

This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber,
Sydney, 20 December, 1887. }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO PRIMO

VICTORIÆ REGINÆ.

An Act to authorize the construction of a Tramway from the northern terminus of the North Shore Cable Tramway to the Spit at Middle Harbour, together with branch lines therefrom to Cremorne Point and Middle Head, and from the Spit aforesaid to Manly Village, and a Light Railway thence to Pittwater, Broken Bay, and the erection of a Bridge over the waters of Middle Harbour at the Spit aforesaid.

WHEREAS Clement Alban Benbow and Leslie Johnston, both of Sydney, in the Colony of New South Wales, Esquires, are desirous of constructing a tramway from the northern terminus of the present cable tramway running from Milson's Point Saint Leonards, in the parish of Willoughby, to the Spit at Middle Harbour, in the parish aforesaid, together with branch lines therefrom to Cremorne Point and Middle Head, and from the Spit aforesaid to Manly Village, and thence a light railway to Pittwater, Broken Bay; and for the purposes of such tramway, and also, for the public general traffic and convenience, to construct a bridge over the waters of Middle Harbour, at the Spit aforesaid, such tramway or light railway lines to run through certain private lands and certain streets described in the Schedules annexed hereto. And whereas it is desired to construct such tramway or light railway for the purpose of giving better access for the public to the districts through which the said proposed tramway or railway runs and the places before named, and also to the Hawkesbury River. And whereas the increased facilities of communication and traffic, which would result from the construction

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of the said proposed tramway or light railway and the said bridge, would be for the public convenience and benefit. And it is desirable to authorize by Legislative enactments the construction and maintenance of the said proposed tramway or light railway, subject to the provisions hereinafter contained. 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:—

- 10 1. It shall be lawful for the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway and light railway for conveying passengers and their luggage and other goods and merchandize from a
- 15 point at or near the northern terminus of the aforesaid North Shore Cable Tramway, and thence by the lines described in the Schedule to this Act, and to effect through communication between the said North Shore Cable Tramway and Manly Village and Pittwater aforesaid; and also to make and construct branch lines from the said tramway or railway
- 20 at the points named in the Schedules to this Act, and thence by the lines described in such Schedules, in accordance with section ninety-nine of the "Government Railways Act of 1858;" and to take and use so much of the streets or lands referred to in the said Schedule as may be required for the purposes of such tramway or light railway, but so
- 25 that the same shall not occupy in any part thereof a greater space in breadth than twenty feet, including the support and foundations thereof; and also to construct and build a bridge for the purposes of such tramway or light railway and for the public general traffic over the waters of Middle Harbour at the Spit aforesaid, connecting the lines of the said
- 30 tramway or railway at the places where such lines terminate on the waters of the said Middle Harbour, as shown in the Schedules hereto; and to dig and make proper foundations in or under the said waters, and to cut, remove, take, and carry away all trees, beds of sand and rocks, and any other impediments whatsoever which may in anywise hinder
- 35 the erecting and completing the said bridge; and generally to do and execute all and every other acts, matters, and things requisite and necessary for erecting buildings, repairing and maintaining the said bridge. Provided that the said tramway or light railway shall be completely constructed (subject to clause two of this Bill) between the
- 40 points above indicated respectively and brought into use within three years, and the said bridge shall be completely erected, in accordance with the provisions in Schedule D to this Act, within the space of five years from the passing of this Act. And the same and the said bridge shall be constructed in a proper and workmanlike manner.
- 45 Provided that the construction of the said tramway or light railway shall be commenced within six months from the passing of this Act, and that within twelve months from the passing of this Act, four miles at least of the permanent way of the said tramway or light railway shall be completed, and that within eighteen months from the
- 50 passing of this Act the whole of the permanent way of the said tramway or light railway, between St. Leonards and Manly (with the exception of the said bridge over the waters of Middle Harbour), shall be completed. Provided further that this authority shall not extend beyond thirty years from the passing of this Act.
- 55 2. It shall be lawful for the said Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns to use and employ a steam punt to supply the connection between the points of such tramway or light railway on the shores of Middle Harbour, until the completion of the said bridge, and to charge tolls, as per Schedule
- 60 D, for the said punt, such tolls being those charged as at present.

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3. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall have all necessary rights of ingress and egress to and over the surface of the streets and lands before referred to, and all such other rights as are required for the construction, repair, completion, and use of the said tramway or light railway. Provided that nothing herein contained shall impair or be held to impair the lawful authority of any of the Municipal Districts through which such tramway or light railway may run, or of any other corporation, company, or person to make all entries and exercise all other powers necessary for the construction, maintenance, and preservation of gasworks, water works, sewerage works, and other works lawfully constructed under ground.

4. The gauge of the said tramway or light railway shall be three feet six inches.

5. The said tramway or light railway shall, throughout its course, be laid at or about the general level of the said streets and lands, and throughout the whole extent of the said tramway or light railway shall be laid with rails, subject to the approval of the Commissioner for Railways.

6. Where the said light railway from Manly village to Pittwater, Broken Bay, shall cross any public highway or parish road on a level, the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall erect, and at all times maintain, good and sufficient gates across such road on each side of the said light railway, 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 light railway, except during the time when horses, cattle, carts, or carriages passing along the same, shall have to cross such light railway, and such gates shall be of such dimensions and so constructed as, when closed, to fence in the said light railway and prevent cattle or horses passing along the road from entering upon the light railway, and the persons entrusted 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 of forty shillings for every default therein. Provided always that it shall be lawful for the Secretary for Public Works or Commissioner for Railways, 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 light railway, 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 said light railway, except when engines or carriages passing along the said light railway 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.

7. The said bridge shall be open to the public for foot passengers, vehicles, horses, and general traffic, and it shall be lawful for the said Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, to charge, demand, and receive at the toll-bar or gates, erected at or upon the said bridge, the tolls specified in Schedule D hereto.

8. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns shall make, and at all times thereafter maintain for the accommodation of the owners and occupiers of lands adjoining, the said light railway, 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 said light railway as shall be necessary for the purpose of

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5 of making good any interruptions caused by the said light railway to the use of the lands through which the said light railway shall be made, and such works shall be made forthwith after the part of the said light railway passing over such lands shall have been laid out or formed, or during the formation thereof.

10 Also sufficient posts rails, hedges, ditches, mounds, or other fences Fences. for separating the land taken for the use of the said light railway from the adjoining lands not taken, and protecting such lands from trespass, or the horses or cattle of the owners or occupiers thereof from straying thereout by reason of the said light railway, together with all necessary gates made to open towards such adjoining lands and not towards the said light 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 thereof shall so require, and the said other works as soon as conveniently may be.

15 Also all necessary arches, tunnels, culverts, drains or other passages, either over or under or by the sides of the said light railways, 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 said light railway as before the making of the said light railway, or as nearly so as may be, and such works shall be made from time to time as the said light railway works proceed. Drains.

20 Provided always that the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or 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 said light railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation instead of making them.

25 9. If any person omit to shut and fasten any gate set up at either side of the said light railway for the accommodation of the owners or occupiers of the adjoining lands so soon as he and the carriages 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. Penalty on person omitting to fasten gates.

30 10. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns shall maintain in perfect order and repair the said tramway and railway, and the pavements of the same between the rails of the said tramway or railway where crossing any roads, and for the space of one foot six inches on each side of such rails. Maintenance of roads.

35 11. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns shall immediately repair any damage which may, during or by reason of the construction of the said tramway or light railway, 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 or light railway. Repair of damage to sewers, &c.

40 12. It shall be lawful for, and incumbent upon the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators and assigns, subject as aforesaid, to provide, use, and employ locomotive engines or cables or other moving power, and carriages and waggons, to be drawn or propelled thereby, and to carry and convey upon the said tramway or light railway all such passengers and goods as shall be offered for that purpose, and to charge the tolls and charges in respect thereof as above specified. Provided that all such tolls and charges be Locomotives to be employed.
at

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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 shall be made either directly or indirectly in favour of or against any particular Company or person
5 travelling upon or using the said tramway or light railway.

13. Nothing in this Act contained shall extend to charge or
make liable the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns further, or in any other case than where according to the laws of this Colony, stage-coach
10 proprietors and common carriers would be liable, nor shall extend in any degree to deprive the said Clement Alban Benbow and Leslie Johnston, 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, the said Clement
15 Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns shall at all times be entitled to the benefit of every such protection and privilege.

14. The tolls shall be paid to such persons and at such places
upon or near to the said tramway or light railway, and in such manner,
20 and under such regulations as the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall appoint, subject to the approval of the Commissioner for Railways.

15. It shall be lawful for the said Clement Alban Benbow and
Leslie Johnston, their heirs, executors, administrators, or assigns, from
25 time to time, subject to the approval of the Commissioner for Railways and subject to the provisions and restrictions in this Act contained, to make regulations for the following purposes, that is to say—

For regulating the times of the arrival and departure of the carriages
and trains and the number of persons to be carried therein.

30 For regulating the loading or unloading of carriages.

For preventing the smoking of tobacco and the commission of any
nuisance in or upon such carriages or any of the railway
stations, waiting-rooms, or premises.

35 And generally for regulating the travelling upon or issuing, and working the said tramway or light railway, and the maintenance of good order, and for regulating the conduct of the railway officers and servants, and for providing for the due management of the said tramway or light railway, and the protection thereof, and the carriages and waiting-rooms, offices
40 and premises from trespass and injury.

But no such regulation shall authorize the closing of the said
railway between sunrise and sunset, except at any time when
in consequence of any of the works being out of repair or
45 from any other sufficient cause it shall be necessary to close the said tramway or light railway or any part thereof.

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
50 Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, employed on the said railway or affected by such by-laws, and such by-laws shall specify penalties which shall in no case exceed the sum of ten pounds.

55 Provided always that such by-laws must be first approved of by the Attorney-General of the Colony for the time being.

60 Provided always that the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, or their employees or servants shall, when using or when upon the premises of the said railway, be liable and subject to the Government Railway By-laws.

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

17. Where the land necessary for the purposes of such tramway or light railway consists wholly or partly of land alienated by or not the property of the Crown, or is not Crown Land as defined by this Act, the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained, under the provisions hereinafter contained. Compensation for private lands.

18. The estate and interest of every person entitled to lands required under this Act or any portion thereof, and whether to the legal or equitable estate therein, shall, upon due payment of the amount of compensation tendered by Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, or assessed, as hereinafter provided, be deemed to have been as fully and effectually conveyed to Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall, upon making out his title in respect of any portion of the said resumed lands, be entitled to compensation on account of such resumption in manner hereinafter provided. Conversion of estate of proprietor of resumed land into a claim.

19. If within twenty-eight days after the passing of this Act the persons through whose lands the said tramway or light railway shall pass, or any of them, and the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, shall not agree as to the amount of compensation to be paid by the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them 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 in manner hereinafter mentioned, that is to say— Compensation clause.

Unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred, and every appointment of an arbitrator shall be executed by such party, and such appointment shall be delivered to the arbitrator or arbitrators and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made, and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation, and the award of such arbitrators or umpire if appointed as hereinafter provided shall be final, and if for the space of fourteen days after any such dispute or other matter shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then, upon such failure, it shall be lawful for the Attorney-General for the time being of the said Colony on the application of the party who has himself appointed an arbitrator to appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matter which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive. Appointment of arbitrators.

