the Borough of Balmain to contract for the construction and maintenance of Tramways within the said Borough. [30th July, 1886.]

BALMAIN TRAMWAY.

WHEREAS it would be for the public benefit and advantage that one or more lines of Tramways should be constructed and laid within the Borough of Balmain and that said Borough by the Municipal Council thereof for the time being should be authorized to contract and agree with any person or persons Corporation or Corporations Company or Companies for the construction maintenance and running of one or more lines of Tramway with all motors rolling and other stock necessary for the proper working thereof in and over the streets of the said Borough and to confer other the powers hereinafter mentioned 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:—

Preamble.

1. It shall be lawful for the Borough of Balmain by and through the Municipal Council for the time being of the said Borough from time to time to contract and agree with any person or persons Company or Companies Corporation or Corporations (which person or persons Company or Companies Corporation or Corporations and their respective heirs successors executors administrators or assigns are hereinafter referred to as and included within the words "the contractor") for the construction maintenance and running of one or more line or lines of Tramway with all engines steam or other motors cable rolling and other stock necessary for the proper working thereof in and over the streets and roads as provided in Schedule A within the said Borough of Balmain and to make such agreements with the said contractor relative to the carriage of passengers and their luggage and other goods and merchandise on the said lines of Tramway and to the tolls fares and charges to be charged and made therefor as the said Municipal Council may deem advisable.

Authority to contract for construction of Tramways.

2. It shall be lawful for the contractor immediately after such contract or agreement shall have been made and entered into to make and construct in along and over such streets as may be mentioned in such contract or agreement such line or lines of Tramway as may be therein mentioned and subject to and in accordance with such contract or agreement to run on such line or lines all steam or other motors rolling and other stock necessary for the carriage of passengers and goods over and along the said lines and to charge and demand from passengers using or travelling by any of the said lines of Tramway such tolls fares and charges as may be from time to time fixed and agreed upon by and between the said Municipal Council and such contractor Provided that all such tolls fares and charges be at all times charged equally to all persons and after the same rate in respect of all passengers and of all goods of the same description and no reduction or advance in any such tolls fares or charges shall be made either directly or indirectly in favour of or against any particular Company or person travelling upon or using the said Tramway.

Authority to construct Tramways.

3. The said Borough shall be responsible for all injuries caused by the negligent or improper construction maintenance or working of the said Tramway and all claims in respect of such negligence or improper conduct may be enforced against the said Borough Provided always

Borough to be responsible for damage.

Balmain Tramway.

always that the damages which may be recovered against the said Borough in respect of any such claim shall in addition to all other remedies for their recovery be a first charge upon the tolls fares or charges charged for the carriage of passengers on the said Tramway and upon all property used in and upon and necessary for the working of the said Tramway. Provided also that all other remedies for the enforcing of any damages which may be recovered in any action shall be exhausted before such damages or any part thereof are sought to be recovered as against the said Borough.

Gauge.

4. The gauge of the said Tramway shall be the same gauge as the Government Tramway.

Authority to make
by-laws.

5. Before the opening of the said Tramway the Municipal Council shall and thereafter the said Municipal Council may from time to time subject to the provisions and restrictions in this Act contained make regulations for the following purposes that is to say—

- (I) For regulating the tolls fares and charges to be made and charged for the carriage of passengers and goods on the said lines of Tramway.
- (II) For regulating the times of the arrival and departure of the cars and carriages.
- (III) For regulating the loading or unloading of such cars and carriages.
- (IV) For preventing the smoking of tobacco and the commission of any nuisance in or upon such cars or carriages or any of the Tramway stations waiting-rooms or premises.
- (V) And generally for regulating the travelling upon or using and working the said Tramway and the maintenance of good order and for regulating the conduct of the Tramway officers and servants and for providing for the due management of the said Tramway and the protection thereof and the cars carriages and waiting-rooms offices and premises from trespass and injury.
- (VI) But no such regulation shall authorize the closing of the said Tramway between sunrise and sunset except at any time when in consequence of any of the works being out of repair or from any other sufficient cause it shall be necessary to close the said Tramway or any part thereof.
- (VII) Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act and a copy of such by-laws shall be given to every officer and servant of the said contractor employed on the said Tramway or affected by such by-laws and such by-laws may specify a maximum and minimum penalty to be proceeded for and recovered under the provisions of the Act eleventh and twelfth Victoria chapter forty-three. Provided always that any such by-laws must be first approved of by the Attorney-General of the Colony for the time being.

Evidence of by-laws.

6. The production of a copy of the New South Wales *Government Gazette* containing any of such by-laws shall be sufficient evidence of such by-laws in all proceedings under the same.

Power for the
Municipal Council
of Balmain to
purchase Tramway.

7. It shall be lawful for the Borough of Balmain at such time or times as may be agreed upon by the Municipal Council for the time being of the said Borough and the contractor to require the said contractor his heirs successors executors administrators or assigns to sell and thereupon the said contractor his heirs successors executors administrators or assigns shall sell to the Borough of Balmain the said line or lines of Tramway or any of them and all lands buildings works materials and plant of the said contractor his heirs successors executors administrators or assigns suitable to and used by him or

them

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them for the purposes of the said Tramways such value in case of difference to be ascertained by two arbitrators one to be chosen by the said Municipal Council and the other by the contractor but if either party shall make default in appointing an arbitrator within fourteen days after being requested by the other party so to do then the arbitrator already named may act alone and the award of such arbitrators or arbitrator or of any umpire appointed by them shall be conclusive upon the parties and the said arbitration shall be subject to and be conducted in all respects in accordance with the Act thirty-one Victoria number fifteen intituled "*An Act to make Arbitrations more effectual*" And when any such sale shall have been made the said Tramways lands buildings works materials plant and premises shall vest in the Borough of Balmain which by the Municipal Council thereof shall have all the rights powers and authorities of the said contractor his heirs successors executors administrators and assigns in respect to the said Tramways so sold and be subject to the conditions provisions and obligations conferred and imposed by this Act. ENCLINER

8. It shall be lawful for the Governor at any time after the period agreed upon by the said Municipal Council and the contractor in accordance with section seven by notice in writing to require the said Borough or contractor his heirs executors administrators or assigns as the case may be to sell and thereupon the said Borough or contractor respectively shall sell to the Government the said Tramway upon the terms of paying the then value thereof such value in case of difference to be ascertained by two arbitrators one to be chosen by the Secretary for Public Works and the other by the said Borough or contractor (as the case may be) but if either party shall make default in appointing an arbitrator within fourteen days after being requested by the other party so to do then the arbitrator already named may act alone and the award of such arbitrators or arbitrator or of any umpire appointed by them shall be conclusive upon the parties and the said arbitration shall be subject to and be conducted in all respects in accordance with the Act thirty-one Victoria number fifteen intituled "*An Act to make Arbitrations more effectual*" and when any such sale shall have been made to the Government the said Tramways lands buildings works materials plant and premises shall vest in the Commissioner of Railways who shall have all the rights powers and authorities of the said Borough or contractor as the case may be. Power for the Government to purchase Tramway.

9. This Act may be cited for all purposes as the "*Balmain Tramway Act of 1886.*" Short title.

SCHEDULE A.

From high-water mark at the eastern end of Darling-street to the termination of the said street at the boundary of the Municipalities of Balmain and Leichhardt.
