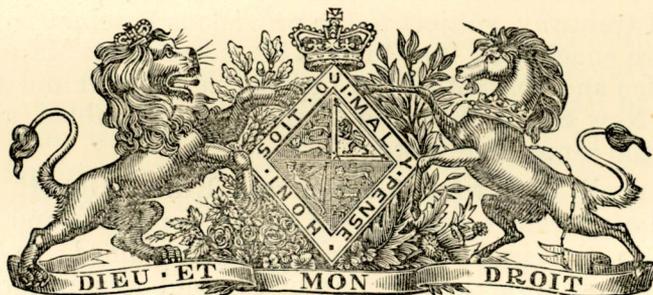


New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

An Act to authorise the construction and maintenance of a tramway from the mines, quarries, and lands situate in the parish of Enmore, counties of Yancowinna and Menindee, Colony of New South Wales, comprised in applications for mineral leases numbered 4,716, 4,717, 4,718, 4,737, 4,738, 4,739, 4,740, 4,741, to a point to be determined on mineral lease, portion 2, parish Sebastopol, in the said Colony, connecting with the tramway system of the Broken Hill Mines. [Assented to, 1st April, 1892.]

WHEREAS large quantities of mineral ores and fluxing material exist, and are being quarried and mined at the quarries and mines on the lands situate in the parish of Enmore, counties of Yancowinna and Menindee, in the Colony of New South Wales, for which applications have been duly made for mineral leases by Ernest Govett, of Broken Hill, in the said Colony, freeholder: And whereas large quantities of timber suitable for fuel exist upon the said lands: And whereas for the purpose of facilitating the carriage of the said mineral ores, fluxing material, fuel, and timber from the said quarries, mines, and lands, the said Ernest Govett is desirous of constructing a single or double tramway for horse, steam, or other traction, over, across, and along the lands described in the Schedule hereto, from the said quarries, mines, and lands, in the said parish of Enmore, comprised in application for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, Preamble.

Pine Ridge Tramway.

four thousand seven hundred and eighteen, four thousand seven hundred and thirty-seven, four thousand seven hundred and thirty-eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one, to a point to be determined on mineral lease, portion two, parish of Sebastopol, county Yancowinna aforesaid : And whereas such tramway cannot be made without Legislative authority : And whereas the construction of the said proposed tramway would be largely for the benefit of the mining public by materially decreasing the cost of carriage, thereby enabling the poorer class of ores to be profitably worked, and would be also the means of supplying the district of Broken Hill with cheap fuel, and it is therefore advisable to authorise, by Legislative enactment, the construction and maintenance of the said proposed tramway, 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 :—

Authority to
construct tramway.

1. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway for the carrying of the said mineral ores, fluxing material, fuel, timber, and of all persons engaged, and all materials, goods, and plant necessary in and about the working thereof, from and to the said quarries, mines, and lands, in the parish of Enmore aforesaid, by the route, and along and over the roads, streets, lands, and reserves, both public and private, described in the Schedule hereto, and to take and use so much of the said roads, streets, lands, and reserves, both public and private, as may be required for the purposes of such tramway, but so that the same shall not occupy in part thereof on private lands a greater space in breadth than thirty-three feet, and on public lands in breadth sixty-six feet, including the support and foundations thereof, and to lease, in accordance with section eight of this Act, so much public lands adjoining the said tramway, not exceeding in the aggregate eighty acres, as may be required for the purpose of constructing tanks, sidings, or other necessary works in connection with such tramway.

Levels of line.

2. The gauge of the said tramway shall be three feet six inches, and where it traverses public thoroughfares shall be laid at about the general level of such thoroughfares and so that the rails shall not project above the surface thereof ; and the said Ernest Govett, his heirs, executors, administrators, or assigns, shall maintain in perfect order and repair the said tramway, and where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the pavements of the same between the rails of the said tramway 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.

Tramway to remain
property of Ernest
Govett, his heirs,
executors, adminis-
trators, and assigns.
Authorised persons
to have rights over
streets.

3. The tramway and the material thereof shall not cease to be the property of the said Ernest Govett, his heirs, executors, administrators, and assigns, by reason of the same being laid as aforesaid.

4. The said Ernest Govett, his heirs, executors, administrators, and assigns, and all other person or persons duly authorised, shall have all necessary rights over the roads, streets, and lands described in the Schedule to this Act as are required for the construction, repair, completion, and use of the said tramway : Provided that there shall be no interference with ordinary traffic beyond what is reasonable and necessary for such purpose.

Pine Ridge Tramway.

5. The tramway shall be for the use of said Ernest Govett, his heirs, executors, administrators, and assigns, and of all persons engaged by him or them in and about the carriage, winning, and obtaining of fuel and timber and the said mineral ores and fluxing material, and for the carriage of the said fuel, timber, and mineral ores and fluxing material, and of all plant, goods, and things necessary in and about the winning and obtaining the same, and shall be confined to the conveyance of such mineral ores, fluxing material, and fuel, timber, and plant as aforesaid, and of all goods and things necessary in and about the same, and of all persons engaged in and about the same as aforesaid, to and from the said quarries, mines, and lands comprised in the said applications for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, four thousand seven hundred and eighteen, four thousand seven hundred and thirty seven, four thousand seven hundred and thirty eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one.

6. It shall be lawful for the persons using the said tramway to employ horses, steam, or other motive power, and carriages, waggons, or trucks to be drawn thereby.

7. The said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any mines of coal, iron, slate, or other minerals under any land whereof the surface is vested in him or them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised, and such mines shall not be deemed to vest in the said Ernest Govett, his heirs, executors, administrators, and assigns.

8. Upon the completion of the tramway and works authorised by this Act, it shall be lawful for the Governor, with the advice of the Executive Council, in consideration of such completion, to grant to the said Ernest Govett, his heirs, executors, administrators, or assigns, a lease or leases, for a term not exceeding twenty-one years, of such Crown lands as shall have been necessarily used or taken for the said tramway at an annual rental not exceeding two shillings per acre.

9. Before commencing the said tramway by this Act authorised to be made, the said Ernest Govett, his heirs, executors, administrators, or 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: Provided that it shall be lawful for the said Ernest Govett, his heirs, executors, administrators, or assigns, to deviate in the route of the said tramway to the extent of not more than one and a half mile on either side of the forty line described in the Schedule hereto annexed. And the said map or plan shall be kept at some convenient office at Broken Hill, and true copies thereof, signed by the said Ernest Govett, his heirs, executors, administrators, or assigns, shall be deposited with the Clerk of Petty Sessions at Broken Hill aforesaid, and such map or plan and 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 or copies as aforesaid.

10. The said Ernest Govett, his 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 circulating in Broken Hill respectively, at least thirty days before the commencement of the formation of the tramway, give notice

Carriage.

To employ horse, steam, or other motive power.

Ernest Govett, his heirs, executors, administrators, and assigns not entitled to minerals.

Power to grant leases of land for tramway.

Before commencing tramway, survey to be made.

To be open to public inspection.

Notice to be given of intention to make tramway.

Pine Ridge Tramway.

notice that they intend to construct the said tramway between the places thereof specified, according to a map or plan to be seen at an office (in the said notice specified) in Broken Hill aforesaid, and at the office of the said Clerk of Petty Sessions.

Notice of lands required for tramway.

11. When the said Ernest Govett, his heirs, executors, administrators, or assigns, shall have made and completed the map or plan hereinbefore required to be made, he or they shall give notice in writing of the lands taken and required for the said tramway to all the parties interested in such lands, or to such of the said parties as shall be known to the said Ernest Govett, his heirs, executors, administrators, or assigns. And every such notice shall state the particulars of the lands so taken or required as aforesaid, and that the said Ernest Govett, his heirs, executors, administrators, or assigns, is or are willing to treat as to the compensation to be made to all parties for the lands taken or to be taken, and the damage sustained or to be sustained by them by reason of the exercise of the powers conferred by this Act, and shall demand in the said notice from such parties, and the said parties are hereby required to deliver forthwith to the said Ernest Govett, his heirs, executors, administrators, or assigns, at the cost of the said Ernest Govett, his heirs, executors, administrators, or assigns, the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof, together with an abstract of their title to such land, and if they claim in respect of damage the nature of the damage which they have sustained or will sustain by reason of the taking of such lands.

Service of notice on owners and occupiers of land

12. All notices required to be served by the said Ernest Govett, his heirs, executors, administrators, or 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 adjoining lands to repair accidents, subject to certain restrictions.

13. 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 Ernest Govett, his heirs, executors, administrators, and assigns, and his or 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 Ernest Govett, his heirs, executors, administrators, or assigns shall, within fourteen days after such entry, make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said tramway.

14.

Pine Ridge Tramway.

14. If within twenty-eight days of the service of such notice as aforesaid the said persons through whose land the tramway shall pass or any of them, and the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not agree as to the amount of compensation to be paid by him or them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by him or 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), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator, to whom such dispute or other matter shall be referred; and every appointment of an arbitrator shall be under the hand and seal of such person or persons respectively, 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 if for the space of fourteen days after 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 shall 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 matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

Compensation to be settled by arbitration.

15. 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 that 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.

Proceedings in case of disability of arbitrator.

16. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in 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 so to do by the arbitrators or either of them, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

Appointment of umpire.

17. If in either of the cases aforesaid the 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.

Neglect to appoint umpire.

18.

Pine Ridge Tramway.

In case of disability of single arbitrator.

18. If, when 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.

Arbitrators failing to make their award matters referred to umpire.

19. If when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as 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.

Arbitrators may order production of documents, &c.

20. The said arbitrator or arbitrators, or his 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.

Declaration by arbitrators or umpire.

21. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, Notary Public, or Commissioner for Affidavits for the said Colony, make and subscribe the following declaration, that is to say—

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 "Pine Ridge Tramway Act."

Made and subscribed at
in the presence of

A.B.

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.

Cost of arbitration, how to be borne.

22. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrator or arbitrators or umpire, and the costs of the arbitrator or arbitrators or umpire shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth, or more, less than the amount which shall have been offered by the said Ernest Govett, his heirs, executors, administrators, and assigns, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant: Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrator or arbitrators or umpire 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.

Costs may be taxed.

Arbitrators or umpire to deliver award to Ernest Govett, his heirs, executors, administrators, and assigns.

23. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said Ernest Govett, his heirs, executors, administrators, and assigns, who shall retain the same, and shall forthwith, on demand, at his or 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 the award.

Compensation to be paid within sixty days after publication of award.

Submission may be made a rule of Supreme Court

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

Pine Ridge Tramway.

25. 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 to be set aside for irregularity.

26. The said Ernest Govett, his heirs, executors, administrators, and 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 injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which the said tramway shall pass, by the non-performance or negligent performance by the said Ernest Govett, his heirs, executors, administrators, and assigns, of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.

27. In every case where the said Ernest Govett, his heirs, executors, administrators, and assigns, shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on him or them, within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, and damaged or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent, to be fixed by two Justices in case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands. Compensation in cases of temporary possession.

28. If the owner of any lands required to be taken for the construction of the said tramway is absent from the Colony, or cannot upon diligent inquiry be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said Ernest Govett, his heirs, executors, administrators, and assigns for the purchase of such lands, or join in submitting their claims for compensation to arbitration as hereinbefore provided, the purchase money or compensation payable by the said Ernest Govett, his heirs, executors, administrators, and assigns, in respect of such lands, shall be determined by the valuation of a surveyor, to be nominated as hereinafter mentioned. Proceedings in absence of owner.

29. Upon application by the said Ernest Govett, his heirs, executors, administrators, and assigns, to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the said Ernest Govett, his heirs, executors, administrators, and assigns, or join with the said Ernest Govett, his heirs, executors, administrators, and assigns in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall, by writing under their hands, nominate a licensed surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof. Justices to appoint surveyor in certain cases.

Pine Ridge Tramway.

Declaration by
surveyor.

30. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such Justices or one of them, make and subscribe the following declaration at the foot of such nomination, that is to say:—

I, A.B., do solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

Made and subscribed at _____, in the presence of

A.B.

And if any such surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Production of
valuation, &c.

31. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the said Ernest Govett, his heirs, executors, administrators, and assigns; and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

Cost of valuation
how borne.

32. All the expenses of and incident to any such valuation shall be borne by the said Ernest Govett, his heirs, executors, administrators, and assigns.

Compensation not
exceeding £50 how
to be dealt with.

33. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds, it shall, except in the cases where the owner is absent from the Colony, or cannot be found, be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns to the person or persons for the time being entitled to the rents and profits of the lands in respect whereof the same shall be payable for their own use and benefit, or in the case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such persons, then such money shall be paid for their use to the respective husbands, guardians, committees, or trustees of such persons.

Compensation how
dealt with in absence
of owner.

34. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases where the owner is absent from the Colony, or cannot be found, whether it exceeds the sum of fifty pounds or not, it shall be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns, into the hands of the Master in Equity of the Supreme Court in the matter of this Act, in trust for the parties interested in the lands in respect of which it is paid in; and a certificate from the said Master in Equity of the fact of the money being so paid in shall be a sufficient discharge to the said Ernest Govett, his heirs, executors, administrators, and assigns, for the money so paid: Provided that all moneys so paid in shall be dealt with by the Supreme Court in the same manner in all respects as moneys paid in under an Act passed in the twenty-first year of Her present Majesty, and entitled "*An Act for better securing Trust Funds, and for the relief of Trustees.*" And shall be subject, in all respects, to the provisions of the said Act, and all rules of the said Court made thereunder.

Cases of dispute
Sheriff may issue
warrant.

35. If in any case in which, according to the provisions of this Act, the said Ernest Govett, his heirs, executors, administrators, and assigns, is authorised to enter upon and take possession of any lands required for the purposes of the said tramway, the owner or occupier of any such lands, or any other person, shall refuse to give up possession thereof or hinder the said Ernest Govett, his heirs, executors, administrators, and assigns, from entering upon or taking possession of the same, it shall be lawful for the said Ernest Govett, his

Pine Ridge Tramway.

his heirs, executors, administrators, and assigns, to issue his or their warrant to the Sheriff to deliver possession of the same to the persons appointed by the said Ernest Govett, his heirs, executors, administrators, and assigns in such warrant, to receive the same, and upon receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the party so refusing to give possession, and the amount of such costs shall be deducted and retained by the said Ernest Govett, his heirs, executors, administrators, and assigns from the compensation (if any) then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof, beyond the amount of such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice of the Peace for that purpose he may issue his warrant accordingly.

36. At any time the Governor, with the advice of the Executive Council, may, if he think fit, purchase such tramway, upon giving to the said Ernest Govett, his heirs, executors, administrators, and assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Ernest Govett, his heirs, executors, administrators, and assigns, the amounts shall be ascertained by assessment, in terms of the "Public Lands Aquisition Act."

Power of purchase
of tramway by
Government.

37. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon him or them by this Act, to any person or persons, or to any duly incorporated company, and upon any such transfer or assignment being signed or executed, the person or persons, or duly incorporated company in whose favour such transfer or assignment is made, shall then stand in the place of the said Ernest Govett, his heirs, executors, administrators, and assigns, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said Ernest Govett, his heirs, executors, administrators, and assigns, by this Act.

Power to assign.

38. The work in connection with the construction of the said tramway hereby authorised must be commenced within six months from the passing of this Act, and the said tramway must be completed within two years from the date of the passing of this Act: Provided that the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any of the rights and privileges conferred upon him or them by this Act, unless he or they shall have commenced the projected tramway within the period of six months, and completed the same within a period of two years from the date aforesaid.

Commencement and
completion of work.

39. In this Act the words Justices shall mean Justices or a Justice of the Peace in and for the territory of New South Wales, and where any matter shall be authorised or required to be done by two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, and the word "owner" shall mean any person or corporation who, under the provisions of this Act, would be able to sell land to the said Ernest Govett, his heirs, executors, administrators, or assigns.

Interpretation
clause.

40. This Act may for all purposes be cited as the "Pine Ridge Tramway Act of 1892."

Short title.

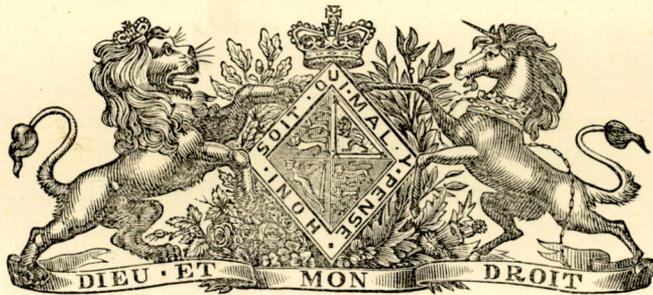
Pine Kidge Tramway.

SCHEDULE.

Commencing at a point bearing north about sixty chains from mineral lease number one, parish of Sebastopol, county of Yancowinna; thence in a south-westerly direction through leasehold area number two hundred and forty-four, Kinchega, about fifteen miles fifteen chains to mineral lease number one, parish of Enmore, county of Menindee, situated in parishes of Sebastopol, Hughes, and Enmore, county of Yancowinna, and parish of Enmore, county of Menindee. The limit of deviation allowed by this Act shall be one and a half mile on each side of the above described line.

By Authority: CHARLES POTTER, Government Printer, Sydney, 1892.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

An Act to authorise the construction and maintenance of a tramway from the mines, quarries, and lands situate in the parish of Enmore, counties of Yancowinna and Menindee, Colony of New South Wales, comprised in applications for mineral leases numbered 4,716, 4,717, 4,718, 4,737, 4,738, 4,739, 4,740, 4,741, to a point to be determined on mineral lease, portion 2, parish Sebastopol, in the said Colony, connecting with the tramway system of the Broken Hill Mines. [Assented to, 1st April, 1892.]