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20. If before the matter so referred shall be determined, any arbitrator appointed by either party shall die, or become incapable, or refuse, or for fourteen days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for the purpose, he fail to do so, the remaining or other arbitrator may proceed alone, and every arbitrator so to be substituted as aforesaid, shall have the same powers and authorities as were vested in the former arbitrator at the time of such, his death, refusal, neglect, or disability as aforesaid.

Vacancy in arbitration to be supplied.

21. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide any matters on which they shall differ, or which shall be referred to them under the provisions of this Act, and if such umpire shall die, or refuse, or for seven days neglect to act after being called upon to do so by the arbitrators, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire.

22. If in either of the cases aforesaid the arbitrator or arbitrators shall refuse, or for seven days after request of either party to such arbitration neglect to appoint an umpire, it shall be lawful for the Attorney-General for the time being, on the application of either party to such arbitration, to appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ or which shall be referred to him under this Act shall be final.

Attorney-General to appoint umpire on neglect.

23. If where a single arbitrator shall have been appointed, such arbitrator shall die or become incapable, or shall refuse, or for fourteen days neglect to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such arbitrator had not been appointed.

In case of death of single arbitrator the matter to begin *de novo*.

24. If where more than one arbitrator shall have been appointed, either of the arbitrators shall refuse, or for fourteen days neglect, to act, the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been a single arbitrator appointed by both parties.

If either arbitrator refuse to act the other to proceed *ex parte*.

25. If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed for that purpose by both of such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

If arbitrators fail to make their award within twenty-one days the matter to go to the umpire.

26. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party, which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Powers of arbitrators to call for books, &c.

27. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall in the presence of a Justice of the Peace, make and subscribe the following declaration, that is to say,—

Arbitrators or umpire to make a declaration for faithful discharge of duty.

I, A.B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the "North Shore, Manly, and Pittwater Tramway and Railway Act of 1887."

Made and subscribed in the presence of

A.B.
and

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and such declaration shall be annexed to the award when made, and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Penalty for misconduct.

28. All costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, unless the arbitrators shall award the same or a less sum than shall have been offered by the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, in which case each party shall bear his own costs incident to the arbitration, and the cost of the arbitrators shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount claimed, in which case the whole costs shall be paid by the claimant. Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

Cost of arbitration how to be borne.

29. The arbitrators shall deliver their award in writing to the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to C. A. Benbow and L. Johnston.

30. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties.

Submission may be made a rule of Court.

31. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

Award not void through error in form.

32. Subject to the provisions of this Act, it shall be lawful for Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, and for any officer there duly authorized in that behalf, and for all persons employed in the carrying out of any authorized works, and for any person authorized by Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, to enter upon the lands of any person whomsoever which Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns may require to purchase or take, and to take possession and appropriate the same for the purposes of this Act or of the execution of any such authorized works.

General power of entry.

33. Notwithstanding anything hereinbefore contained, it shall be lawful for Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, if they think fit, to agree with the owners of any lands, the acquisition of which is authorized by this Act, and with all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase, for a consideration in money of any such lands or such parts thereof as shall be thought proper, and of all estates and interests in such lands of what kind soever.

Power to purchase lands by agreement.

34. 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 or release the same to Clement Alban Benbow and Leslie Johnston, their 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 in tail or for life, married women seized in their own

Parties under disability enabled to sell and convey and exercise other powers.

right

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right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees 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
 5 to any estate in dower, or to any lease for life, or for lives and years, or for years or any less interest, and the power so to sell and convey or release, as aforesaid, may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives, and years or for years, or for any less interest not only on behalf of
 10 themselves and 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
 15 behalf of their wards, and as to such committees on behalf of the lunatics and idiots of whom they are the 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, if they had respectively been under no disability, and as to such
 20 trustees, executors, or administrators on behalf of their *cestui que* trusts, whether infants issue unborn, lunatics *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act, if they had respectively been under no disability, and the power hereinafter given
 25 to release lands from any rent-charge or incumbrance, and to agree for the apportionment of any such rent-charge or incumbrance, shall extend to, and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the said Clement Alban Benbow and Leslie Johnston, their executors, administrators, and
 30 assigns.

35. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall make compensation and satisfaction to be ascertained and recovered in case of difference
 35 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 Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns of any of the matters or things hereby required to be performed by them or
 40 otherwise.

36. It shall be lawful for the Secretary for Public Works on behalf of the Government at any time, by notice in writing, to require the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns to sell, and thereupon the said
 45 Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall sell to the Government, as the case may be, the said tramway and railway and bridge upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said tramway and railway and bridge or any compensation for com-
 50 pulsory sale or other consideration whatsoever) of the said tramway and railway and bridge, and all lands, buildings, works, materials, and plant of the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, suitable to, and used by him or them for the purposes of the said tramway and railway and bridge,
 55 such value, in case of difference, to be ascertained by arbitration in the manner provided by the twenty-seventh and other sections subsequent thereto of the "Government Railways Act of 1858," twenty-two Victoria number nineteen, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any
 112—B such

Compensation for temporary, permanent, or recurring injuries.

Power for the Government to purchase railway.

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such sale shall have been made to the said Government, the said tram and railway, 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 Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns in respect to the said railway so sold.

37. All penalties imposed under this Act or under any by-laws made in pursuance thereof shall be recoverable in a summary way before any two Justices of the Peace. Recovery of penalties.

10 38. This Act may be cited for all purposes as the "North Shore, Manly, and Pittwater Tramway and Railway Act of 1887." Short title.

SCHEDULES.

SCHEDULE A.

Tram-line from North Shore to Manly Beach.

