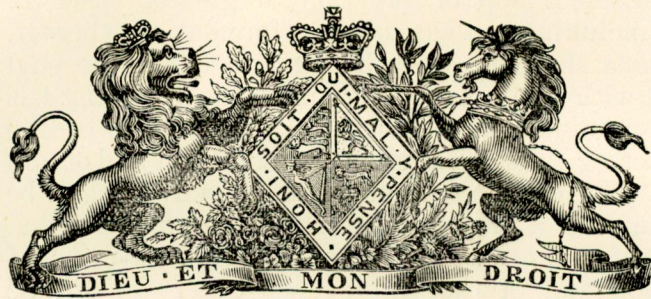


This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 5th June, 1895. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ.

An Act to authorise the construction, maintenance, and control by the Emu Gravel and Road-metal Company (Limited) of a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station, and connecting with the Great Western Railway, and to carry passengers and goods thereon.

WHEREAS the Emu Gravel and Road-metal Company (Limited) ^{Preamble.} is desirous of constructing a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station on the Great Western Railway, from and to the points and by the directions 5 mentioned and described in the Schedule to this Act, and to effect a junction or siding with the said railway at or near the said station, and for other the purposes and with the powers hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative 10 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 company or its assigns, upon the terms and conditions and subject to the provisions in this Act contained, to lay down, construct, maintain, and control a tramway from 15 the property known as the Prospect Quarries to the Toongabbie Railway Station by the route and in the directions respectively mentioned ^{Authority to construct tramway.}

Emu Gravel and Road-metal Company's Tramway.

and described in the Schedule to this Act (which tramway is herein-
 after referred to as the said Tramway), and with the consent of the
 Railway Commissioners of New South Wales to effect a junction or
 connection with a goods-siding at or near the Toongabbie Station in
 5 the same manner as if such siding was a railway made under the
 provisions of the Public Works Act of 1888, and subject to the terms,
 conditions, and restrictions enacted in that Act, and also subject to
 the provisions contained in the agreement for lease of the said quarries
 from the Board of Water Supply and Sewerage to the said company,
 10 and of any lease made or executed in pursuance thereof, with power to
 make such points and loops along the line of tramway as shall be
 considered necessary for the working of the said tramway, and to use
 so much of the roads and take up and use so much of the land referred
 to in the said Schedule as shall be required for the purposes of the said
 15 tramway, but so that the same shall not occupy in any part thereof
 (except where there shall be a loop or junction) a greater space in
 breadth than nine feet including the support and foundations thereof,
 provided that the company shall not have the right to effect the said
 junction or connection with the said siding until the company has
 20 laid before the said Commissioners plans and specifications of the
 proposed method of effecting the said junction or connection and obtain
 their approval thereof: Provided also that the said tramway shall be
 constructed and maintained in a proper and workmanlike manner, and
 in all respects to the satisfaction and approval of the Engineer-in-Chief
 25 for Railway Construction and of the Engineer-in-Chief for Public
 Works, and shall be completely constructed and brought into use
 within two years from the commencement of this Act, or within such
 extended time as the Governor with the advice of the Executive
 Council may approve of.

30 2. The tramway and the material thereof shall not cease to be
 the property of the said company or its assigns by reason of the same
 being laid as in this Act mentioned. Tramway to remain
 property of the
 company and its
 assigns.

3. The said company and its assigns and all persons acting
 under its or their authority shall have all necessary rights of entry,
 35 way, ingress and egress to and over the surface of the said roads and
 lands referred to in the said Schedule 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 purposes: And provided further that nothing
 40 herein contained shall impair or be held to impair the lawful authority
 of any municipal authority, or other corporation, company, or person
 lawfully authorised in that behalf to make all entries and exercise all
 other powers necessary for the construction, maintenance, and preserva-
 tion of gas-works, water-works, sewerage-works, and other works law-
 45 fully constructed underground, but so that such entries and other
 powers and such works, as last aforesaid, shall be so exercised and con-
 structed, maintained and preserved in such manner as not to injure or
 interfere with the said tramway or the working and use thereof.

4. The said company or its assigns shall not be at liberty to
 50 enter upon, break up or erect works upon any streets within any
 municipality without ten days' previous notice in writing to such
 municipality; and when the said company or its assigns shall open or
 break up the road or pavement of any street, or any sewer, drain, or
 tunnel, they shall with all convenient speed complete the work for
 55 which the same shall be broken up, and fill in the ground and reinstate
 and make good the said road or pavement, sewer, drain, or tunnel so
 opened or broken up, and carry away the rubbish occasioned thereby.
 And the said company and its assigns whilst any such road, pavement,
 sewer, drain, or tunnel shall be so open or broken up, shall cause the
 same

Tramway to remain
 property of the
 company and its
 assigns.

Entry upon roads,
 &c.

Reinstatement of
 streets, &c.

Emu Gravel and Road-metal Company's Tramway.

same to be fenced and guarded, and shall cause lights, sufficient for the warning of passengers, to be set up and maintained against or near such road, pavement, sewer, drain, or tunnel where the same shall be so opened or broken up for every night during which the same shall
 5 continue open or broken up. If the said company or its assigns open or break up any road, pavement, sewer, drain, or tunnel without giving
 such notice as aforesaid, or if they make any delay in completing any
 such work or in filling in the ground or reinstating and making good
 the road or pavement, sewer, drain, or tunnel so opened or broken up,
 10 or in carrying away the rubbish occasioned by the work, or if the said company or its assigns neglect to cause the place where such road or pavement, sewer, drain, or tunnel has been broken up, to be fenced, guarded, and lighted, the said company or its assigns shall incur a
 penalty not exceeding fifty pounds for every such offence, and the said
 15 company or its assigns shall incur an additional penalty of five pounds for each day during which any such delay as aforesaid shall continue.

Penalty for delay, &c., in reinstating streets, &c.

5. The gauge of the said tramway shall be the same gauge as
 that of the Government railways. Gauge.

6. The said tramway shall, throughout so much of its course
 20 as lies within the borough of Prospect and Sherwood, be laid at about the general level of the roads traversed by it, and so that the rails shall not project above the surface thereof, and that such rails, where they traverse the Main Western Road, shall be grooved rails or flat-bottomed rails of ordinary construction, with guard rails fixed on the
 25 inside of the track; and the said company and its assigns shall maintain in good order and repair the said tramway, and, where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the said thoroughfares between the rails of the said tramway and for the space of one foot six inches on each
 30 side of the said rails. Levels of lines.

7. Throughout such part of the said tramway as traverses
 the Great Western Road mentioned in the said Schedule, and lies
 outside the borough of Prospect and Sherwood, the said company or
 its assigns shall not be bound to lay the said tramway at the general
 35 level of the said road, or so that the rails shall not project above the level of the said road: Provided that the said company and its assigns shall depart from such level as little as may be, and whenever such level is departed from shall cause the altered level to be adopted or extended throughout the whole width of the
 40 said road, and shall restore the condition of the said road where the levels shall be altered to the like state and condition as they shall have been in before such alteration of the levels. Level of line on Western Road.

8. The said company and its assigns shall make and at all times
 thereafter maintain the following works for the safety of the public
 45 and the accommodation of the owners and occupiers of lands adjoining the said tramway, that is to say— Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and
 passages over, under, or by the sides of or leading to or from
 the said tramway as shall be necessary for the purpose of
 50 making good any interruptions caused by the said tramway to the use of the lands through which the said tramway shall be made; and such works shall be made forthwith after the part of the said tramway passing over such lands shall have been laid out or formed, or during the formation thereof. Gates, bridges, &c.

55 Also sufficient posts, rails, hedges, ditches, mounds, or other fences
 for separating the land taken for the use of the said tramway from the adjoining lands not taken, and protecting such lands from trespass, or the horses or cattle of the owners or occupiers thereof from straying thereout by reason of the
 said

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- said tramway, together with all necessary gates made to open towards such adjoining lands and not towards the said tramway, and all necessary styles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be.
- 5 Also all necessary arches, tunnels, culverts, drains, or other passages either over or under or by the sides of the said tramway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the said tramway as before the making of the said tramway, or as nearly so as may be, and such works shall be made from time to time as the said tramway works proceed:
- 10
- 15 Provided always that the said company or its assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said tramway, nor to make any accommodation works with respect to which the owners and occupiers of the land shall have agreed to receive and
- 20 shall have been paid compensation instead of the making them.
- If any person omit to shut and fasten any gate set up at either side of the said tramway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he
- 25 shall forfeit for every such offence any sum not exceeding ten pounds.
9. The said company or its assigns shall immediately repair any damage which may during or by reason of the construction of the said tramway be occasioned to any sewer or drain or gas or water main or other property.
- 30 10. The said tramway shall be open to public use upon payment of the tolls or charges following, that is to say—
- For passengers a sum not exceeding twopence per head per mile or fraction thereof.
- For goods not exceeding the same minimum rates as are charged
- 35 on the Government railways for equal distances:
- Provided always that such tolls or charges may from time to time be increased with the approval of the said Commissioners.
11. It shall be lawful for the said company and its assigns to use and employ locomotive engines, horses, or other moving power, and
- 40 carriages, trucks, cars, and waggons to be drawn or propelled thereby, and to make such stoppages and detention at either terminus of the said tramway or along the line thereof, and for such times as shall be considered necessary for the convenient and effectual working, using, and management of the said tramway, and to carry and convey upon
- 45 the said tramway passengers and goods, and to charge the tolls and charges in respect thereof as above specified: Provided that all rolling stock before and during use shall be subject to the approval of the said Commissioners, and be at all times open to their inspection, such right of disapproval to be exercised reasonably, and such approval
- 50 not to be unreasonably or capriciously withheld: Provided also, that the working of the said tramway shall be in conjunction with the working of the Government railways, and to the approval of the said Commissioners.
12. The tolls and charges shall be paid to such persons and at such places upon or near to the tramway, and in such manner and under such regulations as the said company or its assigns shall appoint.
- 55
13. The said company and its assigns shall be responsible for all injuries caused by the negligent or improper construction, maintenance, or working of the said tramway, and all claims in respect of such

Drains.

Penalty on person omitting to fasten gates.

Repair of damage to sewers, &c.

Tramway to be open to public.

Locomotives to be employed.

Tolls to be paid as directed.

Company to be responsible for damage.

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such negligence and improper conduct may be enforced against the said company and its assigns: Provided that the damages which may be recovered against the said company and its assigns, in respect of any such claim, shall, in addition to all other remedies for their
 5 recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers on the said tramway, and upon all property used in and upon and necessary for the working of the said tramway.

14. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said
 10 tramway, it shall be lawful for the said company and its assigns and its workmen and servants to enter upon the lands 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 company and its assigns shall, within
 15 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
 20 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
 25 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.

15. If within sixty days of the passing of this Act the said
 30 persons through whose land the tramway shall pass, or any of them, and the said company or its assigns shall not agree to the amount of compensation to be paid by it or them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the
 35 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 any appointment
 40 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
 45 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
 50 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
 55 which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive: Provided that the said company shall compensate owners for all lands taken at such price as may be agreed upon or awarded by the arbitrators, together with interest at the rate of six pounds per centum per annum from
 60 date of resumption.

Compensation to be settled by arbitration.

Emu Gravel and Road-metal Company's Tramway.

16. 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.

17. 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, the arbitrators, or either of them, 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.

18. If in either of the cases aforesaid the arbitrators shall refuse, or for seven days after request of either party to such arbitrators, 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 differ or which shall be referred to him under this Act shall be final.

Neglect to appoint umpire.

19. 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.

20. 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 term (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.

21. 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.

22. 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, make and subscribe the following declaration, that is to say:—

Declaration of 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 Emu Gravel and Road-metal Company Tramway Act.

Made and subscribed in the presence of

C.D.

And

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

23. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators 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 company or its 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: Cost of arbitration how to be borne. Costs may be taxed. Provided that if either party shall be dissatisfied with the costs allowed by the said arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.
24. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said company or its 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 the company and its assigns. Compensation to be paid within sixty days after publication of award.
25. The submission to any 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.
26. 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.
27. The said company or its 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 company or its assigns of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.
28. In every case where the said company or its assigns shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of 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 a 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.
29. 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 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 company and its assigns for the purchase of such lands, or

join

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join in submitting their claims for compensation to arbitration as here-
inbefore provided, the purchase money or compensation payable by
the said company or its assigns in respect of such lands shall be
determined by the valuation of a surveyor to be nominated as herein-
5 after mentioned.

30. Upon application by the said company or its assigns to two Justices to appoint
justices, and upon such evidence as may be satisfactory to them that surveyor to certain
there is no person in the Colony or to be found who can enter into a cases.
binding contract with the said company and its assigns, or join with
10 the said company or its assigns in submitting his claims for compen-
sation 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
15 accordingly, and shall annex to his valuation a declaration in writing
subscribed by him of the correctness thereof.

31. Before such surveyor shall enter upon the duty of making Declaration by
such valuation as aforesaid, he shall, in the presence of such justices surveyor.
or one of them, make and subscribe the following declaration at the
20 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.

25 Made and subscribed in the presence of

C.D.

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.

30 32. 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 company or its 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.

35 33. All the expenses of and incident to any such valuation
shall be borne by the said company or its assigns.

34. If the amount of compensation determined by any such Compensation not
surveyor does not exceed the sum of fifty pounds, it shall, except in exceeding £50 how
the cases where the owner is absent from the Colony or cannot be to be dealt with.
40 found, be paid by the said company and its assigns to the person or
persons for the time being entitled to the rents and profits of 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
45 for their use to their respective husbands, guardians, committees, or
trustees of such persons.

35. If the amount of compensation determined by any such Compensation how
surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases dealt with in absence
where the owner is absent from the Colony or cannot be found, of owner.
50 whether it exceeds the sum of fifty pounds or not, it shall be paid by
the said company or its 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 Master of the fact of the money being so paid in
55 shall be a sufficient discharge to the said company and its 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 intituled "*An Act for better securing Trust Funds,*
and

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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.

36. If in any case in which according to the provisions of this Act the said company and its assigns are 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 company or its assigns from entering upon or taking possession of the same, it shall be lawful for the said company and its assigns to issue his or their warrant to the sheriff to deliver possession of the same to the persons appointed by the said company or its 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 company and its 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 shall issue his warrant accordingly.

Cases of dispute
sheriff may issue
warrant.

37. All notices required to be served by the said company and its 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 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 of lands.

38. Nothing in this Act contained shall be deemed to authorise the said company or its assigns to take or enter upon any land belonging to the said Commissioners, or to alter or to interfere with the Great Western Railway or any of the works thereof between the said railway and tramway, without the previous consent in writing in every instance, of the said Commissioners.

Not to interfere with
railway.

39. The said Commissioners shall from time to time, at the expense of the said company and its assigns, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the said company or its assigns, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

Erection of
signals, &c.

40. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the said Commissioners. Such sums shall be charged to the said company or its assigns as in the opinion of the said Commissioners shall be reasonable for such service.

Management of
signals.

41. It shall be lawful for the said company or its assigns from time to time, subject to the approval of the Governor with the advice aforesaid, and subject to the provisions and restrictions in this Act contained, to make by-laws for the following purposes, that is to say:—

By-laws for use of
tramway.

55 For regulating the times of the arrival and departure of the cars, trucks, trams, carriages, and trains, and the number of persons to be carried therein.

For regulating and loading or unloading of carriages and cars.

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For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages, cars, or trucks, or any of the tramway waiting rooms or premises.

5 And generally for issuing tickets and regulating the travelling upon and working the said Tramway, and for the maintenance of good order, and for regulating the conduct of the officers and servants of the company or its assigns, and for providing for the due management of the said tramway and the protection thereof, and the carriages, cars, trucks, motors, and engines, and waiting rooms, offices, and premises from trespass and injury: Provided that such by-laws be not 10 repugnant to the laws of the Colony or to the provisions of this Act, and a copy of such by-laws shall be posted in some conspicuous place in or upon the cars of the company or its assigns running upon the said tramway, and such by-laws shall specify the penalties which shall in no case exceed the 15 sum of ten pounds.

42. The production of a copy of the New South Wales *Govern- Evidence of by-laws.*
ment Gazette containing such by-laws shall be sufficient evidence of such 20 by-laws in all proceedings under the same.

43. It is hereby declared that, subject to the provisions of the said Power to assign.
agreement for lease, or of any amendment thereof, or of any lease in pursuance thereof, it is lawful for the said company and its assigns at any time to assign and transfer all the rights, powers, privileges, benefits, 25 and advantages conferred upon it or them by this Act to any other person, and upon any such transfer or assignment being made the person in whose favour such transfer or assignment is made shall then stand in the place of the said company, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said company 30 or its assigns by this Act. In the event of the said agreement or lease becoming forfeited or determined, otherwise than by expiration or by agreement between the parties, the said Board of Water Supply and Sewerage shall stand in the place of the said company, and have all such rights, powers, privileges, and advantages aforesaid.

35 44. Subject to the provisions of the said agreement for lease or any lease made or executed in pursuance thereof, the Governor, with the advice aforesaid, may at any time after two years from the completion of the construction of the said tramway, if he think fit, purchase the said tramway upon giving to the said company or its 40 assigns six months notice in writing of his intention to do so. If the amount tendered for the purchase of the said tramway be considered inadequate by the said company or its assigns, the amount shall be ascertained by assessment in terms of the Lands for Public Purposes Acquisition Act.

45 45. All penalties imposed under this Act or under any by-laws made in pursuance thereof shall be recoverable in a summary way Penalties, how recoverable.
before any stipendiary or police magistrate, or any two justices of the peace, under the provisions of the Act for the time being regulating summary proceedings before justices, and payment of such penalties 50 may be enforced in the manner provided by such Act.

46. This Act may be cited for all purposes as the "Emu Gravel and Road-metal Company's Tramway Act, 1895." Short title.

Emu Gravel and Road-metal Company's Tramway.

SCHEDULE.