WHEREAS large quantities of mineral ores and fluxing material exist, and are being quarried and mined at the quarries and mines on the lands situate in the parish of Enmore, counties of Yancowinna and Menindee, in the Colony of New South Wales, for which applications have been duly made for mineral leases by Ernest Govett, of Broken Hill, in the said Colony, freeholder : And whereas large quantities of timber suitable for fuel exist upon the said lands : And whereas for the purpose of facilitating the carriage of the said mineral ores, fluxing material, fuel, and timber from the said quarries, mines, and lands, the said Ernest Govett is desirous of constructing a single or double tramway for horse, steam, or other traction, over, across, and along the lands described in the Schedule hereto, from the said quarries, mines, and lands, in the said parish of Enmore, comprised in application for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen,

Preamble.

Pine Ridge Tramway.

four thousand seven hundred and eighteen, four thousand seven hundred and thirty-seven, four thousand seven hundred and thirty-eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one, to a point to be determined on mineral lease, portion two, parish of Sebastopol, county Yancowinna aforesaid: And whereas such tramway cannot be made without Legislative authority: And whereas the construction of the said proposed tramway would be largely for the benefit of the mining public by materially decreasing the cost of carriage, thereby enabling the poorer class of ores to be profitably worked, and would be also the means of supplying the district of Broken Hill with cheap fuel, and it is therefore advisable to authorise, by Legislative enactment, the construction and maintenance of the said proposed tramway, 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:—

Authority to
construct tramway.

1. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway for the carrying of the said mineral ores, fluxing material, fuel, timber, and of all persons engaged, and all materials, goods, and plant necessary in and about the working thereof, from and to the said quarries, mines, and lands, in the parish of Enmore aforesaid, by the route, and along and over the roads, streets, lands, and reserves, both public and private, described in the Schedule hereto, and to take and use so much of the said roads, streets, lands, and reserves, both public and private, as may be required for the purposes of such tramway, but so that the same shall not occupy in part thereof on private lands a greater space in breadth than thirty-three feet, and on public lands in breadth sixty-six feet, including the support and foundations thereof, and to lease, in accordance with section eight of this Act, so much public lands adjoining the said tramway, not exceeding in the aggregate eighty acres, as may be required for the purpose of constructing tanks, sidings, or other necessary works in connection with such tramway.

Levels of line.

2. The gauge of the said tramway shall be three feet six inches, and where it traverses public thoroughfares shall be laid at about the general level of such thoroughfares and so that the rails shall not project above the surface thereof; and the said Ernest Govett, his heirs, executors, administrators, or assigns, shall maintain in perfect order and repair the said tramway, and where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the pavements of the same between the rails of the said tramway 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.

Tramway to remain
property of Ernest
Govett, his heirs,
executors, adminis-
trators, and assigns.
Authorised persons
to have rights over
streets.

3. The tramway and the material thereof shall not cease to be the property of the said Ernest Govett, his heirs, executors, administrators, and assigns, by reason of the same being laid as aforesaid.

4. The said Ernest Govett, his heirs, executors, administrators, and assigns, and all other person or persons duly authorised, shall have all necessary rights over the roads, streets, and lands described in the Schedule to this Act as are required for the construction, repair, completion, and use of the said tramway: Provided that there shall be no interference with ordinary traffic beyond what is reasonable and necessary for such purpose.

Pine Ridge Tramway.

5. The tramway shall be for the use of said Ernest Govett, his Carriage.
 heirs, executors, administrators, and assigns, and of all persons engaged by him or them in and about the carriage, winning, and obtaining of fuel and timber and the said mineral ores and fluxing material, and for the carriage of the said fuel, timber, and mineral ores and fluxing material, and of all plant, goods, and things necessary in and about the winning and obtaining the same, and shall be confined to the conveyance of such mineral ores, fluxing material, and fuel, timber, and plant as aforesaid, and of all goods and things necessary in and about the same, and of all persons engaged in and about the same as aforesaid, to and from the said quarries, mines, and lands comprised in the said applications for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, four thousand seven hundred and eighteen, four thousand seven hundred and thirty seven, four thousand seven hundred and thirty eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one.

6. It shall be lawful for the persons using the said tramway to employ horses, steam, or other motive power, and carriages, waggons, or trucks to be drawn thereby. To employ horse, steam, or other motive power.

7. The said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any mines of coal, iron, slate, or other minerals under any land whereof the surface is vested in him or them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised, and such mines shall not be deemed to vest in the said Ernest Govett, his heirs, executors, administrators, and assigns. Ernest Govett, his heirs, executors, administrators, and assigns not entitled to minerals.

8. Upon the completion of the tramway and works authorised by this Act, it shall be lawful for the Governor, with the advice of the Executive Council, in consideration of such completion, to grant to the said Ernest Govett, his heirs, executors, administrators, or assigns, a lease or leases, for a term not exceeding twenty-one years, of such Crown lands as shall have been necessarily used or taken for the said tramway at an annual rental not exceeding two shillings per acre. Power to grant leases of land for tramway.

9. Before commencing the said tramway by this Act authorised to be made, the said Ernest Govett, his heirs, executors, administrators, or 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: Provided that it shall be lawful for the said Ernest Govett, his heirs, executors, administrators, or assigns, to deviate in the route of the said tramway to the extent of not more than one and a half mile on either side of the forty line described in the Schedule hereto annexed. And the said map or plan shall be kept at some convenient office at Broken Hill, and true copies thereof, signed by the said Ernest Govett, his heirs, executors, administrators, or assigns, shall be deposited with the Clerk of Petty Sessions at Broken Hill aforesaid, and such map or plan and 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 or copies as aforesaid. Before commencing tramway, survey to be made.

10. The said Ernest Govett, his 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 circulating in Broken Hill respectively, at least thirty days before the commencement of the formation of the tramway, give notice To be open to public inspection. Notice to be given of intention to make tramway.

Pine Ridge Tramway.

notice that they intend to construct the said tramway between the places thereof specified, according to a map or plan to be seen at an office (in the said notice specified) in Broken Hill aforesaid, and at the office of the said Clerk of Petty Sessions.

Notice of lands required for tramway.

11. When the said Ernest Govett, his heirs, executors, administrators, or assigns, shall have made and completed the map or plan hereinbefore required to be made, he or they shall give notice in writing of the lands taken and required for the said tramway to all the parties interested in such lands, or to such of the said parties as shall be known to the said Ernest Govett, his heirs, executors, administrators, or assigns. And every such notice shall state the particulars of the lands so taken or required as aforesaid, and that the said Ernest Govett, his heirs, executors, administrators, or assigns, is or are willing to treat as to the compensation to be made to all parties for the lands taken or to be taken, and the damage sustained or to be sustained by them by reason of the exercise of the powers conferred by this Act, and shall demand in the said notice from such parties, and the said parties are hereby required to deliver forthwith to the said Ernest Govett, his heirs, executors, administrators, or assigns, at the cost of the said Ernest Govett, his heirs, executors, administrators, or assigns, the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof, together with an abstract of their title to such land, and if they claim in respect of damage the nature of the damage which they have sustained or will sustain by reason of the taking of such lands.

Service of notice on owners and occupiers of land

12. All notices required to be served by the said Ernest Govett, his heirs, executors, administrators, or 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 adjoining lands to repair accidents, subject to certain restrictions.

13. 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 Ernest Govett, his heirs, executors, administrators, and assigns, and his or 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 Ernest Govett, his heirs, executors, administrators, or assigns shall, within fourteen days after such entry, make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said tramway.

Pine Ridge Tramway.

14. If within twenty-eight days of the service of such notice as aforesaid the said persons through whose land the tramway shall pass or any of them, and the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not agree as to the amount of compensation to be paid by him or them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by him or 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), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator, to whom such dispute or other matter shall be referred; and every appointment of an arbitrator shall be under the hand and seal of such person or persons respectively, 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 if for the space of fourteen days after 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 shall 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 matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

Compensation to be settled by arbitration.

15. 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 that 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.

Proceedings in case of disability of arbitrator.

16. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in 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 so to do by the arbitrators or either of them, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

Appointment of umpire.

17. If in either of the cases aforesaid the 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.

Neglect to appoint umpire.

Pine Ridge Tramway.

In case of disability of single arbitrator.

18. If, when 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.

Arbitrators failing to make their award matters referred to umpire.

19. If when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as 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.

Arbitrators may order production of documents, &c.

20. The said arbitrator or arbitrators, or his 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.

Declaration by arbitrators or umpire.

21. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, Notary Public, or Commissioner for Affidavits for the said Colony, make and subscribe the following declaration, that is to say—

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 "Pine Ridge Tramway Act."

Made and subscribed at
in the presence of

A.B.

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.

Cost of arbitration, how to be borne.

22. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrator or arbitrators or umpire, and the costs of the arbitrator or arbitrators or umpire shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth, or more, less than the amount which shall have been offered by the said Ernest Govett, his heirs, executors, administrators, and assigns, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant: Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrator or arbitrators or umpire 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.

Costs may be taxed.

Arbitrators or umpire to deliver award to Ernest Govett, his heirs, executors, administrators, and assigns.

23. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said Ernest Govett, his heirs, executors, administrators, and assigns, who shall retain the same, and shall forthwith, on demand, at his or 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 the award.

Compensation to be paid within sixty days after publication of award.

Submission may be made a rule of Supreme Court

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

Pine Ridge Tramway.

25. 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 to be set aside for irregularity.

26. The said Ernest Govett, his heirs, executors, administrators, and 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 injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which the said tramway shall pass, by the non-performance or negligent performance by the said Ernest Govett, his heirs, executors, administrators, and assigns, of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.

27. In every case where the said Ernest Govett, his heirs, executors, administrators, and assigns, shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on him or them, within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, and damaged or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent, to be fixed by two Justices in case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands. Compensation in cases of temporary possession.

28. If the owner of any lands required to be taken for the construction of the said tramway is absent from the Colony, or cannot upon diligent inquiry be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said Ernest Govett, his heirs, executors, administrators, and assigns for the purchase of such lands, or join in submitting their claims for compensation to arbitration as hereinbefore provided, the purchase money or compensation payable by the said Ernest Govett, his heirs, executors, administrators, and assigns, in respect of such lands, shall be determined by the valuation of a surveyor, to be nominated as hereinafter mentioned. Proceedings in absence of owner.

29. Upon application by the said Ernest Govett, his heirs, executors, administrators, and assigns, to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the said Ernest Govett, his heirs, executors, administrators, and assigns, or join with the said Ernest Govett, his heirs, executors, administrators, and assigns in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall, by writing under their hands, nominate a licensed surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof. Justices to appoint surveyor in certain cases.

Pine Ridge Tramway.

Declaration by
surveyor.

30. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such Justices or one of them, make and subscribe the following declaration at the foot of such nomination, that is to say :—

I, A.B., do solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

Made and subscribed at _____, in the presence of

A.B.

And if any such surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Production of
valuation, &c.

31. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the said Ernest Govett, his heirs, executors, administrators, and assigns; and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

Cost of valuation
how borne.

32. All the expenses of and incident to any such valuation shall be borne by the said Ernest Govett, his heirs, executors, administrators, and assigns.

Compensation not
exceeding £50 how
to be dealt with.

33. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds, it shall, except in the cases where the owner is absent from the Colony, or cannot be found, be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns to the person or persons for the time being entitled to the rents and profits of the lands in respect whereof the same shall be payable for their own use and benefit, or in the case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such persons, then such money shall be paid for their use to the respective husbands, guardians, committees, or trustees of such persons.

Compensation how
dealt with in absence
of owner.

34. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases where the owner is absent from the Colony, or cannot be found, whether it exceeds the sum of fifty pounds or not, it shall be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns, into the hands of the Master in Equity of the Supreme Court in the matter of this Act, in trust for the parties interested in the lands in respect of which it is paid in; and a certificate from the said Master in Equity of the fact of the money being so paid in shall be a sufficient discharge to the said Ernest Govett, his heirs, executors, administrators, and assigns, for the money so paid: Provided that all moneys so paid in shall be dealt with by the Supreme Court in the same manner in all respects as moneys paid in under an Act passed in the twenty-first year of Her present Majesty, and entitled "*An Act for better securing Trust Funds, and for the relief of Trustees.*" And shall be subject, in all respects, to the provisions of the said Act, and all rules of the said Court made thereunder.

Cases of dispute
Sheriff may issue
warrant.

35. If in any case in which, according to the provisions of this Act, the said Ernest Govett, his heirs, executors, administrators, and assigns, is authorised to enter upon and take possession of any lands required for the purposes of the said tramway, the owner or occupier of any such lands, or any other person, shall refuse to give up possession thereof or hinder the said Ernest Govett, his heirs, executors, administrators, and assigns, from entering upon or taking possession of the same, it shall be lawful for the said Ernest Govett, his

Pine Ridge Tramway.

his heirs, executors, administrators, and assigns, to issue his or their warrant to the Sheriff to deliver possession of the same to the persons appointed by the said Ernest Govett, his heirs, executors, administrators, and assigns in such warrant, to receive the same, and upon receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the party so refusing to give possession, and the amount of such costs shall be deducted and retained by the said Ernest Govett, his heirs, executors, administrators, and assigns from the compensation (if any) then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof, beyond the amount of such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice of the Peace for that purpose he may issue his warrant accordingly.

36. At any time the Governor, with the advice of the Executive Council, may, if he think fit, purchase such tramway, upon giving to the said Ernest Govett, his heirs, executors, administrators, and assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Ernest Govett, his heirs, executors, administrators, and assigns, the amounts shall be ascertained by assessment, in terms of the "Public Lands Acquisition Act."

Power of purchase
of tramway by
Government.

37. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon him or them by this Act, to any person or persons, or to any duly incorporated company, and upon any such transfer or assignment being signed or executed, the person or persons, or duly incorporated company in whose favour such transfer or assignment is made, shall then stand in the place of the said Ernest Govett, his heirs, executors, administrators, and assigns, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said Ernest Govett, his heirs, executors, administrators, and assigns, by this Act.

Power to assign.

38. The work in connection with the construction of the said tramway hereby authorised must be commenced within six months from the passing of this Act, and the said tramway must be completed within two years from the date of the passing of this Act: Provided that the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any of the rights and privileges conferred upon him or them by this Act, unless he or they shall have commenced the projected tramway within the period of six months, and completed the same within a period of two years from the date aforesaid.

Commencement and
completion of work.

39. In this Act the words Justices shall mean Justices or a Justice of the Peace in and for the territory of New South Wales, and where any matter shall be authorised or required to be done by two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, and the word "owner" shall mean any person or corporation who, under the provisions of this Act, would be able to sell land to the said Ernest Govett, his heirs, executors, administrators, or assigns.

Interpretation
clause.

40. This Act may for all purposes be cited as the "Pine Ridge Tramway Act of 1892."

Short title.

Pine Kidge Tramway.

SCHEDULE.

Commencing at a point bearing north about sixty chains from mineral lease number one, parish of Sebastopol, county of Yancowinna; thence in a south-westerly direction through leasehold area number two hundred and forty-four, Kincheha, about fifteen miles fifteen chains to mineral lease number one, parish of Enmore, county of Menindee, situated in parishes of Sebastopol, Hughes, and Enmore, county of Yancowinna, and parish of Enmore, county of Menindee. The limit of deviation allowed by this Act shall be one and a half mile on each side of the above described line.

By Authority : CHARLES POTTER, Government Printer, Sydney, 1892.

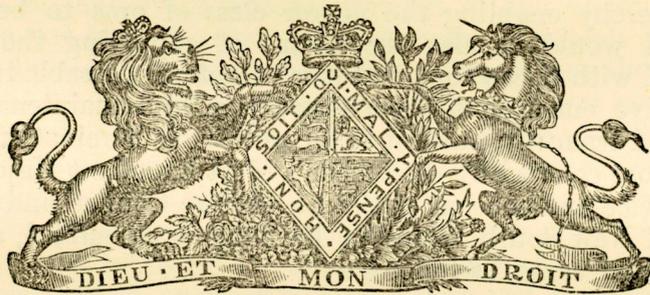
[9d.]

I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Council Chamber,
Sydney, 31st March, 1892. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

An Act to authorise the construction and maintenance of a tramway from the mines, quarries, and lands situate in the parish of Enmore, counties of Yancowinna and Menindee, Colony of New South Wales, comprised in applications for mineral leases numbered 4,716, 4,717, 4,718, 4,737, 4,738, 4,739, 4,740, 4,741, to a point to be determined on mineral lease, portion 2, parish Sebastopol, in the said Colony, connecting with the tramway system of the Broken Hill Mines. [Assented to, 1st April, 1892.]

WHEREAS large quantities of mineral ores and fluxing material exist, and are being quarried and mined at the quarries and mines on the lands situate in the parish of Enmore, counties of Yancowinna and Menindee, in the Colony of New South Wales, for which applications have been duly made for mineral leases by Ernest Govett, of Broken Hill, in the said Colony, freeholder: And whereas large quantities of timber suitable for fuel exist upon the said lands: And whereas for the purpose of facilitating the carriage of the said mineral ores, fluxing material, fuel, and timber from the said quarries, mines, and lands, the said Ernest Govett is desirous of constructing a single or double tramway for horse, steam, or other traction, over, across, and along the lands described in the Schedule hereto, from the said quarries, mines, and lands, in the said parish of Enmore, comprised in application for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, four

I Certify that I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

ARCHD. H. JACOB,
Chairman of Committees of the Legislative Council.

