

*Silverton Tramway.*SILVERTON
TRAMWAY.

An Act to authorize the construction and maintenance of a Tramway from the terminus on the western boundary of the Colony of New South Wales of the South Australian Railway to Broken Hill. [14th October, 1886.]

Preamble.

WHEREAS the Government of South Australia is now constructing a railway to a point on the western boundary of the Colony of New South Wales And whereas the mineral richness and commercial importance of the township and surrounding districts of Silverton and Broken Hill in the said Colony require that greater facilities for transit than now exist to and from the said township and districts should be provided And whereas Kenric Brodribb of Poolamacca grazier Charles Chapple of Silverton broker William Robert Wilson of Silverton gentleman Murdoch MacLeod of Melbourne financial agent Henry Byron Moore of Melbourne surveyor and Charles Godde Lush of Melbourne merchant are desirous of constructing a Tramway from the said point on the western boundary of New South Wales to Broken Hill *via* Silverton aforesaid And whereas it is proposed to construct such Tramway through certain lands and streets described in the Schedule hereto but the said Tramway cannot be constructed without Legislative authority And whereas it is expedient to confer upon the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush Legislative authority to construct maintain and use the said Tramway subject to the provisions hereinafter contained And whereas it is expedient that power should be conferred upon the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush to transfer and assign their rights powers authorities obligations and liabilities under this Act to any company duly incorporated for that purpose 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.

1. It shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their executors administrators or assigns upon the terms and conditions and subject to the provisions hereinafter contained to make and construct from such point at or near the terminus of the South Australian Railway on the western boundary of the Colony of New South Wales to such point in or near Broken Hill *via* Silverton in the said Colony across the lands and by the lines described in the Schedule hereto as to the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush may appear most expedient and to take and use so much of the said lands including any street or road and whether public or private referred to in the said Schedule as may be required for the purposes of such Tramway Provided that the said Tramway shall be constructed in a proper and workmanlike manner and brought into use within two years from the passing of this Act.

Entry upon street
&c.

2. The said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall have all necessary

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necessary rights of ingress and egress to and over the surface of the said lands including any road or street as aforesaid and all such other rights as are required for the construction repair completion and use of the said Tramway Provided that nothing herein contained shall impair or be held to impair the lawful authority of any municipal council corporation company or person to make all entries and exercise all other powers necessary for the construction maintenance and preservation of gas works waterworks sewerage works and other works lawfully constructed underground.

3. The gauge of the said Tramway shall be three feet six inches ^{Gauge.} Provided that the Governor with the advice of the Executive Council may compel the owners of the said Tramway to alter the said gauge either for the whole or a portion of the said Tramway whenever it shall appear to him expedient so to do.

4. The Tramway shall whenever its course is over or along any ^{Level.} road or street be laid at or about the general level of the said road or street and shall wherever it passes through any municipality be laid with rails subject to the approval of the council of such municipality and the said Kenrie Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns may with the consent of the said council alter and improve the levels of the said road or street Provided that all expenses incurred in the reformation of the said road or street so altered and improved shall be borne by the said Kenrie Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns unless otherwise agreed upon.

5. The said Tramway shall be open to the public use upon pay-^{Tramway to be open to public use.} ment of the tolls or charges following which may be demanded and sued for by the said Kenrie Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns that is to say—

- (i) For passengers a sum not exceeding fourpence each per mile each way or portion of each way
- (ii) For the carriage of general goods—
 - First class not exceeding five pence per ton per mile
 - Second class not exceeding six pence per ton per mile
 - Third class not exceeding seven pence per ton per mile
 - Fourth class not exceeding nine pence per ton per mile
- (iii) For live stock a sum not exceeding six pence per head per mile each way or portion of each way (exclusive of the expense of loading or discharging)

Provided that no differential charges shall be made but that the charges shall be equal to all persons using the said Tramway.

6. The said Kenrie Brodribb Charles Chapple William Robert ^{Maintenance of roads.} Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall maintain in perfect order and repair the said Tramway and the pavements of the same between the rails of the said railway and for the space of one foot six inches on each side of the said rails and furthermore shall erect and maintain all necessary causeways in connection with the said Tramway.

7. The said Kenrie Brodribb Charles Chapple William Robert ^{Repairs of damage to sewers.} Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall immediately repair any damage which may during or by reason of the construction of the said Tramway be occasioned to any sewer or drain or gas or water main or other property and shall also repair all damages which may be occasioned by the working of the said Tramway.

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Power to grant land for Tramway.

8. Upon the completion of the Tramway and works authorized by this Act to the satisfaction of the Commissioner for Railways it shall be lawful for the Governor with the advice of the Executive Council to grant to the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns in fee-simple such Crown lands as shall have been necessarily used or taken for the said Tramway.

Before commencing Tramway survey to be made and book of reference.