- 15 The tram-line will start from the east side of Miller-street at the intersection with Falcon-street, and proceed along Falcon-street to east side of Merlin-street; thence across allotments number one, two, three, and four, marked on county map as belonging to Mrs. A. M. Thompson, entering at the south-west corner and leaving at the north-east corner thereof; thence along the Great Military Road and the lower Spit Road to the proposed bridge over Middle Harbour.
- 20 2. At the junction of the Great Military Road with Spofforth-street, a branch line of tramway to be taken along said Spofforth-street and the extension thereof, through the property of James Milson and others known as Cremorne, to the deep waters of Port Jackson.
- 25 3. At the junction of the Military Road and the Spit Road at about two miles five chains from the starting point, a branch line of tramway is to be taken along said Military Road to its junction with Cobbitter-street.
4. After crossing the bridge, the main line will proceed along the newly-formed road until it reaches the fourth angle from the end of the bridge, when it will be necessary to extend the road five chains into land marked on the county map as belonging to J. Fisher, in order to form a reversing line; thence along the main Manly Road to a point seven chains east of the south-west angle of land shown on county map as belonging to J. H. Jones, from which point it will proceed through said land belonging to supposed owner for a length of ten chains and across a Government reserve No. C 683690, dedicated fifth May, one thousand eight hundred and seventy-six; thence through lands marked on county map as belonging to J. T. Gray and T. Holt, junior; thence across West-street through V. Zahel's property to and across Wood-street, through V. Zahel's property and across Condamine-street, through V. Zahel's property and across Boyle-street; thence through land marked on county map as belonging to
- 30 J. M. Illidge and across Hill-street, and along a street forming the northern boundary of the Manly Cemetery to the western boundary of land marked on the county map as belonging to W. Watkins; thence through the said land to the north-east angle of said land; thence along the road to the south-west angle of land marked on the map as belonging to J. Farrell; thence along a reserved but fenced in road, between said land
- 45 and land marked on county map as belonging to H. G. Smith to the junction with the Pittwater Road, and along said Pittwater Road into Manly and terminate near the steamers' wharf.

SCHEDULE B.

Manly Beach to Pittwater—Light Railway or Tram.

- 50 Commencing at the junction with the North Shore and Manly tram-line, situated five chains east of south-west angle of land, marked on county map as belonging to J. Farrell; thence through south-west angle of said land and across a road into and through lands marked on county map as belonging to Thomas M'Clelland and H. G. Alleyne, through Government reserve and across Curl Curl Lagoon into and through lands
- 55 marked on county map as belonging to J. H. Palmer, across a road into and through land marked on county map as belonging to John Wheeler and W. Tobin, across a road into and through land shown on county map as belonging to John Wheeler, where the road will be required to be diverted half a chain to the east of present position across the Manly to Pittwater Road, into and through lands marked on county map as belonging to

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to W. F. Parker and W. Nicholson, into and through the subdivision known as the Greendale Estate, across a Government road along Pittwater to Manly Road, which road at this point will be diverted one chain to the westward for the length of eight chains into land marked as belonging to W. Redman; thence through lands 5 belonging to James Wheeler and James Jenkins to the southern boundary of the Mount Ramsay Estate; thence through lands belonging to C. E. Fuller, for a length of four chains, and thence along Ocean-street to its intersection with Loftus-street; thence through lands belonging to C. E. Fuller to Narrabeen Lagoon, across the said lagoon into and through lands belonging to J. F. Collins; thence through lands shown on county 10 map as belonging to E. Jenkins and J. Jenkins, where the Pittwater to Manly Road will have to be diverted for a length of twenty-six chains to the west; thence through land shown on county map as belonging to J. C. Hedeman; thence through Government reserve No. C 46-20 30 roll LXXI LXX, across the Pittwater Road; thence into and through the property marked on county map as the Mona Vale Estate; thence across the head 15 waters of an arm of Pittwater; thence along the foreshores of said Mona Vale property, across an inlet from Pittwater; thence into and through lots six and seven, section E. of Newport subdivision, across Beaconsfield-street, across allotments five, six, seven, eight, section D same subdivision, across Queen's-parade, across Kings-street and Trafalgar-square and Gladstone-street, into and through allotments five to seventeen, 20 section J of the same subdivision of Newport, which will be the terminus.

SCHEDULE C.

Particulars of properties through which proposed tram-lines pass.

						Miles.	Chains.
<i>North Shore to Manly route.</i>							
25	Laid along public roads	...	...	...	...	5	69
	Laid through private lands given by owners	...	...	...	...	0	21
	Do do to be purchased	...	...	...	...	1	5
						7	15
<i>Manly to Pittwater tram-line.</i>							
30	Laid along public roads	...	...	...	...	1	51
	Through Government lands	...	...	...	...	0	37
	Over lagoons	...	...	...	...	0	46
	Through lands given by owners	...	...	...	...	4	19
	Through lands yet to be treated for...	...	...	...	...	4	21
						11	14

SCHEDULE D.

The Bridge across the Spit Middle Harbour.

The bridge to consist of wrought-iron girders on iron piers, filled with concrete over the water-way; the floor to have an elevation of fifty one hundred feet above high 40 water, the portion over sand-spit to be of timber, the structure of the floor inside parapets to be twenty feet wide and designed to accommodate ordinary road traffic as well as to carry tramway.

Tolls to be charged according to the existing punt tariff as follows:—

45	For every foot passenger (excepting children going or coming from school)	s.	d.
	For every horse, mare, gelding, ass, mule drawing or not drawing	...	0 2
	For every gig, dray, or cart, with two wheels only	...	0 6
	For every waggon, carriage, or other vehicle, with four wheels	...	1 0
(The charge as above stated to include passing and repassing once a day.)			
50	For every ox or head of neat cattle drawing or not drawing	...	0 3
	For every sheep, lamb, pig, or goat	...	0 0½
(The two last charges for tolls as above indicated to be paid for each time of crossing.)			
55	Children going to or from school will be exempt from tolls.		
	The toll for vehicles to be paid in addition to the toll for horses or other animals drawing such vehicles.		
	Persons riding or travelling on vehicles not to be charged toll as foot passengers.		

This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 20 December, 1887.* }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUINQUAGESIMO PRIMO

VICTORIÆ REGINÆ.