Pine Ridge Tramway.

four thousand seven hundred and eighteen, four thousand seven hundred and thirty-seven, four thousand seven hundred and thirty-eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one, to a point to be determined on mineral lease, portion two, parish of Sebastopol, county Yancowinna aforesaid: And whereas such tramway cannot be made without Legislative authority: And whereas the construction of the said proposed tramway would be largely for the benefit of the mining public by materially decreasing the cost of carriage, thereby enabling the poorer class of ores to be profitably worked, and would be also the means of supplying the district of Broken Hill with cheap fuel, and it is therefore advisable to authorise, by Legislative enactment, the construction and maintenance of the said proposed tramway, 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:—

Authority to
construct tramway.

1. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway for the carrying of the said mineral ores, fluxing material, fuel, timber, and of all persons engaged, and all materials, goods, and plant necessary in and about the working thereof, from and to the said quarries, mines, and lands, in the parish of Enmore aforesaid, by the route, and along and over the roads, streets, lands, and reserves, both public and private; described in the Schedule hereto, and to take and use so much of the said roads, streets, lands, and reserves, both public and private, as may be required for the purposes of such tramway, but so that the same shall not occupy in part thereof on private lands a greater space in breadth than thirty-three feet, and on public lands in breadth sixty-six feet, including the support and foundations thereof, and to lease, in accordance with section eight of this Act, so much public lands adjoining the said tramway, not exceeding in the aggregate eighty acres, as may be required for the purpose of constructing tanks, sidings, or other necessary works in connection with such tramway.

Levels of line.

2. The gauge of the said tramway shall be three feet six inches, and where it traverses public thoroughfares shall be laid at about the general level of such thoroughfares and so that the rails shall not project above the surface thereof; and the said Ernest Govett, his heirs, executors, administrators, or assigns, shall maintain in perfect order and repair the said tramway, and where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the pavements of the same between the rails of the said tramway 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.

Tramway to remain
property of Ernest
Govett, his heirs,
executors, adminis-
trators, and assigns.
Authorised persons
to have rights over
streets.

3. The tramway and the material thereof shall not cease to be the property of the said Ernest Govett, his heirs, executors, administrators, and assigns, by reason of the same being laid as aforesaid.

4. The said Ernest Govett, his heirs, executors, administrators, and assigns, and all other person or persons duly authorised, shall have all necessary rights over the roads, streets, and lands described in the Schedule to this Act as are required for the construction, repair, completion, and use of the said tramway: Provided that there shall be no interference with ordinary traffic beyond what is reasonable and necessary for such purpose.

Pine Ridge Tramway.

5. The tramway shall be for the use of said Ernest Govett, his heirs, executors, administrators, and assigns, and of all persons engaged by him or them in and about the carriage, winning, and obtaining of fuel and timber and the said mineral ores and fluxing material, and for the carriage of the said fuel, timber, and mineral ores and fluxing material, and of all plant, goods, and things necessary in and about the winning and obtaining the same, and shall be confined to the conveyance of such mineral ores, fluxing material, and fuel, timber, and plant as aforesaid, and of all goods and things necessary in and about the same, and of all persons engaged in and about the same as aforesaid, to and from the said quarries, mines, and lands comprised in the said applications for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, four thousand seven hundred and eighteen, four thousand seven hundred and thirty seven, four thousand seven hundred and thirty eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one.

6. It shall be lawful for the persons using the said tramway to employ horses, steam, or other motive power, and carriages, waggons, or trucks to be drawn thereby.

7. The said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any mines of coal, iron, slate, or other minerals under any land whereof the surface is vested in him or them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised, and such mines shall not be deemed to vest in the said Ernest Govett, his heirs, executors, administrators, and assigns.

8. Upon the completion of the tramway and works authorised by this Act, it shall be lawful for the Governor, with the advice of the Executive Council, in consideration of such completion, to grant to the said Ernest Govett, his heirs, executors, administrators, or assigns, a lease or leases, for a term not exceeding twenty-one years, of such Crown lands as shall have been necessarily used or taken for the said tramway at an annual rental not exceeding two shillings per acre.

9. Before commencing the said tramway by this Act authorised to be made, the said Ernest Govett, his heirs, executors, administrators, or 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: Provided that it shall be lawful for the said Ernest Govett, his heirs, executors, administrators, or assigns, to deviate in the route of the said tramway to the extent of not more than one and a half mile on either side of the forty line described in the Schedule hereto annexed. And the said map or plan shall be kept at some convenient office at Broken Hill, and true copies thereof, signed by the said Ernest Govett, his heirs, executors, administrators, or assigns, shall be deposited with the Clerk of Petty Sessions at Broken Hill aforesaid, and such map or plan and 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 or copies as aforesaid.

10. The said Ernest Govett, his 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 circulating in Broken Hill respectively, at least thirty days before the commencement of the formation of the tramway, give notice

Carriage.

To employ horse, steam, or other motive power.

Ernest Govett, his heirs, executors, administrators, and assigns not entitled to minerals.

Power to grant leases of land for tramway.

Before commencing tramway, survey to be made.

To be open to public inspection.

Notice to be given of intention to make tramway.

Pine Ridge Tramway.

notice that they intend to construct the said tramway between the places thereof specified, according to a map or plan to be seen at an office (in the said notice specified) in Broken Hill aforesaid, and at the office of the said Clerk of Petty Sessions.

Notice of lands required for tramway.

11. When the said Ernest Govett, his heirs, executors, administrators, or assigns, shall have made and completed the map or plan hereinbefore required to be made, he or they shall give notice in writing of the lands taken and required for the said tramway to all the parties interested in such lands, or to such of the said parties as shall be known to the said Ernest Govett, his heirs, executors, administrators, or assigns. And every such notice shall state the particulars of the lands so taken or required as aforesaid, and that the said Ernest Govett, his heirs, executors, administrators, or assigns, is or are willing to treat as to the compensation to be made to all parties for the lands taken or to be taken, and the damage sustained or to be sustained by them by reason of the exercise of the powers conferred by this Act, and shall demand in the said notice from such parties, and the said parties are hereby required to deliver forthwith to the said Ernest Govett, his heirs, executors, administrators, or assigns, at the cost of the said Ernest Govett, his heirs, executors, administrators, or assigns, the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof, together with an abstract of their title to such land, and if they claim in respect of damage the nature of the damage which they have sustained or will sustain by reason of the taking of such lands.

Service of notice on owners and occupiers of land

12. All notices required to be served by the said Ernest Govett, his heirs, executors, administrators, or 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 adjoining lands to repair accidents, subject to certain restrictions.

13. 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 Ernest Govett, his heirs, executors, administrators, and assigns, and his or 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 Ernest Govett, his heirs, executors, administrators, or assigns shall, within fourteen days after such entry, make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said tramway.

Pine Ridge Tramway.

14. If within twenty-eight days of the service of such notice as aforesaid the said persons through whose land the tramway shall pass or any of them, and the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not agree as to the amount of compensation to be paid by him or them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by him or 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), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator, to whom such dispute or other matter shall be referred; and every appointment of an arbitrator shall be under the hand and seal of such person or persons respectively, 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 if for the space of fourteen days after 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 shall 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 matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

Compensation to be settled by arbitration.

15. 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 that 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.

Proceedings in case of disability of arbitrator.

16. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in 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 so to do by the arbitrators or either of them, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

Appointment of umpire.

17. If in either of the cases aforesaid the 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.

Neglect to appoint umpire.

Pine Ridge Tramway.

In case of disability of single arbitrator.

18. If, when 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.

Arbitrators failing to make their award matters referred to umpire.

19. If when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as 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.

Arbitrators may order production of documents, &c.

20. The said arbitrator or arbitrators, or his 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.

Declaration by arbitrators or umpire.

21. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, Notary Public, or Commissioner for Affidavits for the said Colony, make and subscribe the following declaration, that is to say—

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 "Pine Ridge Tramway Act."

Made and subscribed at
in the presence of

A.B.

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.

Cost of arbitration, how to be borne.

22. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrator or arbitrators or umpire, and the costs of the arbitrator or arbitrators or umpire shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth, or more, less than the amount which shall have been offered by the said Ernest Govett, his heirs, executors, administrators, and assigns, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant: Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrator or arbitrators or umpire 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.

Costs may be taxed.

Arbitrators or umpire to deliver award to Ernest Govett, his heirs, executors, administrators, and assigns.

23. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said Ernest Govett, his heirs, executors, administrators, and assigns, who shall retain the same, and shall forthwith, on demand, at his or 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 the award.

Compensation to be paid within sixty days after publication of award.

Submission may be made a rule of Supreme Court.

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

Pine Ridge Tramway.

25. 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 to be set aside for irregularity.

26. The said Ernest Govett, his heirs, executors, administrators, and 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 injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which the said tramway shall pass, by the non-performance or negligent performance by the said Ernest Govett, his heirs, executors, administrators, and assigns, of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.

27. In every case where the said Ernest Govett, his heirs, executors, administrators, and assigns, shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on him or them, within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, and damaged or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent, to be fixed by two Justices in case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands. Compensation in cases of temporary possession.

28. If the owner of any lands required to be taken for the construction of the said tramway is absent from the Colony, or cannot upon diligent inquiry be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said Ernest Govett, his heirs, executors, administrators, and assigns for the purchase of such lands, or join in submitting their claims for compensation to arbitration as hereinbefore provided, the purchase money or compensation payable by the said Ernest Govett, his heirs, executors, administrators, and assigns, in respect of such lands, shall be determined by the valuation of a surveyor, to be nominated as hereinafter mentioned. Proceedings in absence of owner.

29. Upon application by the said Ernest Govett, his heirs, executors, administrators, and assigns, to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the said Ernest Govett, his heirs, executors, administrators, and assigns, or join with the said Ernest Govett, his heirs, executors, administrators, and assigns in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall, by writing under their hands, nominate a licensed surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof. Justices to appoint surveyor in certain cases.

Pine Ridge Tramway.

Declaration by
surveyor.

30. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such Justices or one of them, make and subscribe the following declaration at the foot of such nomination, that is to say :—

I, A.B., do solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

Made and subscribed at _____, in the presence of

A.B.

And if any such surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Production of
valuation, &c.

31. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the said Ernest Govett, his heirs, executors, administrators, and assigns; and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

Cost of valuation
how borne.

32. All the expenses of and incident to any such valuation shall be borne by the said Ernest Govett, his heirs, executors, administrators, and assigns.

Compensation not
exceeding £50 how
to be dealt with.

33. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds, it shall, except in the cases where the owner is absent from the Colony, or cannot be found, be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns to the person or persons for the time being entitled to the rents and profits of the lands in respect whereof the same shall be payable for their own use and benefit, or in the case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such persons, then such money shall be paid for their use to the respective husbands, guardians, committees, or trustees of such persons.

Compensation how
dealt with in absence
of owner.

34. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases where the owner is absent from the Colony, or cannot be found, whether it exceeds the sum of fifty pounds or not, it shall be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns, into the hands of the Master in Equity of the Supreme Court in the matter of this Act, in trust for the parties interested in the lands in respect of which it is paid in; and a certificate from the said Master in Equity of the fact of the money being so paid in shall be a sufficient discharge to the said Ernest Govett, his heirs, executors, administrators, and assigns, for the money so paid: Provided that all moneys so paid in shall be dealt with by the Supreme Court in the same manner in all respects as moneys paid in under an Act passed in the twenty-first year of Her present Majesty, and entitled "*An Act for better securing Trust Funds, and for the relief of Trustees.*" And shall be subject, in all respects, to the provisions of the said Act, and all rules of the said Court made thereunder.

Cases of dispute
Sheriff may issue
warrant.

35. If in any case in which, according to the provisions of this Act, the said Ernest Govett, his heirs, executors, administrators, and assigns, is authorised to enter upon and take possession of any lands required for the purposes of the said tramway, the owner or occupier of any such lands, or any other person, shall refuse to give up possession thereof or hinder the said Ernest Govett, his heirs, executors, administrators, and assigns, from entering upon or taking possession of the same, it shall be lawful for the said Ernest Govett, his

Pine Ridge Tramway.

his heirs, executors, administrators, and assigns, to issue his or their warrant to the Sheriff to deliver possession of the same to the persons appointed by the said Ernest Govett, his heirs, executors, administrators, and assigns in such warrant, to receive the same, and upon receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the party so refusing to give possession, and the amount of such costs shall be deducted and retained by the said Ernest Govett, his heirs, executors, administrators, and assigns from the compensation (if any) then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof, beyond the amount of such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice of the Peace for that purpose he may issue his warrant accordingly.

36. At any time the Governor, with the advice of the Executive Council, may, if he think fit, purchase such tramway, upon giving to the said Ernest Govett, his heirs, executors, administrators, and assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Ernest Govett, his heirs, executors, administrators, and assigns, the amounts shall be ascertained by assessment, in terms of the "Public Lands Acquisition Act."

Power of purchase
of tramway by
Government.

37. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon him or them by this Act, to any person or persons, or to any duly incorporated company, and upon any such transfer or assignment being signed or executed, the person or persons, or duly incorporated company in whose favour such transfer or assignment is made, shall then stand in the place of the said Ernest Govett, his heirs, executors, administrators, and assigns, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said Ernest Govett, his heirs, executors, administrators, and assigns, by this Act.

Power to assign.

38. The work in connection with the construction of the said tramway hereby authorised must be commenced within six months from the passing of this Act, and the said tramway must be completed within two years from the date of the passing of this Act: Provided that the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any of the rights and privileges conferred upon him or them by this Act, unless he or they shall have commenced the projected tramway within the period of six months, and completed the same within a period of two years from the date aforesaid.

Commencement and
completion of work.

39. In this Act the words Justices shall mean Justices or a Justice of the Peace in and for the territory of New South Wales, and where any matter shall be authorised or required to be done by two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, and the word "owner" shall mean any person or corporation who, under the provisions of this Act, would be able to sell land to the said Ernest Govett, his heirs, executors, administrators, or assigns.

Interpretation
clause.

40. This Act may for all purposes be cited as the "Pine Ridge Tramway Act of 1892."

Short title.

Pine Ridge Tramway.

SCHEDULE.

Commencing at a point bearing north about sixty chains from mineral lease number one, parish of Sebastopol, county of Yancowinna; thence in a south-westerly direction through leasehold area number two hundred and forty-four, Kinhega, about fifteen miles fifteen chains to mineral lease number one, parish of Enmore, county of Menindee, situated in parishes of Sebastopol, Hughes, and Enmore, county of Yancowinna, and parish of Enmore, county of Menindee. The limit of deviation allowed by this Act shall be one and a half mile on each side of the above described line.

In the name and on the behalf of Her Majesty I assent to this Act.

JERSEY.

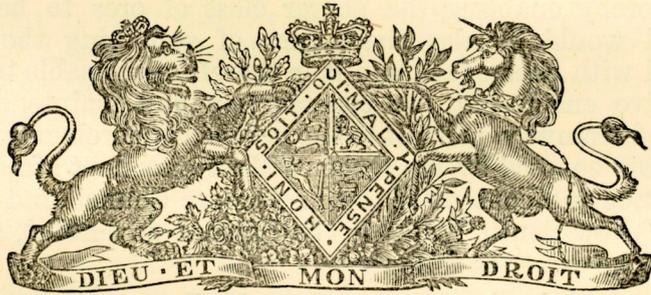
*Government House,
1st April, 1892.*

I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Council Chamber,
Sydney, 31st March, 1892. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

An Act to authorise the construction and maintenance of a tramway from the mines, quarries, and lands situate in the parish of Enmore, counties of Yancowinna and Menindee, Colony of New South Wales, comprised in applications for mineral leases numbered 4,716, 4,717, 4,718, 4,737, 4,738, 4,739, 4,740, 4,741, to a point to be determined on mineral lease, portion 2, parish Sebastopol, in the said Colony, connecting with the tramway system of the Broken Hill Mines. [Assented to, 1st April, 1892.]

WHEREAS large quantities of mineral ores and fluxing material exist, and are being quarried and mined at the quarries and mines on the lands situate in the parish of Enmore, counties of Yancowinna and Menindee, in the Colony of New South Wales, for which applications have been duly made for mineral leases by Ernest Govett, of Broken Hill, in the said Colony, freeholder: And whereas large quantities of timber suitable for fuel exist upon the said lands: And whereas for the purpose of facilitating the carriage of the said mineral ores, fluxing material, fuel, and timber from the said quarries, mines, and lands, the said Ernest Govett is desirous of constructing a single or double tramway for horse, steam, or other traction, over, across, and along the lands described in the Schedule hereto, from the said quarries, mines, and lands, in the said parish of Enmore, comprised in application for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, four

I Certify that I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

ARCHD. H. JACOB,
Chairman of Committees of the Legislative Council.

Pine Ridge Tramway.

four thousand seven hundred and eighteen, four thousand seven hundred and thirty-seven, four thousand seven hundred and thirty-eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one, to a point to be determined on mineral lease, portion two, parish of Sebastopol, county Yancowinna aforesaid: And whereas such tramway cannot be made without Legislative authority: And whereas the construction of the said proposed tramway would be largely for the benefit of the mining public by materially decreasing the cost of carriage, thereby enabling the poorer class of ores to be profitably worked, and would be also the means of supplying the district of Broken Hill with cheap fuel, and it is therefore advisable to authorise, by Legislative enactment, the construction and maintenance of the said proposed tramway, 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:—

Authority to
construct tramway.

1. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway for the carrying of the said mineral ores, fluxing material, fuel, timber, and of all persons engaged, and all materials, goods, and plant necessary in and about the working thereof, from and to the said quarries, mines, and lands, in the parish of Enmore aforesaid, by the route, and along and over the roads, streets, lands, and reserves, both public and private, described in the Schedule hereto, and to take and use so much of the said roads, streets, lands, and reserves, both public and private, as may be required for the purposes of such tramway, but so that the same shall not occupy in part thereof on private lands a greater space in breadth than thirty-three feet, and on public lands in breadth sixty-six feet, including the support and foundations thereof, and to lease, in accordance with section eight of this Act, so much public lands adjoining the said tramway, not exceeding in the aggregate eighty acres, as may be required for the purpose of constructing tanks, sidings, or other necessary works in connection with such tramway.

Levels of line.

2. The gauge of the said tramway shall be three feet six inches, and where it traverses public thoroughfares shall be laid at about the general level of such thoroughfares and so that the rails shall not project above the surface thereof; and the said Ernest Govett, his heirs, executors, administrators, or assigns, shall maintain in perfect order and repair the said tramway, and where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the pavements of the same between the rails of the said tramway 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.

Tramway to remain
property of Ernest
Govett, his heirs,
executors, adminis-
trators, and assigns.
Authorised persons
to have rights over
streets.

3. The tramway and the material thereof shall not cease to be the property of the said Ernest Govett, his heirs, executors, administrators, and assigns, by reason of the same being laid as aforesaid.

4. The said Ernest Govett, his heirs, executors, administrators, and assigns, and all other person or persons duly authorised, shall have all necessary rights over the roads, streets, and lands described in the Schedule to this Act as are required for the construction, repair, completion, and use of the said tramway: Provided that there shall be no interference with ordinary traffic beyond what is reasonable and necessary for such purpose.

Pine Ridge Tramway.

5. The tramway shall be for the use of said Ernest Govett, his heirs, executors, administrators, and assigns, and of all persons engaged by him or them in and about the carriage, winning, and obtaining of fuel and timber and the said mineral ores and fluxing material, and for the carriage of the said fuel, timber, and mineral ores and fluxing material, and of all plant, goods, and things necessary in and about the winning and obtaining the same, and shall be confined to the conveyance of such mineral ores, fluxing material, and fuel, timber, and plant as aforesaid, and of all goods and things necessary in and about the same, and of all persons engaged in and about the same as aforesaid, to and from the said quarries, mines, and lands comprised in the said applications for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, four thousand seven hundred and eighteen, four thousand seven hundred and thirty seven, four thousand seven hundred and thirty eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one.

Carriage.

6. It shall be lawful for the persons using the said tramway to employ horses, steam, or other motive power, and carriages, waggons, or trucks to be drawn thereby.

To employ horse, steam, or other motive power.

7. The said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any mines of coal, iron, slate, or other minerals under any land whereof the surface is vested in him or them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised, and such mines shall not be deemed to vest in the said Ernest Govett, his heirs, executors, administrators, and assigns.

Ernest Govett, his heirs, executors, administrators, and assigns not entitled to minerals.

8. Upon the completion of the tramway and works authorised by this Act, it shall be lawful for the Governor, with the advice of the Executive Council, in consideration of such completion, to grant to the said Ernest Govett, his heirs, executors, administrators, or assigns, a lease or leases, for a term not exceeding twenty-one years, of such Crown lands as shall have been necessarily used or taken for the said tramway at an annual rental not exceeding two shillings per acre.

Power to grant leases of land for tramway.

9. Before commencing the said tramway by this Act authorised to be made, the said Ernest Govett, his heirs, executors, administrators, or 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: Provided that it shall be lawful for the said Ernest Govett, his heirs, executors, administrators, or assigns, to deviate in the route of the said tramway to the extent of not more than one and a half mile on either side of the forty line described in the Schedule hereto annexed. And the said map or plan shall be kept at some convenient office at Broken Hill, and true copies thereof, signed by the said Ernest Govett, his heirs, executors, administrators, or assigns, shall be deposited with the Clerk of Petty Sessions at Broken Hill aforesaid, and such map or plan and 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 or copies as aforesaid.

Before commencing tramway, survey to be made.

To be open to public inspection.

10. The said Ernest Govett, his 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 circulating in Broken Hill respectively, at least thirty days before the commencement of the formation of the tramway, give notice

Notice to be given of intention to make tramway.

Pine Ridge Tramway.

notice that they intend to construct the said tramway between the places thereof specified, according to a map or plan to be seen at an office (in the said notice specified) in Broken Hill aforesaid, and at the office of the said Clerk of Petty Sessions.

Notice of lands required for tramway.

11. When the said Ernest Govett, his heirs, executors, administrators, or assigns, shall have made and completed the map or plan hereinbefore required to be made, he or they shall give notice in writing of the lands taken and required for the said tramway to all the parties interested in such lands, or to such of the said parties as shall be known to the said Ernest Govett, his heirs, executors, administrators, or assigns. And every such notice shall state the particulars of the lands so taken or required as aforesaid, and that the said Ernest Govett, his heirs, executors, administrators, or assigns, is or are willing to treat as to the compensation to be made to all parties for the lands taken or to be taken, and the damage sustained or to be sustained by them by reason of the exercise of the powers conferred by this Act, and shall demand in the said notice from such parties, and the said parties are hereby required to deliver forthwith to the said Ernest Govett, his heirs, executors, administrators, or assigns, at the cost of the said Ernest Govett, his heirs, executors, administrators, or assigns, the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof, together with an abstract of their title to such land, and if they claim in respect of damage the nature of the damage which they have sustained or will sustain by reason of the taking of such lands.

Service of notice on owners and occupiers of land

12. All notices required to be served by the said Ernest Govett, his heirs, executors, administrators, or 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 adjoining lands to repair accidents, subject to certain restrictions.

13. 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 Ernest Govett, his heirs, executors, administrators, and assigns, and his or 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 Ernest Govett, his heirs, executors, administrators, or assigns shall, within fourteen days after such entry, make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said tramway.

Pine Ridge Tramway.

14. If within twenty-eight days of the service of such notice as aforesaid the said persons through whose land the tramway shall pass or any of them, and the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not agree as to the amount of compensation to be paid by him or them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by him or 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), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator, to whom such dispute or other matter shall be referred; and every appointment of an arbitrator shall be under the hand and seal of such person or persons respectively, 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 if for the space of fourteen days after 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 shall 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 matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

Compensation to be settled by arbitration.

15. 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 that 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.

Proceedings in case of disability of arbitrator.

16. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in 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 so to do by the arbitrators or either of them, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

Appointment of umpire.

17. If in either of the cases aforesaid the 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.

Neglect to appoint umpire.

Pine Ridge Tramway.

In case of disability of single arbitrator.

18. If, when 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.

Arbitrators failing to make their award matters referred to umpire.

19. If when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as 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.

Arbitrators may order production of documents, &c.

20. The said arbitrator or arbitrators, or his 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.

Declaration by arbitrators or umpire.

21. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, Notary Public, or Commissioner for Affidavits for the said Colony, make and subscribe the following declaration, that is to say—

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 "Pine Ridge Tramway Act."

Made and subscribed at
in the presence of

A.B.

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.

Cost of arbitration, how to be borne.

22. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrator or arbitrators or umpire, and the costs of the arbitrator or arbitrators or umpire shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth, or more, less than the amount which shall have been offered by the said Ernest Govett, his heirs, executors, administrators, and assigns, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant: Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrator or arbitrators or umpire 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.

Costs may be taxed.

Arbitrators or umpire to deliver award to Ernest Govett, his heirs, executors, administrators, and assigns.

23. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said Ernest Govett, his heirs, executors, administrators, and assigns, who shall retain the same, and shall forthwith, on demand, at his or 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 the award.

Compensation to be paid within sixty days after publication of award.

Submission may be made a rule of Supreme Court.

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

Pine Ridge Tramway.

25. 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 to be set aside for irregularity.

26. The said Ernest Govett, his heirs, executors, administrators, and 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 injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which the said tramway shall pass, by the non-performance or negligent performance by the said Ernest Govett, his heirs, executors, administrators, and assigns, of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.

27. In every case where the said Ernest Govett, his heirs, executors, administrators, and assigns, shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on him or them, within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, and damaged or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent, to be fixed by two Justices in case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands. Compensation in cases of temporary possession.

28. If the owner of any lands required to be taken for the construction of the said tramway is absent from the Colony, or cannot upon diligent inquiry be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said Ernest Govett, his heirs, executors, administrators, and assigns for the purchase of such lands, or join in submitting their claims for compensation to arbitration as hereinbefore provided, the purchase money or compensation payable by the said Ernest Govett, his heirs, executors, administrators, and assigns, in respect of such lands, shall be determined by the valuation of a surveyor, to be nominated as hereinafter mentioned. Proceedings in absence of owner.

29. Upon application by the said Ernest Govett, his heirs, executors, administrators, and assigns, to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the said Ernest Govett, his heirs, executors, administrators, and assigns, or join with the said Ernest Govett, his heirs, executors, administrators, and assigns in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall, by writing under their hands, nominate a licensed surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof. Justices to appoint surveyor in certain cases.

Pine Ridge Tramway.

Declaration by
surveyor.

30. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such Justices or one of them, make and subscribe the following declaration at the foot of such nomination, that is to say:—

I, A.B., do solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

Made and subscribed at _____, in the presence of

A.B.

And if any such surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Production of
valuation, &c.

31. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the said Ernest Govett, his heirs, executors, administrators, and assigns; and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

Cost of valuation
how borne.

32. All the expenses of and incident to any such valuation shall be borne by the said Ernest Govett, his heirs, executors, administrators, and assigns.

Compensation not
exceeding £50 how
to be dealt with.

33. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds, it shall, except in the cases where the owner is absent from the Colony, or cannot be found, be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns to the person or persons for the time being entitled to the rents and profits of the lands in respect whereof the same shall be payable for their own use and benefit, or in the case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such persons, then such money shall be paid for their use to the respective husbands, guardians, committees, or trustees of such persons.

Compensation how
dealt with in absence
of owner.

34. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases where the owner is absent from the Colony, or cannot be found, whether it exceeds the sum of fifty pounds or not, it shall be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns, into the hands of the Master in Equity of the Supreme Court in the matter of this Act, in trust for the parties interested in the lands in respect of which it is paid in; and a certificate from the said Master in Equity of the fact of the money being so paid in shall be a sufficient discharge to the said Ernest Govett, his heirs, executors, administrators, and assigns, for the money so paid: Provided that all moneys so paid in shall be dealt with by the Supreme Court in the same manner in all respects as moneys paid in under an Act passed in the twenty-first year of Her present Majesty, and entitled "*An Act for better securing Trust Funds, and for the relief of Trustees.*" And shall be subject, in all respects, to the provisions of the said Act, and all rules of the said Court made thereunder.

Cases of dispute
Sheriff may issue
warrant.

35. If in any case in which, according to the provisions of this Act, the said Ernest Govett, his heirs, executors, administrators, and assigns, is authorised to enter upon and take possession of any lands required for the purposes of the said tramway, the owner or occupier of any such lands, or any other person, shall refuse to give up possession thereof or hinder the said Ernest Govett, his heirs, executors, administrators, and assigns, from entering upon or taking possession of the same, it shall be lawful for the said Ernest Govett, his

Pine Ridge Tramway.

his heirs, executors, administrators, and assigns, to issue his or their warrant to the Sheriff to deliver possession of the same to the persons appointed by the said Ernest Govett, his heirs, executors, administrators, and assigns in such warrant, to receive the same, and upon receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the party so refusing to give possession, and the amount of such costs shall be deducted and retained by the said Ernest Govett, his heirs, executors, administrators, and assigns from the compensation (if any) then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof, beyond the amount of such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice of the Peace for that purpose he may issue his warrant accordingly.

36. At any time the Governor, with the advice of the Executive Council, may, if he think fit, purchase such tramway, upon giving to the said Ernest Govett, his heirs, executors, administrators, and assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Ernest Govett, his heirs, executors, administrators, and assigns, the amounts shall be ascertained by assessment, in terms of the "Public Lands Acquisition Act."

Power of purchase
of tramway by
Government.

37. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon him or them by this Act, to any person or persons, or to any duly incorporated company; and upon any such transfer or assignment being signed or executed, the person or persons, or duly incorporated company in whose favour such transfer or assignment is made, shall then stand in the place of the said Ernest Govett, his heirs, executors, administrators, and assigns, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said Ernest Govett, his heirs, executors, administrators, and assigns, by this Act.

Power to assign.

38. The work in connection with the construction of the said tramway hereby authorised must be commenced within six months from the passing of this Act, and the said tramway must be completed within two years from the date of the passing of this Act: Provided that the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any of the rights and privileges conferred upon him or them by this Act, unless he or they shall have commenced the projected tramway within the period of six months, and completed the same within a period of two years from the date aforesaid.

Commencement and
completion of work.

39. In this Act the words Justices shall mean Justices or a Justice of the Peace in and for the territory of New South Wales, and where any matter shall be authorised or required to be done by two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, and the word "owner" shall mean any person or corporation who, under the provisions of this Act, would be able to sell land to the said Ernest Govett, his heirs, executors, administrators, or assigns.

Interpretation
clause.

40. This Act may for all purposes be cited as the "Pine Ridge Tramway Act of 1892."

Short title.

Pine Ridge Tramway.

SCHEDULE.

Commencing at a point bearing north about sixty chains from mineral lease number one, parish of Sebastopol, county of Yancowinna; thence in a south-westerly direction through leasehold area number two hundred and forty-four, Kinchega, about fifteen miles fifteen chains to mineral lease number one, parish of Enmore, county of Menindee, situated in parishes of Sebastopol, Hughes, and Enmore, county of Yancowinna, and parish of Enmore, county of Menindee. The limit of deviation allowed by this Act shall be one and a half mile on each side of the above described line.

In the name and on the behalf of Her Majesty I assent to this Act.

JERSEY.

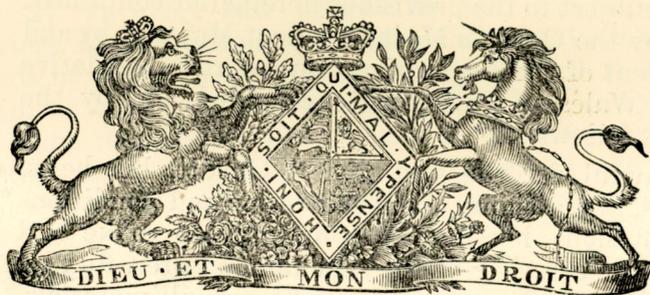
*Government House,
1st April, 1892.*

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

*Legislative Council Chamber,
Sydney, 28th March, 1892.*)

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

An Act to authorise the construction and maintenance of a tramway from the mines, quarries, and lands situate in the parish of Enmore, counties of Yancowinna and Menindee, Colony of New South Wales, comprised in applications for mineral leases numbered 4,716, 4,717, 4,718, 4,737, 4,738, 4,739, 4,740, 4,741, to a point to be determined on mineral lease, portion 2, parish Sebastopol, in the said Colony, connecting with the tramway system of the Broken Hill Mines.

WHEREAS large quantities of mineral ores and fluxing material exist, and are being quarried and mined at the quarries and mines on the lands situate in the parish of Enmore, counties of Yancowinna and Menindee, in the Colony of New South Wales, for which applications have been duly made for mineral leases by Ernest Govett, of Broken Hill, in the said Colony, freeholder: And whereas large quantities of timber suitable for fuel exist upon the said lands: And whereas for the purpose of facilitating the carriage of the said mineral ores, fluxing material, fuel, and timber from the said quarries, mines, and lands, the said Ernest Govett is desirous of constructing a single or double tramway for horse, steam, or other traction, over, across, and along the lands described in the Schedule hereto, from the said quarries, mines, and lands, in the said parish of Enmore, comprised in application for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen,

Preamble.

Pine Ridge Tramway.

four thousand seven hundred and eighteen, four thousand seven hundred and thirty-seven, four thousand seven hundred and thirty-eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one, 5 to a point to be determined on mineral lease, portion two, parish of Sebastopol, county Yancowinna aforesaid : And whereas such tramway cannot be made without Legislative authority : And whereas the construction of the said proposed tramway would be largely for the benefit of the mining public by materially decreasing the cost of 10 carriage, thereby enabling the poorer class of ores to be profitably worked, and would be also the means of supplying the district of Broken Hill with cheap fuel, and it is therefore advisable to authorise, by Legislative enactment, the construction and maintenance of the said proposed tramway, subject to the provisions hereinafter contained : 15 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 :—

1. It shall be lawful for the said Ernest Govett, his heirs, 20 executors, administrators, and assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway for the carrying of the said mineral ores, fluxing material, fuel, timber, and of all persons engaged, and all materials, goods, and plant necessary in and about the working thereof, from and 25 to the said quarries, mines, and lands, in the parish of Enmore aforesaid, by the route, and along and over the roads, streets, lands, and reserves, both public and private, described in the Schedule hereto, and to take and use so much of the said roads, streets, lands, and reserves, both public and private, as may be required for the purposes 30 of such tramway, but so that the same shall not occupy in part thereof on private lands a greater space in breadth than thirty-three feet, and on public lands in breadth sixty-six feet, including the support and foundations thereof, and to lease, in accordance with section eight of this Act, so much public lands adjoining the said tramway, not 35 exceeding in the aggregate eighty acres, as may be required for the purpose of constructing tanks, sidings, or other necessary works in connection with such tramway.

2. The gauge of the said tramway shall be three feet six inches, 40 and where it traverses public thoroughfares shall be laid at about the general level of such thoroughfares and so that the rails shall not project above the surface thereof ; and the said Ernest Govett, his heirs, executors, administrators, or assigns, shall maintain in perfect order and repair the said tramway, and where the said tramway 45 traverses public thoroughfares, shall maintain perfect and keep in order and repair the pavements of the same between the rails of the said tramway 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.