9. Before commencing the said Tramway by this Act authorized to be made the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns shall by some qualified engineer by them to be appointed cause to be made and taken levels and surveys of the private lands through which such Tramway is to be carried together with a map or plan of the line of the said Tramway and of the lands through which it is to pass and a book of reference in which shall be set forth a description of the said several lands and the names of the proprietors thereof so far as the same shall be known or can with reasonable diligence be ascertained setting forth the bearings of such railway as the case may require and the nature and quality state of cultivation and enclosure (if any) and the quantity of such land which may be required for the purpose of making such Tramway. And the said map or plan and book of reference shall be kept at some convenient office at Silverton and true copies thereof signed by either the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore or Charles Godde Lush their heirs executors administrators or assigns shall be deposited with the Clerk of Petty Sessions at Silverton aforesaid and such map or plan or book of reference and such copies thereof respectively shall be opened at all convenient times for public examination from the day of the date on which such notice as in the next succeeding section is provided shall be first published and all persons shall be at liberty at all proper and convenient times to inspect the said map or plan and book of reference or copies as aforesaid.

Map and book of reference to be open to public inspection.

Notice to be given of intention to make Tramway.

10. The said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall by advertisement in the *Government Gazette* and in one or more Sydney newspapers and in one or more newspapers published or circulated in Silverton respectively at least thirty days before the commencement of the formation of the Tramway give notice that they intend to construct the said Tramway between the places therein specified according to a map or plan to be seen at an office (in the said notice specified) in Silverton and at the office of the said Clerk of Petty Sessions.

Omission in book of reference not to impede making the Tramway &c.

11. No advantage shall be taken of or against the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns or any interruption be given to the making of such Tramway or other works on account of any omission misstatement or erroneous description in the book of reference but it shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns by themselves their agents officers surveyors servants and workmen to enter into and upon and to take and use for the purpose of this Act any lands or grounds set out and described in the said map or plan notwithstanding any such omission misstatement or erroneous description in case it shall appear to any two Justices acting for the district or place

in

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in which such lands or grounds shall be situated and be certified by writing under their hands that such error or omission proceeds from mistake and not from fraud.

12. It shall be lawful for the said Kenrie Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns subject to the provisions of this Act to agree with the owners of any lands by this Act authorized to be taken and which shall be required for the purposes thereof and with all parties having any estate or interest in the said lands or by this Act enable to sell and convey the same for the absolute purchase of such lands or any parts thereof and of all estates or interests therein.

Power to purchase land by agreement.

13. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any estate or interest therein to sell and convey and release the same to the said Kenrie Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns and to enter into all necessary agreements for that purpose and particularly it shall be lawful for all or any of the following parties so seized possessed or entitled as aforesaid so to sell convey or release that is to say. All corporations tenants-intail or for life married women seized in their own rights or entitled to dower guardians of infants committees of lunatics and idiots trustees or officers in trust for charitable or other purposes executors and administrators and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate or dower or to any lease for life or lives or for years or any less interest not only on behalf of themselves their respective heirs executors administrators and successors but also for and on behalf of every person entitled in reversion remainder or expectancy after them or in defeasance of the estates of such parties And as to such married women whether they be of full age or not as if they were sole and of full age And as to such guardians on behalf of their wards and as to such committees on behalf of their wards and as to such committees on behalf of the lunatics and idiots of whom they are committees respectively And that to the same extent as such wives wards lunatics and idiots respectively could have exercised the same power under the authority of this Act as if they had respectively been under no disability And as to such trustees executors or administrators on behalf of their *cestuis que trustent* whether infants issue unborn lunatics *femmes couverts* or other persons and that to the same extent as such *cestuis que trustent* could have exercised the same powers under the authority of this Act as if they had respectively been under no disability.

Persons who may convey lands.

14. The purchase money or compensation to be paid for any lands to be taken or purchased from any person under any such disability or incapacity as in the last preceding section hereof mentioned and not having power to sell or convey such lands except under the provisions of this Act and the compensation to be paid for any permanent damage or injury to any such lands occasioned by the said Kenrie Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns in carrying out the powers conferred on them by this Act shall in no case except where the same shall have been determined by a surveyor under the provisions of the Act hereinafter incorporated be less than the amount which shall be determined by two Justices or by arbitration appointed in manner hereinafter provided.

Amount of compensation how ascertained in case of persons under disability.

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Notice of lands
required for Tram-
way.

15. When the said Kenrich Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall have made and completed the map or plan and book of reference hereinbefore required to be made they shall give notice of the lands taken set out and required for the said Tramway not being lands to be granted to the said Kenric Brodribb Charles Chapple Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns under the provisions hereinbefore contained to all the parties interested in such land or to the parties enabled by this Act to sell or convey or release the same or such of the said parties as shall after diligent inquiry be known to the said Kenric Brodribb Charles Chapple Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns and by such notice shall demand from such parties the particulars of their estate and interest in such lands and of the claims made by them in respect thereof And every such notice shall state the particulars of the lands so taken set out or required as aforesaid and that the said Kenric Brodribb Charles Chapple Murdoch MacLeod William Robert Wilson Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns are willing to treat for the purchase of such of the said lands as the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns are not by this Act authorized to take without the previous consent of the owner and as to the compensation to be made to all parties for the lands taken and the damage that may be sustained by them by reason of the execution of the works.

