

98/578

Committee



33266

J.W.W.
30/11/98

Pres
12/12/98

1898.

A BILL

To authorise William Kenwood, his executors, administrators, and assigns, to construct, erect, and maintain a high-level bridge over the waters of Port Jackson, between the city of Sydney and the borough of North Sydney, and to construct, maintain, and work a tramway upon and over the said bridge, and upon and over certain streets and lands in the city of Sydney and the borough of North Sydney; and for other purposes in connection therewith.

[As amended & agreed to in Select Committee]

WHEREAS in order to increase and facilitate the means of ^{Preamble.} communication and the traffic between the city of Sydney and the borough of North Sydney, William Kenwood, of Sydney, in the Colony of New South Wales, civil engineer, and a member of the Engineering Association of New South Wales, is desirous of constructing, erecting, and maintaining a high-level bridge over the waters of

No 11.42-47

Or about the intersection of Alfred Street and Willoughby Street

the intersection of Alfred Street and Willoughby Street in the said borough

Port Jackson; commencing at the extreme northern end of Princes-street, Sydney, extending thence by way of Dawes' Point over the said waters to Milson's Point in the said borough, and terminating at ~~about the north east corner of Glen street, at its intersection of or with Alfred street~~ in the said borough: And whereas the said 5 William Kenwood is further desirous of constructing, maintaining, and working a tramway, commencing in York-street, in Sydney, at or about the intersection thereof by Wynyard-street, running thence along York-street, Grosvenor-street, and Princes-street aforesaid to the said bridge, and over and across the same to a terminal point at 10 ~~or about the north east corner of Glen street, at its intersection of or with Alfred street aforesaid~~: And whereas the said William Kenwood is desirous of laying out, making, and constructing approaches and roads to, and other works in connection with, the said bridge and the said tramway, and of making, constructing, working, and using lifts 15 for the purpose of providing access to the said bridge and to the said tramway: And whereas the said bridge and the said tramway, and the said approaches, roads, lifts, and other works, or portions thereof respectively are intended to be constructed and made upon and to pass through or over Crown lands and private lands, and over certain 20 streets in the said city and the said borough: And whereas the increased facilities of communication and traffic which would result from the construction of the proposed bridge and tramway and other works would be for the public convenience and benefit, and the traffic on the Milson's Point line of railway and on the Government 25 tramways in North Sydney would be increased thereby, and the public are concerned in the promotion of the said increased facilities of communication and the said increase of traffic: And whereas the purposes of this Act cannot be effected without legislative authority, and it is desirable to authorise the construction of the said bridge, 30 tramway, and works, subject to the provisions and conditions and upon the terms hereinafter contained and mentioned: And whereas it is further desirable that the said William Kenwood, his executors, administrators, and assigns, should have power to transfer and assign his or their rights, powers, authorities, licenses, obligations, and liabilities, 35 under this Act in manner hereinafter provided: 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:—

Short title.

1. This Act may be cited as the "Sydney and North Sydney Bridge and Tramway Act, 1898."

How Act to be read upon assignment, &c.

2. The rights, powers, authorities, licenses, obligations, and liabilities hereinafter conferred and imposed upon the said William Kenwood, and all property, works, and plant at any time vested in the 45 said

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said William Kenwood under this Act, or at any time acquired by him in pursuance thereof, shall be taken and be deemed to have been conferred, imposed, vested, and acquired not only upon, in, and by the said William Kenwood, but also upon, in, and by his executors, administrators, and assigns, and upon, in, and by any assign or assigns from him or them under any assignment or transfer hereinafter authorised to be made, and this Act shall accordingly be so read and construed.

3. In every part of this Act and in any by-law made hereunder, unless the context requires a different meaning, or unless a different meaning is hereinafter assigned, the several words and expressions contained in the several sections of the Public Works Act of 1888, hereinafter incorporated herewith, shall have the same respective meanings as are assigned to them by the said Public Works Act, and the following words and expressions shall, unless the context requires a different meaning, or unless otherwise stated, have the following meanings respectively:—

- “Works” means any work or works the carrying out of which is or are hereinafter authorised.
- 20 “By-laws” means by-laws and regulations made under the authority of this Act.
- “Crown lands” means lands vested in or belonging to or held on behalf of the Crown.
- “Gazette” means the New South Wales Government Gazette.
- 25 “Governor” means the Governor of the Colony for the time being, with the advice of the Executive Council.
- “Master,” when used in relation to any ship, means the person other than a licensed pilot having the command of the ship.
- “Minister” means the Minister for Public Works in and for the said Colony for the time being.
- 30 “Month” means calendar month.
- “Owner” includes lessee or occupier and lessee or licensee under the Crown.
- 35 “Private lands” means lands other than Crown lands, and includes lands belonging to or vested in the Railway Commissioners, but does not include the site of any public street.
- “Railway Commissioners” means the Commissioners for the time being appointed under the Government Railways Act of 1888 and amending Acts.
- 40 “Ship” means and includes every description of vessel used in navigation however navigated or propelled, and whether British, Colonial, or Foreign.
- “Stipendiary magistrate” means a stipendiary magistrate within the metropolitan police district of the said Colony in terms of the enactments in that behalf.
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“Street”

“Street” means any public or common street, highway, road, thoroughfare, footpath, lane, way, place, or passage.