3. The tramway and the material thereof shall not cease to be 50 the property of the said Ernest Govett, his heirs, executors, administrators, and assigns, by reason of the same being laid as aforesaid.

4. The said Ernest Govett, his heirs, executors, administrators, 55 and assigns, and all other person or persons duly authorised, shall have all necessary rights over the roads, streets, and lands described in the Schedule to this Act as are required for the construction, repair, completion, and use of the said tramway : Provided that there shall be no interference with ordinary traffic beyond what is reasonable and necessary for such purpose.

Pine Ridge Tramway.

5. The tramway shall be for the use of said Ernest Govett, his Carriage.
 heirs, executors, administrators, and assigns, and of all persons engaged
 by him or them in and about the carriage, winning, and obtaining of
 fuel and timber and the said mineral ores and fluxing material, and
 5 for the carriage of the said fuel, timber, and mineral ores and fluxing
 material, and of all plant, goods, and things necessary in and about
 the winning and obtaining the same, and shall be confined to the
 conveyance of such mineral ores, fluxing material, and fuel, timber,
 and plant as aforesaid, and of all goods and things necessary in and
 10 about the same, and of all persons engaged in and about the same as
 aforesaid, to and from the said quarries, mines, and lands comprised in
 the said applications for mineral leases numbered four thousand seven
 hundred and sixteen, four thousand seven hundred and seventeen, four
 thousand seven hundred and eighteen, four thousand seven hundred
 15 and thirty seven, four thousand seven hundred and thirty eight, four
 thousand seven hundred and thirty-nine, four thousand seven hundred
 and forty, four thousand seven hundred and forty-one.

6. It shall be lawful for the persons using the said tramway to To employ horse,
 employ horses, steam, or other motive power, and carriages, waggons, steam, or other
 20 or trucks to be drawn thereby. motive power.

7. The said Ernest Govett, his heirs, executors, administrators, Ernest Govett, his
 and assigns, shall not be entitled to any mines of coal, iron, slate, or heirs, executors,
 other minerals under any land whereof the surface is vested in him or administrators, and
 them by virtue of this Act, except only such parts thereof as shall be assigns not entitled
 25 necessary to be dug or carried away in the construction of the works to minerals.
 hereby authorised, and such mines shall not be deemed to vest in the
 said Ernest Govett, his heirs, executors, administrators, and assigns.

8. Upon the completion of the tramway and works authorised Ernest Govett, his
 by this Act, it shall be lawful for the Governor, with the advice of the heirs, executors,
 30 Executive Council, in consideration of such completion, to grant to administrators, and assigns,
 the said Ernest Govett, his heirs, executors, administrators, or assigns, a lease or leases, for a term not exceeding twenty-one years, of such
 Crown lands as shall have been necessarily used or taken for the said
 tramway at an annual rental not exceeding two shillings per acre.

9. Before commencing the said tramway by this Act authorised Ernest Govett, his
 to be made, the said Ernest Govett, his heirs, executors, adminis- Before commencing
 trators, or assigns, shall, by some qualified engineer by them to be tramway, survey to
 40 appointed, cause to be made and taken levels and surveys of the be made.
 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: Provided that it shall be lawful for the
 said Ernest Govett, his heirs, executors, administrators, or assigns,
 to deviate in the route of the said tramway to the extent of not
 more than one and a half mile on either side of the forty line

45 described in the Schedule hereto annexed. And the said map or plan To be open to public
 shall be kept at some convenient office at Broken Hill, and true inspection.
 copies thereof, signed by the said Ernest Govett, his heirs, executors,
 administrators, or assigns, shall be deposited with the Clerk of Petty
 Sessions at Broken Hill aforesaid, and such map or plan and copies
 50 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 or copies as aforesaid.

10. The said Ernest Govett, his heirs, executors, administrators, Notice to be given of
 or assigns, shall, by advertisement in the *Government Gazette*, and in intention to make
 one or more Sydney newspapers, and in one or more newspapers pub- tramway.
 lished or circulating in Broken Hill respectively, at least thirty days
 before the commencement of the formation of the tramway, give
 notice

Pine Ridge Tramway.

notice that they intend to construct the said tramway between the places thereof specified, according to a map or plan to be seen at an office (in the said notice specified) in Broken Hill aforesaid, and at the office of the said Clerk of Petty Sessions.

5 11. When the said Ernest Govett, his heirs, executors, ad-
 ministrators, or assigns, shall have made and completed the map or
 plan hereinbefore required to be made, he or they shall give notice in
 writing of the lands taken and required for the said tramway to all
 the parties interested in such lands, or to such of the said parties
 10 as shall be known to the said Ernest Govett, his heirs, executors,
 administrators, or assigns. And every such notice shall state the par-
 ticulars of the lands so taken or required as aforesaid, and that the
 said Ernest Govett, his heirs, executors, administrators, or assigns, is
 or are willing to treat as to the compensation to be made to all parties
 15 for the lands taken or to be taken, and the damage sustained or to be
 sustained by them by reason of the exercise of the powers conferred
 by this Act, and shall demand in the said notice from such parties,
 and the said parties are hereby required to deliver forthwith to the
 said Ernest Govett, his heirs, executors, administrators, or assigns, at
 20 the cost of the said Ernest Govett, his heirs, executors, administrators,
 or assigns, the particulars of their estate and interest in such lands,
 and of the claims made by them in respect thereof, together with an
 abstract of their title to such land, and if they claim in respect of
 damage the nature of the damage which they have sustained or will
 25 sustain by reason of the taking of such lands.

Notice of lands
 required for
 tramway.

12. All notices required to be served by the said Ernest Govett,
 his heirs, executors, administrators, or assigns, upon the parties in-
 terested 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
 30 (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.

Service of notice on
 owners and
 occupiers of land.

35 13. 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 Ernest Govett, his heirs, executors,
 administrators, and assigns, and his or their workmen and servants, to
 enter upon the land adjoining thereto at any time whatsoever for the
 40 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 Ernest Govett, his heirs, executors, administrators, or assigns
 shall, within fourteen days after such entry, make a report to the
 Secretary for Public Works, specifying the nature of such accident or
 45 apprehended accident, and of the works necessary to be done, and such
 powers shall cease and determine if the said Secretary shall, after
 considering the said report, certify that their exercise is not necessary
 for the public safety: Provided also that such works shall be as little
 injurious to the said adjoining lands as the nature of the accident or
 50 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 or injury or inconvenience
 sustained by them respectively by reason of such works, the amount
 of which compensation, in case of any dispute about the same, shall
 55 be settled by arbitrators in the manner hereinafter mentioned. And
 provided also that no land shall be taken permanently for any such
 works otherwise than is herein provided with respect to the lands
 originally taken for the purpose of making the said tramway.

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

Pine Ridge Tramway.

14. If within twenty-eight days of the service of such notice as aforesaid the said persons through whose land the tramway shall pass or any of them, and the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not agree as to the amount of compensation to be paid by him or them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by him or 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), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator, to whom such dispute or other matter shall be referred; and every appointment of an arbitrator shall be under the hand and seal of such person or persons respectively, 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 if for the space of fourteen days after 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 shall 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 matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

Compensation to be settled by arbitration.

15. 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 that 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.

Proceedings in case of disability of arbitrator.

16. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in 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 so to do by the arbitrators or either of them, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

Appointment of umpire.

17. If in either of the cases aforesaid the 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.

Neglect to appoint umpire.

Pine Ridge Tramway.

18. If, when 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 disability of single arbitrator.

19. If when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as 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.

Arbitrators failing to make their award matters referred to umpire.

20. The said arbitrator or arbitrators, or his 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.

Arbitrators may order production of documents, &c.

21. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, Notary Public, or Commissioner for Affidavits for the said Colony, make and subscribe the following declaration, that is to say—

Declaration by arbitrators or umpire.

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 "Pine Ridge Tramway Act."

Made and subscribed at
in the presence of

A.B.

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.

22. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrator or arbitrators or umpire, and the costs of the arbitrator or arbitrators or umpire shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth, or more, less than the amount which shall have been offered by the said Ernest Govett, his heirs, executors, administrators, and assigns, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant: Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrator or arbitrators or umpire 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.

Costs may be taxed.

23. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said Ernest Govett, his heirs, executors, administrators, and assigns, who shall retain the same, and shall forthwith, on demand, at his or 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 the award.

Arbitrators or umpire to deliver award to Ernest Govett, his heirs, executors, administrators, and assigns.

Compensation to be paid within sixty days after publication of award.

24. 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 Supreme Court.

25.

Pine Ridge Tramway.

25. 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 to be set aside for irregularity.

26. The said Ernest Govett, his heirs, executors, administrators, and 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 injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which the said tramway shall pass, by the non-performance or negligent performance by the said Ernest Govett, his heirs, executors, administrators, and assigns, of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.

27. In every case where the said Ernest Govett, his heirs, executors, administrators, and assigns, shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on him or them, within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, and damaged or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent, to be fixed by two Justices in case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands. Compensation in cases of temporary possession.

28. If the owner of any lands required to be taken for the construction of the said tramway is absent from the Colony, or cannot upon diligent inquiry be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said Ernest Govett, his heirs, executors, administrators, and assigns for the purchase of such lands, or join in submitting their claims for compensation to arbitration as hereinbefore provided, the purchase money or compensation payable by the said Ernest Govett, his heirs, executors, administrators, and assigns, in respect of such lands, shall be determined by the valuation of a surveyor, to be nominated as hereinafter mentioned. Proceedings in absence of owner.

29. Upon application by the said Ernest Govett, his heirs, executors, administrators, and assigns, to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the said Ernest Govett, his heirs, executors, administrators, and assigns, or join with the said Ernest Govett, his heirs, executors, administrators, and assigns in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall, by writing under their hands, nominate a licensed surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof. Justices to appoint surveyor in certain cases.

Pine Ridge Tramway.

30. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such Justices or one of them, make and subscribe the following declaration at the foot of such nomination, that is to say :—

Declaration by surveyor.

5 I, A.B., do solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

Made and subscribed at _____, in the presence of

10

A.B.

And if any such surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

31. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the said Ernest Govett, his heirs, executors, administrators, and assigns; and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

Production of valuation, &c.

20 32. All the expenses of and incident to any such valuation shall be borne by the said Ernest Govett, his heirs, executors, administrators, and assigns.

Cost of valuation how borne.

33. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds, it shall, except in the cases where the owner is absent from the Colony, or cannot be found, be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns to the person or persons for the time being entitled to the rents and profits of the lands in respect whereof the same shall be payable for their own use and benefit, or in the case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such persons, then such money shall be paid for their use to the respective husbands, guardians, committees, or trustees of such persons.

Compensation not exceeding £50 how to be dealt with.

34. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases where the owner is absent from the Colony, or cannot be found, whether it exceeds the sum of fifty pounds or not, it shall be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns, into the hands of the Master in Equity of the Supreme Court in the matter of this Act, in trust for the parties interested in the lands in respect of which it is paid in; and a certificate from the said Master in Equity of the fact of the money being so paid in shall be a sufficient discharge to the said Ernest Govett, his heirs, executors, administrators, and assigns, for the money so paid: Provided that all moneys so paid in shall be dealt with by the Supreme Court in the same manner in all respects as moneys paid in under an Act passed in the twenty-first year of Her present Majesty, and entitled "*An Act for better securing Trust Funds, and for the relief of Trustees.*" And shall be subject, in all respects, to the provisions of the said Act, and all rules of the said Court made thereunder.

Compensation how dealt with in absence of owner.

35. If in any case in which, according to the provisions of this Act, the said Ernest Govett, his heirs, executors, administrators, and assigns, is authorised to enter upon and take possession of any lands required for the purposes of the said tramway, the owner or occupier of any such lands, or any other person, shall refuse to give up possession thereof or hinder the said Ernest Govett, his heirs, executors, administrators, and assigns, from entering upon or taking possession of the same, it shall be lawful for the said Ernest Govett, his

Cases of dispute Sheriff may issue warrant.

Pine Ridge Tramway.

his heirs, executors, administrators, and assigns, to issue his or their warrant to the Sheriff to deliver possession of the same to the persons appointed by the said Ernest Govett, his heirs, executors, administrators, and assigns in such warrant, to receive the same, and upon
 5 receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the party so refusing to give possession, and the amount of such costs shall be deducted and retained by the said Ernest Govett, his heirs,
 10 executors, administrators, and assigns from the compensation (if any) then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof, beyond the amount of such compensation, if not paid on demand,
 15 shall be levied by distress, and upon application to any Justice of the Peace for that purpose he may issue his warrant accordingly.

36. At any time the Governor, with the advice of the Executive Council, may, if he think fit, purchase such tramway, upon giving to the said Ernest Govett, his heirs, executors, administrators, and
 20 assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Ernest Govett, his heirs, executors, administrators, and assigns, the amounts shall be ascertained by assessment, in terms of the "Public Lands Acquisition Act."

Power of purchase of tramway by Government.

37. It shall be lawful for the said Ernest Govett, his heirs,
 25 executors, administrators, and assigns, at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon him or them by this Act, to any person or persons, or to any duly incorporated
 30 company, and upon any such transfer or assignment being signed or executed, the person or persons, or duly incorporated company in whose favour such transfer or assignment is made, shall then stand in the place of the said Ernest Govett, his heirs, executors, administrators, and assigns, and shall have all the rights, powers, benefits,
 35 privileges, and advantages conferred upon the said Ernest Govett, his heirs, executors, administrators, and assigns, by this Act.

Power to assign.

38. The work in connection with the construction of the said tramway hereby authorised must be commenced within six months from the passing of this Act, and the said tramway must be completed
 40 within two years from the date of the passing of this Act: Provided that the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any of the rights and privileges conferred upon him or them by this Act, unless he or they shall have commenced the projected tramway within the period of six months,
 45 and completed the same within a period of two years from the date aforesaid.

Commencement and completion of work.

39. In this Act the words Justices shall mean Justices or a Justice of the Peace in and for the territory of New South Wales, and where any matter shall be authorised or required to be done by
 50 two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, and the word "owner" shall mean any person or corporation who, under the provisions of this Act, would be able to sell land to the said Ernest Govett, his heirs, executors, administrators, or assigns.

Interpretation clause.

55 40. This Act may for all purposes be cited as the "Pine Ridge Tramway Act of 1892."

Short title.

Pine Ridge Tramway.

SCHEDULE.

Commencing at a point bearing north about sixty chains from mineral lease number one, parish of Sebastopol, county of Yancowinna; thence in a south-westerly direction through leasehold area number two hundred and forty-four, Kinchega, about fifteen miles fifteen chains to mineral lease number one, parish of Enmore, county of Menindee, situated in parishes of Sebastopol, Hughes, and Enmore, county of Yancowinna, and parish of Enmore, county of Menindee. The limit of deviation allowed by this Act shall be one and a half mile on each side of the above described line.

Sydney: Charles Potter, Government Printer.—1892.

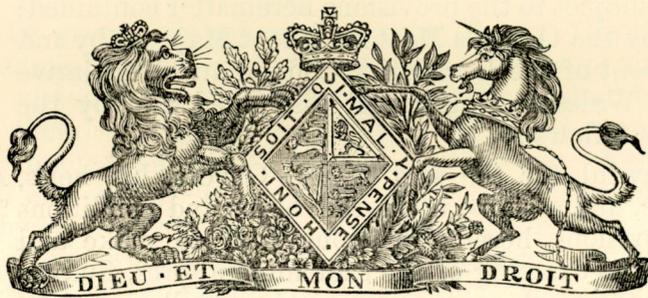
[9d.]

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

*Legislative Council Chamber,
Sydney, 28th March, 1892.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

An Act to authorise the construction and maintenance of a tramway from the mines, quarries, and lands situate in the parish of Enmore, counties of Yancowinna and Menindee, Colony of New South Wales, comprised in applications for mineral leases numbered 4,716, 4,717, 4,718, 4,737, 4,738, 4,739, 4,740, 4,741, to a point to be determined on mineral lease, portion 2, parish Sebastopol, in the said Colony, connecting with the tramway system of the Broken Hill Mines.

WHEREAS large quantities of mineral ores and fluxing material exist, and are being quarried and mired at the quarries and mines on the lands situate in the parish of Enmore, counties of Yancowinna and Menindee, in the Colony of New South Wales, for which applications have been duly made for mineral leases by Ernest Govett, of Broken Hill, in the said Colony, freeholder: And whereas large quantities of timber suitable for fuel exist upon the said lands: And whereas for the purpose of facilitating the carriage of the said mineral ores, fluxing material, fuel, and timber from the said quarries, mines, and lands, the said Ernest Govett is desirous of constructing a single or double tramway for horse, steam, or other traction, over, across, and along the lands described in the Schedule hereto, from the said quarries, mines, and lands, in the said parish of Enmore, comprised in application for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen,

Pine Ridge Tramway.

four thousand seven hundred and eighteen, four thousand seven hundred and thirty-seven, four thousand seven hundred and thirty-eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one, 5 to a point to be determined on mineral lease, portion two, parish of Sebastopol, county Yancowinna aforesaid : And whereas such tramway cannot be made without Legislative authority : And whereas the construction of the said proposed tramway would be largely for the benefit of the mining public by materially decreasing the cost of 10 carriage, thereby enabling the poorer class of ores to be profitably worked, and would be also the means of supplying the district of Broken Hill with cheap fuel, and it is therefore advisable to authorise, by Legislative enactment, the construction and maintenance of the said proposed tramway, subject to the provisions hereinafter contained : 15 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 :—

1. It shall be lawful for the said Ernest Govett, his heirs, 20 executors, administrators, and assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway for the carrying of the said mineral ores, fluxing material, fuel, timber, and of all persons engaged, and all materials, goods, and plant necessary in and about the working thereof, from and 25 to the said quarries, mines, and lands, in the parish of Enmore aforesaid, by the route, and along and over the roads, streets, lands, and reserves, both public and private, described in the Schedule hereto, and to take and use so much of the said roads, streets, lands, and reserves, both public and private, as may be required for the purposes 30 of such tramway, but so that the same shall not occupy in part thereof on private lands a greater space in breadth than thirty-three feet, and on public lands in breadth sixty-six feet, including the support and foundations thereof, and to lease, in accordance with section eight of this Act, so much public lands adjoining the said tramway, not 35 exceeding in the aggregate eighty acres, as may be required for the purpose of constructing tanks, sidings, or other necessary works in connection with such tramway.