Service of notice on
owners and occupiers
of land.

16. All notices required to be served by the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode (if any such can after diligent inquiry be found) and in case any such parties shall be absent from the Colony or cannot be found after diligent inquiry shall be left with the occupier of such lands or if there be no such occupier shall be affixed upon some conspicuous part of such lands.

Power to enter upon
lands and to take
soil timber &c.

17. For the purposes and subject to the provisions of this Act it shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod and Charles Godde Lush their heirs executors administrators and assigns their agents servants and workmen and all other persons by them authorized and they are hereby empowered and authorized to enter into and open the lands and grounds of any person whomsoever and to take carry away and use any earth soil clay stone beds of gravel or sand or any other materials or things which may be dug raised or obtained therein or otherwise in making the said Tramway and other works or any lands contiguous or adjoining thereto and which may be proper or necessary for making maintaining altering repairing or using such Tramway and other works by this Act authorized or which may hinder prevent or obstruct the making maintaining altering repairing or using the same respectively And it shall not be necessary for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns to make any previous agreement with or to apply for or obtain the previous consent of the owner or occupier of any such lands for any of the purposes aforesaid And Also to make build erect or construct bank excavate and cut and set up in upon across under or over any such

To remove materials.

To construct inclined
planes tunnels &c.

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such Tramway or other works or upon any lands streets hills valleys roads rivers canals brooks streams or other waters adjoining the same such and so many inclined plans tunnels embankments aqueducts bridges roads ways passages conduits drains piers arches deep cuttings and fences as the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall think proper And also to alter the course of any rivers canals brooks streams or watercourses during such time as may be necessary for constructing tunnels bridges or passages over or under the same or for any other necessary purpose And also to divert or alter the course of any roads or ways or to sink any roads or ways in order the more conveniently to carry the same over or under or by the side of such Tramway and to make drains or conduits into through or under any lands adjoining such Tramway for the purpose of conveying water from or to the same And also in or upon such Tramway or any lands adjoining or near thereto to erect and make such toll and other houses warehouses yards stations engines tanks dams reservoirs and other works and conveniences connected with such Tramway as the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall think proper And also from time to time to alter repair and amend or discontinue the beforementioned works or any of them and to substitute others in their stead and where any such Tramway shall pass through any woods lands or forests it shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns to fell or remove any trees standing thereon within the distance of one hundred yards from either side of such Tramway which by their liability to be thrown down or from their falling may obstruct or impair the said Tramway And also to enter upon and use any private road (being a road gravelled or found with stones or other hard materials and not being an avenue or a planted or ornamental road or an approach to any homestead or mansion-house) And generally to do and execute all other matters and things necessary or convenient for constructing maintaining altering or repairing and using such Tramway and other works by this Act authorized the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns their agents servants and workmen doing as little damage as may be in the execution of the several powers to them hereby granted and the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns making full satisfaction in manner provided by the Act as hereinafter incorporated herewith to the owners and proprietors of and to all persons interested in any lands or hereditaments which shall have been taken used or injured for all damages to be by them sustained in or by the execution of all or any of the powers hereby granted and this Act shall be sufficient to indemnify the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns and all other persons for what they or any of them shall do by virtue of the powers hereby granted subject nevertheless to such provisions and restrictions as are herein contained.

Alter the course of rivers &c.

And of roads.

And to erect toll-houses warehouses &c.

Power to use private roads.

Company to make full satisfaction.

18. If in the exercise of the powers hereby granted it be found necessary to cross-cut through raise sink or use any part of any road whether carriage road or horse road either public or private so as to render it impassable for or dangerous to or extraordinarily inconvenient to

Before roads interfered with others to be substituted.

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to passengers or carriages or to the persons entitled to the use thereof the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall before the commencement of any such operations cause a sufficient road to be made instead of the road to be interfered with and shall at their own expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be.

Power to take or purchase lands for additional accommodation.

19. It shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns to contract with any party willing to sell the same for the purchase of any lands or if such party be unwilling to sell the same to take such lands subject to the provisions as to compensation hereinafter contained or incorporated herewith for the purpose of making and providing additional station yards wharves stellings and places for the accommodation of passengers and for receiving depositing and loading or unloading goods or live stock to be conveyed upon the Tramway or along any canals constructed by the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns and for the erection of weighing machines tolls houses and other buildings and conveniences and for the construction of tanks dams and reservoirs and for any other purpose that may be deemed requisite or convenient for the use of the Tramway or for the general promotion of the objects of the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns in connection with the undertaking or the works hereby authorized And it shall be lawful for all parties to sell and convey the lands so authorized to be purchased for the last mentioned purpose.

And to sell such lands and purchase others.

20. It shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns to sell any land acquired by them under the provisions of the last preceding section or any part thereof in such manner and for such consideration and to such persons as they think fit and to purchase other lands for the like purposes and to sell the same and so from time to time.

Incorporation of certain enactments in Government Railway Act.