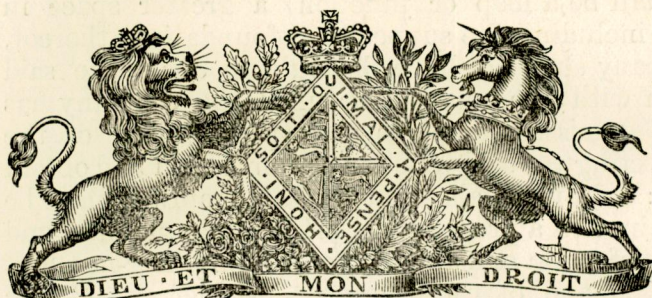
Commencing at the Prospect Quarries, near Parramatta, in the parish of Prospect, and county of Cumberland, and passing through the Water and Sewerage Board Reserve north-westerly and northerly for a distance of sixty-two chains to a point on the Great
 5 Western Road, where the southern side of that road intersects the western boundary of portion numbered twenty-nine on the map of the parish of Prospect (John Kennedy's one hundred and sixty acres grant); thence along the northern side of that road in a north-easterly direction for thirty-two and three-quarter chains; thence through a block of L. Hyland's property, being part of portion numbered twenty-nine aforesaid, north-
 10 easterly six and a quarter chains to a Government road one chain wide; thence across that road north-easterly one chain; thence through another block of L. Hyland's property, being portion numbered sixteen on said map of the parish of Prospect (Catherine Hyland's twenty-five acres three roods thirty-six perches grant), north-easterly fifteen chains to the north-east corner thereof; thence across the Blacktown
 15 Road north-easterly one chain; thence through the property of Fitz William Wentworth, being portions numbered on the said map of the parish of Prospect ninety-eight (Robert Bolton's thirty acres grant), thirty-five (John Silverthorne's thirty acres grant), thirty-six (John O'Croft's thirty-acres grant), and thirty-seven (W. Eggleton's sixty-acres grant), north-easterly sixty-five chains to a point on the eastern boundary of
 20 said portion thirty-seven about three chains southerly from the north-east corner thereof; and thence along the Toongabbie lane north-easterly eighty chains to the Toongabbie Station.

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, 5th June, 1895. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ.

An Act to authorise the construction, maintenance, and control by the Emu Gravel and Road-metal Company (Limited) of a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station, and connecting with the Great Western Railway, and to carry passengers and goods thereon.

WHEREAS the Emu Gravel and Road-metal Company (Limited) ^{Preamble.} is desirous of constructing a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station on the Great Western Railway, from and to the points and by the directions
5 mentioned and described in the Schedule to this Act, and to effect a junction or siding with the said railway at or near the said station, and for other the purposes and with the powers hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative
10 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 company or its assigns, upon ^{Authority to} the terms and conditions and subject to the provisions in this Act con- ^{construct tramway.} tained, to lay down, construct, maintain, and control a tramway from
15 the property known as the Prospect Quarries to the Toongabbie Rail- way Station by the route and in the directions respectively mentioned

Emu Gravel and Road-metal Company's Tramway.

and described in the Schedule to this Act (which tramway is hereinafter referred to as the said Tramway), and with the consent of the Railway Commissioners of New South Wales to effect a junction or connection with a goods-siding at or near the Toongabbie Station in the same manner as if such siding was a railway made under the provisions of the Public Works Act of 1888, and subject to the terms, conditions, and restrictions enacted in that Act, and also subject to the provisions contained in the agreement for lease of the said quarries from the Board of Water Supply and Sewerage to the said company, and of any lease made or executed in pursuance thereof, with power to make such points and loops along the line of tramway as shall be considered necessary for the working of the said tramway, and to use so much of the roads and take up and use so much of the land referred to in the said Schedule as shall be required for the purposes of the said tramway, but so that the same shall not occupy in any part thereof (except where there shall be a loop or junction) a greater space in breadth than nine feet including the support and foundations thereof, provided that the company shall not have the right to effect the said junction or connection with the said siding until the company has laid before the said Commissioners plans and specifications of the proposed method of effecting the said junction or connection and obtain their approval thereof: Provided also that the said tramway shall be constructed and maintained in a proper and workmanlike manner, and in all respects to the satisfaction and approval of the Engineer-in-Chief for Railway Construction and of the Engineer-in-Chief for Public Works, and shall be completely constructed and brought into use within two years from the commencement of this Act, or within such extended time as the Governor with the advice of the Executive Council may approve of.

2. The tramway and the material thereof shall not cease to be the property of the said company or its assigns by reason of the same being laid as in this Act mentioned.

Tramway to remain property of the company and its assigns.

3. The said company and its assigns and all persons acting under its or their authority shall have all necessary rights of entry, way, ingress and egress to and over the surface of the said roads and lands referred to in the said Schedule 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 purposes: And provided further that nothing herein contained shall impair or be held to impair the lawful authority of any municipal authority, or other corporation, company, or person lawfully authorised in that behalf to make all entries and exercise all other powers necessary for the construction, maintenance, and preservation of gas-works, water-works, sewerage-works, and other works lawfully constructed underground, but so that such entries and other powers and such works, as last aforesaid, shall be so exercised and constructed, maintained and preserved in such manner as not to injure or interfere with the said tramway or the working and use thereof.

Entry upon roads, &c.

4. The said company or its assigns shall not be at liberty to enter upon, break up or erect works upon any streets within any municipality without ten days' previous notice in writing to such municipality; and when the said company or its assigns shall open or break up the road or pavement of any street, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the said road or pavement, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And the said company and its assigns whilst any such road, pavement, sewer, drain, or tunnel shall be so open or broken up, shall cause the

Reinstatement of streets, &c.

same

Emu Gravel and Road-metal Company's Tramway.

same to be fenced and guarded, and shall cause lights, sufficient for the warning of passengers, to be set up and maintained against or near such road, pavement, sewer, drain, or tunnel where the same shall be so opened or broken up for every night during which the same shall
 5 continue open or broken up. If the said company or its assigns open or break up any road, pavement, sewer, drain, or tunnel without giving such notice as aforesaid, or if they make any delay in completing any such work or in filling in the ground or reinstating and making good the road or pavement, sewer, drain, or tunnel so opened or broken up,
 10 or in carrying away the rubbish occasioned by the work, or if the said company or its assigns neglect to cause the place where such road or pavement, sewer, drain, or tunnel has been broken up, to be fenced, guarded, and lighted, the said company or its assigns shall incur a penalty not exceeding fifty pounds for every such offence, and the said
 15 company or its assigns shall incur an additional penalty of five pounds for each day during which any such delay as aforesaid shall continue.

Penalty for delay, &c., in reinstating streets, &c.

5. The gauge of the said tramway shall be the same gauge as
 that of the Government railways.

Gauge.

6. The said tramway shall, throughout so much of its course
 20 as lies within the borough of Prospect and Sherwood, be laid at about the general level of the roads traversed by it, and so that the rails shall not project above the surface thereof, and that such rails, where they traverse the Main Western Road, shall be grooved rails or flat-bottomed rails of ordinary construction, with guard rails fixed on the
 25 inside of the track; and the said company and its assigns shall maintain in good order and repair the said tramway, and, where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the said thoroughfares between the rails of the said tramway and for the space of one foot six inches on each
 30 side of the said rails.

Levels of lines.

7. Throughout such part of the said tramway as traverses
 the Great Western Road mentioned in the said Schedule, and lies outside the borough of Prospect and Sherwood, the said company or its assigns shall not be bound to lay the said tramway at the general
 35 level of the said road, or so that the rails shall not project above the level of the said road: Provided that the said company and its assigns shall depart from such level as little as may be, and whenever such level is departed from shall cause the altered level to be adopted or extended throughout the whole width of the
 40 said road, and shall restore the condition of the said road where the levels shall be altered to the like state and condition as they shall have been in before such alteration of the levels.

Level of line on Western Road.

8. The said company and its assigns shall make and at all times
 thereafter maintain the following works for the safety of the public
 45 and the accommodation of the owners and occupiers of lands adjoining the said tramway, that is to say—

Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and
 passages over, under, or by the sides of or leading to or from
 50 the said tramway as shall be necessary for the purpose of making good any interruptions caused by the said tramway to the use of the lands through which the said tramway shall be made; and such works shall be made forthwith after the part of the said tramway passing over such lands shall have been laid out or formed, or during the formation thereof.

Gates, bridges, &c.

55 Also sufficient posts, rails, hedges, ditches, mounds, or other fences
 for separating the land taken for the use of the said tramway from the adjoining lands not taken, and protecting such lands from trespass, or the horses or cattle of the owners or occupiers thereof from straying thereout by reason of the
 said

Fences.

Emu Gravel and Road-metal Company's Tramway.

- said tramway, together with all necessary gates made to open towards such adjoining lands and not towards the said tramway, and all necessary styles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be.
- 5 Also all necessary arches, tunnels, culverts, drains, or other passages either over or under or by the sides of the said tramway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the said tramway as before the making of the said tramway, or as nearly so as may be, and such works shall be made from time to time as the said tramway works proceed:
- 10
- 15 Provided always that the said company or its assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said tramway, nor to make any accommodation works with respect to which the owners and occupiers of the land shall have agreed to receive and
- 20 shall have been paid compensation instead of the making them.
- If any person omit to shut and fasten any gate set up at either side of the said tramway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he
- 25 shall forfeit for every such offence any sum not exceeding ten pounds.
9. The said company or its assigns shall immediately repair any damage which may during or by reason of the construction of the said tramway be occasioned to any sewer or drain or gas or water main or other property.
- 30
10. The said tramway shall be open to public use upon payment of the tolls or charges following, that is to say—
- For passengers a sum not exceeding twopence per head per mile or fraction thereof.
- For goods not exceeding the same minimum rates as are charged on the Government railways for equal distances:
- 35
- Provided always that such tolls or charges may from time to time be increased with the approval of the said Commissioners.
11. It shall be lawful for the said company and its assigns to use and employ locomotive engines, horses, or other moving power, and
- 40 carriages, trucks, cars, and waggons to be drawn or propelled thereby, and to make such stoppages and detention at either terminus of the said tramway or along the line thereof, and for such times as shall be considered necessary for the convenient and effectual working, using, and management of the said tramway, and to carry and convey upon
- 45 the said tramway passengers and goods, and to charge the tolls and charges in respect thereof as above specified: Provided that all rolling stock before and during use shall be subject to the approval of the said Commissioners, and be at all times open to their inspection, such right of disapproval to be exercised reasonably, and such approval
- 50 not to be unreasonably or capriciously withheld: Provided also, that the working of the said tramway shall be in conjunction with the working of the Government railways, and to the approval of the said Commissioners.
12. The tolls and charges shall be paid to such persons and at such places upon or near to the tramway, and in such manner and under such regulations as the said company or its assigns shall appoint.
- 55
13. The said company and its assigns shall be responsible for all injuries caused by the negligent or improper construction, maintenance, or working of the said tramway, and all claims in respect of such

Drains.

Penalty on person omitting to fasten gates.

Repair of damage to sewers, &c.

Tramway to be open to public.

Locomotives to be employed.

Tolls to be paid as directed.

Company to be responsible for damage.

Emu Gravel and Road-metal Company's Tramway.

such negligence and improper conduct may be enforced against the said company and its assigns: Provided that the damages which may be recovered against the said company and its assigns, in respect of any such claim, shall, in addition to all other remedies for their recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers on the said tramway, and upon all property used in and upon and necessary for the working of the said tramway.

14. 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 company and its assigns and its workmen and servants to enter upon the lands 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 company and its 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.

15. If within sixty days of the passing of this Act the said persons through whose land the tramway shall pass, or any of them, and the said company or its assigns shall not agree to the amount of compensation to be paid by it or them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators 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 any 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: Provided that the said company shall compensate owners for all lands taken at such price as may be agreed upon or awarded by the arbitrators, together with interest at the rate of six pounds per centum per annum from date of resumption.

Compensation to be settled by arbitration.

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16. 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.

17. 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, the arbitrators, or either of them, 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.

18. If in either of the cases aforesaid the arbitrators shall refuse, or for seven days after request of either party to such arbitrators, 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 differ or which shall be referred to him under this Act shall be final.

Neglect to appoint umpire.

19. 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.

20. 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 term (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.

21. 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.

22. 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, make and subscribe the following declaration, that is to say:—

Declaration of 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 Emu Gravel and Road-metal Company Tramway Act.

Made and subscribed in the presence of

C.D.

And

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

23. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators 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 company or its 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: Costs may be taxed. Provided that if either party shall be dissatisfied with the costs allowed by the said arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

24. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said company or its 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 the company and its assigns. Compensation to be paid within sixty days after publication of award.

25. The submission to any 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.

26. 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.

27. The said company or its 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 company or its assigns of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.

28. In every case where the said company or its assigns shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of 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 a 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.

29. 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 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 company and its assigns for the purchase of such lands, or

join

Emu Gravel and Road-metal Company's Tramway.

join in submitting their claims for compensation to arbitration as here-
inbefore provided, the purchase money or compensation payable by
the said company or its assigns in respect of such lands shall be
determined by the valuation of a surveyor to be nominated as herein-
5 after mentioned.

30. Upon application by the said company or its assigns to two
justices, and upon such evidence 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 company and its assigns, or join with
10 the said company or its assigns in submitting his claims for compen-
sation 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
15 accordingly, and shall annex to his valuation a declaration in writing
subscribed by him of the correctness thereof.

31. 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
20 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.

25 Made and subscribed in the presence of

C.D.

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.

30 32. 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 company or its 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.

35 33. All the expenses of and incident to any such valuation
shall be borne by the said company or its assigns.

34. 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
40 found, be paid by the said company and its assigns to the person or
persons for the time being entitled to the rents and profits of 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
45 for their use to their respective husbands, guardians, committees, or
trustees of such persons.

35. 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,
50 whether it exceeds the sum of fifty pounds or not, it shall be paid by
the said company or its 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 Master of the fact of the money being so paid in
55 shall be a sufficient discharge to the said company and its 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 intituled "*An Act for better securing Trust Funds,*
and

Justices to appoint
surveyor to certain
cases.

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.

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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.

36. If in any case in which according to the provisions of this Act the said company and its assigns are 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 company or its assigns from entering upon or taking possession of the same, it shall be lawful for the said company and its assigns to issue his or their warrant to the sheriff to deliver possession of the same to the persons appointed by the said company or its 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 company and its 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 shall issue his warrant accordingly.
37. All notices required to be served by the said company and its 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 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.
38. Nothing in this Act contained shall be deemed to authorise the said company or its assigns to take or enter upon any land belonging to the said Commissioners, or to alter or to interfere with the Great Western Railway or any of the works thereof between the said railway and tramway, without the previous consent in writing in every instance, of the said Commissioners.
39. The said Commissioners shall from time to time, at the expense of the said company and its assigns, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the said company or its assigns, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.
40. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the said Commissioners. Such sums shall be charged to the said company or its assigns as in the opinion of the said Commissioners shall be reasonable for such service.
41. It shall be lawful for the said company or its assigns from time to time, subject to the approval of the Governor with the advice aforesaid, and subject to the provisions and restrictions in this Act contained, to make by-laws for the following purposes, that is to say :—
- For regulating the times of the arrival and departure of the cars, trucks, trams, carriages, and trains, and the number of persons to be carried therein.
- For regulating and loading or unloading of carriages and cars.

Cases of dispute
sheriff may issue
warrant.

Service of notice on
owners of lands.

Not to interfere with
railway.

Erection of
signals, &c.

Management of
signals.

By-laws for use of
tramway.

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For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages, cars, or trucks, or any of the tramway waiting rooms or premises.

5 And generally for issuing tickets and regulating the travelling upon and working the said Tramway, and for the maintenance of good order, and for regulating the conduct of the officers and servants of the company or its assigns, and for providing for the due management of the said tramway and the protection thereof, and the carriages, cars, trucks, motors, and engines, and waiting rooms, offices, and premises from trespass and injury: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act, and a copy of such by-laws shall be posted in some conspicuous place in or upon the cars of the company or its assigns running upon the said tramway, and such by-laws shall specify the penalties which shall in no case exceed the sum of ten pounds.

15 42. The production of a copy of the New South Wales *Govern- Evidence of by-laws.*
ment Gazette containing such by-laws shall be sufficient evidence of such
20 by-laws in all proceedings under the same.

43. It is hereby declared that, subject to the provisions of the said *Power to assign.*
agreement for lease, or of any amendment thereof, or of any lease in
pursuance thereof, it is lawful for the said company and its assigns at
any time to assign and transfer all the rights, powers, privileges, benefits,
25 and advantages conferred upon it or them by this Act to any other
person, and upon any such transfer or assignment being made the person
in whose favour such transfer or assignment is made shall then stand in
the place of the said company, and shall have all the rights, powers,
benefits, privileges, and advantages conferred upon the said company
30 or its assigns by this Act. In the event of the said agreement or lease
becoming forfeited or determined, otherwise than by expiration or by
agreement between the parties, the said Board of Water Supply and
Sewerage shall stand in the place of the said company, and have all
such rights, powers, privileges, and advantages aforesaid.

35 44. Subject to the provisions of the said agreement for lease or *Power of purchase of*
any lease made or executed in pursuance thereof, the Governor, with *tramway by*
the advice aforesaid, may at any time after two years from the *Government.*
completion of the construction of the said tramway, if he think fit,
purchase the said tramway upon giving to the said company or its
40 assigns six months notice in writing of his intention to do so. If the
amount tendered for the purchase of the said tramway be considered
inadequate by the said company or its assigns, the amount shall be
ascertained by assessment in terms of the Lands for Public Purposes
Acquisition Act.

45 45. All penalties imposed under this Act or under any by-laws *Penalties, how*
made in pursuance thereof shall be recoverable in a summary way *recoverable.*
before any stipendiary or police magistrate, or any two justices of the
peace, under the provisions of the Act for the time being regulating
summary proceedings before justices, and payment of such penalties
50 may be enforced in the manner provided by such Act.

46. This Act may be cited for all purposes as the "Emu Gravel *Short title.*
and Road-metal Company's Tramway Act, 1895."

Emu Gravel and Road-metal Company's Tramway.

SCHEDULE.

Commencing at the Prospect Quarries, near Parramatta, in the parish of Prospect, and county of Cumberland, and passing through the Water and Sewerage Board Reserve north-westerly and northerly for a distance of sixty-two chains to a point on the Great
5 Western Road, where the southern side of that road intersects the western boundary of portion numbered twenty-nine on the map of the parish of Prospect (John Kennedy's one hundred and sixty acres grant); thence along the northern side of that road in a north-easterly direction for thirty-two and three-quarter chains; thence through a block of L. Hyland's property, being part of portion numbered twenty-nine aforesaid, north-
10 easterly six and a quarter chains to a Government road one chain wide; thence across that road north-easterly one chain; thence through another block of L. Hyland's property, being portion numbered sixteen on said map of the parish of Prospect (Catherine Hyland's twenty-five acres three roods thirty-six perches grant), north-easterly fifteen chains to the north-east corner thereof; thence across the Blacktown
15 Road north-easterly one chain; thence through the property of Fitz William Wentworth, being portions numbered on the said map of the parish of Prospect ninety-eight (Robert Bolton's thirty acres grant), thirty-five (John Silverthorne's thirty acres grant), thirty-six (John O'Croft's thirty-acres grant), and thirty-seven (W. Eggleton's sixty-acres grant), north-easterly sixty-five chains to a point on the eastern boundary of
20 said portion thirty-seven about three chains southerly from the north-east corner thereof; and thence along the Toongabbie lane north-easterly eighty chains to the Toongabbie Station.