2. The gauge of the said tramway shall be three feet six inches, 40 and where it traverses public thoroughfares shall be laid at about the general level of such thoroughfares and so that the rails shall not project above the surface thereof ; and the said Ernest Govett, his heirs, executors, administrators, or assigns, shall maintain in perfect order and repair the said tramway, and where the said tramway 45 traverses public thoroughfares, shall maintain perfect and keep in order and repair the pavements of the same between the rails of the said tramway 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.

3. The tramway and the material thereof shall not cease to be 50 the property of the said Ernest Govett, his heirs, executors, administrators, and assigns, by reason of the same being laid as aforesaid.

4. The said Ernest Govett, his heirs, executors, administrators, 55 and assigns, and all other person or persons duly authorised, shall have all necessary rights over the roads, streets, and lands described in the Schedule to this Act as are required for the construction, repair, completion, and use of the said tramway : Provided that there shall be no interference with ordinary traffic beyond what is reasonable and necessary for such purpose.

Pine Ridge Tramway.

5. The tramway shall be for the use of said Ernest Govett, his Carriage.
 heirs, executors, administrators, and assigns, and of all persons engaged
 by him or them in and about the carriage, winning, and obtaining of
 fuel and timber and the said mineral ores and fluxing material, and
 5 for the carriage of the said fuel, timber, and mineral ores and fluxing
 material, and of all plant, goods, and things necessary in and about
 the winning and obtaining the same, and shall be confined to the
 conveyance of such mineral ores, fluxing material, and fuel, timber,
 and plant as aforesaid, and of all goods and things necessary in and
 10 about the same, and of all persons engaged in and about the same as
 aforesaid, to and from the said quarries, mines, and lands comprised in
 the said applications for mineral leases numbered four thousand seven
 hundred and sixteen, four thousand seven hundred and seventeen, four
 thousand seven hundred and eighteen, four thousand seven hundred
 15 and thirty seven, four thousand seven hundred and thirty eight, four
 thousand seven hundred and thirty-nine, four thousand seven hundred
 and forty, four thousand seven hundred and forty-one.
6. It shall be lawful for the persons using the said tramway to To employ horse,
 employ horses, steam, or other motive power, and carriages, waggons, steam, or other
 20 or trucks to be drawn thereby. motive power.
7. The said Ernest Govett, his heirs, executors, administrators, Ernest Govett, his
 and assigns, shall not be entitled to any mines of coal, iron, slate, or heirs, executors,
 other minerals under any land whereof the surface is vested in him or administrators, and
 them by virtue of this Act, except only such parts thereof as shall be assigns not entitled
 25 necessary to be dug or carried away in the construction of the works to minerals.
8. Upon the completion of the tramway and works authorised Power to grant leases
 by this Act, it shall be lawful for the Governor, with the advice of the of land for tramway.
 30 Executive Council, in consideration of such completion, to grant to
 the said Ernest Govett, his heirs, executors, administrators, or assigns,
 a lease or leases, for a term not exceeding twenty-one years, of such
 Crown lands as shall have been necessarily used or taken for the said
 tramway at an annual rental not exceeding two shillings per acre.
9. Before commencing the said tramway by this Act authorised Before commencing
 to be made, the said Ernest Govett, his heirs, executors, adminis- tramway, survey to
 35 trators, or assigns, shall, by some qualified engineer by them to be be made.
 appointed, cause to be made and taken levels and surveys of the
 private lands through which such tramway is to be carried, together
 40 with a map or plan of the line of the said tramway, and of the lands
 through which it is to pass: Provided that it shall be lawful for the
 said Ernest Govett, his heirs, executors, administrators, or assigns,
 to deviate in the route of the said tramway to the extent of not
 more than one and a half mile on either side of the forty line
 45 described in the Schedule hereto annexed. And the said map or plan
 shall be kept at some convenient office at Broken Hill, and true
 copies thereof, signed by the said Ernest Govett, his heirs, executors,
 administrators, or assigns, shall be deposited with the Clerk of Petty
 Sessions at Broken Hill aforesaid, and such map or plan and copies
 50 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 or copies as aforesaid. To be open to public
 inspection.
10. The said Ernest Govett, his heirs, executors, administrators, Notice to be given of
 or assigns, shall, by advertisement in the *Government Gazette*, and in intention to make
 55 or more Sydney newspapers, and in one or more newspapers pub- tramway.
 lished or circulating in Broken Hill respectively, at least thirty days
 before the commencement of the formation of the tramway, give
 notice

Pine Ridge Tramway.

notice that they intend to construct the said tramway between the places thereof specified, according to a map or plan to be seen at an office (in the said notice specified) in Broken Hill aforesaid, and at the office of the said Clerk of Petty Sessions.

5 11. When the said Ernest Govett, his heirs, executors, administrators, or assigns, shall have made and completed the map or plan hereinbefore required to be made, he or they shall give notice in writing of the lands taken and required for the said tramway to all the parties interested in such lands, or to such of the said parties
10 as shall be known to the said Ernest Govett, his heirs, executors, administrators, or assigns. And every such notice shall state the particulars of the lands so taken or required as aforesaid, and that the said Ernest Govett, his heirs, executors, administrators, or assigns, is or are willing to treat as to the compensation to be made to all parties
15 for the lands taken or to be taken, and the damage sustained or to be sustained by them by reason of the exercise of the powers conferred by this Act, and shall demand in the said notice from such parties, and the said parties are hereby required to deliver forthwith to the said Ernest Govett, his heirs, executors, administrators, or assigns, at
20 the cost of the said Ernest Govett, his heirs, executors, administrators, or assigns, the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof, together with an abstract of their title to such land, and if they claim in respect of damage the nature of the damage which they have sustained or will
25 sustain by reason of the taking of such lands.

Notice of lands required for tramway.

12. All notices required to be served by the said Ernest Govett, his heirs, executors, administrators, or 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
30 (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.

Service of notice on owners and occupiers of land.

35 13. 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 Ernest Govett, his heirs, executors, administrators, and assigns, and his or their workmen and servants, to enter upon the land adjoining thereto at any time whatsoever for the
40 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 Ernest Govett, his heirs, executors, administrators, or assigns shall, within fourteen days after such entry, make a report to the Secretary for Public Works, specifying the nature of such accident or
45 apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or
50 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 or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall
55 be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said tramway.

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

Pine Ridge Tramway.

14. If within twenty-eight days of the service of such notice as aforesaid the said persons through whose land the tramway shall pass or any of them, and the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not agree as to the amount of compensation to be paid by him or them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by him or 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), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator, to whom such dispute or other matter shall be referred; and every appointment of an arbitrator shall be under the hand and seal of such person or persons respectively, 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 if for the space of fourteen days after 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 shall 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 matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

15. 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 that 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.

16. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in 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 so to do by the arbitrators or either of them, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

17. If in either of the cases aforesaid the 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.

18.

Pine Ridge Tramway.

18. If, when 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 disability of single arbitrator.

19. If when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as 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.

Arbitrators failing to make their award matters referred to umpire.

20. The said arbitrator or arbitrators, or his 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.

Arbitrators may order production of documents, &c.

21. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, Notary Public, or Commissioner for Affidavits for the said Colony, make and subscribe the following declaration, that is to say—

Declaration by arbitrators or umpire.

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 "Pine Ridge Tramway Act."

Made and subscribed at
in the presence of

A.B.

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.

22. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrator or arbitrators or umpire, and the costs of the arbitrator or arbitrators or umpire shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth, or more, less than the amount which shall have been offered by the said Ernest Govett, his heirs, executors, administrators, and assigns, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant: Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrator or arbitrators or umpire 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.

Costs may be taxed.

23. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said Ernest Govett, his heirs, executors, administrators, and assigns, who shall retain the same, and shall forthwith, on demand, at his or 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 the award.

Arbitrators or umpire to deliver award to Ernest Govett, his heirs, executors, administrators, and assigns.

Compensation to be paid within sixty days after publication of award.

24. 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 Supreme Court.

Pine Ridge Tramway.

25. 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 to be set aside for irregularity.

26. The said Ernest Govett, his heirs, executors, administrators, Compensation in cases of negligence.
 5 and 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 injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which
 10 the said tramway shall pass, by the non-performance or negligent performance by the said Ernest Govett, his heirs, executors, administrators, and assigns, of any of the matters or things hereby required or authorised to be performed by them.

27. In every case where the said Ernest Govett, his heirs, Compensation in cases of temporary possession.
 15 executors, administrators, and assigns, shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on him or them, within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, and damaged
 20 or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent, to be fixed by two Justices in
 25 case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as
 30 regards the said lands, of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

28. If the owner of any lands required to be taken for the Proceedings in absence of owner.
 construction of the said tramway is absent from the Colony, or cannot
 35 upon diligent inquiry be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said Ernest Govett, his heirs, executors, administrators, and assigns for the purchase of such lands, or join in submitting their
 40 claims for compensation to arbitration as hereinbefore provided, the purchase money or compensation payable by the said Ernest Govett, his heirs, executors, administrators, and assigns, in respect of such lands, shall be determined by the valuation of a surveyor, to be nominated as hereinafter mentioned.

45 29. Upon application by the said Ernest Govett, his heirs, Justices to appoint surveyor in certain cases.
 executors, administrators, and assigns, to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the
 said Ernest Govett, his heirs, executors, administrators, and assigns,
 50 or join with the said Ernest Govett, his heirs, executors, administrators, and assigns in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall, by writing under their hands, nominate a licensed surveyor for determining such
 55 compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Pine Ridge Tramway.

30. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such Justices or one of them, make and subscribe the following declaration at the foot of such nomination, that is to say:—

5 I, A.B., do solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

Made and subscribed at _____, in the presence of

10

A.B.

And if any such surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

31. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the said Ernest Govett, his heirs, executors, administrators, and assigns; and they shall at all times produce the said valuation and documents on demand to all parties interested in the lands comprised in such valuation.

20 32. All the expenses of and incident to any such valuation shall be borne by the said Ernest Govett, his heirs, executors, administrators, and assigns.

33. If the amount of compensation determined by any such surveyor does not exceed the sum of fifty pounds, it shall, except in the cases where the owner is absent from the Colony, or cannot be found, be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns to the person or persons for the time being entitled to the rents and profits of the lands in respect whereof the same shall be payable for their own use and benefit, or in the case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such persons, then such money shall be paid for their use to the respective husbands, guardians, committees, or trustees of such persons.

34. If the amount of compensation determined by any such surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases where the owner is absent from the Colony, or cannot be found, whether it exceeds the sum of fifty pounds or not, it shall be paid by the said Ernest Govett, his heirs, executors, administrators, and assigns, into the hands of the Master in Equity of the Supreme Court in the matter of this Act, in trust for the parties interested in the lands in respect of which it is paid in; and a certificate from the said Master in Equity of the fact of the money being so paid in shall be a sufficient discharge to the said Ernest Govett, his heirs, executors, administrators, and assigns, for the money so paid: Provided that all moneys so paid in shall be dealt with by the Supreme Court in the same manner in all respects as moneys paid in under an Act passed in the twenty-first year of Her present Majesty, and entitled "*An Act for better securing Trust Funds, and for the relief of Trustees.*" And shall be subject, in all respects, to the provisions of the said Act, and all rules of the said Court made thereunder.

35. If in any case in which, according to the provisions of this Act, the said Ernest Govett, his heirs, executors, administrators, and assigns, is authorised to enter upon and take possession of any lands required for the purposes of the said tramway, the owner or occupier of any such lands, or any other person, shall refuse to give up possession thereof or hinder the said Ernest Govett, his heirs, executors, administrators, and assigns, from entering upon or taking possession of the same, it shall be lawful for the said Ernest Govett, his

Declaration by surveyor.

Production of valuation, &c.

Cost of valuation how borne.

Compensation not exceeding £50 how to be dealt with.

Compensation how dealt with in absence of owner.

Cases of dispute Sheriff may issue warrant.

Pine Ridge Tramway.

his heirs, executors, administrators, and assigns, to issue his or their warrant to the Sheriff to deliver possession of the same to the persons appointed by the said Ernest Govett, his heirs, executors, administrators, and assigns in such warrant, to receive the same, and upon
 5 receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the party so refusing to give possession, and the amount of such costs shall be deducted and retained by the said Ernest Govett, his heirs,
 10 executors, administrators, and assigns from the compensation (if any) then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof, beyond the amount of such compensation, if not paid on demand,
 15 shall be levied by distress, and upon application to any Justice of the Peace for that purpose he may issue his warrant accordingly.

36. At any time the Governor, with the advice of the Executive Council, may, if he think fit, purchase such tramway, upon giving to the said Ernest Govett, his heirs, executors, administrators, and
 20 assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Ernest Govett, his heirs, executors, administrators, and assigns, the amounts shall be ascertained by assessment, in terms of the "Public Lands Acquisition Act."

Power of purchase of tramway by Government.

37. It shall be lawful for the said Ernest Govett, his heirs,
 25 executors, administrators, and assigns, at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon him or them by this Act, to any person or persons, or to any duly incorporated
 30 company, and upon any such transfer or assignment being signed or executed, the person or persons, or duly incorporated company in whose favour such transfer or assignment is made, shall then stand in the place of the said Ernest Govett, his heirs, executors, administrators, and assigns, and shall have all the rights, powers, benefits,
 35 privileges, and advantages conferred upon the said Ernest Govett, his heirs, executors, administrators, and assigns, by this Act.

Power to assign.

38. The work in connection with the construction of the said tramway hereby authorised must be commenced within six months from the passing of this Act, and the said tramway must be completed
 40 within two years from the date of the passing of this Act: Provided that the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any of the rights and privileges conferred upon him or them by this Act, unless he or they shall have commenced the projected tramway within the period of six months,
 45 and completed the same within a period of two years from the date aforesaid.

Commencement and completion of work.

39. In this Act the words Justices shall mean Justices or a Justice of the Peace in and for the territory of New South Wales, and where any matter shall be authorised or required to be done by
 50 two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, and the word "owner" shall mean any person or corporation who, under the provisions of this Act, would be able to sell land to the said Ernest Govett, his heirs, executors, administrators, or assigns.

Interpretation clause.

40. This Act may for all purposes be cited as the "Pine Ridge
 55 Tramway Act of 1892."

Short title.

Pine Ridge Tramway.

SCHEDULE.

Commencing at a point bearing north about sixty chains from mineral lease number one, parish of Sebastopol, county of Yancowinna; thence in a south-westerly direction through leasehold area number two hundred and forty-four, Kinchega, about fifteen miles fifteen chains to mineral lease number one, parish of Enmore, county of Menindee, situated in parishes of Sebastopol, Hughes, and Enmore, county of Yancowinna, and parish of Enmore, county of Menindee. The limit of deviation allowed by this Act shall be one and a half mile on each side of the above described line.

[9d.]

Sydney : Charles Potter, Government Printer.—1892.

Legislative Council.

55^o VICTORIÆ, 1892.

A BILL

To authorise the construction and maintenance of a tramway from the mines, quarries, and lands, situate in the parish of Enmore, counties of Yancowinna and Menindee, Colony of New South Wales, comprised in applications for mineral leases numbered 4,716, 4,717, 4,718, 4,737, 4,738, 4,739, 4,740, 4,741, to a point to be determined on mineral lease, portion 2, parish Sebastopol, in the said Colony, connecting with the tramway system of the Broken Hill Mines.

(As amended and agreed to in Select Committee.)

WHEREAS large quantities of mineral ores and fluxing material exist, and are being quarried and mined at the quarries and mines on the lands situate in the parish of Enmore, counties of Yancowinna and Menindee, in the Colony of New South Wales, for
5 which applications have been duly made for mineral leases by Ernest Govett, of Broken Hill, in the said Colony, freeholder : And whereas large quantities of timber suitable for fuel exist upon the said lands : And whereas for the purpose of facilitating the carriage of the said mineral ores, fluxing material, fuel, and timber from the said quarries,
10 mines, and lands, the said Ernest Govett is desirous of constructing a single or double tramway for horse, steam, or other traction, over, across, and along the lands described in the Schedule hereto, from the said quarries, mines, and lands, in the said parish of Enmore, comprised in application for mineral leases numbered four thousand
15 seven hundred and sixteen, four thousand seven hundred and seventeen,
c 171— four

NOTE.—The figure to be omitted is ruled through ; the words and figure to be inserted are printed in black letter.

four thousand seven hundred and eighteen, four thousand seven hundred and thirty-seven, four thousand seven hundred and thirty-eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one, to a point to be determined on mineral lease, portion two, parish of 5 Sebastopol, county Yancowinna aforesaid: And whereas such tramway cannot be made without Legislative authority: And whereas the construction of the said proposed tramway would be largely for the benefit of the mining public by materially decreasing the cost of carriage, thereby enabling the poorer class of ores to be profitably 10 worked, and would be also the means of supplying the district of Broken Hill with cheap fuel, and it is therefore advisable to authorise, by Legislative enactment, the construction and maintenance of the said proposed tramway, subject to the provisions hereinafter contained: Be it therefore enacted by the Queen's Most Excellent Majesty, by and 15 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 Ernest Govett, his heirs, executors, administrators, and assigns, upon the terms and conditions 20 and subject to the provisions hereinafter contained, to make and construct a tramway for the carrying of the said mineral ores, fluxing material, fuel, timber, and of all persons engaged, and all materials, goods, and plant necessary in and about the working thereof, from and to the said quarries, mines, and lands, in the parish of Enmore 25 aforesaid, by the route, and along and over the roads, streets, lands, and reserves, both public and private, described in the Schedule hereto, and to take and use so much of the said roads, streets, lands, and reserves, both public and private, as may be required for the purposes of such tramway, but so that the same shall not occupy in part thereof 30 on private lands a greater space in breadth than thirty-three feet, and on public lands in breadth sixty-six feet, including the support and foundations thereof, and to lease, in accordance with section eight of this Act, so much public lands adjoining the said tramway, not exceeding in the aggregate eighty acres, as may be required for the 35 purpose of constructing tanks, sidings, or other necessary works in connection with such tramway.