21. The following sections of the Act of Council twenty-second Victoria number nineteen intituled "*An Act to make more effectual provision for the construction by the Government of Railways in the Colony of New South Wales and for the regulation of the same*" save so far as they shall be expressly varied by this Act shall be and the same are hereby incorporated with this Act and shall save as aforesaid from part of and be construed together with this Act that is to say:—

With regard to the mode of settling the amount of compensation for land authorized to be taken or purchased by this Act or for any damage sustained by reason of the execution of works authorized by this Act And with regard to the provisions subsidiary thereto sections twenty-four to forty-five both inclusive and sections forty-seven to fifty-six both inclusive Provided that in the sections so incorporated the word "Commissioner" or "Commissioner for Railways" shall in every case be read as "the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns" The words "this Act"

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Act" shall be read as "this present Act" and not as the Act of Council twenty-seventh Victoria number nineteen. The words "the Railway" and "any Railway" and all words of the like import shall be read as the "Tramway authorized by the Act". The words "under his hand and official seal" shall be read as "under the hands and seals of the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns". The words "an Act intituled '*An Act to make more effectual provision by the Government of Railways in the Colony of New South Wales and for the regulation of such Railways*'" shall be read as the "Silverton Tramway Act". The words in the forty-seventh section so incorporated "or of Government debentures or other stock" shall be omitted.

22. In all cases where compensation shall be determined under this Act and the enactments herewith incorporated the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns shall within twenty-eight days after the determination of such compensation and after demand made pay the amount thereof to the party lawfully entitled thereto or to his duly authorized agent.

Compensation to be paid within twenty eight days after determination thereof.

23. All conveyances of lands to be purchased or taken under the provisions of this Act may be according to the form in the Schedule A hereto or in any other form which the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns may think fit and all such conveyances shall vest the lands thereby conveyed in the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns and shall bar and destroy all estates tail and other estates rights titles remainders reservations limitations trusts and interests whatsoever of and in the lands comprised in such conveyance which shall have been purchased or compensated for by the consideration therein mentioned and provided always that after any lands which the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns are by this Act authorized to take shall have been set out and appropriated for the purpose of this Act such lands and all the right title estate use trust and interest of every person therein shall forthwith subject to the proviso for defeasance hereinbefore contained be vested in and become the sole property of the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns for ever for the purposes of this Act and it shall not be necessary for them to obtain a conveyance from the owner of or any person interested in such lands. And the costs of all such conveyances shall be borne by the said Kenric Brodribb Charles Chapple Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns and such costs shall include all charges and expenses of what kind and nature soever incurred on the part of the settler as well as the purchaser in that behalf. But if there be a dispute as to the amount thereof such costs shall be taxed by the Master in Equity or other proper officer of the Supreme Court upon the application of either party and the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod

Form of conveyance.

How costs to be borne.

Costs may be taxed.

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MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns shall pay what the said master or other officer shall certify to be due in respect of such costs to the party entitled thereto or in default thereof it shall be lawful for any Judge of the Supreme Court to make an order for the payment of the same and the said costs may be recovered in the same way as any other costs payable under an order of the said Court or a Judge thereof and the expense of taxing such costs shall be paid by the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns.

Power to enter upon adjoining lands to repair accidents subject to certain restrictions.

24. 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 said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns 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 said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns shall within forty-eight hours after such entry make a report to the Commissioner for Railways 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 Commissioner shall after considering the said report certify that their exercise is not necessary for the public safety Provided 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 despatch and full compensation shall be made to the owners and occupiers of such lands for the loss 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 in the same manner as cases of disputed compensation in other cases under this Act 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.

Works for benefit of owner.

Gates bridges &c.

Fences.

25. The said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of the land adjoining the Tramway (that is to say) Such and so many convenient gates bridges arches culverts and 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 interruption 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 Also sufficient posts rails hedges ditches mounds or other fences for separating the land taken for the use of the Tramway from the adjoining lands not taken and protecting such land from trespass or the cattle or sheep of the owners of or occupiers thereof from straying therein by reason of the Tramway together with all necessary gates made to open towards such adjoining lands and not towards the railway 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

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owners thereof shall so require and the said other works as soon as conveniently may be Also all necessary arches tunnels culverts ^{Drains.} drains or other passages either over 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 Provided always that the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns 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.

26. Every bridge to be erected for the purpose of carrying the ^{Bridges how to be} Tramway over any road shall be built in conformity with the following ^{constructed over any} regulations namely:—

The width of the arch shall be such as to have 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 be not less than sixteen feet for a space of twelve feet if the arch be over a turnpike road and fifteen feet for a span of ten feet if over a public carriage road and in each of such cases the clear height at the spring 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 to be 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 if the same be a tramroad or railroad the descent shall not be greater than the ruling gradient of such tramroad or railroad.

And 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 ^{The like over Tram-} bridge of not less height than four feet and of each side of ^{way.} the immediate approaches of such bridge 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 it be 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 turnpike road and 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

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 point of crossing the same is less than the width hereinbefore prescribed for bridges over or under the Tramway the width of the 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

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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 said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns 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 railway 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 required to be altered or for which another road shall be substituted shall be steeper than the inclination hereinbefore required to be preserved by the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns then they may carry any such road over or under the Tramway or may construct or alter any such substituted road at 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.