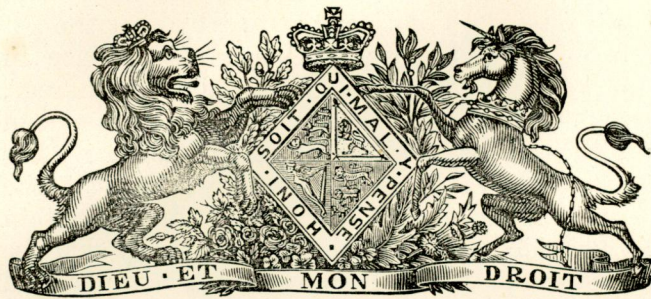
[9d.]

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, June, 1895.* }

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ.

An Act to authorise the construction, maintenance, and control by the Emu Gravel and Road-metal Company (Limited) of a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station, and connecting with the Great Western Railway, and to carry passengers and goods thereon.

WHEREAS the Emu Gravel and Road-metal Company (Limited) Preamble. is desirous of constructing a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station on the Great Western Railway, from and to the points and by the directions **5** mentioned and described in the Schedule to this Act, and to effect a junction or siding with the said railway at or near the said station, and for other the purposes and with the powers hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative **10** Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

15 1. It shall be lawful for the said company or its assigns, upon the terms and conditions and subject to the provisions in this Act contained, to lay down, construct, maintain, and control a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station by the route and in the directions respectively mentioned Authority to construct tramway. and

Emu Gravel and Road-metal Company's Tramway.

and described in the Schedule to this Act (which tramway is hereinafter referred to as the said Tramway), and with the consent of the Railway Commissioners of New South Wales to effect a junction or connection with a goods-siding at or near the Toongabbie Station in the same manner as if such siding was a railway made under the provisions of the Public Works Act of 1888, and subject to the terms, conditions, and restrictions enacted in that Act, and also subject to the provisions contained in the agreement for lease of the said quarries from the Board of Water Supply and Sewerage to the said company, and of any lease made or executed in pursuance thereof, with power to make such points and loops along the line of tramway as shall be considered necessary for the working of the said tramway, and to use so much of the roads and take up and use so much of the land referred to in the said Schedule as shall be required for the purposes of the said tramway, but so that the same shall not occupy in any part thereof (except where there shall be a loop or junction) a greater space in breadth than nine feet including the support and foundations thereof, provided that the company shall not have the right to effect the said junction or connection with the said siding until the company has laid before the said Commissioners plans and specifications of the proposed method of effecting the said junction or connection and obtain their approval thereof: Provided also that the said tramway shall be constructed and maintained in a proper and workmanlike manner, and in all respects to the satisfaction and approval of the Engineer-in-Chief for Railway Construction and of the Engineer-in-Chief for Public Works, and shall be completely constructed and brought into use within two years from the commencement of this Act, or within such extended time as the Governor with the advice of the Executive Council may approve of.

2. The tramway and the material thereof shall not cease to be the property of the said company or its assigns by reason of the same being laid as in this Act mentioned.

Tramway to remain property of the company and its assigns.

3. The said company and its assigns and all persons acting under its or their authority shall have all necessary rights of entry, way, ingress and egress to and over the surface of the said roads and lands referred to in the said Schedule 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 purposes: And provided further that nothing herein contained shall impair or be held to impair the lawful authority of any municipal authority, or other corporation, company, or person lawfully authorised in that behalf to make all entries and exercise all other powers necessary for the construction, maintenance, and preservation of gas-works, water-works, sewerage-works, and other works lawfully constructed underground, but so that such entries and other powers and such works, as last aforesaid, shall be so exercised and constructed, maintained and preserved in such manner as not to injure or interfere with the said tramway or the working and use thereof.

Entry upon roads, &c.

4. The said company or its assigns shall not be at liberty to enter upon, break up or erect works upon any streets within any municipality without ten days' previous notice in writing to such municipality; and when the said company or its assigns shall open or break up the road or pavement of any street, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the said road or pavement, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And the said company and its assigns whilst any such road, pavement, sewer, drain, or tunnel shall be so open or broken up, shall cause the

Reinstatement of streets, &c.

same

Emu Gravel and Road-metal Company's Tramway.

- same to be fenced and guarded, and shall cause lights, sufficient for the warning of passengers, to be set up and maintained against or near such road, pavement, sewer, drain, or tunnel where the same shall be so opened or broken up for every night during which the same shall
- 5 continue open or broken up. If the said company or its assigns open or break up any road, pavement, sewer, drain, or tunnel without giving such notice as aforesaid, or if they make any delay in completing any such work or in filling in the ground or reinstating and making good the road or pavement, sewer, drain, or tunnel so opened or broken up,
- 10 or in carrying away the rubbish occasioned by the work, or if the said company or its assigns neglect to cause the place where such road or pavement, sewer, drain, or tunnel has been broken up, to be fenced, guarded, and lighted, the said company or its assigns shall incur a penalty not exceeding fifty pounds for every such offence, and the said
- 15 company or its assigns shall incur an additional penalty of five pounds for each day during which any such delay as aforesaid shall continue.
5. The gauge of the said tramway shall be the same gauge as that of the Government railways. Gauge.
6. The said tramway shall, throughout so much of its course as lies within the borough of Prospect and Sherwood, be laid at about the general level of the roads traversed by it, and so that the rails shall not project above the surface thereof, and that such rails, where they traverse the Main Western Road, shall be grooved rails or flat-bottomed rails of ordinary construction, with guard rails fixed on the
- 20 inside of the track; and the said company and its assigns shall maintain in good order and repair the said tramway, and, where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the said thoroughfares between the rails of the said tramway and for the space of one foot six inches on each
- 25 side of the said rails.
7. Throughout such part of the said tramway as traverses the Great Western Road mentioned in the said Schedule, and lies outside the borough of Prospect and Sherwood, the said company or its assigns shall not be bound to lay the said tramway at the general
- 35 level of the said road, or so that the rails shall not project above the level of the said road: Provided that the said company and its assigns shall depart from such level as little as may be, and whenever such level is departed from shall cause the altered level to be adopted or extended throughout the whole width of the
- 40 said road, and shall restore the condition of the said road where the levels shall be altered to the like state and condition as they shall have been in before such alteration of the levels.
8. The said company and its assigns shall make and at all times thereafter maintain the following works for the safety of the public
- 45 and the accommodation of the owners and occupiers of lands adjoining the said tramway, that is to say—
- Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the said tramway as shall be necessary for the purpose of
- 50 making good any interruptions caused by the said tramway to the use of the lands through which the said tramway shall be made; and such works shall be made forthwith after the part of the said tramway passing over such lands shall have been laid out or formed, or during the formation thereof.
- 55 Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the said tramway from the adjoining lands not taken, and protecting such lands from trespass, or the horses or cattle of the owners or occupiers thereof from straying thereout by reason of the
- said

Penalty for delay, &c., in reinstating streets, &c.

Levels of lines.

Level of line on Western Road.

Works for benefit of owners.

Gates, bridges, &c.

Fences.

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said tramway, together with all necessary gates made to open towards such adjoining lands and not towards the said tramway, and all necessary styles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Also all necessary arches, tunnels, culverts, drains, or other passages either over or under or by the sides of the said tramway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the said tramway as before the making of the said tramway, or as nearly so as may be, and such works shall be made from time to time as the said tramway works proceed:

15 Provided always that the said company or its assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said tramway, nor to make any accommodation works with respect to which the owners and occupiers of the land shall have agreed to receive and

20 shall have been paid compensation instead of the making them.

If any person omit to shut and fasten any gate set up at either side of the said tramway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he

25 shall forfeit for every such offence any sum not exceeding ten pounds.

9. The said company or its assigns shall immediately repair any damage which may during or by reason of the construction of the said tramway be occasioned to any sewer or drain or gas or water main or other property.

30 10. The said tramway shall be open to public use upon payment of the tolls or charges following, that is to say—

For passengers a sum not exceeding twopence per head per mile or fraction thereof.

35 For goods not exceeding the same minimum rates as are charged on the Government railways for equal distances:

Provided always that such tolls or charges may from time to time be increased with the approval of the said Commissioners.

11. It shall be lawful for the said company and its assigns to use and employ locomotive engines, horses, or other moving power, and carriages, trucks, cars, and waggons to be drawn or propelled thereby, and to make such stoppages and detention at either terminus of the said tramway or along the line thereof, and for such times as shall be considered necessary for the convenient and effectual working, using, and management of the said tramway, and to carry and convey upon the said tramway passengers and goods, and to charge the tolls and charges in respect thereof as above specified: Provided that all rolling stock before and during use shall be subject to the approval of the said Commissioners, and be at all times open to their inspection, such right of disapproval to be exercised reasonably, and such approval

50 not to be unreasonably or capriciously withheld: Provided also, that the working of the said tramway shall be in conjunction with the working of the Government railways, and to the approval of the said Commissioners.

12. The tolls and charges shall be paid to such persons and at such places upon or near to the tramway, and in such manner and under such regulations as the said company or its assigns shall appoint.

13. The said company and its assigns shall be responsible for all injuries caused by the negligent or improper construction, maintenance, or working of the said tramway, and all claims in respect of such

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such negligence and improper conduct may be enforced against the said company and its assigns: Provided that the damages which may be recovered against the said company and its assigns, in respect of any such claim, shall, in addition to all other remedies for their
 5 recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers on the said tramway, and upon all property used in and upon and necessary for the working of the said tramway.

14. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said
 10 tramway, it shall be lawful for the said company and its assigns and its workmen and servants to enter upon the lands 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 company and its assigns shall, within
 15 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
 20 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
 25 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.

15. If within sixty days of the passing of this Act the said
 30 persons through whose land the tramway shall pass, or any of them, and the said company or its assigns shall not agree to the amount of compensation to be paid by it or them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the
 35 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 any appointment
 40 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
 45 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
 50 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
 55 which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive: Provided that the said company shall compensate owners for all lands taken at such price as may be agreed upon or awarded by the arbitrators, together with interest at the rate of six pounds per centum per annum from
 60 date of resumption.

Compensation to be settled by arbitration.

Emu Gravel and Road-metal Company's Tramway.

16. 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.

17. 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, the arbitrators, or either of them, 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.

18. If in either of the cases aforesaid the arbitrators shall refuse, or for seven days after request of either party to such arbitrators, 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 differ or which shall be referred to him under this Act shall be final.

Neglect to appoint umpire.

19. 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.

20. 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 term (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.

21. 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.

22. 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, make and subscribe the following declaration, that is to say:—

Declaration of 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 Emu Gravel and Road-metal Company Tramway Act.

Made and subscribed in the presence of

C.D.

And

Emu Gravel and Road-metal Company's Tramway.

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.

23. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators 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 company or its 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: Cost of arbitration how to be borne. Costs may be taxed. Provided that if either party shall be dissatisfied with the costs allowed by the said arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

24. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said company or its 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 the company and its assigns. Compensation to be paid within sixty days after publication of award.

25. The submission to any 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.

26. 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.

27. The said company or its 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 company or its assigns of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.

28. In every case where the said company or its assigns shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of 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 a 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.

29. 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 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 company and its assigns for the purchase of such lands, or

join

Proceedings in absence of owner.

Emu Gravel and Road-metal Company's Tramway.

join in submitting their claims for compensation to arbitration as here-
inbefore provided, the purchase money or compensation payable by
the said company or its assigns in respect of such lands shall be
determined by the valuation of a surveyor to be nominated as herein-
5 after mentioned.

30. Upon application by the said company or its assigns to two Justices to appoint
justices, and upon such evidence as may be satisfactory to them that surveyor to certain
there is no person in the Colony or to be found who can enter into a cases.
binding contract with the said company and its assigns, or join with
10 the said company or its assigns in submitting his claims for compen-
sation 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
15 accordingly, and shall annex to his valuation a declaration in writing
subscribed by him of the correctness thereof.

31. Before such surveyor shall enter upon the duty of making Declaration by
such valuation as aforesaid, he shall, in the presence of such justices surveyor.
or one of them, make and subscribe the following declaration at the
20 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.

25 Made and subscribed in the presence of

C.D.

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.

30 32. The said nomination and declaration shall be annexed to Production of
the valuation to be made by such surveyor, and shall be preserved valuation, &c.
together therewith by the said company or its 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.

35 33. All the expenses of and incident to any such valuation Cost of valuation
shall be borne by the said company or its assigns. how borne.

34. If the amount of compensation determined by any such Compensation not
surveyor does not exceed the sum of fifty pounds, it shall, except in exceeding £50 how
the cases where the owner is absent from the Colony or cannot be to be dealt with.
40 found, be paid by the said company and its assigns to the person or
persons for the time being entitled to the rents and profits of 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
45 for their use to their respective husbands, guardians, committees, or
trustees of such persons.

35. If the amount of compensation determined by any such Compensation how
surveyor as aforesaid exceeds the sum of fifty pounds, or in the cases dealt with in absence
where the owner is absent from the Colony or cannot be found, of owner.
50 whether it exceeds the sum of fifty pounds or not, it shall be paid by
the said company or its 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 Master of the fact of the money being so paid in
55 shall be a sufficient discharge to the said company and its 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 intituled "*An Act for better securing Trust Funds,*
and

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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.

36. If in any case in which according to the provisions of this Act the said company and its assigns are 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 company or its assigns from entering upon or taking possession of the same, it shall be lawful for the said company and its assigns to issue his or their warrant to the sheriff to deliver possession of the same to the persons appointed by the said company or its 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 company and its 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 shall issue his warrant accordingly.

Cases of dispute
sheriff may issue
warrant.

37. All notices required to be served by the said company and its 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 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 of lands.

38. Nothing in this Act contained shall be deemed to authorise the said company or its assigns to take or enter upon any land belonging to the said Commissioners, or to alter or to interfere with the Great Western Railway or any of the works thereof between the said railway and tramway, without the previous consent in writing in every instance, of the said Commissioners.

Not to interfere with
railway.

39. The said Commissioners shall from time to time, at the expense of the said company and its assigns, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the said company or its assigns, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

Erection of
signals, &c.

40. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the said Commissioners. Such sums shall be charged to the said company or its assigns as in the opinion of the said Commissioners shall be reasonable for such service.

Management of
signals.

41. It shall be lawful for the said company or its assigns from time to time, subject to the approval of the Governor with the advice aforesaid, and subject to the provisions and restrictions in this Act contained, to make by-laws for the following purposes, that is to say:—

By-laws for use of
tramway.

55 For regulating the times of the arrival and departure of the cars, trucks, trams, carriages, and trains, and the number of persons to be carried therein.

For regulating and loading or unloading of carriages and cars.

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For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages, cars, or trucks, or any of the tramway waiting rooms or premises.

5 And generally for issuing tickets and regulating the travelling upon and working the said Tramway, and for the maintenance of good order, and for regulating the conduct of the officers and servants of the company or its assigns, and for providing for the due management of the said tramway and the protection thereof, and the carriages, cars, trucks, motors, and engines, and waiting rooms, offices, and premises from trespass and injury: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act, and a copy of such by-laws shall be posted in some conspicuous place in or upon the cars of the company or its assigns running upon the said tramway, and such by-laws shall specify the penalties which shall in no case exceed the sum of ten pounds.

15 42. The production of a copy of the New South Wales *Govern- Evidence of by-laws.*
ment Gazette containing such by-laws shall be sufficient evidence of such
20 by-laws in all proceedings under the same.

43. It is hereby declared that, subject to the provisions of the said *Power to assign.*
agreement for lease, or of any amendment thereof, or of any lease in
pursuance thereof, it is lawful for the said company and its assigns at
any time to assign and transfer all the rights, powers, privileges, benefits,
25 and advantages conferred upon it or them by this Act to any other
person, and upon any such transfer or assignment being made the person
in whose favour such transfer or assignment is made shall then stand in
the place of the said company, and shall have all the rights, powers,
benefits, privileges, and advantages conferred upon the said company
30 or its assigns by this Act. In the event of the said agreement or lease
becoming forfeited or determined, otherwise than by expiration or by
agreement between the parties, the said Board of Water Supply and
Sewerage shall stand in the place of the said company, and have all
such rights, powers, privileges, and advantages aforesaid.

35 44. Subject to the provisions of the said agreement for lease or *Power of purchase of*
any lease made or executed in pursuance thereof, the Governor, with *tramway by*
the advice aforesaid, may at any time after two years from the *Government.*
completion of the construction of the said tramway, if he think fit,
purchase the said tramway upon giving to the said company or its
40 assigns six months notice in writing of his intention to do so. If the
amount tendered for the purchase of the said tramway be considered
inadequate by the said company or its assigns, the amount shall be
ascertained by assessment in terms of the Lands for Public Purposes
Acquisition Act.

45 45. All penalties imposed under this Act or under any by-laws *Penalties, how*
made in pursuance thereof shall be recoverable in a summary way *recoverable.*
before any stipendiary or police magistrate, or any two justices of the
peace, under the provisions of the Act for the time being regulating
summary proceedings before justices, and payment of such penalties
50 may be enforced in the manner provided by such Act.

46. This Act may be cited for all purposes as the "Emu Gravel *Short title.*
and Road-metal Company's Tramway Act, 1895."

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SCHEDULE.

Commencing at the Prospect Quarries, near Parramatta, in the parish of Prospect, and county of Cumberland, and passing through the Water and Sewerage Board Reserve north-westerly and northerly for a distance of sixty-two chains to a point on the Great Western Road, where the southern side of that road intersects the western boundary of portion numbered twenty-nine on the map of the parish of Prospect (John Kennedy's one hundred and sixty acres grant); thence along the northern side of that road in a north-easterly direction for thirty-two and three-quarter chains; thence through a block of L. Hyland's property, being part of portion numbered twenty-nine aforesaid, north-easterly six and a quarter chains to a Government road one chain wide; thence across that road north-easterly one chain; thence through another block of L. Hyland's property, being portion numbered sixteen on said map of the parish of Prospect (Catherine Hyland's twenty-five acres three roods thirty-six perches grant), north-easterly fifteen chains to the north-east corner thereof; thence across the Blacktown Road north-easterly one chain; thence through the property of Fitz William Wentworth, being portions numbered on the said map of the parish of Prospect ninety-eight (Robert Bolton's thirty acres grant), thirty-five (John Silverthorne's thirty acres grant), thirty-six (John O'Croft's thirty-acres grant), and thirty-seven (W. Eggleton's sixty-acres grant), north-easterly sixty-five chains to a point on the eastern boundary of said portion thirty-seven about three chains southerly from the north-east corner thereof; and thence along the Toongabbie lane north-easterly eighty chains to the Toongabbie Station.