An Act to authorize the construction of a Tramway from the northern terminus of the North Shore Cable Tramway to the Spit at Middle Harbour, together with branch lines therefrom to Cremorne Point and Middle Head, and from the Spit aforesaid to Manly Village, and a Light Railway thence to Pittwater, Broken Bay, and the erection of a Bridge over the waters of Middle Harbour at the Spit aforesaid.

WHEREAS Clement Alban Benbow and Leslie Johnston, both of Sydney, in the Colony of New South Wales, Esquires, are desirous of constructing a tramway from the northern terminus of the present cable tramway running from Milson's Point Saint Leonards, in the parish of Willoughby, to the Spit at Middle Harbour, in the parish aforesaid, together with branch lines therefrom to Cremorne Point and Middle Head, and from the Spit aforesaid to Manly Village, and thence a light railway to Pittwater, Broken Bay; and for the purposes of such tramway, and also, for the public general traffic and convenience, to construct a bridge over the waters of Middle Harbour, at the Spit aforesaid, such tramway or light railway lines to run through certain private lands and certain streets described in the Schedules annexed hereto. And whereas it is desired to construct such tramway or light railway for the purpose of giving better access for the public to the districts through which the said proposed tramway or railway runs and the places before named, and also to the Hawkesbury River. And whereas the increased facilities of communication and traffic, which would result from the construction

Preamble.

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of the said proposed tramway or light railway and the said bridge, would be for the public convenience and benefit. And it is desirable to authorize by Legislative enactments the construction and maintenance of the said proposed tramway or light railway, subject to the provisions hereinafter contained. 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:—

- 10 1. It shall be lawful for the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway and light railway for conveying passengers and their luggage and other goods and merchandize from a point at or near the northern terminus of the aforesaid North Shore Cable Tramway, and thence by the lines described in the Schedule to this Act, and to effect through communication between the said North Shore Cable Tramway and Manly Village and Pittwater aforesaid; and also to make and construct branch lines from the said tramway or railway at the points named in the Schedules to this Act, and thence by the lines described in such Schedules, in accordance with section ninety-nine of the "Government Railways Act of 1858;" and to take and use so much of the streets or lands referred to in the said Schedule as may be required for the purposes of such tramway or light railway, but so that the same shall not occupy in any part thereof a greater space in breadth than twenty feet, including the support and foundations thereof; and also to construct and build a bridge for the purposes of such tramway or light railway and for the public general traffic over the waters of Middle Harbour at the Spit aforesaid, connecting the lines of the said tramway or railway at the places where such lines terminate on the waters of the said Middle Harbour, as shown in the Schedules hereto; and to dig and make proper foundations in or under the said waters, and to cut, remove, take, and carry away all trees, beds of sand and rocks, and any other impediments whatsoever which may in anywise hinder the erecting and completing the said bridge; and generally to do and execute all and every other acts, matters, and things requisite and necessary for erecting buildings, repairing and maintaining the said bridge. Provided that the said tramway or light railway shall be completely constructed (subject to clause two of this Bill) between the points above indicated respectively and brought into use within three years, and the said bridge shall be completely erected, in accordance with the provisions in Schedule D to this Act, within the space of five years from the passing of this Act. And the same and the said bridge shall be constructed in a proper and workmanlike manner.
- 45 Provided that the construction of the said tramway or light railway shall be commenced within six months from the passing of this Act, and that within twelve months from the passing of this Act, four miles at least of the permanent way of the said tramway or light railway shall be completed, and that within eighteen months from the passing of this Act the whole of the permanent way of the said tramway or light railway, between St. Leonards and Manly (with the exception of the said bridge over the waters of Middle Harbour), shall be completed. Provided further that this authority shall not extend beyond thirty years from the passing of this Act.
- 55 2. It shall be lawful for the said Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns to use and employ a steam punt to supply the connection between the points of such tramway or light railway on the shores of Middle Harbour, until the completion of the said bridge, and to charge tolls, as per Schedule D, for the said punt, such tolls being those charged as at present.

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3. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall have all necessary rights of ingress and egress to and over the surface of the streets and lands before referred to, and all such other rights as are required for the construction, repair, completion, and use of the said tramway or light railway. Provided that nothing herein contained shall impair or be held to impair the lawful authority of any of the Municipal Districts through which such tramway or light railway may run, or of any other corporation, company, or person to make all entries and exercise all other powers necessary for the construction, maintenance, and preservation of gasworks, water works, sewerage works, and other works lawfully constructed under ground. Entry upon streets.
4. The gauge of the said tramway or light railway shall be three feet six inches. Gauge.
5. The said tramway or light railway shall, throughout its course, be laid at or about the general level of the said streets and lands, and throughout the whole extent of the said tramway or light railway shall be laid with rails, subject to the approval of the Commissioner for Railways. Level.
6. Where the said light railway from Manly village to Pittwater, Broken Bay, shall cross any public highway or parish road on a level, the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall erect, and at all times maintain, good and sufficient gates across such road on each side of the said light railway, 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 light railway, except during the time when horses, cattle, carts, or carriages passing along the same, shall have to cross such light railway, and such gates shall be of such dimensions and so constructed as, when closed, to fence in the said light railway and prevent cattle or horses passing along the road from entering upon the light railway, and the persons entrusted 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 of forty shillings for every default therein. Provided always that it shall be lawful for the Secretary for Public Works or Commissioner for Railways, 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 light railway, 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 said light railway, except when engines or carriages passing along the said light railway 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. Crossings.
7. The said bridge shall be open to the public for foot passengers, vehicles, horses, and general traffic, and it shall be lawful for the said Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, to charge, demand, and receive at the toll-bar or gates, erected at or upon the said bridge, the tolls specified in Schedule D hereto. Railway to be open to public.
8. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns shall make, and at all times thereafter maintain for the accommodation of the owners and occupiers of lands adjoining, the said light railway, that is to say— Works for benefit of owners.
- Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from the said light railway as shall be necessary for the purpose of Gates bridges, &c.
- of

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5 of making good any interruptions caused by the said light railway to the use of the lands through which the said light railway shall be made, and such works shall be made forthwith after the part of the said light railway passing over such lands shall have been laid out or formed, or during the formation thereof.