Existing inclination
of the roads not to
be improved.

Power to
make by-laws.

27. It shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns from time to time to make by-laws not being repugnant to the laws of this Colony or to the provisions of this Act and to be approved of by the Governor with the advice of the Executive Council for the following purposes that is to say—

For regulating the conduct of the officers and servants employed upon or in connection with the said Tramway and providing for the proper management of the affairs of the said Tramway in all matters by this Act not otherwise provided for.

For the protection of the Tramway and other property and works of the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns from trespass or injury.

For regulating the mode by which and the speed at which carriages using the Tramway are to be moved or propelled.

For preserving the free course of the Tramway and preventing any obstruction thereto.

For regulating the loading and unloading of such carriages and the weights which they are to carry for regulating the receipt and delivery of minerals goods live stock and all things which are to be conveyed upon or in such carriages for regulating the number of passengers to be carried in any carriage and the occupation of the seats therein For preventing or restricting smoking and the commission of any other nuisance in or upon such carriages or on any of the stations or premises used or occupied for the purposes of or in connection with the Tramway.

And generally for regulating the travelling upon or use of the Tramway.

But no such by-law shall authorize the closing of the Tramway or prevent the passage of engines or carriages on the Tramway at reasonable times except at any time when in consequence of any of the works being out of repair or from any sufficient cause it shall be necessary to close the Tramway or a portion

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portion thereof And such by-laws shall be reduced into writing under the hands and seals of the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns or any three of them and be published in the *Government Gazette* and in two newspapers circulating in the district of Silverton thirty days at least before coming into operation And any person offending against any such by-law shall upon conviction before any two Justices forfeit for every offence any sum not exceeding five pounds to be imposed in such by-laws as a penalty for any such offence And if the infraction or non-observance of any such by-law be attended with danger or annoyance to the public or hindrance to the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns in the lawful use of the Tramway it shall be lawful for them summarily to interfere to obviate or remove such danger annoyance or hindrance and that without prejudice to the recovery of any penalty incurred by the infraction or non-observance of such by-laws.

28. The substance of such by-laws shall be painted on boards or printed on paper and affixed to boards and placed and maintained in a legible state in some conspicuous part of every station and place of business occupied or used in connection with the Tramway according to the nature and subject matter of such by-laws so that notice thereof may be given to all parties affected thereby and no penalty imposed by any such by-law shall be recoverable unless the same shall have been published and kept published as aforesaid. Publication of by-laws.

29. The production of the *Gazette* containing or purporting to contain the by-laws shall be sufficient evidence of them in all proceedings under the same without any further proof of any kind. Evidence of by-laws.

30. Such by-laws when so published and affixed shall be binding upon and observed by all parties and shall be sufficient to justify all persons acting under the same and for proof of the publication of any such by-laws it shall be sufficient to prove that a printed paper or painted board containing a copy of such by-laws was affixed and continued in manner by this Act directed and in case of the same being afterwards displaced or damaged then that such paper or board was replaced as soon as conveniently might be Provided that no such by-laws as shall be applicable to other persons than the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns their officers agents servants and workmen shall be binding on such persons until two months after they have been laid before the Governor and the Executive Council unless the said Governor with the advice of the said Council shall before the expiration of such period have signified their approbation thereof and the Governor with the said advice shall have power at any time to disallow any such by-law as last aforesaid and thereupon the same shall cease to have any force or effect in law. By-laws to be binding on all parties.

31. Nothing in this Act contained shall extend to charge or make liable the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns further or in any other case than where according to the laws of this Colony stage coach proprietors and common carriers would be liable nor shall extend in any degree to deprive the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Not to be liable to a greater extent than common carriers.

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Charles Godde Lush their heirs executors administrators and assigns of any protection or privilege which common carriers or stage coach proprietors may be entitled to but on the contrary they shall at all times be entitled to the benefit of every such protection and privilege.

Authority to employ
locomotive engines
carriages and other
locomotive powers &c.

32. It shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns subject as aforesaid to use and employ locomotive engines or other moving power and carriages and waggons to be drawn or propelled thereby and to carry and convey upon the Tramway all such passengers goods and things of every kind cattle and live stock of every kind as shall be offered for that purpose and to make and sue for such charges in respect thereof as hereinbefore specified Provided that all such tolls be at all times charged equally to all persons and after the same rate in respect to all passengers goods things cattle and live stock as aforesaid or carriages of the same description and conveyed or propelled by a like carriage or engine passing only over the same portion of the line of Tramway under the same circumstances And no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the Tramway.

Government may
purchase Tramway.