1845

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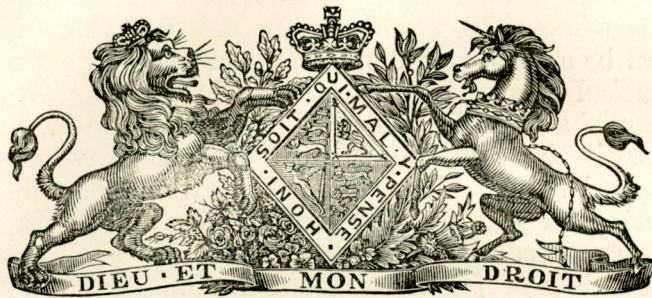
11

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, June, 1895. }*

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ.

An Act to authorise the construction, maintenance, and control by the Emu Gravel and Road-metal Company (Limited) of a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station, and connecting with the Great Western Railway, and to carry passengers and goods thereon.

WHEREAS the Emu Gravel and Road-metal Company (Limited) ^{Preamble.} is desirous of constructing a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station on the Great Western Railway, from and to the points and by the directions
5 mentioned and described in the Schedule to this Act, and to effect a junction or siding with the said railway at or near the said station, and for other the purposes and with the powers hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative
10 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 company or its assigns, upon the terms and conditions and subject to the provisions in this Act contained, to lay down, construct, maintain, and control a tramway from
15 the property known as the Prospect Quarries to the Toongabbie Railway Station by the route and in the directions respectively mentioned
c 74—A Authority to construct tramway. and

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and described in the Schedule to this Act (which tramway is hereinafter referred to as the said Tramway), and with the consent of the Railway Commissioners of New South Wales to effect a junction or connection with a goods-siding at or near the Toongabbie Station in
 5 the same manner as if such siding was a railway made under the provisions of the Public Works Act of 1888, and subject to the terms, conditions, and restrictions enacted in that Act, and also subject to the provisions contained in the agreement for lease of the said quarries from the Board of Water Supply and Sewerage to the said company,
 10 and of any lease made or executed in pursuance thereof, with power to make such points and loops along the line of tramway as shall be considered necessary for the working of the said tramway, and to use so much of the roads and take up and use so much of the land referred to in the said Schedule as shall be required for the purposes of the said
 15 tramway, but so that the same shall not occupy in any part thereof (except where there shall be a loop or junction) a greater space in breadth than nine feet including the support and foundations thereof, provided that the company shall not have the right to effect the said junction or connection with the said siding until the company has
 20 laid before the said Commissioners plans and specifications of the proposed method of effecting the said junction or connection and obtain their approval thereof: Provided also that the said tramway shall be constructed and maintained in a proper and workmanlike manner, and in all respects to the satisfaction and approval of the Engineer-in-Chief
 25 for Railway Construction and of the Engineer-in-Chief for Public Works, and shall be completely constructed and brought into use within two years from the commencement of this Act, or within such extended time as the Governor with the advice of the Executive Council may approve of.

30 2. The tramway and the material thereof shall not cease to be the property of the said company or its assigns by reason of the same being laid as in this Act mentioned. Tramway to remain property of the company and its assigns.

3. The said company and its assigns and all persons acting under its or their authority shall have all necessary rights of entry,
 35 way, ingress and egress to and over the surface of the said roads and lands referred to in the said Schedule 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 purposes: And provided further that nothing
 40 herein contained shall impair or be held to impair the lawful authority of any municipal authority, or other corporation, company, or person lawfully authorised in that behalf to make all entries and exercise all other powers necessary for the construction, maintenance, and preservation of gas-works, water-works, sewerage-works, and other works law-
 45 fully constructed underground, but so that such entries and other powers and such works, as last aforesaid, shall be so exercised and constructed, maintained and preserved in such manner as not to injure or interfere with the said tramway or the working and use thereof. Entry upon roads, &c.

4. The said company or its assigns shall not be at liberty to
 50 enter upon, break up or erect works upon any streets within any municipality without ten days' previous notice in writing to such municipality; and when the said company or its assigns shall open or break up the road or pavement of any street, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for
 55 which the same shall be broken up, and fill in the ground and reinstate and make good the said road or pavement, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And the said company and its assigns whilst any such road, pavement, sewer, drain, or tunnel shall be so open or broken up, shall cause the
 same

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same to be fenced and guarded, and shall cause lights, sufficient for the warning of passengers, to be set up and maintained against or near such road, pavement, sewer, drain, or tunnel where the same shall be so opened or broken up for every night during which the same shall
 5 continue open or broken up. If the said company or its assigns open or break up any road, pavement, sewer, drain, or tunnel without giving
 such notice as aforesaid, or if they make any delay in completing any such work or in filling in the ground or reinstating and making good
 the road or pavement, sewer, drain, or tunnel so opened or broken up,
 10 or in carrying away the rubbish occasioned by the work, or if the said company or its assigns neglect to cause the place where such road or pavement, sewer, drain, or tunnel has been broken up, to be fenced, guarded, and lighted, the said company or its assigns shall incur a penalty not exceeding fifty pounds for every such offence, and the said
 15 company or its assigns shall incur an additional penalty of five pounds for each day during which any such delay as aforesaid shall continue.

Penalty for delay, &c., in reinstating streets, &c.

5. The gauge of the said tramway shall be the same gauge as
 that of the Government railways.

Gauge.

6. The said tramway shall, throughout so much of its course
 20 as lies within the borough of Prospect and Sherwood, be laid at about the general level of the roads traversed by it, and so that the rails shall not project above the surface thereof, and that such rails, where they traverse the Main Western Road, shall be grooved rails or flat-bottomed rails of ordinary construction, with guard rails fixed on the
 25 inside of the track; and the said company and its assigns shall maintain in good order and repair the said tramway, and, where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the said thoroughfares between the rails of the said tramway and for the space of one foot six inches on each
 30 side of the said rails.

Levels of lines.

7. Throughout such part of the said tramway as traverses
 the Great Western Road mentioned in the said Schedule, and lies
 outside the borough of Prospect and Sherwood, the said company or
 its assigns shall not be bound to lay the said tramway at the general
 35 level of the said road, or so that the rails shall not project above the level of the said road: Provided that the said company and its assigns shall depart from such level as little as may be, and whenever such level is departed from shall cause the altered
 level to be adopted or extended throughout the whole width of the
 40 said road, and shall restore the condition of the said road where the levels shall be altered to the like state and condition as they shall have been in before such alteration of the levels.

Level of line on Western Road.

8. The said company and its assigns shall make and at all times
 thereafter maintain the following works for the safety of the public
 45 and the accommodation of the owners and occupiers of lands adjoining the said tramway, that is to say—

Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and
 passages over, under, or by the sides of or leading to or from
 the said tramway as shall be necessary for the purpose of
 50 making good any interruptions caused by the said tramway to the use of the lands through which the said tramway shall be made; and such works shall be made forthwith after the part of the said tramway passing over such lands shall have been laid out or formed, or during the formation thereof.

Gates, bridges, &c.

55 Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the said tramway from the adjoining lands not taken, and protecting such lands from trespass, or the horses or cattle of the owners or occupiers thereof from straying thereout by reason of the
 said

Fences.

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5 said tramway, together with all necessary gates made to open towards such adjoining lands and not towards the said tramway, and all necessary styles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Also all necessary arches, tunnels, culverts, drains, or other passages either over or under or by the sides of the said tramway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the said tramway as before the making of the said tramway, or as nearly so as may be, and such works shall be made from time to time as the said tramway works proceed:

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

If any person omit to shut and fasten any gate set up at either side of the said tramway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds.

9. The said company or its assigns shall immediately repair any damage which may during or by reason of the construction of the said tramway be occasioned to any sewer or drain or gas or water main or other property.

10. The said tramway shall be open to public use upon payment of the tolls or charges following, that is to say—

For passengers a sum not exceeding twopence per head per mile or fraction thereof.

For goods not exceeding the same minimum rates as are charged on the Government railways for equal distances:

Provided always that such tolls or charges may from time to time be increased with the approval of the said Commissioners.

11. It shall be lawful for the said company and its assigns to use and employ locomotive engines, horses, or other moving power, and

carriages, trucks, cars, and waggons to be drawn or propelled thereby,

and to make such stoppages and detention at either terminus of the said tramway or along the line thereof, and for such times as shall be considered necessary for the convenient and effectual working, using,

and management of the said tramway, and to carry and convey upon

the said tramway passengers and goods, and to charge the tolls and charges in respect thereof as above specified: Provided that all rolling

stock before and during use shall be subject to the approval of the said Commissioners, and be at all times open to their inspection, such

right of disapproval to be exercised reasonably, and such approval

not to be unreasonably or capriciously withheld: Provided also, that the working of the said tramway shall be in conjunction with the

working of the Government railways, and to the approval of the said Commissioners.

12. The tolls and charges shall be paid to such persons and at such places upon or near to the tramway, and in such manner and under

such regulations as the said company or its assigns shall appoint.

13. The said company and its assigns shall be responsible for all injuries caused by the negligent or improper construction, main-

tenance, or working of the said tramway, and all claims in respect of such

Drains.

Penalty on person omitting to fasten gates.

Repair of damage to sewers, &c.

Tramway to be open to public.

Locomotives to be employed.

Tolls to be paid as directed.

Company to be responsible for damage.

Emu Gravel and Road-metal Company's Tramway.

such negligence and improper conduct may be enforced against the said company and its assigns: Provided that the damages which may be recovered against the said company and its assigns, in respect of any such claim, shall, in addition to all other remedies for their
 5 recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers on the said tramway, and upon all property used in and upon and necessary for the working of the said tramway.

14. In case of accidents or slips happening or being apprehended to the cuttings, embankments, or other works of the said
 10 tramway, it shall be lawful for the said company and its assigns and its workmen and servants to enter upon the lands 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 company and its assigns shall, within
 15 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
 20 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
 25 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.

15. If within sixty days of the passing of this Act the said
 persons through whose land the tramway shall pass, or any of them,
 30 and the said company or its assigns shall not agree to the amount of compensation to be paid by it or them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the
 35 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 any appointment
 40 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
 45 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
 50 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
 55 which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive: Provided that the said company shall compensate owners for all lands taken at such price as may be agreed upon or awarded by the arbitrators, together with interest at the rate of six pounds per centum per annum from
 60 date of resumption.

Compensation to be settled by arbitration.

Emu Gravel and Road-metal Company's Tramway.

16. 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.

17. 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, the arbitrators, or either of them, 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.

18. If in either of the cases aforesaid the arbitrators shall refuse, or for seven days after request of either party to such arbitrators, 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 differ or which shall be referred to him under this Act shall be final.

Neglect to appoint umpire.

19. 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.

20. 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 term (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.

21. 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.

22. 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, make and subscribe the following declaration, that is to say:—

Declaration of 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 Emu Gravel and Road-metal Company Tramway Act.

Made and subscribed in the presence of

C.D.

And

Emu Gravel and Road-metal Company's Tramway.

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.

23. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators 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 company or its 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: Cost of arbitration how to be borne. Costs may be taxed. Provided that if either party shall be dissatisfied with the costs allowed by the said arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.
24. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said company or its 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 the company and its assigns. Compensation to be paid within sixty days after publication of award.
25. The submission to any 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.
26. 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.
27. The said company or its 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 company or its assigns of any of the matters or things hereby required or authorised to be performed by them. Compensation in cases of negligence.
28. In every case where the said company or its assigns shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of 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 a 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.
29. 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 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 company and its assigns for the purchase of such lands, or
- join

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join in submitting their claims for compensation to arbitration as here-
inbefore provided, the purchase money or compensation payable by
the said company or its assigns in respect of such lands shall be
determined by the valuation of a surveyor to be nominated as herein-
5 after mentioned.

30. Upon application by the said company or its assigns to two
justices, and upon such evidence 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 company and its assigns, or join with
10 the said company or its assigns in submitting his claims for compen-
sation 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
15 accordingly, and shall annex to his valuation a declaration in writing
subscribed by him of the correctness thereof.

Justices to appoint
surveyor to certain
cases.

31. 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
20 foot of such nomination, that is to say:—

Declaration by
surveyor.

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.

25 Made and subscribed in the presence of

C.D.

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.

30 32. 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 company or its 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.

35 33. All the expenses of and incident to any such valuation
shall be borne by the said company or its assigns.

Cost of valuation
how borne.

34. 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
40 found, be paid by the said company and its assigns to the person or
persons for the time being entitled to the rents and profits of 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
45 for their use to their respective husbands, guardians, committees, or
trustees of such persons.

Compensation not
exceeding £50 how
to be dealt with.

35. 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,
50 whether it exceeds the sum of fifty pounds or not, it shall be paid by
the said company or its 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 Master of the fact of the money being so paid in
55 shall be a sufficient discharge to the said company and its 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 intituled "*An Act for better securing Trust Funds,*
and

Compensation how
dealt with in absence
of owner.

Emu Gravel and Road-metal Company's Tramway.

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.

36. If in any case in which according to the provisions of this Act the said company and its assigns are 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 company or its assigns from entering upon or taking possession of the same, it shall be lawful for the said company and its assigns to issue his or their warrant to the sheriff to deliver possession of the same to the persons appointed by the said company or its 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 company and its 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 shall issue his warrant accordingly.

Cases of dispute
sheriff may issue
warrant.

37. All notices required to be served by the said company and its 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 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 of lands.

38. Nothing in this Act contained shall be deemed to authorise the said company or its assigns to take or enter upon any land belonging to the said Commissioners, or to alter or to interfere with the Great Western Railway or any of the works thereof between the said railway and tramway, without the previous consent in writing in every instance, of the said Commissioners.

Not to interfere with
railway.

39. The said Commissioners shall from time to time, at the expense of the said company and its assigns, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the said company or its assigns, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

Erection of
signals, &c.

40. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the said Commissioners. Such sums shall be charged to the said company or its assigns as in the opinion of the said Commissioners shall be reasonable for such service.

Management of
signals.

41. It shall be lawful for the said company or its assigns from time to time, subject to the approval of the Governor with the advice aforesaid, and subject to the provisions and restrictions in this Act contained, to make by-laws for the following purposes, that is to say:—

By-laws for use of
tramway.

55 For regulating the times of the arrival and departure of the cars, trucks, trams, carriages, and trains, and the number of persons to be carried therein.

For regulating and loading or unloading of carriages and cars.

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For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages, cars, or trucks, or any of the tramway waiting rooms or premises.

5 And generally for issuing tickets and regulating the travelling upon and working the said Tramway, and for the maintenance of good order, and for regulating the conduct of the officers and servants of the company or its assigns, and for providing for the due management of the said tramway and the protection thereof, and the carriages, cars, trucks, motors, and engines, and waiting rooms, offices, and premises from trespass and injury: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act, and a copy of such by-laws shall be posted in some conspicuous place in or upon the cars of the company or its assigns running upon the said tramway, and such by-laws shall specify the penalties which shall in no case exceed the sum of ten pounds.

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

43. It is hereby declared that, subject to the provisions of the said agreement for lease, or of any amendment thereof, or of any lease in pursuance thereof, it is lawful for the said company and its assigns at any time to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon it or them by this Act to any other person, and upon any such transfer or assignment being made the person in whose favour such transfer or assignment is made shall then stand in the place of the said company, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said company or its assigns by this Act. In the event of the said agreement or lease becoming forfeited or determined, otherwise than by expiration or by agreement between the parties, the said Board of Water Supply and Sewerage shall stand in the place of the said company, and have all such rights, powers, privileges, and advantages aforesaid. Power to assign.

44. Subject to the provisions of the said agreement for lease or any lease made or executed in pursuance thereof, the Governor, with the advice aforesaid, may at any time after two years from the completion of the construction of the said tramway, if he think fit, purchase the said tramway upon giving to the said company or its assigns six months notice in writing of his intention to do so. If the amount tendered for the purchase of the said tramway be considered inadequate by the said company or its assigns, the amount shall be ascertained by assessment in terms of the Lands for Public Purposes Acquisition Act. Power of purchase of tramway by Government.

45. All penalties imposed under this Act or under any by-laws made in pursuance thereof shall be recoverable in a summary way before any stipendiary or police magistrate, or any two justices of the peace, under the provisions of the Act for the time being regulating summary proceedings before justices, and payment of such penalties may be enforced in the manner provided by such Act. Penalties, how recoverable.

46. This Act may be cited for all purposes as the "Emu Gravel and Road-metal Company's Tramway Act, 1895." Short title.

Emu Gravel and Road-metal Company's Tramway.

SCHEDULE.

Commencing at the Prospect Quarries, near Parramatta, in the parish of Prospect, and county of Cumberland, and passing through the Water and Sewerage Board Reserve north-westerly and northerly for a distance of sixty-two chains to a point on the Great
5 Western Road, where the southern side of that road intersects the western boundary of portion numbered twenty-nine on the map of the parish of Prospect (John Kennedy's one hundred and sixty acres grant); thence along the northern side of that road in a north-easterly direction for thirty-two and three-quarter chains; thence through a block of L. Hyland's property, being part of portion numbered twenty-nine aforesaid, north-
10 easterly six and a quarter chains to a Government road one chain wide; thence across that road north-easterly one chain; thence through another block of L. Hyland's property, being portion numbered sixteen on said map of the parish of Prospect (Catherine Hyland's twenty-five acres three roods thirty-six perches grant), north-
15 easterly fifteen chains to the north-east corner thereof; thence across the Blacktown Road north-easterly one chain; thence through the property of Fitz William
Wentworth, being portions numbered on the said map of the parish of Prospect ninety-eight (Robert Bolton's thirty acres grant), thirty-five (John Silverthorne's thirty acres grant), thirty-six (John O'Croft's thirty-acres grant), and thirty-seven (W. Eggleton's
20 sixty-acres grant), north-easterly sixty-five chains to a point on the eastern boundary of said portion thirty-seven about three chains southerly from the north-east corner thereof; and thence along the Toongabbie lane north-easterly eighty chains to the Toongabbie Station.