Levels of line.

2. The gauge of the said tramway shall be three feet six inches, and where it traverses public thoroughfares shall be laid at about the general level of such thoroughfares and so that the rails shall not 40 project above the surface thereof; and the said Ernest Govett, his heirs, executors, administrators, or assigns, shall maintain in perfect order and repair the said tramway, and where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the pavements of the same between the rails of the 45 said tramway 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.

Tramway to remain
property of Ernest
Govett, his heirs,
executors, adminis-
trators, and assigns.

3. The tramway and the material thereof shall not cease to be the property of the said Ernest Govett, his heirs, executors, adminis- 50 trators, and assigns, by reason of the same being laid as aforesaid.

Authorised persons
to have rights over
streets.

4. The said Ernest Govett, his heirs, executors, administrators, and assigns, and all other person or persons duly authorised, shall have all necessary rights over the roads, streets, and lands described in the Schedule to this Act as are required for the construction, repair, 55 completion, and use of the said tramway: Provided that there shall be no interference with ordinary traffic beyond what is reasonable and necessary for such purpose.

5. The tramway shall be for the use of said Ernest Govett, his heirs, executors, administrators, and assigns, and of all persons engaged by him or them in and about the carriage, winning, and obtaining of fuel and timber and the said mineral ores and fluxing material, and for the carriage of the said fuel, timber, and mineral ores and fluxing material, and of all plant, goods, and things necessary in and about the winning and obtaining the same, and shall be confined to the conveyance of such mineral ores, fluxing material, and fuel, timber, and plant as aforesaid, and of all goods and things necessary in and about the same, and of all persons engaged in and about the same as aforesaid, to and from the said quarries, mines, and lands comprised in the said applications for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, four thousand seven hundred and eighteen, four thousand seven hundred and thirty seven, four thousand seven hundred and thirty eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one.

Carriage.

6. It shall be lawful for the persons using the said tramway to employ horses, steam, or other motive power, and carriages, waggons, or trucks to be drawn thereby.

To employ horse, steam, or other motive power.

7. The said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any mines of coal, iron, slate, or other minerals under any land whereof the surface is vested in him or them, by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised, and such mines shall not be deemed to vest in the said Ernest Govett, his heirs, executors, administrators, and assigns.

Ernest Govett, his heirs, executors, administrators, and assigns not entitled to minerals.

8. Upon the completion of the tramway and works authorised by this Act, it shall be lawful for the Governor, with the advice of the Executive Council, in consideration of such completion, to grant to the said Ernest Govett, his heirs, executors, administrators, or assigns, a lease or leases, for a term not exceeding twenty-one years, of such Crown lands as shall have been necessarily used or taken for the said tramway at an annual rental not exceeding two shillings per acre.

Power to grant leases of land for tramway.

9. Before commencing the said tramway by this Act authorised to be made, the said Ernest Govett, his heirs, executors, administrators, or 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: Provided that it shall be lawful for the said Ernest Govett, his heirs, executors, administrators, or assigns, to deviate in the route of the said tramway to the extent of not more than one and a half mile on either side of the forty line described in the Schedule hereto annexed. And the said map or plan shall be kept at some convenient office at Broken Hill, and true copies thereof, signed by the said Ernest Govett, his heirs, executors, administrators, or assigns, shall be deposited with the Clerk of Petty Sessions at Broken Hill aforesaid, and such map or plan and 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 or copies as aforesaid.

Before commencing tramway, survey to be made.

To be open to public inspection.

10. The said Ernest Govett, his 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 circulating in Broken Hill respectively, at least thirty days before the commencement of the formation of the tramway, give notice

Notice to be given of intention to make tramway.

notice

notice that they intend to construct the said tramway between the places thereof specified, according to a map or plan to be seen at an office (in the said notice specified) in Broken Hill aforesaid, and at the office of the said Clerk of Petty Sessions.

Notice of lands required for tramway.

11. When the said Ernest Govett, his heirs, executors, administrators, or assigns, shall have made and completed the map or plan hereinbefore required to be made, he or they shall give notice in writing of the lands taken and required for the said tramway to all the parties interested in such lands, or to such of the said parties as shall be known to the said Ernest Govett, his heirs, executors, administrators, or assigns. And every such notice shall state the particulars of the lands so taken or required as aforesaid, and that the said Ernest Govett, his heirs, executors, administrators, or assigns, is or are willing to treat as to the compensation to be made to all parties for the lands taken or to be taken, and the damage sustained or to be sustained by them by reason of the exercise of the powers conferred by this Act, and shall demand in the said notice from such parties, and the said parties are hereby required to deliver forthwith to the said Ernest Govett, his heirs, executors, administrators, or assigns, at the cost of the said Ernest Govett, his heirs, executors, administrators, or assigns, the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof, together with an abstract of their title to such land, and if they claim in respect of damage the nature of the damage which they have sustained or will sustain by reason of the taking of such lands.

Service of notice on owners and occupiers of land.

12. All notices required to be served by the said Ernest Govett, his heirs, executors, administrators, or 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 adjoining lands to repair accidents, subject to certain restrictions.

13. 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 Ernest Govett, his heirs, executors, administrators, and assigns, and his or 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 Ernest Govett, his heirs, executors, administrators, or assigns shall, within fourteen days after such entry, make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said tramway.

14. If within twenty-eight days of the service of such notice as aforesaid the said persons through whose land the tramway shall pass or any of them, and the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not agree as to the amount of compensation to be paid by him or them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by him or 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), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator, to whom such dispute or other matter shall be referred; and every appointment of an arbitrator shall be under the hand and seal of such person or persons respectively, 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 if for the space of fourteen days after 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 shall 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 matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

Compensation to be settled by arbitration.

15. 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 that 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.

Proceedings in case of disability of arbitrator.

16. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in 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 so to do by the arbitrators or either of them, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

Appointment of umpire.

17. If in either of the cases aforesaid the 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.

Neglect to appoint umpire.

In case of disability
of single arbitrator.

18. If, when 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. 5

Arbitrators failing to
make their award
matters referred to
umpire.

19. If when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as 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. 10

Arbitrators may
order production of
documents, &c.

20. The said arbitrator or arbitrators, or his 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. 15

Declaration by
arbitrators or
umpire.

21. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, Notary Public, or Commissioner for Affidavits for the said Colony, make and subscribe the following declaration, that is to say— 20

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 "Pine Ridge Tramway Act."

Made and subscribed at
in the presence of
A.B. 30

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.

Cost of arbitration,
how to be borne.

22. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrator or arbitrators or umpire, and the costs of the arbitrator or arbitrators or umpire shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth, or more, less than the amount which shall have been offered by the said Ernest Govett, his heirs, executors, administrators, and assigns, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant: Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrator or arbitrators or umpire 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. 35

Costs may be taxed.

Arbitrators or
umpire to deliver
award to Ernest
Govett, his heirs,
executors, adminis-
trators, and assigns.

23. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said Ernest Govett, his heirs, executors, administrators, and assigns, who shall retain the same, and shall forthwith, on demand, at his or 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 the award. 40

Compensation to be
paid within sixty
days after publica-
tion of award.

24. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties. 55

Submission may be
made a rule of
Supreme Court.

25. 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 to be set aside for irregularity.

26. The said Ernest Govett, his heirs, executors, administrators, Compensation in cases of negligence.
 5 and 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 injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which
 10 the said tramway shall pass, by the non-performance or negligent performance by the said Ernest Govett, his heirs, executors, administrators, and assigns, of any of the matters or things hereby required or authorised to be performed by them.

27. In every case where the said Ernest Govett, his heirs, Compensation in cases of temporary possession.
 15 executors, administrators, and assigns, shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on him or them, within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, and damaged
 20 or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent, to be fixed by two Justices in
 25 case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the
 30 said lands, of the powers hereby granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

28. If the owner of any lands required to be taken for the Proceedings in absence of owner.
 construction of the said tramway is absent from the Colony, or cannot upon diligent inquiry be found, or is under disability, or if any such
 35 lands are vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said Ernest Govett, his heirs, executors, administrators, and assigns for the purchase of such lands, or join in submitting their claims for compensation to arbitration as hereinbefore provided, the
 40 purchase money or compensation payable by the said Ernest Govett, his heirs, executors, administrators, and assigns, in respect of such lands, shall be determined by the valuation of a surveyor, to be nominated as hereinafter mentioned.

29. Upon application by the said Ernest Govett, his heirs, Justices to appoint surveyor in certain cases.
 45 executors, administrators, and assigns, to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the said Ernest Govett, his heirs, executors, administrators, and assigns, or join with the said Ernest Govett, his heirs, executors, administrators, and assigns in submitting his claims for compensation to
 50 arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall, by writing under their hands, nominate a licensed surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same
 55 accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Declaration by
surveyor.

30. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such Justices or one of them, make and subscribe the following declaration at the foot of such nomination, that is to say :—

I, A.B., do solemnly and sincerely declare that I will faithfully, 5
impartially, and honestly, according to the best of my skill
and ability, execute the duty of making the valuation hereby
referred to me.

Made and subscribed at _____, in the presence of

A.B. 10

And if any such surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Production of
valuation, &c.

31. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved 15
together therewith by the said Ernest Govett, his heirs, executors,
administrators, and assigns; and they shall at all times produce the
said valuation and documents on demand to all parties interested in
the lands comprised in such valuation.

Cost of valuation
how borne.

32. All the expenses of and incident to any such valuation 20
shall be borne by the said Ernest Govett, his heirs, executors,
administrators, and assigns.

Compensation not
exceeding £50 how
to be dealt with.

33. If the amount of compensation determined by any such
surveyor does not exceed the sum of fifty pounds, it shall, except in 25
the cases where the owner is absent from the Colony, or cannot be
found, be paid by the said Ernest Govett, his heirs, executors,
administrators, and assigns to the person or persons for the time
being entitled to the rents and profits of the lands in respect whereof
the same shall be payable for their own use and benefit, or in the case
of the coverture, infancy, idiotcy, lunacy, or other incapacity of any 30
such persons, then such money shall be paid for their use to the
respective husbands, guardians, committees, or trustees of such
persons.

Compensation how
dealt with in absence
of owner.

34. If the amount of compensation determined by any such
surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases 35
where the owner is absent from the Colony, or cannot be found,
whether it exceeds the sum of fifty pounds or not, it shall be paid
by the said Ernest Govett, his heirs, executors, administrators, and
assigns, into the hands of the Master in Equity of the Supreme Court
in the matter of this Act, in trust for the parties interested in the 40
lands in respect of which it is paid in; and a certificate from the said
Master in Equity of the fact of the money being so paid in shall be a
sufficient discharge to the said Ernest Govett, his heirs, executors,
administrators, and assigns, for the money so paid: Provided that all
moneys so paid in shall be dealt with by the Supreme Court in the 45
same manner in all respects as moneys paid in under an Act passed
in the twenty-first year of Her present Majesty, and entitled "*An Act
for better securing Trust Funds, and for the relief of Trustees.*" And
shall be subject, in all respects, to the provisions of the said Act, and
all rules of the said Court made thereunder. 50

Cases of dispute
Sheriff may issue
warrant.

35. If in any case in which, according to the provisions of this
Act, the said Ernest Govett, his heirs, executors, administrators, and
assigns, is authorised to enter upon and take possession of any lands
required for the purposes of the said tramway, the owner or occupier
of any such lands, or any other person, shall refuse to give up 55
possession thereof or hinder the said Ernest Govett, his heirs,
executors, administrators, and assigns, from entering upon or taking
possession of the same, it shall be lawful for the said Ernest Govett,
his

his heirs, executors, administrators, and assigns, to issue his or their warrant to the Sheriff to deliver possession of the same to the persons appointed by the said Ernest Govett, his heirs, executors, administrators, and assigns in such warrant, to receive the same, and upon receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the party so refusing to give possession, and the amount of such costs shall be deducted and retained by the said Ernest Govett, his heirs, executors, administrators, and assigns from the compensation (if any) then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof, beyond the amount of such compensation, if not paid on demand, shall be levied by distress, and upon application to any Justice of the Peace for that purpose he may issue his warrant accordingly.

36. At any time the Governor, with the advice of the Executive Council, may, if he think fit, purchase such tramway, upon giving to the said Ernest Govett, his heirs, executors, administrators, and assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Ernest Govett, his heirs, executors, administrators, and assigns, the amounts shall be ascertained by assessment, in terms of the "Public Lands Aquisition Act."

Power of purchase of tramway by Government.

37. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon him or them by this Act, to any person or persons, or to any duly incorporated company, and upon any such transfer or assignment being signed or executed, the person or persons, or duly incorporated company in whose favour such transfer or assignment is made, shall then stand in the place of the said Ernest Govett, his heirs, executors, administrators, and assigns, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said Ernest Govett, his heirs, executors, administrators, and assigns, by this Act.

Power to assign.

38. The work in connection with the construction of the said tramway hereby authorised must be commenced within six months from the passing of this Act, and the said tramway must be completed within two years from the date of the passing of this Act: **Provided** that the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any of the rights and privileges conferred upon him or them by this Act, unless he or they shall have commenced the projected tramway within the period of six months, and completed the same within a period of two years from the date aforesaid.

Commencement and completion of work.

39. In this Act the words Justices shall mean Justices or a Justice of the Peace in and for the territory of New South Wales, and where any matter shall be authorised or required to be done by two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, and the word "owner" shall mean any person or corporation who, under the provisions of this Act, would be able to sell land to the said Ernest Govett, his heirs, executors, administrators, or assigns.

Interpretation clause.

40. This Act may for all purposes be cited as the "Pine Ridge Tramway Act of 18912."

Short title.

SCHEDULE.

Commencing at a point bearing north about sixty chains from mineral lease number one, parish of Sebastopol, county of Yancowinna; thence in a south-westerly direction through leasehold area number two hundred and forty-four, Kinchega, about fifteen miles fifteen chains to mineral lease number one, parish of Enmore, county of Menindee, 5 situated in parishes of Sebastopol, Hughes, and Enmore, county of Yancowinna, and parish of Enmore, county of Menindee. The limit of deviation allowed by this Act shall be one and a half mile on each side of the above described line.

Sydney : Charles Potter, Government Printer.—1892.

[9d.]

Legislative Council.

55^o VICTORIÆ, 1892.

A BILL

To authorise the construction and maintenance of a tramway from the mines, quarries, and lands, situate in the parish of Enmore, counties of Yancowinna and Menindee, Colony of New South Wales, comprised in applications for mineral leases numbered 4,716, 4,717, 4,718, 4,737, 4,738, 4,739, 4,740, 4,741, to a point to be determined on mineral lease, portion 2, parish Sebastopol, in the said Colony, connecting with the tramway system of the Broken Hill Mines.

(As amended and agreed to in Select Committee.)

WHEREAS large quantities of mineral ores and fluxing material exist, and are being quarried and mined at the quarries and mines on the lands situate in the parish of Enmore, counties of Yancowinna and Menindee, in the Colony of New South Wales, for which applications have been duly made for mineral leases by Ernest Govett, of Broken Hill, in the said Colony, freeholder: And whereas large quantities of timber suitable for fuel exist upon the said lands: And whereas for the purpose of facilitating the carriage of the said mineral ores, fluxing material, fuel, and timber from the said quarries, mines, and lands, the said Ernest Govett is desirous of constructing a single or double tramway for horse, steam, or other traction, over, across, and along the lands described in the Schedule hereto, from the said quarries, mines, and lands, in the said parish of Enmore, comprised in application for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, Preamble.

c 171— four

NOTE.—The figure to be omitted is ruled through; the words and figure to be inserted are printed in black letter.

four thousand seven hundred and eighteen, four thousand seven hundred and thirty-seven, four thousand seven hundred and thirty-eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one, to a point to be determined on mineral lease, portion two, parish of Sebastopol, county Yancowinna aforesaid : And whereas such tramway cannot be made without Legislative authority : And whereas the construction of the said proposed tramway would be largely for the benefit of the mining public by materially decreasing the cost of carriage, thereby enabling the poorer class of ores to be profitably worked, and would be also the means of supplying the district of Broken Hill with cheap fuel, and it is therefore advisable to authorise, by Legislative enactment, the construction and maintenance of the said proposed tramway, 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 :—

Authority to construct tramway.