33. It shall be lawful for the Governor with the advice of the Executive Council at any time after the expiration of twenty-one years from the passing of this Act to purchase the said Tramway and other works with all its hereditaments stock and appurtenances upon giving to the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns six months' notice in writing of such intention and upon payment of a sum equal to twenty-one years' purchase of the annual divisible profits estimated on the average of the seven then next preceding years Provided that if the average rate of profits for the said seven years shall be less than twenty-five pounds and more than fifteen pounds per centum it shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns if they shall be of opinion that the said rate of twenty-one years' purchase of the said average profits is an inadequate rate of purchase reference being had to the prospects of the Tramway to require that it shall be left to arbitration in case of difference to determine what (if any) additional amount of purchase money shall be paid for the said Tramway works hereditaments stock and appurtenances in the same manner as is provided for questions of disputed compensation under the sections of the Act twenty-second Victoria number nine incorporated with this Act by section twenty-one hereof.

Public mails.

34. The Postmaster-General of the Colony acting on behalf of the Government may from time to time by notice in writing under his hand delivered to the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns require that the mails or post letter bags with the guards in charge thereof employed by him shall after a day to be named in such notice (being not less than twenty-eight days from the delivery thereof) be conveyed and forwarded on the Tramway either on the ordinary trains or by special trains at such times during the regular traffic hours as he may direct And thereupon the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns shall from and after the day named in such notice at their own cost provide

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provide sufficient carriages and engines on the said Tramway for the conveyance of such mails and post letter bags as are for that purpose from time to time tendered to them or any of their officers or servants by any officer of the Post Office and shall receive and convey in and upon the carriages conveying such mails or post letter bags the guards in charge thereof and any other officer of the Post Office and shall receive deliver and leave such mails post letter bags guards and officers at such places on the line of Tramway on such days and at such times during the appointed hours of traffic and subject to all such reasonable regulations and restrictions as to the speed of travelling places and times of stoppages and of arrival as the Postmaster-General shall appoint Provided always that the rate of speed so to be required shall in no case exceed the maximum rate of speed for the conveyance of passengers prescribed by the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns who shall not be responsible for the safe custody or delivery of any mails or post letter bags so sent.

35. The said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns shall be entitled to such reasonable remuneration to be paid by the Postmaster-General for the conveyance of such mails post letter bags mail guards and other officers of the Post Office in manner required by the Postmaster-General as he shall in that behalf nominate as aforesaid as shall (either prior to or after the commencement of such service) be agreed upon between the said Postmaster-General and the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns or in case of difference between them the same shall be referred to the award of two persons one to be named by the Postmaster-General and the other by the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns and if such two persons cannot agree on the amount of remuneration or compensation then to the umpirage of a third person to be appointed in writing by the said two persons previously to their entering upon the enquiry and the said award or umpirage as the case may be shall be binding on the said parties and their respective successors heirs executors administrators and assigns.

Compensation for carrying the mails to be fixed by agreement or arbitration.

36. In all cases where any damages compensation costs or expenses are by this Act or any Act incorporated therewith directed to be paid and the method of ascertaining the amount or enforcing the payment thereof is not provided for such payment in case of dispute shall be ascertained and determined by two Justices and if the amount so ascertained be not paid by the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns or other party liable to pay the same within seven days after demand then the amount may be recovered by distress of the goods of such of the parties aforesaid as are liable to pay the same and the Justices by whom the same shall have been ordered to be paid or either of them shall upon application issue their or his warrant accordingly.

Provisions for ascertaining damages not otherwise provided for.

37. Where in this Act or any Act incorporated therewith any question of compensation expenses charges or damages is referred to the determination of one Justice or more it shall be lawful for any Justice upon the application of either party to summon the other party to appear before one Justice or before two Justices as the case may require

Method of proceeding before Justices in question of damages &c.

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require at a time and place to be named in such summons and upon the appearance of such parties or in the absence of any of them upon proof of due service of the summons it shall be lawful for such one Justice or such two Justices as the case may be to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses on oath and the costs of every such inquiry shall be in the discretion of such Justices and they shall determine the amount thereof.

Publication of penalties.

38. The said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns shall publish the short particulars of the several offences for which any penalty is imposed by this Act or any Act incorporated therewith or by any by-law made in pursuance of this Act affecting other persons than the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns their officers or servants and of the amount of every such penalty and shall cause such particulars to be painted on a board or painted upon paper and pasted thereon and shall cause such board to be hung up or affixed in some conspicuous part of the principal place of business of the said Tramway And where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the neighbourhood to which such penalties are applicable or have reference and such penalties shall be renewed as often as the same or any part thereof is obliterated or destroyed and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Penalties for defacing boards used for publication.

39. If any person pull down or injure any board put up or affixed as required by this Act or any Act incorporated therewith for the purpose of publishing any by-law or penalty or shall obliterate any of the letters or figures thereon he shall forfeit for every such offence a sum not exceeding five pounds and shall pay the expenses attending the restoration of such board.

Penalties to be summarily recovered before two Justices.