The University of Cambridge and the Faculty of Divinity

SUMMARY

The University of Cambridge has a long and distinguished history, and the Faculty of Divinity is one of its most prominent departments. This summary discusses the history and current activities of the Faculty of Divinity, including its role in the education of students and its contribution to the study of theology and religion. The Faculty has a rich tradition of scholarship and has produced many notable figures in the field of divinity. It continues to play a vital role in the life of the University and the wider community.

Legislative Council.

58^o VICTORIÆ, 1895.

A BILL

To authorise the construction, maintenance, and control by the Emu Gravel and Road-metal Company (Limited) of a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station, and connecting with the Great Western Railway, and to carry passengers and goods thereon.

(As amended and agreed to in Select Committee.)

WHEREAS the Emu Gravel and Road-metal Company (Limited) Preamble. is desirous of constructing a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station on the Great Western Railway, from and to the points and by the directions
5 mentioned and described in the Schedule to this Act, and to effect a junction or siding with the said railway at or near the said station, and for other the purposes and with the powers hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative
10 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 company or its assigns, upon Authority to the terms and conditions and subject to the provisions in this Act con- construct tramway tained, to lay down, construct, maintain, and control a tramway from
15 the property known as the Prospect Quarries to the Toongabbie Railway Station by the route and in the directions respectively mentioned
c 74—A and

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

and described in the Schedule to this Act (which tramway is hereinafter referred to as the said tramway), and with the consent of the **Railway Commissioners of New South Wales** to effect a junction or connection with a goods-siding at or near the Toongabbie Station in the same manner as if such siding was a railway made under the provisions of the Public Works Act of 1888, and subject to the terms, conditions, and restrictions enacted in that Act, and also subject to the provisions contained in the agreement for lease of the said quarries from the Board of Water Supply and Sewerage to the said company, and of any lease made or executed in pursuance thereof, with power to make such points and loops along the line of tramway as shall be considered necessary for the working of the said tramway, and to use so much of the roads and take up and use so much of the land referred to in the said Schedule as shall be required for the purposes of the said tramway, but so that the same shall not occupy in any part thereof (except where there shall be a loop or junction) a greater space in breadth than nine feet including the support and foundations thereof, provided that the company shall not have the right to effect the said junction or connection with the said siding until the company has laid before the **Railway said Commissioners** plans and specifications of the proposed method of effecting the said junction or connection and obtain their approval thereof: Provided also that the said tramway shall be constructed and maintained in a proper and workmanlike manner, and in all respects to the satisfaction and approval of the Engineer-in-Chief for Railway Construction and of the Engineer-in-Chief for **Roads and Bridges Public Works**, and shall be completely constructed and brought into use within two years from the passing commencement of this Act, or within such extended time as the Governor with the advice of the **Executive Council** may approve of.

Tramway to remain property of the company and its assigns.

Entry upon roads, &c.

2. The tramway and the material thereof shall not cease to be the property of the said company or its assigns by reason of the same being laid as in this Act mentioned.

3. The said company and its assigns and all persons acting under its or their authority shall have all necessary rights of entry, way, ingress and egress to and over the surface of the said roads and lands referred to in the said Schedule 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 purposes: And provided further that nothing herein contained shall impair or be held to impair the lawful authority of any municipal authority, or other corporation, company, or person lawfully authorised in that behalf to make all entries and exercise all other powers necessary for the construction, maintenance, and preservation of gas-works, water-works, sewerage-works, and other works lawfully constructed underground, but so that such entries and other powers and such works, as last aforesaid, shall be so exercised and constructed, maintained and preserved in such manner as not to injure or interfere with the said tramway or the working and use thereof.

Reinstatement of streets, &c.

4. The said company or its assigns shall not be at liberty to enter upon, break up or erect works upon any streets within any municipality without ten days' previous notice in writing to such municipality; and when the said company or its assigns shall open or break up the road or pavement of any street, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the said road or pavement, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And the said company and its assigns whilst any such road, pavement, sewer, drain, or tunnel shall be so open or broken up, shall cause the same

same to be fenced and guarded, and shall cause lights, sufficient for the warning of passengers, to be set up and maintained against or near such road, pavement, sewer, drain, or tunnel where the same shall be so opened or broken up for every night during which the same shall
5 continue open or broken up. If the said company or its assigns open or break up any road, pavement, sewer, drain, or tunnel without giving such notice as aforesaid, or if they make any delay in completing any such work or in filling in the ground or reinstating and making good the road or pavement, sewer, drain, or tunnel so opened or broken up,
10 or in carrying away the rubbish occasioned by the work, or if the said company or its assigns neglect to cause the place where such road or pavement, sewer, drain, or tunnel has been broken up, to be fenced, guarded, and lighted, the said company or its assigns shall incur a penalty not exceeding fifty pounds for every such offence, and the said
15 company or its assigns shall incur an additional penalty of five pounds for each day during which any such delay as aforesaid shall continue.

Penalty for delay, &c., in reinstating streets, &c.

4. 5. The gauge of the said tramway shall be the same gauge as
that of the Government railways. Gauge.

5. 6. The said tramway shall, throughout so much of its course
20 as lies within the borough of Prospect and Sherwood, be laid at about the general level of the roads traversed by it, and so that the rails shall not project above the surface thereof, and that such rails, where they traverse the Main Western Road, shall be grooved rails or flat-bottomed rails of ordinary construction, with guard rails fixed on the
25 inside of the track; and the said company and its assigns shall maintain in good order and repair the said tramway, and, where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the said thoroughfares between the rails of the said tramway and for the space of one foot six inches on each
30 side of the said rails.

Levels of lines.

6. 7. Throughout such part of the said tramway as traverses
the Great Western Road mentioned in the said Schedule, and lies
outside the borough of Prospect and Sherwood, the said company or
its assigns shall not be bound to lay the said tramway at the general
35 level of the said road, or so that the rails shall not project above the level of the said road: Provided that the said company and its assigns shall depart from such level as little as may be, and whenever such level is departed from shall cause the altered level to be adopted or extended throughout the whole width of the
40 said road, and shall restore the condition of the said road where the levels shall be altered to the like state and condition as they shall have been in before such alteration of the levels; ~~and shall make and at all~~ times maintain for the accommodation and safety of the public and the owners and occupiers of lands fronting the said road such and so
45 many convenient level crossings, bridges, arches, culverts, and passages across, over, under, or by the side of the said tramway as shall be necessary for the purpose of making good any interruption or hindrance caused by the said tramway to the use of any lands fronting the said Great Western Road or any roads which shall for the time being run
50 across or into the said Great Western Road; also all necessary arches, tunnels, culverts, drains, or other passages either over, under, or by the sides of the said tramway of such dimensions as shall be sufficient at all times to convey the water as effectively from the said roads as before the making of the said tramway, or as nearly as may be; and
55 such works shall be made from time to time as the tramway works proceed: Provided always that the said company or its assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said tramway, nor to make any accommodation works with respect to which the
60 owners and occupiers of the lands referred to shall have agreed to receive and shall have been paid compensation instead of having them made.

Level of line on Western Road.

Works for benefit
of owners.

8. The said company and its assigns shall make and at all times thereafter maintain the following works for the safety of the public and the accommodation of the owners and occupiers of lands adjoining the said tramway, that is to say—

Gates, bridges, &c.

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the said tramway as shall be necessary for the purpose of making good any interruptions caused by the said tramway to the use of the lands through which the said tramway shall be made; and such works shall be made forthwith after the part of the said tramway passing over such lands shall have been laid out or formed, or during the formation thereof.

Fences.

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

Drains.

Also all necessary arches, tunnels, culverts, drains, or other passages either over or under or by the sides of the said tramway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the said tramway as before the making of the said tramway, or as nearly so as may be, and such works shall be made from time to time as the said tramway works proceed:

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

Penalty on person omitting to fasten gates.

If any person omit to shut and fasten any gate set up at either side of the said tramway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds.

Repair of damage to sewers, &c.

7. 9. The said company or its assigns shall immediately repair any damage which may during or by reason of the construction of the said tramway be occasioned to any sewer or drain or gas or water main or other property.

Tramway to be open to public.

8. 10. The said tramway shall be open to public use upon payment of the tolls or charges following, that is to say—

For passengers a sum not exceeding twopence per head per mile or fraction thereof.

For goods not exceeding the same **minimum** rates as are charged on the Government railways for equal distances:

Provided always that such tolls or charges may from time to time be increased with the approval of the **Railway** said Commissioners.

Locomotives to be employed.

9. 11. It shall be lawful for the said company and its assigns to use and employ locomotive engines, horses, or other moving power, and carriages, trucks, cars, and waggons to be drawn or propelled thereby, and to make such stoppages and detention at either terminus of the said

said tramway or along the line thereof, and for such times as shall be considered necessary for the convenient and effectual working, using, and management of the said tramway, and to carry and convey upon the said tramway passengers and goods, and to charge the tolls and 5 charges in respect thereof as above specified: Provided that all rolling stock before and during use shall be subject to the approval of the ~~Railway~~ said Commissioners, and be at all times open to their inspection, such right of disapproval to be exercised reasonably, and such approval not to be unreasonably or capriciously withheld: **Provided also,** 10 that the working of the said tramway shall be in conjunction with the working of the Government railways, and to the approval of the said Commissioners.

10. 12. The tolls and charges shall be paid to such persons and at such places upon or near to the tramway, and in such manner and under 15 such regulations as the said company or its assigns shall appoint. Tolls to be paid as directed.

11. Nothing in this Act contained shall extend to charge or 20 make liable the said company or its assigns, further, or in any other case than where, according to the laws of this Colony stage-coach proprietors and common carriers would be liable, nor shall extend in 25 any degree to deprive the said company or its assigns of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but, on the contrary, the said company and its assigns shall at all times be entitled to the benefit of every such protection and privilege.

13. 13. The said company and its assigns shall be responsible 25 for all injuries caused by the negligent or improper construction, maintenance, or working of the said tramway, and all claims in respect of such negligence and improper conduct may be enforced against the said company and its assigns: **Provided that the damages** 30 **which may be recovered against the said company and its assigns, in respect of any such claim, shall, in addition to all other remedies for their recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers on the said tramway, and upon all property used in and upon and necessary for the working of the** 35 **said tramway.** Liability of carriers.

12. 14. 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 company and its assigns and its workmen and servants to enter upon the lands adjoining thereto at 40 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 company and its 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 45 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** 50 **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 arbiters** 55 **in the manner hereinafter mentioned.**

13. 15. If within sixty days of the passing of this Act the said persons through whose land the tramway shall pass, or any of them, 5 and the said company or its assigns shall not agree to the amount of compensation to be paid by it or them for the said lands belonging to the 10 Compensation to be settled by arbitration.

the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators 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 any 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: Provided that the said company shall compensate owners for all lands taken at such price as may be agreed upon or awarded by the arbitrators, together with interest at the rate of six pounds per centum per annum from date of resumption.

Proceedings in case of disability of arbitrator.

14. 16. 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.

Appointment of umpire.

15. 17. 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, the arbitrators, or either of them, 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.

Neglect to appoint umpire.

16. 18. If in either of the cases aforesaid the arbitrators shall refuse, or for seven days after request of either party to such arbitrators, 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 differ or which shall be referred to him under this Act shall be final.

In case of disability of single arbitrator.

17. 19. 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.

18. 20. 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 5 arbitrators shall have been appointed, or within such extended term (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.

10 19. 21. 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.

15 20. 22. 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, make and subscribe the following declaration, that is to say:—

Declaration of arbitrators or umpire.

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 "Emu Gravel and Road-metal Company Tramway Act."

Made and subscribed in the presence of

25

C.D.

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 21. 23. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators 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 company or its assigns, in which case the whole costs of the arbitration, and also the costs of and 35 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 arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

Cost of arbitration how to be borne.

Costs may be taxed.

40 22. 24. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said company or its 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 45 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 the company and its assigns.

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

50 23. 25. The submission to any 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.

24. 26. 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.

55 25. 27. The said company or its 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 company or its 60 assigns of any of the matters or things hereby required or authorised to be performed by them.

Compensation in cases of negligence.

Compensation in cases of temporary possession.

~~26.~~ **28.** In every case where the said company or its assigns shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of 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 a 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. 5 10 15

Proceedings in absence of owner.

~~27.~~ **29.** 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 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 company and its 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 company or its assigns in respect of such lands shall be determined by the valuation of a surveyor to be nominated as hereinafter mentioned. 20 25

Justices to appoint surveyor to certain cases.

~~28.~~ **30.** Upon application by the said company or its assigns to two justices, and upon such evidence 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 company and its assigns, or join with the said company or its 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. 30 35

Declaration by surveyor.

~~29.~~ **31.** 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:— 40

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. 45

Made and subscribed in the presence of

C.D.

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. 50

Production of valuation, &c.

~~30.~~ **32.** 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 company or its 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. 55

Cost of valuation how borne.

~~31.~~ **33.** All the expenses of and incident to any such valuation shall be borne by the said company or its assigns.

32. 34. 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 company and its assigns to the person or
 5 persons for the time being entitled to the rents and profits of 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 their respective husbands, guardians, committees, or
 10 trustees of such persons.

Compensation not exceeding £50 how to be dealt with.

33. 35. 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
 15 the said company or its 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 Master of the fact of the money being so paid in shall be a sufficient discharge to the said company and its assigns for
 20 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 intituled "*An Act for better securing Trust Funds, and for the relief of Trustees,*" and shall be subject in all respects to
 25 the provisions of the said Act and all rules of the said Court made thereunder.

Compensation how dealt with in absence of owner.

34. 36. If in any case in which according to the provisions of this Act the said company and its assigns are authorised to enter upon and take possession of any lands required for the purposes of the said
 30 tramway, the owner or occupier of any such lands, or any other person shall refuse to give up possession thereof, or hinder the said company or its assigns from entering upon or taking possession of the same, it shall be lawful for the said company and its assigns to issue his or their warrant to the sheriff to deliver possession of the same to
 35 the persons appointed by the said company or its 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,
 40 and the amount of such costs shall be deducted and retained by the said company and its 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
 45 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 shall issue his warrant accordingly.

Cases of dispute sheriff may issue warrant.

35. 37. All notices required to be served by the said company and its assigns upon the parties interested in or entitled to sell any such
 50 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 inquiry, shall be left with the occupier of such lands, or if there be no such occupier shall be affixed upon some conspicuous
 55 part of such lands.

Service of notice on owners of lands.

36. 38. Nothing in this Act contained shall be deemed to authorise the said company or its assigns to take or enter upon any land belonging
 to the said Commissioners, or to alter or to interfere with the Great Western Railway or any of the works thereof between the said railway
 60 and tramway, without the previous consent in writing in every instance, of the said Commissioners.

Not to interfere with railway.

Erection of
signals, &c.

37. 39. The said Commissioners shall from time to time, at the expense of the said company and its assigns, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the said company or its assigns, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction. 5

Management of
signals.

38. 40. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the said Commissioners. Such sums shall be charged to the said company or its assigns as in the opinion of the Railway said Commissioners shall be reasonable for such service. 10

By-laws for use of
tramway.

39. 41. It shall be lawful for the said company or its assigns from time to time, **subject to the approval of the Governor with the advice aforesaid,** and subject to the provisions and restrictions in this Act contained, to make by-laws for the following purposes, that is to say:— 15

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

For regulating and loading or unloading of carriages and cars. 20

For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages, cars, or trucks, or any of the tramway waiting rooms or premises.

And generally for issuing tickets and regulating the travelling upon and working the said Tramway, and for the maintenance of good order, and for regulating the conduct of the officers and servants of the company or its assigns, and for providing for the due management of the said tramway and the protection thereof, and the carriages, cars, trucks, motors, and engines, and waiting rooms, offices, and premises from trespass and injury: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act, and a copy of such by-laws shall be posted in some conspicuous place in or upon the cars of the company or its assigns running upon the said tramway: ~~Provided that such~~ by-laws shall not have any force or effect until after the expiration of four weeks after they have been submitted to the Executive Council, and be not within such time disapproved by it: **and such by-laws shall specify the penalties which shall in no case exceed the sum of ten pounds.** 35 40

Evidence of by-laws

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

Power to assign.

41. 43. It is hereby declared that, subject to the provisions of the said agreement for lease, or of any amendment thereof, or of any lease in pursuance thereof, it is lawful for the said company and its assigns at any time to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon it or them by this Act to any other person, and upon any such transfer or assignment being made the person in whose favour such transfer or assignment is made shall then stand in the place of the said company, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said company or its assigns by this Act. In the event of the said agreement or lease becoming forfeited or determined, otherwise than by expiration or by agreement between the parties, the said Board of Water Supply and Sewerage shall stand in the place of the said company, and have all such rights, powers, privileges, and advantages aforesaid. 50 55

Power of the Govern-
ment to purchase
tramway.

42. Subject to the provisions of the said agreement for lease or any lease made or executed in pursuance thereof, it shall be lawful for the Governor, with the advice of the Executive Council, upon giving 60
three

three months notice in writing to the said company or its assigns, to require the said company or its assigns to sell, and thereupon the said company or its assigns shall sell to the Government the said tramway upon the terms of payment of the then value (inclusive of compensation for compulsory sale not exceeding ten per centum) of the said tramway, and all lands, buildings, works, materials, and plant of the said company or its assigns suitable to and used by it or them for the purposes of the said tramway, and all rights and privileges conferred by this Act, such value in case of difference to be ascertained by arbitration in the manner provided by the forty-second and other sections subsequent thereto of the Public Works Act of 1888, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said tramway, lands, buildings, works, materials, plant, rights, and premises shall forthwith vest in the Railway Commissioners in the said Act mentioned, who shall, subject as aforesaid, have all the rights, powers, and authorities of the said company and its assigns in respect of the said tramway so sold. If the tramway hereby authorised shall cease to be worked as a tramway for the conveyance of passengers or goods by the said company or its assigns for twelve calendar months, the said tramway shall, subject to the rights of the said lessors, on proclamation to that effect by the Governor, with the advice of the Executive Council, vest in and become the absolute property of the Crown without making any allowance or compensation or paying any consideration in respect thereof to the company or its assigns.

44. Subject to the provisions of the said agreement for lease or any lease made or executed in pursuance thereof, the Governor, with the advice aforesaid, may at any time after two years from the completion of the construction of the said tramway, if he think fit, purchase the said tramway upon giving to the said company or its assigns six months notice in writing of his intention to do so. If the amount tendered for the purchase of the said tramway be considered inadequate by the said company or its assigns, the amount shall be ascertained by assessment in terms of the Lands for Public Purposes Acquisition Act.