10 Also sufficient posts rails, hedges, ditches, mounds, or other fences Fences. for separating the land taken for the use of the said light railway from the adjoining lands not taken, and protecting such lands from trespass, or the horses or cattle of the owners or occupiers thereof from straying thereout by reason of the said light railway, together with all necessary gates made to open towards such adjoining lands and not towards the said light 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 thereof shall so require, and the said other works as soon as conveniently may be.

20 Also all necessary arches, tunnels, culverts, drains or other passages, either over or under or by the sides of the said light railways, 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 said light railway as before the making of the said light railway, or as nearly so as may be, and such works shall be made from time to time as the said light railway works proceed. Drains.

25 Provided always that the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or 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 said light railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation instead of making them.

30 9. If any person omit to shut and fasten any gate set up at either side of the said light railway for the accommodation of the owners or occupiers of the adjoining lands so soon as he and the carriages 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. Penalty on person omitting to fasten gates.

40 10. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns shall maintain in perfect order and repair the said tramway and railway, and the pavements of the same between the rails of the said tramway or railway where crossing any roads, and for the space of one foot six inches on each side of such rails. Maintenance of roads.

45 11. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns shall immediately repair any damage which may, during or by reason of the construction of the said tramway or light railway, 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 or light railway. Repair of damage to sewers, &c.

50 12. It shall be lawful for, and incumbent upon the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators and assigns, subject as aforesaid, to provide, use, and employ locomotive engines or cables or other moving power, and carriages and waggons, to be drawn or propelled thereby, and to carry and convey upon the said tramway or light railway all such passengers and goods as shall be offered for that purpose, and to charge the tolls and charges in respect thereof as above specified. Provided that all such tolls and charges be Locomotives to be employed.
at

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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 shall be made either directly or indirectly in favour of or against any particular Company or person travelling upon or using the said tramway or light railway.

13. Nothing in this Act contained shall extend to charge or make liable the said Clement Alban Benbow and Leslie Johnston, 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 Clement Alban Benbow and Leslie Johnston, 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, the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns shall at all times be entitled to the benefit of every such protection and privilege.

14. The tolls shall be paid to such persons and at such places upon or near to the said tramway or light railway, and in such manner, and under such regulations as the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall appoint, subject to the approval of the Commissioner for Railways.

15. It shall be lawful for the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, from time to time, subject to the approval of the Commissioner for Railways and subject to the provisions and restrictions in this Act contained, to make regulations for the following purposes, that is to say—

For regulating the times of the arrival and departure of the carriages and trains and the number of persons to be carried therein.

For regulating the loading or unloading of carriages.

For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages or any of the railway stations, waiting-rooms, or premises.

And generally for regulating the travelling upon or issuing, and working the said tramway or light railway, and the maintenance of good order, and for regulating the conduct of the railway officers and servants, and for providing for the due management of the said tramway or light railway, and the protection thereof, and the carriages and waiting-rooms, offices and premises from trespass and injury.

But no such regulation shall authorize the closing of the said railway 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 light railway or any part thereof.

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 Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, employed on the said railway or affected by such by-laws, and such by-laws shall specify penalties which shall in no case exceed the sum of ten pounds.

Provided always that such by-laws must be first approved of by the Attorney-General of the Colony for the time being.

Provided always that the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, or their employees or servants shall, when using or when upon the premises of the said railway, be liable and subject to the Government Railway By-laws.

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

17. Where the land necessary for the purposes of such tramway or light railway consists wholly or partly of land alienated by or not the property of the Crown, or is not Crown Land as defined by this Act, the owners thereof shall be entitled to receive such sum of money by way of compensation for the land so described as shall be agreed upon or otherwise ascertained, under the provisions hereinafter contained. Compensation for private lands.

18. The estate and interest of every person entitled to lands required under this Act or any portion thereof, and whether to the legal or equitable estate therein, shall, upon due payment of the amount of compensation tendered by Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, or assessed, as hereinafter provided, be deemed to have been as fully and effectually conveyed to Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law. And every person shall, upon making out his title in respect of any portion of the said resumed lands, be entitled to compensation on account of such resumption in manner hereinafter provided. Conversion of estate of proprietor of resumed land into a claim.

19. If within twenty-eight days after the passing of this Act the persons through whose lands the said tramway or light railway shall pass, or any of them, and the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, shall not agree as to the amount of compensation to be paid by the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them 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 in manner hereinafter mentioned, that is to say— Compensation clause.

Unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred, and every appointment of an arbitrator shall be executed by such party, and such appointment shall be delivered to the arbitrator or arbitrators and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made, and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation, and the award of such arbitrators or umpire if appointed as hereinafter provided shall be final, and if for the space of fourteen days after any such dispute or other matter shall have arisen, and after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then, upon such failure, it shall be lawful for the Attorney-General for the time being of the said Colony on the application of the party who has himself appointed an arbitrator to appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matter which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive. Appointment of arbitrators.

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20. If before the matter so referred shall be determined, any arbitrator appointed by either party shall die, or become incapable, or refuse, or for fourteen days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for the purpose, he fail to do so, the remaining or other arbitrator may proceed alone, and every arbitrator so to be substituted as aforesaid, shall have the same powers and authorities as were vested in the former arbitrator at the time of such, his death, refusal, neglect, or disability as aforesaid.

Vacancy in arbitration to be supplied.

21. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide any matters on which they shall differ, or which shall be referred to them under the provisions of this Act, and if such umpire shall die, or refuse, or for seven days neglect to act after being called upon to do so by the arbitrators, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire.