40. Every penalty or forfeiture imposed by this Act or any Act incorporated therewith or by any by-law made in pursuance thereof the recovery of which is not otherwise provided for may be recovered by summary proceedings before two Justices and on complaint being made to any Justice he shall issue a summons requiring the party complained against to appear before two Justices at a time and place to be named in such summons and every such summons shall be served on the party offending either in person or by leaving the same with some inmate or person at his last known usual place of abode And upon the appearance of the party complained against or in his absence after proof of the due service of such summons it shall be lawful for two Justices to proceed to the hearing of the complaint and that although no information in writing or in print shall have been exhibited before them And upon proof of the offence to the satisfaction of the said Justices it shall be lawful for them to convict the offender and to adjudge him to pay the penalty or forfeiture incurred as well as such costs as such Justices shall think fit.

Penalties may be levied by distress.

41. If forthwith upon such adjudication as aforesaid the amount of the penalty or forfeiture and of such costs as aforesaid be not paid the amount thereof shall be levied by distress and such Justices or either of them shall issue their or his warrant of distress accordingly.

Imprisonment in default of distress

42. It shall be lawful for any such Justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs unless the offender give sufficient

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sufficient security by way of recognizance or otherwise to the satisfaction of the Justice for his appearance before him on the day appointed for such return such day not being more than eight days from the time of taking such security but if before issuing such warrant of distress it shall appear to the Justice that no sufficient distress can be had whereon to levy such penalty or forfeiture and costs he may if he think fit refrain from issuing such warrant of distress and in such case or if such warrant shall have been issued and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justice then such Justice shall by warrant cause such offender to be committed to gaol there to remain for any term not exceeding three months unless such penalty or forfeiture and costs be sooner paid and satisfied.

43. When in this Act or any Act incorporated therewith any sum of money whether in the nature of a penalty or otherwise is directed to be levied by distress such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same and the overplus arising from the sale of such goods and chattels after satisfying such sum of money and the expenses of the distress and sale shall be returned on demand of the party whose goods have been distrained. Distress how to be levied.

44. No distress levied by virtue of this Act or any Act incorporated therewith shall be deemed unlawful nor shall any party making the same be deemed a trespasser on account of any default or want of form in the summons conviction warrant of distress or other proceeding relating thereto nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him but all persons aggrieved by such default or irregularity may recover full satisfaction for the special damage in an action on the case. Distress not unlawful for want of form.

45. No person shall be liable to the payment of any penalty or forfeiture imposed by this Act or any Act incorporated therewith for any offence made cognizable before any Justice or Justices unless the complaint for such offence shall have been made before any such Justice or Justices within six months next after the commission of such offence. Penalties to be sued for within six months.

46. If through any act neglect or default on account whereof any person shall have incurred any penalty imposed by this Act or any Act incorporated therewith or any by-law made in pursuance of this Act any damage to the property of the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty and the amount of such damage shall in case of dispute be determined by the Justices by whom the party incurring such penalty shall have been convicted and on non-payment of such damages on demand the same shall be levied by distress and such Justices or one of them shall issue their or his warrant accordingly. Damage to be made good in addition to penalty.

47. It shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this Act or any Act incorporated therewith at a time and place mentioned in such summons and to administer to him an oath to testify to the truth in such matter and if any person so summoned shall without reasonable cause refuse or neglect to appear at the time and place appointed for that purpose having been paid or tendered a reasonable sum for his expenses or if any person appearing refuse to be examined on oath or to give evidence before such Justice every such person shall forfeit a sum not exceeding five pounds for every such offence. Penalty in witness making default.

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Transient offenders.

48. It shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns and any of their officers agents and all persons called by them or any of them to their or his assistance to seize and detain any person who shall have committed any offence against the provisions of this Act or any Act incorporated therewith or any by-law made in pursuance thereof and whose name and address shall be unknown to any such person so seizing and detaining and convey him with all convenient despatch before some Justice without any warrant or other authority than this Act and such Justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Penalty for obstructing the officers of the company or wilfully trespassing upon railway.

49. If any person shall wilfully obstruct or impede any officer or servant employed upon or in connection with the Tramway or upon or in any of the stations or other works or premises connected therewith or shall wilfully trespass upon the Tramway or any of the stations works and premises as aforesaid and shall refuse to quit the same upon request made to him by any officer or servant as aforesaid the person so offending and all others aiding and assisting therein may be seized and detained by such officer or servant as aforesaid or any person whom he may call to his assistance until such offender or offenders can be conveniently taken before some Justice in the district or place where such offence has been committed and upon conviction of such offence before any two Justices he shall in the discretion of such Justices forfeit any sum not exceeding five pounds.

Parties allowed to appeal to Quarter Session.

50. If any party shall feel aggrieved by any determination or adjudication of any Justice with respect to any penalty or forfeiture under the provisions of this Act or any Act incorporated therewith such party may appeal to the General or Quarter Sessions of the Peace holden nearest to the place in which the cause of appeal shall have arisen but no such appeal shall be entertained unless it be made within six months next after the making of such determination nor unless within fourteen days after such determination or adjudication notice in writing of such appeal stating the nature and grounds thereof be given to the party against whom the appeal shall be brought nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice conditioned duly to prosecute such appeal and to abide the order of the Court thereon.

Court to make such order as it thinks reasonable.