45. All penalties imposed under this Act or under any by-laws made in pursuance thereof shall be recoverable in a summary way before any stipendiary or police magistrate, or any two justices of the peace, under the provisions of the Act for the time being regulating summary proceedings before justices, and payment of such penalties may be enforced in the manner provided by such Act.

46. This Act may be cited for all purposes as the "Emu Gravel and Road Metal Company's Tramway Act, 1895."

SCHEDULE.

Commencing at the Prospect Quarries, near Parramatta, in the parish of Prospect, and county of Cumberland, and passing through the Water and Sewerage Board Reserve north-westerly and northerly for a distance of sixty-two chains to a point on the Great Western Road, where the southern side of that road intersects the western boundary of portion numbered twenty-nine on the map of the parish of Prospect (John Kennedy's one hundred and sixty acres grant); thence along the northern side of that road in a north-easterly direction for thirty-two and three-quarter chains; thence through a block of L. Hyland's property, being part of portion numbered twenty-nine aforesaid, north-easterly six and a quarter chains to a Government road one chain wide; thence across that road north-easterly one chain; thence through another block of L. Hyland's property, being portion numbered sixteen on said map of the parish of Prospect (Catherine Hyland's twenty-five acres three roods thirty-six perches grant), north-easterly fifteen chains to the north-east corner thereof; thence across the Blacktown Road north-easterly one chain; thence through the property of Fitz William Wentworth, being portions numbered on the said map of the parish of Prospect ninety-eight (Robert Bolton's thirty acres grant), thirty-five (John Silverthorne's thirty acres grant), thirty-six (John O'Croft's thirty-acres grant), and thirty-seven (W. Eggleton's sixty-acres grant), north-easterly sixty-five chains to a point on the eastern boundary of said portion thirty-seven about three chains southerly from the north-east corner thereof; and thence along the Toongabbie lane north-easterly eighty chains to the Toongabbie Station.

Legislative Council.

58^o VICTORIÆ, 1895.

A BILL

To authorise the construction, maintenance, and control by the Emu Gravel and Road-metal Company (Limited) of a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station, and connecting with the Great Western Railway, and to carry passengers and goods thereon.

(As amended and agreed to in Select Committee.)

WHEREAS the Emu Gravel and Road-metal Company (Limited) Preamble. is desirous of constructing a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station on the Great Western Railway, from and to the points and by the directions
5 mentioned and described in the Schedule to this Act, and to effect a junction or siding with the said railway at or near the said station, and for other the purposes and with the powers hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative
10 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 company or its assigns, upon the terms and conditions and subject to the provisions in this Act contained, to lay down, construct, maintain, and control a tramway from
15 the property known as the Prospect Quarries to the Toongabbie Railway Station by the route and in the directions respectively mentioned
Authority to construct tramway

c 74—A

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

and described in the Schedule to this Act (which tramway is hereinafter referred to as the said tramway), and with the consent of the **Railway Commissioners of New South Wales** to effect a junction or connection with a goods-siding at or near the Toongabbie Station in the same manner as if such siding was a railway made under the provisions of the Public Works Act of 1888, and subject to the terms, conditions, and restrictions enacted in that Act, and also subject to the provisions contained in the agreement for lease of the said quarries from the Board of Water Supply and Sewerage to the said company, and of any lease made or executed in pursuance thereof, with power to make such points and loops along the line of tramway as shall be considered necessary for the working of the said tramway, and to use so much of the roads and take up and use so much of the land referred to in the said Schedule as shall be required for the purposes of the said tramway, but so that the same shall not occupy in any part thereof (except where there shall be a loop or junction) a greater space in breadth than nine feet including the support and foundations thereof, provided that the company shall not have the right to effect the said junction or connection with the said siding until the company has laid before the ~~Railway~~ **said Commissioners** plans and specifications of the proposed method of effecting the said junction or connection and obtain their approval thereof: Provided also that the said tramway shall be constructed and maintained in a proper and workmanlike manner, and in all respects to the satisfaction and approval of the Engineer-in-Chief for Railway Construction and of the Engineer-in-Chief for ~~Roads and Bridges~~ **Public Works**, and shall be completely constructed and brought into use within two years from the ~~passing~~ commencement of this Act, or within such extended time as the Governor with the advice of the Executive Council may approve of.

Tramway to remain property of the company and its assigns.

Entry upon roads, &c.

2. The tramway and the material thereof shall not cease to be the property of the said company or its assigns by reason of the same being laid as in this Act mentioned.

3. The said company and its assigns and all persons acting under its or their authority shall have all necessary rights of entry, way, ingress and egress to and over the surface of the said roads and lands referred to in the said Schedule 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 purposes: And provided further that nothing herein contained shall impair or be held to impair the lawful authority of any municipal authority, or other corporation, company, or person lawfully authorised in that behalf to make all entries and exercise all other powers necessary for the construction, maintenance, and preservation of gas-works, water-works, sewerage-works, and other works lawfully constructed underground, but so that such entries and other powers and such works, as last aforesaid, shall be so exercised and constructed, maintained and preserved in such manner as not to injure or interfere with the said tramway or the working and use thereof.

Reinstatement of streets, &c.

4. The said company or its assigns shall not be at liberty to enter upon, break up or erect works upon any streets within any municipality without ten days' previous notice in writing to such municipality; and when the said company or its assigns shall open or break up the road or pavement of any street, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and reinstate and make good the said road or pavement, sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby. And the said company and its assigns whilst any such road, pavement, sewer, drain, or tunnel shall be so open or broken up, shall cause the same

same to be fenced and guarded, and shall cause lights, sufficient for the warning of passengers, to be set up and maintained against or near such road, pavement, sewer, drain, or tunnel where the same shall be so opened or broken up for every night during which the same shall
5 continue open or broken up. If the said company or its assigns open or break up any road, pavement, sewer, drain, or tunnel without giving such notice as aforesaid, or if they make any delay in completing any such work or in filling in the ground or reinstating and making good the road or pavement, sewer, drain, or tunnel so opened or broken up,
10 or in carrying away the rubbish occasioned by the work, or if the said company or its assigns neglect to cause the place where such road or pavement, sewer, drain, or tunnel has been broken up, to be fenced, guarded, and lighted, the said company or its assigns shall incur a penalty not exceeding fifty pounds for every such offence, and the said
15 company or its assigns shall incur an additional penalty of five pounds for each day during which any such delay as aforesaid shall continue.

Penalty for delay, &c., in reinstating streets, &c.

4- 5. The gauge of the said tramway shall be the same gauge as that of the Government railways.

Gauge.

5- 6. The said tramway shall, throughout so much of its course as lies within the borough of Prospect and Sherwood, be laid at about the general level of the roads traversed by it, and so that the rails shall not project above the surface thereof, and that such rails, where they traverse the Main Western Road, shall be grooved rails or flat-bottomed rails of ordinary construction, with guard rails fixed on the
20 inside of the track; and the said company and its assigns shall maintain in good order and repair the said tramway, and, where the said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the said thoroughfares between the rails of the said tramway and for the space of one foot six inches on each
25 side of the said rails.

Levels of lines.

6- 7. Throughout such part of the said tramway as traverses the Great Western Road mentioned in the said Schedule, and lies outside the borough of Prospect and Sherwood, the said company or its assigns shall not be bound to lay the said tramway at the general
35 level of the said road, or so that the rails shall not project above the level of the said road: Provided that the said company and its assigns shall depart from such level as little as may be, and whenever such level is departed from shall cause the altered level to be adopted or extended throughout the whole width of the
40 said road, and shall restore the condition of the said road where the levels shall be altered to the like state and condition as they shall have been in before such alteration of the levels; and shall make and at all times maintain for the accommodation and safety of the public and the owners and occupiers of lands fronting the said road such and so
45 many convenient level crossings, bridges, arches, culverts, and passages across, over, under, or by the side of the said tramway as shall be necessary for the purpose of making good any interruption or hindrance caused by the said tramway to the use of any lands fronting the said Great Western Road or any roads which shall for the time being run
50 across or into the said Great Western Road; also all necessary arches, tunnels, culverts, drains, or other passages either over, under, or by the sides of the said tramway of such dimensions as shall be sufficient at all times to convey the water as effectively from the said roads as before the making of the said tramway, or as nearly as may be; and
55 such works shall be made from time to time as the tramway works proceed: Provided always that the said company or its assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said tramway, nor to make any accommodation works with respect to which the
60 owners and occupiers of the lands referred to shall have agreed to receive and shall have been paid compensation instead of having them made.

Level of line on Western Road.

- Works for benefit of owners. 8. The said company and its assigns shall make and at all times thereafter maintain the following works for the safety of the public and the accommodation of the owners and occupiers of lands adjoining the said tramway, that is to say—
- Gates, bridges, &c. Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the said tramway as shall be necessary for the purpose of making good any interruptions caused by the said tramway to the use of the lands through which the said tramway shall be made; and such works shall be made forthwith after the part of the said tramway passing over such lands shall have been laid out or formed, or during the formation thereof. 5 10
- Fences. Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the said tramway from the adjoining lands not taken, and protecting such lands from trespass, or the horses or cattle of the owners or occupiers thereof from straying thereout by reason of the said tramway, together with all necessary gates made to open towards such adjoining lands and not towards the said tramway, and all necessary stiles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be. 15 20
- Drains. Also all necessary arches, tunnels, culverts, drains, or other passages either over or under or by the sides of the said tramway, of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the said tramway as before the making of the said tramway, or as nearly so as may be, and such works shall be made from time to time as the said tramway works proceed: 25 30
- Provided always, that the said company or its assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said tramway, nor to make any accommodation works with respect to which the owners and occupiers of the land shall have agreed to receive and shall have been paid compensation instead of the making them. 35
- Penalty on person omitting to fasten gates. If any person omit to shut and fasten any gate set up at either side of the said tramway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding ten pounds. 40
- Repair of damage to sewers, &c. 7. 9. The said company or its assigns shall immediately repair any damage which may during or by reason of the construction of the said tramway be occasioned to any sewer or drain or gas or water main or other property. 45
- Tramway to be open to public. 8. 10. The said tramway shall be open to public use upon payment of the tolls or charges following, that is to say—
For passengers a sum not exceeding twopence per head per mile or fraction thereof. 50
For goods not exceeding the same **minimum** rates as are charged on the Government railways for equal distances:
Provided always that such tolls or charges may from time to time be increased with the approval of the ~~Railway~~ said Commissioners. 55
- Locomotives to be employed. 9. 11. It shall be lawful for the said company and its assigns to use and employ locomotive engines, horses, or other moving power, and carriages, trucks, cars, and waggons to be drawn or propelled thereby, and to make such stoppages and detention at either terminus of the said 55

said tramway or along the line thereof, and for such times as shall be considered necessary for the convenient and effectual working, using, and management of the said tramway, and to carry and convey upon the said tramway passengers and goods, and to charge the tolls and
5 charges in respect thereof as above specified: Provided that all rolling stock before and during use shall be subject to the approval of the Railway said Commissioners, and be at all times open to their inspection, such right of disapproval to be exercised reasonably, and such approval not to be unreasonably or capriciously withheld: **Provided also,**
10 that the working of the said tramway shall be in conjunction with the working of the Government railways, and to the approval of the said Commissioners.

10. 12. The tolls and charges shall be paid to such persons and at such places upon or near to the tramway, and in such manner and under
15 such regulations as the said company or its assigns shall appoint. Tolls to be paid as directed.

11. Nothing in this Act contained shall extend to charge or
make liable the said company or its assigns, further, or in any other Liability of carriers.
case than where, according to the laws of this Colony stage-coach proprietors and common carriers would be liable, nor shall extend in
20 any degree to deprive the said company or its assigns of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but, on the contrary, the said company and its assigns shall at all times be entitled to the benefit of every such protection
and privilege.

25 13. The said company and its assigns shall be responsible Liability of carriers.
for all injuries caused by the negligent or improper construction, maintenance, or working of the said tramway, and all claims in respect of such negligence and improper conduct may be enforced against the said company and its assigns: **Provided that the damages**
30 which may be recovered against the said company and its assigns, in respect of any such claim, shall, in addition to all other remedies for their recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers on the said tramway, and upon all property used in and upon and necessary for the working of the
35 said tramway.

12. 14. 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 company and its assigns and its workmen and servants to enter upon the lands adjoining thereto at
40 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 company and its 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
45 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**
50 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 arbi-
55 trators in the manner hereinafter mentioned.

13. 15. If within sixty days of the passing of this Act the said Compensation to be settled by arbitration.
persons through whose land the tramway shall pass, or any of them, and the said company or its assigns shall not agree to the amount of compensation to be paid by it or them for the said lands belonging to
the

the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators 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 any 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: Provided that the said company shall compensate owners for all lands taken at such price as may be agreed upon or awarded by the arbitrators, together with interest at the rate of six pounds per centum per annum from date of resumption.

Proceedings in case of disability of arbitrator.

14. 16. 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.

Appointment of umpire.

15. 17. 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, the arbitrators, or either of them, 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.

Neglect to appoint umpire.

16. 18. If in either of the cases aforesaid the arbitrators shall refuse, or for seven days after request of either party to such arbitrators, 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 differ or which shall be referred to him under this Act shall be final.

In case of disability of single arbitrator.

17. 19. 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.

18. 20. 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 term (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.

19. 21. 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.

20. 22. 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, make and subscribe the following declaration, that is to say:—

Declaration of 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 "Emu Gravel and Road-metal Company Tramway Act."

Made and subscribed in the presence of

C.D.

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.

21. 23. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators 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 company or its 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 arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

Cost of arbitration how to be borne.

Costs may be taxed.

22. 24. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said company or its 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 the company and its assigns.

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

23. 25. The submission to any 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.

24. 26. 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.

25. 27. The said company or its 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 company or its assigns of any of the matters or things hereby required or authorised to be performed by them.

Compensation in cases of negligence.

Compensation in cases of temporary possession.

26. 28. In every case where the said company or its assigns shall take temporary possession of lands by virtue of the powers hereby granted, it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of said lands the value of any crop or dressing that may be thereon, 5 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 10 justices in case the parties differ; and shall also, within twelve months after such entry, pay to such owners and occupiers, or deposit in a 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 15 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.

Proceedings in absence of owner.

27. 29. 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 inquiry, be found, or is under disability, or if any such lands are 20 vested in persons who have respectively only limited or qualified interests therein, and who cannot enter into binding agreements with the said company and its 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 25 the said company or its assigns in respect of such lands shall be determined by the valuation of a surveyor to be nominated as hereinafter mentioned.

Justices to appoint surveyor to certain cases.

28. 30. Upon application by the said company or its assigns to two justices, and upon such evidence as may be satisfactory to them that 30 there is no person in the Colony or to be found who can enter into a binding contract with the said company and its assigns, or join with the said company or its 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 35 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.

Declaration by surveyor.

29. 31. Before such surveyor shall enter upon the duty of making 40 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 45 and ability, execute the duty of making the valuation hereby referred to me.

Made and subscribed in the presence of

C.D.

And if any such surveyor shall corruptly make such declaration, or 50 having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Production of valuation, &c.

30. 32. 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 company or its assigns, and they shall 55 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.

31. 33. All the expenses of and incident to any such valuation shall be borne by the said company or its assigns.

32. 34. 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 company and its assigns to the person or 5 persons for the time being entitled to the rents and profits of 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 their respective husbands, guardians, committees, or 10 trustees of such persons.

Compensation not exceeding £50 how to be dealt with.

33. 35. 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 15 the said company or its 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 Master of the fact of the money being so paid in shall be a sufficient discharge to the said company and its assigns for 20 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 intituled "*An Act for better securing Trust Funds, and for the relief of Trustees,*" and shall be subject in all respects to 25 the provisions of the said Act and all rules of the said Court made thereunder.

Compensation how dealt with in absence of owner.

34. 36. If in any case in which according to the provisions of this Act the said company and its assigns are authorised to enter upon and take possession of any lands required for the purposes of the said 30 tramway, the owner or occupier of any such lands, or any other person shall refuse to give up possession thereof, or hinder the said company or its assigns from entering upon or taking possession of the same, it shall be lawful for the said company and its assigns to issue his or their warrant to the sheriff to deliver possession of the same to 35 the persons appointed by the said company or its 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, 40 and the amount of such costs shall be deducted and retained by the said company and its 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 45 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 shall issue his warrant accordingly.

Cases of dispute sheriff may issue warrant.

35. 37. All notices required to be served by the said company and its assigns upon the parties interested in or entitled to sell any such 50 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 inquiry, shall be left with the occupier of such lands, or if there be no such occupier shall be affixed upon some conspicuous 55 part of such lands.

Service of notice on owners of lands.

36. 38. Nothing in this Act contained shall be deemed to authorise the said company or its assigns to take or enter upon any land belonging to the said Commissioners, or to alter or to interfere with the Great Western Railway or any of the works thereof between the said railway 60 and tramway, without the previous consent in writing in every instance, of the said Commissioners.

Not to interfere with railway.

Erection of
signals, &c.

37. 39. The said Commissioners shall from time to time, at the expense of the said company and its assigns, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the said company or its assigns, and may from time to time appoint and remove such watchmen, switchmen, or other persons 5 as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

Management of
signals.

38. 40. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the said Commissioners. Such sums shall be charged to the said 10 company or its assigns as in the opinion of the ~~Railway~~ said Commissioners shall be reasonable for such service.

By-laws for use of
tramway.

39. 41. It shall be lawful for the said company or its assigns from time to time, **subject to the approval of the Governor with the advice aforesaid**, and subject to the provisions and restrictions in this Act 15 contained, to make by-laws for the following purposes, that is to say:—

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

For regulating and loading or unloading of carriages and cars. 20

For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages, cars, or trucks, or any of the tramway waiting rooms or premises.

And generally for issuing tickets and regulating the travelling upon and working the said Tramway, and for the maintenance 25 of good order, and for regulating the conduct of the officers and servants of the company or its assigns, and for providing for the due management of the said tramway and the protection thereof, and the carriages, cars, trucks, motors, and engines, and waiting rooms, offices, and premises from 30

trespass and injury: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act, and a copy of such by-laws shall be posted in some conspicuous place in or upon the cars of the company or its assigns running upon the said tramway: ~~Provided that such~~ 35 by-laws shall not have any force or effect until after the expiration of four weeks after they have been submitted to the Executive Council, and be not within such time disapproved by it, and such by-laws shall specify the penalties which shall in no case exceed the sum of ten pounds. 40

Evidence of by-laws

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

Power to assign.