22. If in either of the cases aforesaid the arbitrator or arbitrators shall refuse, or for seven days after request of either party to such arbitration neglect to appoint an umpire, it shall be lawful for the Attorney-General for the time being, on the application of either party to such arbitration, to appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ or which shall be referred to him under this Act shall be final.

Attorney-General to appoint umpire on neglect.

23. If where a single arbitrator shall have been appointed, such arbitrator shall die or become incapable, or shall refuse, or for fourteen days neglect to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such arbitrator had not been appointed.

In case of death of single arbitrator the matter to begin *de novo*.

24. If where more than one arbitrator shall have been appointed, either of the arbitrators shall refuse, or for fourteen days neglect, to act, the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been a single arbitrator appointed by both parties.

If either arbitrator refuse to act the other to proceed *ex parte*.

25. If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed for that purpose by both of such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

If arbitrators fail to make their award within twenty-one days the matter to go to the umpire.

26. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party, which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Powers of arbitrators to call for books, &c.

27. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall in the presence of a Justice of the Peace, make and subscribe the following declaration, that is to say,—

Arbitrators or umpire to make a declaration for faithful discharge of duty.

I, A.B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the "North Shore, Manly, and Pittwater Tramway and Railway Act of 1887."

Made and subscribed in the presence of

A.B.
and

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and such declaration shall be annexed to the award when made, and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour. Penalty for misconduct.

28. All costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, unless the arbitrators shall award the same or a less sum than shall have been offered by the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, in which case each party shall bear his own costs incident to the arbitration, and the cost of the arbitrators shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth less than the amount claimed, in which case the whole costs shall be paid by the claimant. Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid. Cost of arbitration how to be borne.

29. The arbitrators shall deliver their award in writing to the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, who shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award. Award to be delivered to C. A. Benbow and L. Johnston.

30. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties. Submission may be made a rule of Court.

31. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form. Award not void through error in form.

32. Subject to the provisions of this Act, it shall be lawful for Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, and for any officer there duly authorized in that behalf, and for all persons employed in the carrying out of any authorized works, and for any person authorized by Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, to enter upon the lands of any person whomsoever which Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns may require to purchase or take, and to take possession and appropriate the same for the purposes of this Act or of the execution of any such authorized works. General power of entry.

33. Notwithstanding anything hereinbefore contained, it shall be lawful for Clement Alban Benbow and Leslie Johnston, their executors, administrators, and assigns, if they think fit, to agree with the owners of any lands, the acquisition of which is authorized by this Act, and with all parties having any estate or interest in such lands or by this Act enabled to sell and convey the same for the absolute purchase, for a consideration in money of any such lands or such parts thereof as shall be thought proper, and of all estates and interests in such lands of what kind soever. Power to purchase lands by agreement.

34. 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 or release the same to Clement Alban Benbow and Leslie Johnston, their 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 in tail or for life, married women seized in their own right Parties under disability enabled to sell and convey and exercise other powers.

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right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees 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
 5 to any estate in dower, or to any lease for life, or for lives and years, or for years or any less interest, and the power so to sell and convey or release, as aforesaid, may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives,
 10 and years or for years, or for any less interest not only on behalf of themselves and 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
 15 behalf of their wards, and as to such committees on behalf of the lunatics and idiots of whom they are the 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, if they had respectively been under no disability, and as to such
 20 trustees, executors, or administrators on behalf of their *cestui que* trusts, whether infants issue unborn, lunatics *feme covert*, or other persons, and that to the same extent as such *cestui que* trusts respectively could have exercised the same powers under the authority of this Act, if they had respectively been under no disability, and the power hereinafter given
 25 to release lands from any rent-charge or incumbrance, and to agree for the apportionment of any such rent-charge or incumbrance, shall extend to, and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the said Clement Alban Benbow and Leslie Johnston, their executors, administrators, and
 30 assigns.

35. The said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall make compensation and satisfaction to be ascertained and recovered in case of difference in the manner hereby provided for temporary, permanent, or recurring
 35 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 Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns of any of the matters or things hereby required to be performed by them or
 40 otherwise.

36. It shall be lawful for the Secretary for Public Works on behalf of the Government at any time, by notice in writing, to require the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns to sell, and thereupon the said
 45 Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns shall sell to the Government, as the case may be, the said tramway and railway and bridge upon the terms of paying the then value (exclusive of any allowance for past or future profits of the said tramway and railway and bridge or any compensation for com-
 50 pulsory sale or other consideration whatsoever) of the said tramway and railway and bridge, and all lands, buildings, works, materials, and plant of the said Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, or assigns, suitable to, and used by him or them for the purposes of the said tramway and railway and bridge,
 55 such value, in case of difference, to be ascertained by arbitration in the manner provided by the twenty-seventh and other sections subsequent thereto of the "Government Railways Act of 1858," twenty-two Victoria number nineteen, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any

Compensation for temporary, permanent, or recurring injuries.

Power for the Government to purchase railway.

North Shore, Manly, and Pittwater Tramway and Railway.

such sale shall have been made to the said Government, the said tram and railway, 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 Clement Alban Benbow and Leslie Johnston, their heirs, executors, administrators, and assigns in respect to the said railway so sold.

37. All penalties imposed under this Act or under any by-laws made in pursuance thereof shall be recoverable in a summary way before any two Justices of the Peace. Recovery of penalties.

38. This Act may be cited for all purposes as the "North Shore, Manly, and Pittwater Tramway and Railway Act of 1887." Short title.

SCHEDULES.

SCHEDULE A.

Tram-line from North Shore to Manly Beach.