51. At the General or Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way or it may if it think fit adjourn it till the following sessions and upon the hearing of such appeal the Court may if it think fit mitigate any penalty or forfeiture or they may confirm or quash the determination or adjudication and order any money paid by the appellant and levied by distress upon his goods to be returned to him and may also order such further satisfaction to be made to the party injured as it may deem reasonable and it may make such order as to the costs both of the determination or adjudication and appeal as it may think reasonable.

No action to be brought for anything done by the authority of the Act unless within six months after offence or cause of action.

52. No action suit or proceeding at law or in Equity shall be brought or prosecuted against the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns for any act matter or thing done under the authority of this Act unless such action suit or proceeding shall be commenced within six months next after the cause of action shall have accrued or offence have been committed and unless notice in writing and the cause thereof shall be given to the defendants or defendant one calendar month at least before

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before the commencement of the action and the defendants or defendant in every such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon.

53. No proceeding in pursuance of this Act or any Act incorporated therewith shall be quashed or vacated for want of form nor shall the same be removed by *certiorari* or otherwise into the Supreme Court.

Proceedings not to be quashed for want of form.

54. It shall be lawful for the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns at any time after the passing hereof to assign transfer convey and release to any company duly incorporated for that purpose all the rights powers authorities privileges liabilities and obligations conferred and imposed upon them by this Act together with all lands tenements hereditaments estates chattels and effects of every kind acquired by them under or in pursuance thereof and purchased occupied or used in connection with the construction maintenance and working of the Tramway and upon and after the completion of such assignment transfer conveyance and release the said company their officers agents and servants may lawfully exercise and enjoy all the rights powers authorities and privileges and shall be and continue to be subject to all the liabilities obligations penalties and forfeitures to which the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns or their officers agents or servants would have been entitled or subject had no such assignment transfer conveyance and release been completed. Provided however that nothing herein contained shall prejudice or affect any rights accrued action or proceedings taken against or liabilities obligations penalties or forfeitures incurred by the said Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs and administrators and assigns before the completion of the said assignment transfer conveyance and release.

Rights powers &c. under this Act may be assigned &c. to incorporate company.

55. Upon the completion of any such assignment transfer conveyance or lease as in the last preceding section mentioned this Act shall be read so that wherever the words "Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators and assigns" or the words "Kenric Brodribb Charles Chapple William Robert Wilson Murdoch MacLeod Henry Byron Moore and Charles Godde Lush their heirs executors administrators or assigns" occur they shall be omitted and the words "company duly incorporated within the meaning of section fifty-two hereof" shall be inserted in their stead and wherever the words "their hands or their hands and seals" occur they shall be omitted and the words "the corporate seal of the company" be inserted in their stead.

How Act to be read upon completion of assignment &c. under last preceding section.

56. This Act may be cited as the "Silverton Tramway Act of 1886."

Short title.

THE SCHEDULE.

All that piece or parcel of land situated in the county of Yancowinna Colony of New South Wales Commencing at or near to the one hundred and thirty-fourth mile post on the boundary between the Colonies of South Australia and New South Wales thence bearing north thirty-four degrees thirty-nine minutes east through the leasehold area of Thackaringa Pastoral Holding about two miles to the dividing line between the leasehold and resumed areas of that station thence again bearing north thirty-four degrees thirty-nine minutes east through the resumed area of Thackaringa Pastoral Holding about six and a half miles to the fenced boundary between Thackaringa and Mundi Mundi Pastoral Holdings thence again bearing north thirty-four degrees thirty-nine minutes east through the leasehold area of Mundi Mundi Pastoral Holding about six and a half miles to the dividing line between the leasehold and resumed areas of Mundi

Sydney Mechanics' School of Arts Incorporation.

Mundi Mundi Pastoral Holding (being also the southern boundary of reserve number one from lease for future suburban settlement) thence again bearing north thirty-four degrees thirty-nine minutes east about one and a half miles to the Silverton Road at a point about three chains east of the western corner of portion number eight parish of Bomangaldy thence by that road along the northern boundaries of portions fifteen sixteen seventeen eighteen nineteen and twenty to a point nearly due north of portion nine of same parish thence bearing north fifteen degrees three minutes east nine hundred and fifty-five links south eighty-four minutes forty-one seconds east three hundred and fifty-three links south eighty degrees thirty-two minutes east one thousand and seventeen links and north seventy degrees ten minutes east one thousand four hundred and ninety-three links to the Silverton town boundary at a point about one chain north of the northern side of Adelaide-street Total length South Australian border to Silverton eighteen miles twenty-five chains eighty-two links And thence commencing at a point within the town boundary of Silverton where the road from Silverton to Menindie crosses the Mindioomballas Creek thence through the resumed area of the Mundi Mundi Pastoral Holding along that road to a point about eight hundred links east of the Silverton town boundary thence in a south-easterly direction about four miles to the fenced boundary between Mundi Mundi and Mount Gipps Pastoral Holdings thence again in a south-easterly direction through the resumed area of Mount Gipps Pastoral Holding and passing through village reserve number three about ten and a half miles to the western corner of lease number thirteen at Broken Hill Total length from Silverton to Broken Hill about fifteen miles.