41. 43. It is hereby declared that, subject to the provisions of the said agreement for lease, or of any amendment thereof, or of any lease in 45 pursuance thereof, it is lawful for the said company and its assigns at any time to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon it or them by this Act to any other person, and upon any such transfer or assignment being made the person in whose favour such transfer or assignment is made shall then stand in 50 the place of the said company, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said company or its assigns by this Act. In the event of the said agreement or lease becoming forfeited or determined, otherwise than by expiration or by agreement between the parties, the said Board of Water Supply and 55 Sewerage shall stand in the place of the said company, and have all such rights, powers, privileges, and advantages aforesaid.

Power of the Govern-
ment to purchase
tramway.

42. Subject to the provisions of the said agreement for lease or any lease made or executed in pursuance thereof, it shall be lawful for the Governor, with the advice of the Executive Council, upon giving 60
three

three months notice in writing to the said company or its assigns, to require the said company or its assigns to sell, and thereupon the said company or its assigns shall sell to the Government the said tramway upon the terms of payment of the then value (inclusive of compensation for compulsory sale not exceeding ten per centum) of the said tramway, and all lands, buildings, works, materials, and plant of the said company or its assigns suitable to and used by it or them for the purposes of the said tramway, and all rights and privileges conferred by this Act, such value in case of difference to be ascertained by arbitration in the manner provided by the forty-second and other sections subsequent thereto of the Public Works Act of 1888, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said tramway, lands, buildings, works, materials, plant, rights, and premises shall forthwith vest in the Railway Commissioners in the said Act mentioned, who shall, subject as aforesaid, have all the rights, powers, and authorities of the said company and its assigns in respect of the said tramway so sold. If the tramway hereby authorised shall cease to be worked as a tramway for the conveyance of passengers or goods by the said company or its assigns for twelve calendar months, the said tramway shall, subject to the rights of the said lessors, on proclamation to that effect by the Governor, with the advice of the Executive Council, vest in and become the absolute property of the Crown without making any allowance or compensation or paying any consideration in respect thereof to the company or its assigns.

44. Subject to the provisions of the said agreement for lease or any lease made or executed in pursuance thereof, the Governor, with the advice aforesaid, may at any time after two years from the completion of the construction of the said tramway, if he think fit, purchase the said tramway upon giving to the said company or its assigns six months notice in writing of his intention to do so. If the amount tendered for the purchase of the said tramway be considered inadequate by the said company or its assigns, the amount shall be ascertained by assessment in terms of the Lands for Public Purposes Acquisition Act.

Power of purchase of tramway by Government.

43. 45. All penalties imposed under this Act or under any by-laws made in pursuance thereof shall be recoverable in a summary way before any stipendiary or police magistrate, or any two justices of the peace, under the provisions of the Act for the time being regulating summary proceedings before justices, and payment of such penalties may be enforced in the manner provided by such Act.

Penalties how recoverable.

44. 46. This Act may be cited for all purposes as the "Emu Gravel and Road Metal Company's Tramway Act, 1895."

SCHEDULE.

Commencing at the Prospect Quarries, near Parramatta, in the parish of Prospect, and county of Cumberland, and passing through the Water and Sewerage Board Reserve north-westerly and northerly for a distance of sixty-two chains to a point on the Great Western Road, where the southern side of that road intersects the western boundary of 5
 portion numbered twenty-nine on the map of the parish of Prospect (John Kennedy's one hundred and sixty acres grant); thence along the northern side of that road in a north-easterly direction for thirty-two and three-quarter chains; thence through a block of L. Hyland's property, being part of portion numbered twenty-nine aforesaid, north-easterly six and a quarter chains to a Government road one chain wide; thence across 10
 that road north-easterly one chain; thence through another block, of L. Hyland's property, being portion numbered sixteen on said map of the parish of Prospect (Catherine Hyland's twenty-five acres three roods thirty-six perches grant), north-easterly fifteen chains to the north-east corner thereof; thence across the Blacktown Road north-easterly one chain; thence through the property of Fitz William 15
 Wentworth, being portions numbered on the said map of the parish of Prospect ninety-eight (Robert Bolton's thirty acres grant), thirty-five (John Silverthorne's thirty acres grant), thirty-six (John O'Croft's thirty-acres grant), and thirty-seven (W. Eggleton's sixty-acres grant), north-easterly sixty-five chains to a point on the eastern boundary of said portion thirty-seven about three chains southerly from the north-east corner 20
 thereof; and thence along the Toongabbie lane north-easterly eighty chains to the Toongabbie Station.

Legislative Council.

58^o VICTORIÆ, 1895.

A BILL

To authorise the construction, maintenance, and control by the Emu Gravel and Road-metal Company (Limited) of a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station, and connecting with the Great Western Railway, and to carry passengers and goods thereon.

WHEREAS the Emu Gravel and Road-metal Company (Limited) is desirous of constructing a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station on the Great Western Railway, from and to the points and by the directions mentioned and described in the Schedule to this Act, and to effect a junction or siding with the said railway at or near the said station, and for other the purposes and with the powers hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for the said company or its assigns, upon the terms and conditions and subject to the provisions in this Act contained, to lay down, construct, maintain, and control a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station by the route and in the directions respectively mentioned

and described in the Schedule to this Act (which tramway is hereinafter referred to as the said tramway), and to effect a junction or connection with a goods-siding at or near the Toongabbie Station in the same manner as if such siding was a railway made under the provisions of the Public Works Act of 1888, and subject to the terms, 5 conditions, and restrictions enacted in that Act, and also subject to the provisions contained in the agreement for lease of the said quarries from the Board of Water Supply and Sewerage to the said company, and of any lease made or executed in pursuance thereof, with power to make such points and loops along the line of tramway as shall be 10 considered necessary for the working of the said tramway, and to use so much of the roads and take up and use so much of the land referred to in the said Schedule as shall be required for the purposes of the said tramway, but so that the same shall not occupy in any part thereof (except where there shall be a loop or junction) a greater space in 15 breadth than nine feet including the support and foundations thereof, provided that the company shall not have the right to effect the said junction or connection with the said siding until the company has laid before the Railway Commissioners plans and specifications of the proposed method of effecting the said junction or connection and obtain 20 their approval thereof: Provided also that the said tramway shall be constructed and maintained in a proper and workmanlike manner, and in all respects to the satisfaction and approval of the Engineer-in-Chief for Railway Construction and of the Engineer-in-Chief for Roads and Bridges, and shall be completely constructed and brought into use 25 within two years from the passing of this Act.

2. The tramway and the material thereof shall not cease to be the property of the said company or its assigns by reason of the same being laid as in this Act mentioned.

3. The said company and its assigns and all persons acting 30 under its or their authority shall have all necessary rights of entry, way, ingress and egress to and over the surface of the said roads and lands referred to in the said Schedule 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 35 and necessary for such purposes: And provided further that nothing herein contained shall impair or be held to impair the lawful authority of any municipal authority, or other corporation, company, or person lawfully authorised in that behalf to make all entries and exercise all other powers necessary for the construction, maintenance, and preserva- 40 tion of gas-works, water-works, sewerage-works, and other works lawfully constructed underground, but so that such entries and other powers and such works, as last aforesaid, shall be so exercised and constructed, maintained and preserved in such manner as not to injure or interfere with the said tramway or the working and use thereof. 45

4. The gauge of the said tramway shall be the same gauge as that of the Government railways.

5. The said tramway shall, throughout so much of its course as lies within the borough of Prospect and Sherwood, be laid at about the general level of the roads traversed by it, and so that the rails 50 shall not project above the surface thereof, and that such rails, where they traverse the Main Western Road, shall be grooved rails or flat-bottomed rails of ordinary construction, with guard rails fixed on the inside of the track; and the said company and its assigns shall maintain in good order and repair the said tramway, and, where the 55 said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the said thoroughfares between the rails of the said tramway and for the space of one foot six inches on each side of the said rails.

6.

Tramway to remain property of the company and its assigns.

Entry upon roads, &c.

Gauge.

Levels of lines.

6. Throughout such part of the said tramway as traverses the Great Western Road mentioned in the said Schedule, and lies outside the borough of Prospect and Sherwood, the said company or its assigns shall not be bound to lay the said tramway at the general level of the said road, or so that the rails shall not project above the level of the said road: Provided that the said company and its assigns shall depart from such level as little as may be, and whenever such level is departed from shall cause the altered level to be adopted or extended throughout the whole width of the said road, and shall restore the condition of the said road where the levels shall be altered to the like state and condition as they shall have been in before such alteration of the levels; and shall make and at all times maintain for the accommodation and safety of the public and the owners and occupiers of lands fronting the said road such and so many convenient level crossings, bridges, arches, culverts, and passages across, over, under, or by the side of the said tramway as shall be necessary for the purpose of making good any interruption or hindrance caused by the said tramway to the use of any lands fronting the said Great Western Road or any roads which shall for the time being run across or into the said Great Western Road; also all necessary arches, tunnels, culverts, drains, or other passages either over, under, or by the sides of the said tramway of such dimensions as shall be sufficient at all times to convey the water as effectively from the said roads as before the making of the said tramway, or as nearly as may be; and such works shall be made from time to time as the tramway works proceed: Provided always that the said company or its assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said tramway, nor to make any accommodation works with respect to which the owners and occupiers of the lands referred to shall have agreed to receive and shall have been paid compensation instead of having them made.

Level of line on Western Road.

7. The said company or its assigns shall immediately repair any damage which may during or by reason of the construction of the said tramway be occasioned to any sewer or drain or gas or water main or other property.

Repair of damage to sewers, &c.

8. The said tramway shall be open to public use upon payment of the tolls or charges following, that is to say—

Tramway to be open to public.

For passengers a sum not exceeding twopence per head per mile or fraction thereof.

For goods not exceeding the same rates as are charged on the Government railways for equal distances:

Provided always that such tolls or charges may from time to time be increased with the approval of the Railway Commissioners.

9. It shall be lawful for the said company and its assigns to use and employ locomotive engines, horses, or other moving power, and carriages, trucks, cars, and waggons to be drawn or propelled thereby, and to make such stoppages and detention at either terminus of the said tramway or along the line thereof, and for such times as shall be considered necessary for the convenient and effectual working, using, and management of the said tramway, and to carry and convey upon the said tramway passengers and goods, and to charge the tolls and charges in respect thereof as above specified: Provided that all rolling stock before and during use shall be subject to the approval of the Railway Commissioners, and be at all times open to their inspection, such right of disapproval to be exercised reasonably, and such approval not to be unreasonably or capriciously withheld.

Locomotives to be employed.

10. The tolls and charges shall be paid to such persons and at such places upon or near to the tramway, and in such manner and under such regulations as the said company or its assigns shall appoint.

Tolls to be paid as directed.

11.

Liability of carriers.

11. Nothing in this Act contained shall extend to charge or make liable the said company or its assigns, further, or in any other case than where, according to the laws of this Colony stage-coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the said company or its assigns of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but, on the contrary, the said company and its assigns shall at all times be entitled to the benefit of every such protection and privilege. 5

12. 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 company and its assigns and its workmen and servants to enter upon the lands 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 company and its 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. 10 15 20 25

Compensation to be settled by arbitration.

13. If within sixty days of the passing of this Act the said persons through whose land the tramway shall pass, or any of them, and the said company or its assigns shall not agree to the amount of compensation to be paid by it or them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators 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 any 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: Provided that the said company shall compensate owners for all lands taken at such price as may be agreed upon or awarded by the arbitrators, together with interest at the rate of six pounds per centum per annum from date of resumption. 30 35 40 45 50 55 60

14. 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.

15. 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, the arbitrators, or either of them, 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.

16. If in either of the cases aforesaid the arbitrators shall refuse, or for seven days after request of either party to such arbitrators, 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 differ or which shall be referred to him under this Act shall be final.

Neglect to appoint umpire.

17. 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.

18. 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 term (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.

19. 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.

20. 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, make and subscribe the following declaration, that is to say:—

Declaration of 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 "Emu Gravel and Road-metal Company Tramway Act."

Made and subscribed in the presence of

C.D.

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.

21. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators 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 company or its assigns, in 5
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 arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the 10
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 the company and its assigns.

22. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said company or its 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 15
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.

23. The submission to any arbitration may be made a rule of 20
the Supreme Court on the application of either of the parties.

Award not to be set aside for irregularity.

24. 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.

Compensation in cases of negligence.

25. The said company or its assigns shall make compensation 25
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-per- 30
formance or negligent performance by the said company or its assigns of any of the matters or things hereby required or authorised to be performed by them.

Compensation in cases of temporary possession.

26. In every case where the said company or its assigns shall take temporary possession of lands by virtue of the powers hereby 35
granted, it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of 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 40
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 a 45
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. 50

Proceedings in absence of owner.

27. 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 inquiry, be found, or is under disability, or if any such lands are vested in persons who have respectively only limited or qualified 55
interests therein, and who cannot enter into binding agreements with the said company and its 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 company or its assigns in respect of such lands shall be determined by the valuation of a surveyor to be nominated as herein- 60
after mentioned.

28. Upon application by the said company or its assigns to two justices, and upon such evidence 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 company and its assigns, or join with the said company or its 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 to certain cases.

29. 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.

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 in the presence of

C.D.

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.

30. 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 company or its 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.

31. All the expenses of and incident to any such valuation shall be borne by the said company or its assigns.

Cost of valuation how borne.

32. 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 company and its assigns to the person or persons for the time being entitled to the rents and profits of 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 their respective husbands, guardians, committees, or trustees of such persons.

Compensation not exceeding £50 how to be dealt with.

33. 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 company or its 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 Master of the fact of the money being so paid in shall be a sufficient discharge to the said company and its 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 intituled "*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.

34. If in any case in which according to the provisions of this Act the said company and its assigns are authorised to enter upon and take possession of any lands required for the purposes of the said tramway,

Cases of dispute sheriff may issue warrant.

tramway, the owner or occupier of any such lands, or any other person shall refuse to give up possession thereof, or hinder the said company or its assigns from entering upon or taking possession of the same, it shall be lawful for the said company and its assigns to issue his or their warrant to the sheriff to deliver possession of the same to the persons appointed by the said company or its 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 company and its 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 shall issue his warrant accordingly.

Service of notice on owners of lands.

35. All notices required to be served by the said company and its 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 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.

Not to interfere with railway.

36. Nothing in this Act contained shall be deemed to authorise the said company or its assigns to take or enter upon any land belonging to the said Commissioners, or to alter or to interfere with the Great Western Railway or any of the works thereof between the said railway and tramway, without the previous consent in writing in every instance, of the said Commissioners.

Erection of signals, &c.

37. The said Commissioners shall from time to time, at the expense of the said company and its assigns, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the said company or its assigns, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

Management of signals.

38. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the said Commissioners. Such sums shall be charged to the said company or its assigns as in the opinion of the Railway Commissioners shall be reasonable for such service.

By-laws for use of tramway.

39. It shall be lawful for the said company or its assigns from time to time, subject to the provisions and restrictions in this Act contained, to make by-laws for the following purposes, that is to say:—

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

For regulating and loading or unloading of carriages and cars.

For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages, cars, or trucks, or any of the tramway waiting rooms or premises.

And generally for issuing tickets and regulating the travelling upon and working the said Tramway, and for the maintenance of good order, and for regulating the conduct of the officers and servants of the company or its assigns, and for providing for the due management of the said tramway and the protection thereof, and the carriages, cars, trucks, motors, and engines,

engines, and waiting rooms, offices, and premises from trespass and injury: Provided that such by-laws be not repugnant to the laws of the Colony or to the provisions of this Act, and a copy of such by-laws shall be posted in some conspicuous place in or upon the cars of the company or its assigns running upon the said tramway: Provided that such by-laws shall not have any force or effect until after the expiration of four weeks after they have been submitted to the Executive Council, and be not within such time dis-

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

41. It is hereby declared that, subject to the provisions of the said agreement for lease, or of any amendment thereof, or of any lease in pursuance thereof, it is lawful for the said company and its assigns at any time to assign and transfer all the rights, powers, privileges, benefits, and advantages conferred upon it or them by this Act to any other person, and upon any such transfer or assignment being made the person in whose favour such transfer or assignment is made shall then stand in the place of the said company, and shall have all the rights, powers, benefits, privileges, and advantages conferred upon the said company or its assigns by this Act. In the event of the said agreement or lease becoming forfeited or determined, otherwise than by expiration or by agreement between the parties, the said Board of Water Supply and Sewerage shall stand in the place of the said company, and have all such rights, powers, privileges, and advantages aforesaid. Power to assign.

42. Subject to the provisions of the said agreement for lease or any lease made or executed in pursuance thereof, it shall be lawful for the Governor, with the advice of the Executive Council, upon giving three months notice in writing to the said company or its assigns, to require the said company or its assigns to sell, and thereupon the said company or its assigns shall sell to the Government the said tramway upon the terms of payment of the then value (inclusive of compensation for compulsory sale not exceeding ten per centum) of the said tramway, and all lands, buildings, works, materials, and plant of the said company or its assigns suitable to and used by it or them for the purposes of the said tramway, and all rights and privileges conferred by this Act, such value in case of difference to be ascertained by arbitration in the manner provided by the forty-second and other sections subsequent thereto of the Public Works Act of 1888, for settling cases of disputed compensation, and subject to the terms and conditions therein contained. And when any such sale shall have been made to the said Government, the said tramway, lands, buildings, works, materials, plant, rights, and premises shall forthwith vest in the Railway Commissioners in the said Act mentioned, who shall, subject as aforesaid, have all the rights, powers, and authorities of the said company and its assigns in respect of the said tramway so sold. If the tramway hereby authorised shall cease to be worked as a tramway for the conveyance of passengers or goods by the said company or its assigns for twelve calendar months, the said tramway shall, subject to the rights of the said lessors, on proclamation to that effect by the Governor, with the advice of the Executive Council, vest in and become the absolute property of the Crown without making any allowance or compensation or paying any consideration in respect thereof to the company or its assigns. Power of the Government to purchase tramway.

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43. All penalties imposed under this Act or under any by-laws made in pursuance thereof shall be recoverable in a summary way before any stipendiary or police magistrate, or any two justices of the Penalties how recoverable.

peace, under the provisions of the Act for the time being regulating summary proceedings before justices, and payment of such penalties may be enforced in the manner provided by such Act.