15 The tram-line will start from the east side of Miller-street at the intersection with Falcon-street, and proceed along Falcon-street to east side of Merlin-street; thence across allotments number one, two, three, and four, marked on county map as belonging to Mrs. A. M. Thompson, entering at the south-west corner and leaving at the north-east corner thereof; thence along the Great Military Road and the lower Spit Road to the proposed bridge over Middle Harbour.

20 2. At the junction of the Great Military Road with Spofforth-street, a branch line of tramway to be taken along said Spofforth-street and the extension thereof, through the property of James Milson and others known as Cremorne, to the deep waters of Port Jackson.

25 3. At the junction of the Military Road and the Spit Road at about two miles five chains from the starting point, a branch line of tramway is to be taken along said Military Road to its junction with Cobbitter-street.

4. After crossing the bridge, the main line will proceed along the newly-formed road until it reaches the fourth angle from the end of the bridge, when it will be necessary to extend the road five chains into land marked on the county map as belonging to J. Fisher, in order to form a reversing line; thence along the main Manly Road to a point seven chains east of the south-west angle of land shown on county map as belonging to J. H. Jones, from which point it will proceed through said land belonging to supposed owner for a length of ten chains and across a Government reserve No. C 683690, dedicated fifth May, one thousand eight hundred and seventy-six; thence through lands marked on county map as belonging to J. T. Gray and T. Holt, junior; thence across West-street through V. Zahel's property to and across Wood-street, through V. Zahel's property and across Condamine-street, through V. Zahel's property and across Boyle-street; thence through land marked on county map as belonging to J. M. Illidge and across Hill-street, and along a street forming the northern boundary of the Manly Cemetery to the western boundary of land marked on the county map as belonging to W. Watkins; thence through the said land to the north-east angle of said land; thence along the road to the south-west angle of land marked on the map as belonging to J. Farrell; thence along a reserved but fenced in road, between said land and land marked on county map as belonging to H. G. Smith to the junction with the Pittwater Road, and along said Pittwater Road into Manly and terminate near the steamers' wharf.

SCHEDULE B.

Manly Beach to Pittwater—Light Railway or Tram.

50 Commencing at the junction with the North Shore and Manly tram-line, situated five chains east of south-west angle of land, marked on county map as belonging to J. Farrell; thence through south-west angle of said land and across a road into and through lands marked on county map as belonging to Thomas McClelland and H. G. Alleyne, through Government reserve and across Curl Curl Lagoon into and through lands marked on county map as belonging to J. H. Palmer, across a road into and through land marked on county map as belonging to John Wheeler and W. Tobin, across a road into and through land shown on county map as belonging to John Wheeler, where the road will be required to be diverted half a chain to the east of present position across the Manly to Pittwater Road, into and through lands marked on county map as belonging to

North Shore, Manly, and Pittwater Tramway and Railway.

to W. F. Parker and W. Nicholson, into and through the subdivision known as the Greendale Estate, across a Government road along Pittwater to Manly Road, which road at this point will be diverted one chain to the westward for the length of eight chains into land marked as belonging to W. Redman; thence through lands 5 belonging to James Wheeler and James Jenkins to the southern boundary of the Mount Ramsay Estate; thence through lands belonging to C. E. Fuller, for a length of four chains, and thence along Ocean-street to its intersection with Loftus-street; thence through lands belonging to C. E. Fuller to Narrabeen Lagoon, across the said lagoon into and through lands belonging to J. F. Collins; thence through lands shown on county 10 map as belonging to E. Jenkins and J. Jenkins, where the Pittwater to Manly Road will have to be diverted for a length of twenty-six chains to the west; thence through land shown on county map as belonging to J. C. Hedeman; thence through Government reserve No. C 46-20 30 roll LXXI LXX, across the Pittwater Road; thence into and through the property marked on county map as the Mona Vale Estate; thence across the head 15 waters of an arm of Pittwater; thence along the foreshores of said Mona Vale property, across an inlet from Pittwater; thence into and through lots six and seven, section E. of Newport subdivision, across Beaconsfield-street, across allotments five, six, seven, eight, section D same subdivision, across Queen's-parade, across Kings-street and Trafalar-square and Gladstone-street, into and through allotments five to seventeen, 20 section J of the same subdivision of Newport, which will be the terminus.

SCHEDULE C.

Particulars of properties through which proposed tram-lines pass.

		Miles.	Chains.
<i>North Shore to Manly route.</i>			
25	Laid along public roads	5	69
	Laid through private lands given by owners	0	21
	Do do to be purchased	1	5
		7	15
<i>Manly to Pittwater tram-line.</i>			
30	Laid along public roads	1	51
	Through Government lands	0	37
	Over lagoons	0	46
	Through lands given by owners	4	19
	Through lands yet to be treated for...	4	21
35		11	14

SCHEDULE D.

The Bridge across the Spit Middle Harbour.

The bridge to consist of wrought-iron girders on iron piers, filled with concrete over the water-way; the floor to have an elevation of ~~fifty~~ **one hundred** feet above high 40 water, the portion over sand-spit to be of timber, the structure of the floor inside parapets to be twenty feet wide and designed to accommodate ordinary road traffic as well as to carry tramway.

Tolls to be charged according to the existing punt tariff as follows:—

45	For every foot passenger (excepting children going or coming from school)	s.	d.
	For every horse, mare, gelding, ass, mule drawing or not drawing	...	0 3
	For every gig, dray, or cart, with two wheels only	...	0 6
	For every waggon, carriage, or other vehicle, with four wheels	...	1 0
50	(The charge as above stated to include passing and repassing once a day.)		
	For every ox or head of neat cattle drawing or not drawing	...	0 3
	For every sheep, lamb, pig, or goat	...	0 0½
	(The two last charges for tolls as above indicated to be paid for each time of crossing.)		
55	Children going to or from school will be exempt from tolls.		
	The toll for vehicles to be paid in addition to the toll for horses or other animals drawing such vehicles.		
	Persons riding or travelling on vehicles not to be charged toll as foot passengers.		