1. It shall be lawful for the said Ernest Govett, his heirs, executors, administrators, and assigns, upon the terms and conditions and subject to the provisions hereinafter contained, to make and construct a tramway for the carrying of the said mineral ores, fluxing material, fuel, timber, and of all persons engaged, and all materials, goods, and plant necessary in and about the working thereof, from and to the said quarries, mines, and lands, in the parish of Enmore aforesaid, by the route, and along and over the roads, streets, lands, and reserves, both public and private, described in the Schedule hereto, and to take and use so much of the said roads, streets, lands, and reserves, both public and private, as may be required for the purposes of such tramway, but so that the same shall not occupy in part thereof on private lands a greater space in breadth than thirty-three feet, and on public lands in breadth sixty-six feet, including the support and foundations thereof, and to lease, in accordance with section eight of this Act, so much public lands adjoining the said tramway, not exceeding in the aggregate eighty acres, as may be required for the purpose of constructing tanks, sidings, or other necessary works in connection with such tramway.

Levels of line.

2. The gauge of the said tramway shall be three feet six inches, and where it traverses public thoroughfares shall be laid at about the general level of such thoroughfares and so that the rails shall not project above the surface thereof ; and the said Ernest Govett, his heirs, executors, administrators, or assigns, shall maintain in perfect order and repair the said tramway, and where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the pavements of the same between the rails of the said tramway 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.

Tramway to remain property of Ernest Govett, his heirs, executors, administrators, and assigns.

3. The tramway and the material thereof shall not cease to be the property of the said Ernest Govett, his heirs, executors, administrators, and assigns, by reason of the same being laid as aforesaid.

Authorised persons to have rights over streets.

4. The said Ernest Govett, his heirs, executors, administrators, and assigns, and all other person or persons duly authorised, shall have all necessary rights over the roads, streets, and lands described in the Schedule to this Act as are required for the construction, repair, completion, and use of the said tramway : Provided that there shall be no interference with ordinary traffic beyond what is reasonable and necessary for such purpose.

5. The tramway shall be for the use of said Ernest Govett, his heirs, executors, administrators, and assigns, and of all persons engaged by him or them in and about the carriage, winning, and obtaining of fuel and timber and the said mineral ores and fluxing material, and for the carriage of the said fuel, timber, and mineral ores and fluxing material, and of all plant, goods, and things necessary in and about the winning and obtaining the same, and shall be confined to the conveyance of such mineral ores, fluxing material, and fuel, timber, and plant as aforesaid, and of all goods and things necessary in and about the same, and of all persons engaged in and about the same as aforesaid, to and from the said quarries, mines, and lands comprised in the said applications for mineral leases numbered four thousand seven hundred and sixteen, four thousand seven hundred and seventeen, four thousand seven hundred and eighteen, four thousand seven hundred and thirty seven, four thousand seven hundred and thirty eight, four thousand seven hundred and thirty-nine, four thousand seven hundred and forty, four thousand seven hundred and forty-one.

6. It shall be lawful for the persons using the said tramway to employ horses, steam, or other motive power, and carriages, waggons, or trucks to be drawn thereby.

7. The said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any mines of coal, iron, slate, or other minerals under any land whereof the surface is vested in him or them by virtue of this Act, except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorised, and such mines shall not be deemed to vest in the said Ernest Govett, his heirs, executors, administrators, and assigns.

8. Upon the completion of the tramway and works authorised by this Act, it shall be lawful for the Governor, with the advice of the Executive Council, in consideration of such completion, to grant to the said Ernest Govett, his heirs, executors, administrators, or assigns, a lease or leases, for a term not exceeding twenty-one years, of such Crown lands as shall have been necessarily used or taken for the said tramway at an annual rental not exceeding two shillings per acre.

9. Before commencing the said tramway by this Act authorised to be made, the said Ernest Govett, his heirs, executors, administrators, or 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: Provided that it shall be lawful for the said Ernest Govett, his heirs, executors, administrators, or assigns, to deviate in the route of the said tramway to the extent of not more than one and a half mile on either side of the forty line described in the Schedule hereto annexed. And the said map or plan shall be kept at some convenient office at Broken Hill, and true copies thereof, signed by the said Ernest Govett, his heirs, executors, administrators, or assigns, shall be deposited with the Clerk of Petty Sessions at Broken Hill aforesaid, and such map or plan and 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 or copies as aforesaid.

10. The said Ernest Govett, his 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 circulating in Broken Hill respectively, at least thirty days before the commencement of the formation of the tramway, give notice

Carriage.

To employ horse, steam, or other motive power.

Ernest Govett, his heirs, executors, administrators, and assigns not entitled to minerals.

Power to grant leases of land for tramway.

Before commencing tramway, survey to be made.

To be open to public inspection.

Notice to be given of intention to make tramway.

notice that they intend to construct the said tramway between the places thereof specified, according to a map or plan to be seen at an office (in the said notice specified) in Broken Hill aforesaid, and at the office of the said Clerk of Petty Sessions.

Notice of lands required for tramway.

11. When the said Ernest Govett, his heirs, executors, administrators, or assigns, shall have made and completed the map or plan hereinbefore required to be made, he or they shall give notice in writing of the lands taken and required for the said tramway to all the parties interested in such lands, or to such of the said parties as shall be known to the said Ernest Govett, his heirs, executors, administrators, or assigns. And every such notice shall state the particulars of the lands so taken or required as aforesaid, and that the said Ernest Govett, his heirs, executors, administrators, or assigns, is or are willing to treat as to the compensation to be made to all parties for the lands taken or to be taken, and the damage sustained or to be sustained by them by reason of the exercise of the powers conferred by this Act, and shall demand in the said notice from such parties, and the said parties are hereby required to deliver forthwith to the said Ernest Govett, his heirs, executors, administrators, or assigns, at the cost of the said Ernest Govett, his heirs, executors, administrators, or assigns, the particulars of their estate and interest in such lands, and of the claims made by them in respect thereof, together with an abstract of their title to such land, and if they claim in respect of damage the nature of the damage which they have sustained or will sustain by reason of the taking of such lands.

Service of notice on owners and occupiers of land.

12. All notices required to be served by the said Ernest Govett, his heirs, executors, administrators, or 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 adjoining lands to repair accidents, subject to certain restrictions.

13. 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 Ernest Govett, his heirs, executors, administrators, and assigns, and his or 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 Ernest Govett, his heirs, executors, administrators, or assigns shall, within fourteen days after such entry, make a report to the Secretary for Public Works, specifying the nature of such accident or apprehended accident, and of the works necessary to be done, and such powers shall cease and determine if the said Secretary shall, after considering the said report, certify that their exercise is not necessary for the public safety: Provided also that such works shall be as little injurious to the said adjoining lands as the nature of the accident or apprehended accident will admit of, and shall be executed with all possible despatch, and full compensation shall be made to the owners and occupiers of such lands for the loss or injury or inconvenience sustained by them respectively by reason of such works, the amount of which compensation, in case of any dispute about the same, shall be settled by arbitrators in the manner hereinafter mentioned. And provided also that no land shall be taken permanently for any such works otherwise than is herein provided with respect to the lands originally taken for the purpose of making the said tramway.

14. If within twenty-eight days of the service of such notice as aforesaid the said persons through whose land the tramway shall pass or any of them, and the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not agree as to the amount of compensation to be paid by him or them for the said lands belonging to the said parties, or any of them, or for any damage that may be sustained by him or 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), unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall nominate and appoint an arbitrator, to whom such dispute or other matter shall be referred; and every appointment of an arbitrator shall be under the hand and seal of such person or persons respectively, 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 if for the space of fourteen days after 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 shall 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 matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

15. 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 that 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.

16. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint in 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 so to do by the arbitrators or either of them, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place, and the decision of every such umpire upon the matters so referred to him shall be final.

17. If in either of the cases aforesaid the 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.

In case of disability of single arbitrator.

18. If, when 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. 5

Arbitrators failing to make their award matters referred to umpire.

19. If when more than one arbitrator shall have been appointed, and when neither of them shall die, become incapable, refuse, or neglect to act as aforesaid, such arbitrators shall fail to make their award within fourteen days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as 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. 10

Arbitrators may order production of documents, &c.

20. The said arbitrator or arbitrators, or his 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. 15

Declaration by arbitrators or umpire.

21. Before any arbitrator or umpire shall enter upon the consideration of any matter referred to him, he shall, in the presence of a Justice of the Peace, Notary Public, or Commissioner for Affidavits for the said Colony, make and subscribe the following declaration, that is to say— 20

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 "Pine Ridge Tramway Act." 25

Made and subscribed at
in the presence of

A.B.

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. 30

Cost of arbitration, how to be borne.

22. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrator or arbitrators or umpire, and the costs of the arbitrator or arbitrators or umpire shall be borne by the parties in equal proportions, unless the amount awarded shall be one-fourth, or more, less than the amount which shall have been offered by the said Ernest Govett, his heirs, executors, administrators, and assigns, in which case the whole costs of the arbitration, and also the costs of and incident to the said arbitration, shall be paid by the claimant: Provided that, if either party shall be dissatisfied with the costs allowed by the said arbitrator or arbitrators or umpire 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. 35

Costs may be taxed.

Arbitrators or umpire to deliver award to Ernest Govett, his heirs, executors, administrators, and assigns.

23. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said Ernest Govett, his heirs, executors, administrators, and assigns, who shall retain the same, and shall forthwith, on demand, at his or 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 the award. 40

Compensation to be paid within sixty days after publication of award.

Submission may be made a rule of Supreme Court.

24. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties. 45

25.

25. 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 to be set aside for irregularity.

5 and assigns, shall make compensation and satisfaction, to be ascer- Compensation in cases of negligence.
 10 tained and recovered in case of difference in the manner hereby provided, for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the owners and occupiers of the lands through which
 10 the said tramway shall pass, by the non-performance or negligent performance by the said Ernest Govett, his heirs, executors, administrators, and assigns, of any of the matters or things hereby required or authorised to be performed by them.

15 27. In every case where the said Ernest Govett, his heirs, Compensation in cases of temporary possession.
 15 executors, administrators, and assigns, shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on him or them, within three months after entry upon such land, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, and damaged
 20 or injured by such entry, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of such entry, and shall also from time to time during their occupation of the said lands pay half-yearly to such occupier, or to the owner of the
 25 lands, as the case may require, a rent, to be fixed by two Justices in case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in the bank for the benefit of all parties interested, as the case may require, com-
 30 pensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers hereby granted, including the full value of all
 30 clay, stone, gravel, sand, and other things taken from such lands.

28. If the owner of any lands required to be taken for the Proceedings in absence of owner.
 35 construction of the said tramway is absent from the Colony, or cannot upon diligent inquiry be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or
 35 qualified interests therein, and who cannot enter into binding agree- ments with the said Ernest Govett, his heirs, executors, administrators, and assigns for the purchase of such lands, or join in submitting their
 40 claims for compensation to arbitration as hereinbefore provided, the purchase money or compensation payable by the said Ernest Govett, his heirs, executors, administrators, and assigns, in respect of such
 40 lands, shall be determined by the valuation of a surveyor, to be nomi- nated as hereinafter mentioned.

29. Upon application by the said Ernest Govett, his heirs, Justices to appoint surveyor in certain cases.
 45 executors, administrators, and assigns, to two Justices, and upon such proof as may be satisfactory to them that there is no person in the Colony or to be found who can enter into a binding contract with the
 45 said Ernest Govett, his heirs, executors, administrators, and assigns, or join with the said Ernest Govett, his heirs, executors, adminis-
 50 trators, and assigns in submitting his claims for compensation to arbitration in respect of any lands required to be taken for the construction of the said tramway, such Justices shall, by writing under
 50 their hands, nominate a licensed surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same
 55 accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

Declaration by
surveyor.

30. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such Justices or one of them, make and subscribe the following declaration at the foot of such nomination, that is to say :—

I, A.B., do solemnly and sincerely declare that I will faithfully, 5
impartially, and honestly, according to the best of my skill
and ability, execute the duty of making the valuation hereby
referred to me.

Made and subscribed at _____, in the presence of
A.B. 10

And if any such surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Production of
valuation, &c.

31. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved 15
together therewith by the said Ernest Govett, his heirs, executors,
administrators, and assigns; and they shall at all times produce the
said valuation and documents on demand to all parties interested in
the lands comprised in such valuation.

Cost of valuation
how borne.

32. All the expenses of and incident to any such valuation 20
shall be borne by the said Ernest Govett, his heirs, executors,
administrators, and assigns.

Compensation not
exceeding £50 how
to be dealt with.

33. If the amount of compensation determined by any such
surveyor does not exceed the sum of fifty pounds, it shall, except in 25
the cases where the owner is absent from the Colony, or cannot be
found, be paid by the said Ernest Govett, his heirs, executors,
administrators, and assigns to the person or persons for the time
being entitled to the rents and profits of the lands in respect whereof
the same shall be payable for their own use and benefit, or in the case
of the coverture, infancy, idiotcy, lunacy, or other incapacity of any 30
such persons, then such money shall be paid for their use to the
respective husbands, guardians, committees, or trustees of such
persons.

Compensation how
dealt with in absence
of owner.

34. If the amount of compensation determined by any such
surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases 35
where the owner is absent from the Colony, or cannot be found,
whether it exceeds the sum of fifty pounds or not, it shall be paid
by the said Ernest Govett, his heirs, executors, administrators, and
assigns, into the hands of the Master in Equity of the Supreme Court
in the matter of this Act, in trust for the parties interested in the 40
lands in respect of which it is paid in; and a certificate from the said
Master in Equity of the fact of the money being so paid in shall be a
sufficient discharge to the said Ernest Govett, his heirs, executors,
administrators, and assigns, for the money so paid: Provided that all
moneys so paid in shall be dealt with by the Supreme Court in the 45
same manner in all respects as moneys paid in under an Act passed
in the twenty-first year of Her present Majesty, and entitled "*An Act
for better securing Trust Funds, and for the relief of Trustees.*" And
shall be subject, in all respects, to the provisions of the said Act, and
all rules of the said Court made thereunder. 50

Cases of dispute
Sheriff may issue
warrant.

35. If in any case in which, according to the provisions of this
Act, the said Ernest Govett, his heirs, executors, administrators, and
assigns, is authorised to enter upon and take possession of any lands
required for the purposes of the said tramway, the owner or occupier
of any such lands, or any other person, shall refuse to give up 55
possession thereof or hinder the said Ernest Govett, his heirs,
executors, administrators, and assigns, from entering upon or taking
possession of the same, it shall be lawful for the said Ernest Govett,
his

his heirs, executors, administrators, and assigns, to issue his or their warrant to the Sheriff to deliver possession of the same to the persons appointed by the said Ernest Govett, his heirs, executors, administrators, and assigns in such warrant, to receive the same, and upon
 5 receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the party so refusing to give possession, and the amount of such costs shall be deducted and retained by the said Ernest Govett, his heirs,
 10 executors, administrators, and assigns from the compensation (if any) then payable to such person refusing to give possession, or if no such compensation shall be payable to such person, or if the same be less than the amount of such costs, then such costs, or the excess thereof, beyond the amount of such compensation, if not paid on demand,
 15 shall be levied by distress, and upon application to any Justice of the Peace for that purpose he may issue his warrant accordingly.

36. At any time the Governor, with the advice of the Executive Council, may, if he think fit, purchase such tramway, upon giving to the said Ernest Govett, his heirs, executors, administrators, and
 20 assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Ernest Govett, his heirs, executors, administrators, and assigns, the amounts shall be ascertained by assessment, in terms of the "Public Lands Acquisition Act."

Power of purchase of tramway by Government.

37. It shall be lawful for the said Ernest Govett, his heirs,
 25 executors, administrators, and assigns, at any time, by any deed or instrument in writing, to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon him or them by this Act, to any person or persons, or to any duly incorporated
 30 company, and upon any such transfer or assignment being signed or executed, the person or persons, or duly incorporated company in whose favour such transfer or assignment is made, shall then stand in the place of the said Ernest Govett, his heirs, executors, administrators, and assigns, and shall have all the rights, powers, benefits,
 35 privileges, and advantages conferred upon the said Ernest Govett, his heirs, executors, administrators, and assigns, by this Act.

Power to assign.

38. The work in connection with the construction of the said tramway hereby authorised must be commenced within six months from the passing of this Act, and the said tramway must be completed
 40 within two years from the date of the passing of this Act: **Provided** that the said Ernest Govett, his heirs, executors, administrators, and assigns, shall not be entitled to any of the rights and privileges conferred upon him or them by this Act, unless he or they shall have commenced the projected tramway within the period of six months,
 45 and completed the same within a period of two years from the date aforesaid.

Commencement and completion of work.

39. In this Act the words Justices shall mean Justices or a Justice of the Peace in and for the territory of New South Wales, and where any matter shall be authorised or required to be done by
 50 two Justices the expression "two Justices" shall mean two Justices assembled and acting together in Petty Sessions, and the word "owner" shall mean any person or corporation who, under the provisions of this Act, would be able to sell land to the said Ernest Govett, his heirs, executors, administrators, or assigns.

Interpretation clause.

55 40. This Act may for all purposes be cited as the "Pine Ridge Tramway Act of 18912."

Short title.

SCHEDULE.

Commencing at a point bearing north about sixty chains from mineral lease number one, parish of Sebastopol, county of Yancowinna; thence in a south-westerly direction through leasehold area number two hundred and forty-four, Kinchega, about fifteen miles fifteen chains to mineral lease number one, parish of Enmore, county of Menindee, 5 situated in parishes of Sebastopol, Hughes, and Enmore, county of Yancowinna, and parish of Enmore, county of Menindee. The limit of deviation allowed by this Act shall be one and a half mile on each side of the above described line.

Sydney : Charles Potter, Government Printer.—1892.

[9d.]