44. This Act may be cited for all purposes as the "Emu Gravel and Road Metal Company's Tramway Act, 1895."

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SCHEDULE.

Commencing at the Prospect Quarries, near Parramatta, in the parish of Prospect, and county of Cumberland, and passing through the Water and Sewerage Board Reserve north-westerly and northerly for a distance of sixty-two chains to a point on the Great Western Road, where the southern side of that road intersects the western boundary of portion numbered twenty-nine on the map of the parish of Prospect (John Kennedy's one hundred and sixty acres grant); thence along the northern side of that road in a north-easterly direction for thirty-two and three-quarter chains; thence through a block of L. Hyland's property, being part of portion numbered twenty-nine aforesaid, north-easterly six and a quarter chains to a Government road one chain wide; thence across that road north-easterly one chain; thence through another block of L. Hyland's property, being portion numbered sixteen on said map of the parish of Prospect (Catherine Hyland's twenty-five acres three roods thirty-six perches grant), north-easterly fifteen chains to the north-east corner thereof; thence across the Blacktown Road north-easterly one chain; thence through the property of Fitz William Wentworth, being portions numbered on the said map of the parish of Prospect ninety-eight (Robert Bolton's thirty acres grant), thirty-five (John Silverthorne's thirty acres grant), thirty-six (John O'Croft's thirty-acres grant), and thirty-seven (W. Eggleton's sixty-acres grant), north-easterly sixty-five chains to a point on the eastern boundary of said portion thirty-seven about three chains southerly from the north-east corner thereof; and thence along the Toongabbie lane north-easterly eighty chains to the Toongabbie Station.

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Legislative Council.

58^o VICTORIÆ, 1895.

A BILL

To authorise the construction, maintenance, and control by the Emu Gravel and Road-metal Company (Limited) of a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station, and connecting with the Great Western Railway, and to carry passengers and goods thereon.

WHEREAS the Emu Gravel and Road-metal Company (Limited) Preamble.
is desirous of constructing a tramway from the property known as the Prospect Quarries to the Toongabbie Railway Station on the Great Western Railway, from and to the points and by the directions
5 mentioned and described in the Schedule to this Act, and to effect a junction or siding with the said railway at or near the said station, and for other the purposes and with the powers hereinafter mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative
10 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 company or its assigns, upon Authority to
the terms and conditions and subject to the provisions in this Act con- construct tramway
tained, to lay down, construct, maintain, and control a tramway from
15 the property known as the Prospect Quarries to the Toongabbie Rail-
way Station by the route and in the directions respectively mentioned
and

and described in the Schedule to this Act (which tramway is hereinafter referred to as the said tramway), and to effect a junction or connection with a goods-siding at or near the Toongabbie Station in the same manner as if such siding was a railway made under the provisions of the Public Works Act of 1888, and subject to the terms, 5 conditions, and restrictions enacted in that Act, and also subject to the provisions contained in the agreement for lease of the said quarries from the Board of Water Supply and Sewerage to the said company, and of any lease made or executed in pursuance thereof, with power to make such points and loops along the line of tramway as shall be 10 considered necessary for the working of the said tramway, and to use so much of the roads and take up and use so much of the land referred to in the said Schedule as shall be required for the purposes of the said tramway, but so that the same shall not occupy in any part thereof (except where there shall be a loop or junction) a greater space in 15 breadth than nine feet including the support and foundations thereof, provided that the company shall not have the right to effect the said junction or connection with the said siding until the company has laid before the Railway Commissioners plans and specifications of the proposed method of effecting the said junction or connection and obtain 20 their approval thereof: Provided also that the said tramway shall be constructed and maintained in a proper and workmanlike manner, and in all respects to the satisfaction and approval of the Engineer-in-Chief for Railway Construction and of the Engineer-in-Chief for Roads and Bridges, and shall be completely constructed and brought into use 25 within two years from the passing of this Act.

Tramway to remain property of the company and its assigns.

Entry upon roads, &c.

2. The tramway and the material thereof shall not cease to be the property of the said company or its assigns by reason of the same being laid as in this Act mentioned.

3. The said company and its assigns and all persons acting 30 under its or their authority shall have all necessary rights of entry, way, ingress and egress to and over the surface of the said roads and lands referred to in the said Schedule 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 35 and necessary for such purposes: And provided further that nothing herein contained shall impair or be held to impair the lawful authority of any municipal authority, or other corporation, company, or person lawfully authorised in that behalf to make all entries and exercise all other powers necessary for the construction, maintenance, and preserva- 40 tion of gas-works, water-works, sewerage-works, and other works lawfully constructed underground, but so that such entries and other powers and such works, as last aforesaid, shall be so exercised and constructed, maintained and preserved in such manner as not to injure or interfere with the said tramway or the working and use thereof. 45

Gauge.

4. The gauge of the said tramway shall be the same gauge as that of the Government railways.

Levels of lines.

5. The said tramway shall, throughout so much of its course as lies within the borough of Prospect and Sherwood, be laid at about the general level of the roads traversed by it, and so that the rails 50 shall not project above the surface thereof, and that such rails, where they traverse the Main Western Road, shall be grooved rails or flat-bottomed rails of ordinary construction, with guard rails fixed on the inside of the track; and the said company and its assigns shall maintain in good order and repair the said tramway, and, where the 55 said tramway traverses public thoroughfares, shall maintain perfect and keep in order and repair the said thoroughfares between the rails of the said tramway and for the space of one foot six inches on each side of the said rails.

6. Throughout such part of the said tramway as traverses the Great Western Road mentioned in the said Schedule, and lies outside the borough of Prospect and Sherwood, the said company or its assigns shall not be bound to lay the said tramway at the general level of the said road, or so that the rails shall not project above the level of the said road: Provided that the said company and its assigns shall depart from such level as little as may be, and whenever such level is departed from shall cause the altered level to be adopted or extended throughout the whole width of the said road, and shall restore the condition of the said road where the levels shall be altered to the like state and condition as they shall have been in before such alteration of the levels; and shall make and at all times maintain for the accommodation and safety of the public and the owners and occupiers of lands fronting the said road such and so many convenient level crossings, bridges, arches, culverts, and passages across, over, under, or by the side of the said tramway as shall be necessary for the purpose of making good any interruption or hindrance caused by the said tramway to the use of any lands fronting the said Great Western Road or any roads which shall for the time being run across or into the said Great Western Road; also all necessary arches, tunnels, culverts, drains, or other passages either over, under, or by the sides of the said tramway of such dimensions as shall be sufficient at all times to convey the water as effectively from the said roads as before the making of the said tramway, or as nearly as may be; and such works shall be made from time to time as the tramway works proceed: Provided always that the said company or its assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the said tramway, nor to make any accommodation works with respect to which the owners and occupiers of the lands referred to shall have agreed to receive and shall have been paid compensation instead of having them made.

Level of line on Western Road.

7. The said company or its assigns shall immediately repair any damage which may during or by reason of the construction of the said tramway be occasioned to any sewer or drain or gas or water main or other property.

Repair of damage to sewers, &c.

8. The said tramway shall be open to public use upon payment of the tolls or charges following, that is to say—

Tramway to be open to public.

For passengers a sum not exceeding twopence per head per mile or fraction thereof.

For goods not exceeding the same rates as are charged on the Government railways for equal distances:

Provided always that such tolls or charges may from time to time be increased with the approval of the Railway Commissioners.

9. It shall be lawful for the said company and its assigns to use and employ locomotive engines, horses, or other moving power, and carriages, trucks, cars, and waggons to be drawn or propelled thereby, and to make such stoppages and detention at either terminus of the said tramway or along the line thereof, and for such times as shall be considered necessary for the convenient and effectual working, using, and management of the said tramway, and to carry and convey upon the said tramway passengers and goods, and to charge the tolls and charges in respect thereof as above specified: Provided that all rolling stock before and during use shall be subject to the approval of the Railway Commissioners, and be at all times open to their inspection, such right of disapproval to be exercised reasonably, and such approval not to be unreasonably or capriciously withheld.

Locomotives to be employed.

10. The tolls and charges shall be paid to such persons and at such places upon or near to the tramway, and in such manner and under such regulations as the said company or its assigns shall appoint.

Tolls to be paid as directed.

Liability of carriers.

11. Nothing in this Act contained shall extend to charge or make liable the said company or its assigns, further, or in any other case than where, according to the laws of this Colony stage-coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the said company or its assigns of any protection or privilege which common carriers or stage-coach proprietors may be entitled to, but, on the contrary, the said company and its assigns shall at all times be entitled to the benefit of every such protection and privilege. 5

12. 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 company and its assigns and its workmen and servants to enter upon the lands 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 company and its 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. 10 15 20 25

Compensation to be settled by arbitration.

13. If within sixty days of the passing of this Act the said persons through whose land the tramway shall pass, or any of them, and the said company or its assigns shall not agree to the amount of compensation to be paid by it or them for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitrators 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 any 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: Provided that the said company shall compensate owners for all lands taken at such price as may be agreed upon or awarded by the arbitrators, together with interest at the rate of six pounds per centum per annum from date of resumption. 30 35 40 45 50 55 60

14. 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.

15. 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, the arbitrators, or either of them, 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.

16. If in either of the cases aforesaid the arbitrators shall refuse, or for seven days after request of either party to such arbitrators, 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 differ or which shall be referred to him under this Act shall be final.

Neglect to appoint umpire.

17. 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.

18. 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 term (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.

19. 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.

20. 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, make and subscribe the following declaration, that is to say:—

Declaration of 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 "Emu Gravel and Road-metal Company Tramway Act."

Made and subscribed in the presence of

C.D.

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.

21. All the costs of any such arbitration and incident thereto shall be in the discretion of the arbitrators, and the costs of the arbitrators 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 company or its assigns, in 5 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 arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the 10 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 the company and its assigns.

22. The arbitrator, arbitrators, or umpire shall deliver their or his award in writing to the said company or its 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 15 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.

23. The submission to any arbitration may be made a rule of 20 the Supreme Court on the application of either of the parties.

Award not to be set aside for irregularity.

24. 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.

Compensation in cases of negligence.

25. The said company or its assigns shall make compensation 25 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-per- 30 formance or negligent performance by the said company or its assigns of any of the matters or things hereby required or authorised to be performed by them.

Compensation in cases of temporary possession.

26. In every case where the said company or its assigns shall take temporary possession of lands by virtue of the powers hereby 35 granted, it shall be incumbent on them within three months after entry upon such land, upon being required so to do, to pay to the occupier of 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 40 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 a 45 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. 50

Proceedings in absence of owner.

27. 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 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 55 the said company and its assigns for the purchase of such lands, or join in submitting their claims for compensation to arbitration as herebefore provided, the purchase money or compensation payable by the said company or its assigns in respect of such lands shall be determined by the valuation of a surveyor to be nominated as herein- 60 after mentioned.

28. Upon application by the said company or its assigns to two justices, and upon such evidence 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 company and its assigns, or join with the said company or its 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 to certain cases.

29. 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.

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 in the presence of

C.D.

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.

30. 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 company or its 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.

31. All the expenses of and incident to any such valuation shall be borne by the said company or its assigns.

Cost of valuation how borne.

32. 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 company and its assigns to the person or persons for the time being entitled to the rents and profits of lands in respect whereof the same shall be payable for their own use and benefit, or in the case of the coverture, infancy, idiocy, lunacy, or other incapacity of any such persons, then such money shall be paid for their use to their respective husbands, guardians, committees, or trustees of such persons.

Compensation not exceeding £50 how to be dealt with.

33. 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 company or its 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 Master of the fact of the money being so paid in shall be a sufficient discharge to the said company and its 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 intituled "*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.

34. If in any case in which according to the provisions of this Act the said company and its assigns are authorised to enter upon and take possession of any lands required for the purposes of the said tramway,

Cases of dispute sheriff may issue warrant.

tramway, the owner or occupier of any such lands, or any other person shall refuse to give up possession thereof, or hinder the said company or its assigns from entering upon or taking possession of the same, it shall be lawful for the said company and its assigns to issue his or their warrant to the sheriff to deliver possession of the same to the persons appointed by the said company or its 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 company and its 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 shall issue his warrant accordingly.

Service of notice on owners of lands.

35. All notices required to be served by the said company and its 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 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.

Not to interfere with railway.

36. Nothing in this Act contained shall be deemed to authorise the said company or its assigns to take or enter upon any land belonging to the said Commissioners, or to alter or to interfere with the Great Western Railway or any of the works thereof between the said railway and tramway, without the previous consent in writing in every instance, of the said Commissioners.

Erection of signals, &c.

37. The said Commissioners shall from time to time, at the expense of the said company and its assigns, erect such signals and conveniences incident to the junction either upon their own lands or on the lands of the said company or its assigns, and may from time to time appoint and remove such watchmen, switchmen, or other persons as may be necessary for the prevention of danger to or interference with the traffic at or near the junction.

Management of signals.

38. The working and management of such signals and conveniences wherever situate shall be under the exclusive regulation of the said Commissioners. Such sums shall be charged to the said company or its assigns as in the opinion of the Railway Commissioners shall be reasonable for such service.

By-laws for use of tramway.

39. It shall be lawful for the said company or its assigns from time to time, subject to the provisions and restrictions in this Act contained, to make by-laws for the following purposes, that is to say:—

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

For regulating and loading or unloading of carriages and cars.

For preventing the smoking of tobacco and the commission of any nuisance in or upon such carriages, cars, or trucks, or any of the tramway waiting rooms or premises.

And generally for issuing tickets and regulating the travelling upon and working the said Tramway, and for the maintenance of good order, and for regulating the conduct of the officers and servants of the company or its assigns, and for providing for the due management of the said tramway and the protection thereof, and the carriages, cars, trucks, motors, and engines,

5 engines, and waiting rooms, offices, and premises from
 trespass and injury: Provided that such by-laws be not
 repugnant to the laws of the Colony or to the provisions of
 this Act, and a copy of such by-laws shall be posted in some
 10 conspicuous place in or upon the cars of the company or its
 assigns running upon the said tramway: Provided that such
 by-laws shall not have any force or effect until after the
 expiration of four weeks after they have been submitted to
 the Executive Council, and be not within such time dis-
 approved by it.

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

41. It is hereby declared that, subject to the provisions of the said Power to assign.
 15 agreement for lease, or of any amendment thereof, or of any lease in
 pursuance thereof, it is lawful for the said company and its assigns at
 any time to assign and transfer all the rights, powers, privileges, benefits,
 and advantages conferred upon it or them by this Act to any other
 person, and upon any such transfer or assignment being made the person
 20 in whose favour such transfer or assignment is made shall then stand in
 the place of the said company, and shall have all the rights, powers,
 benefits, privileges, and advantages conferred upon the said company
 or its assigns by this Act. In the event of the said agreement or lease
 becoming forfeited or determined, otherwise than by expiration or by
 25 agreement between the parties, the said Board of Water Supply and
 Sewerage shall stand in the place of the said company, and have all
 such rights, powers, privileges, and advantages aforesaid.

42. Subject to the provisions of the said agreement for lease or Power of the Govern-
 any lease made or executed in pursuance thereof, it shall be lawful for ment to purchase
 30 the Governor, with the advice of the Executive Council, upon giving tramway.
 three months notice in writing to the said company or its assigns, to
 require the said company or its assigns to sell, and thereupon the said
 company or its assigns shall sell to the Government the said tramway
 upon the terms of payment of the then value (inclusive of compensa-
 35 tion for compulsory sale not exceeding ten per centum) of the said
 tramway, and all lands, buildings, works, materials, and plant of the
 said company or its assigns suitable to and used by it or them for the
 purposes of the said tramway, and all rights and privileges conferred
 by this Act, such value in case of difference to be ascertained by
 40 arbitration in the manner provided by the forty-second and other sections
 subsequent thereto of the Public Works Act of 1888, for settling
 cases of disputed compensation, and subject to the terms and
 conditions therein contained. And when any such sale shall
 have been made to the said Government, the said tramway, lands,
 45 buildings, works, materials, plant, rights, and premises shall forthwith
 vest in the Railway Commissioners in the said Act mentioned, who
 shall, subject as aforesaid, have all the rights, powers, and authorities
 of the said company and its assigns in respect of the said tramway so
 sold. If the tramway hereby authorised shall cease to be worked
 50 as a tramway for the conveyance of passengers or goods by the said
 company or its assigns for twelve calendar months, the said tramway
 shall, subject to the rights of the said lessors, on proclamation to that
 effect by the Governor, with the advice of the Executive Council, vest
 in and become the absolute property of the Crown without making
 55 any allowance or compensation or paying any consideration in respect
 thereof to the company or its assigns.

43. All penalties imposed under this Act or under any by-laws Penalties how
 made in pursuance thereof shall be recoverable in a summary way recoverable.
 before any stipendiary or police magistrate, or any two justices of the

peace, under the provisions of the Act for the time being regulating summary proceedings before justices, and payment of such penalties may be enforced in the manner provided by such Act.

44. This Act may be cited for all purposes as the "Emu Gravel and Road Metal Company's Tramway Act, 1895."

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SCHEDULE.

Commencing at the Prospect Quarries, near Parramatta, in the parish of Prospect, and county of Cumberland, and passing through the Water and Sewerage Board Reserve north-westerly and northerly for a distance of sixty-two chains to a point on the Great Western Road, where the southern side of that road intersects the western boundary of 10
 portion numbered twenty-nine on the map of the parish of Prospect (John Kennedy's one hundred and sixty acres grant); thence along the northern side of that road in a north-easterly direction for thirty-two and three-quarter chains; thence through a block of L. Hyland's property, being part of portion numbered twenty-nine aforesaid, north-easterly six and a quarter chains to a Government road one chain wide; thence across 15
 that road north-easterly one chain; thence through another block of L. Hyland's property, being portion numbered sixteen on said map of the parish of Prospect (Catherine Hyland's twenty-five acres three roods thirty-six perches grant), north-easterly fifteen chains to the north-east corner thereof; thence across the Blacktown Road north-easterly one chain; thence through the property of Fitz William 20
 Wentworth, being portions numbered on the said map of the parish of Prospect ninety-eight (Robert Bolton's thirty acres grant), thirty-five (John Silverthorne's thirty acres grant), thirty-six (John O'Croft's thirty-acres grant), and thirty-seven (W. Eggleton's sixty-acres grant), north-easterly sixty-five chains to a point on the eastern boundary of said portion thirty-seven about three chains southerly from the north-east corner 25
 thereof; and thence along the Toongabbie lane north-easterly eighty chains to the Toongabbie Station.