“This Act” means this present Act, and includes those sections of the Public Works Act which are with or without variations hereinafter incorporated herewith. 5

“Water and Sewerage Board” means the Metropolitan Board of Water Supply and Sewerage appointed under the Metropolitan Water and Sewerage Act of 1880, and amending Acts.

Rider

Power to construct bridge, approaches, works, &c.

4. It shall be lawful for the said William Kenwood, upon the 10 terms and conditions and subject to the provisions hereinafter contained, to construct, erect, and maintain a high level-bridge for the purpose of connecting the city of Sydney with the borough of North Sydney, commencing in the city of Sydney, at ^{or about} the extreme northern end of Princes-street; extending thence by the line or route described 15 in the First Schedule to this Act over the waters of Port Jackson to Milson’s Point in the said borough, and terminating at or about the north-east corner of Glen street, at its intersection of or with Alfred street in the said borough, and distant seventy eight chains or thereabouts from the said starting point, and also to make, construct, and 20 use all necessary and convenient works in connection therewith, and to lay out, make, construct, and use approaches and roads both to the terminal points of the said bridge and to convenient points along the said line or route thereof from Alfred-street aforesaid, and from the land fronting Alfred-street and referred to in the First Schedule hereto, 25 from the railway premises at Milson’s Point, and otherwise as may be reasonably necessary and convenient for the public use, and to make, construct, and use lifts for the purpose of providing access to the said bridge and to the tramway to be constructed as hereinafter mentioned from Alfred-street aforesaid, and from the said land fronting the said 30 street, and from the railway premises at Milson’s Point, and otherwise as may be reasonably necessary and convenient for the public use, and to work the said lifts, either by means of hydraulic steam, or electric power, or otherwise as may be thought convenient and proper:

Provided that the said bridge shall be built of steel and iron, and in 35 that portion of it crossing the said waters shall ~~be supported upon a set of piers placed at or about the centre of such waters, and built of iron or steel upon a base of granite or trachyte masonry not exceeding one hundred feet square, and shall have two spans crossing the said waters of not less than seven hundred feet each in length, with 40 a clear height or headway for shipping of not less than one hundred and eighty feet above high-water mark for a length of three hundred and twenty-five feet at the least along the central portion of each of such spans, and at the northern foreshore of the said waters shall~~

Intersection of Alfred street and Milson's Point in the said Borough

have one span of not less than fourteen hundred feet clear width over the foreshore of the said waters to the piers on the northern foreshore thereof. The central portion of which span for a length of four hundred feet at the least shall have a clear headway of not less than one hundred and eighty feet over high water mark

Sharp

RIDER P4 - Between 9th & 10th lines.

And whenever in this act the said "William Kenwood" shall be named or referred to, such naming or reference shall (save where there is something in the subject or context inconsistent with or repugnant to or excluding such construction) mean and include the said William Kenwood and his executors administrators and assigns or the said William Kenwood his executors administrators or assigns as the case may be and as the context may require or allow, And this clause shall besides its ordinary construction be construed as an enlargement and not as a restriction of the provisions of Sections 2, 64 & 65 respectively hereof or any or either of them.

Steward

shall be supported upon a set of piers built of iron or steel, and resting upon a base of granite or trachyte masonry not exceeding one hundred feet square, built in the said waters and abutting upon the said northern foreshore thereof, and upon land shall be supported upon 5 piers of iron and masonry, and shall have a clear width of not less than sixty feet, and a carrying capacity of not less than one hundred and thirty pounds to the square foot, with a wind pressure allowance calculated at a pressure of not less than fifty pounds to the square foot: Provided also that before the said bridge shall be commenced 10 to be built a plan or design and specifications of the same shall be submitted to and approved of by the said Minister, or by the Agent-General, in London, for the Colony of New South Wales: Provided further that the said bridge shall be built in a substantial and workmanlike manner, and to the reasonable satisfaction in all respects 15 of the Minister: Provided always that the said William Kenwood shall not be bound to adhere strictly to the hereinbefore stated terminal points or line or route of the said bridge, but shall be at liberty to make such deviations therefrom, or alterations therein respectively, as may from time to time appear to him to be necessary or desirable, 20 and as may be approved of by the said Minister.

based on bedrock or

showing the location thereof

5. It shall be lawful for the said William Kenwood, upon the terms and conditions and subject to the provisions hereinafter contained, to make, construct, maintain, and work a double line of tramway for the conveyance of passengers and their luggage, and for the convey- 25 ance of goods and merchandise, commencing at about a point in the centre of York-street, in Sydney aforesaid, where the northern line of Wynyard-street if continued would intersect the centre of York-street, and running thence along the line or route described in the Second Schedule to this Act to the said bridge, and over and across the 30 same to a terminal point at or about the ~~north-east corner of Glen-street, at its intersection of or with Alfred-street aforesaid in the said borough, and distant one mile forty-seven chains or thereabouts from the said starting point~~ and also to make, construct, erect, maintain, and work all necessary approaches, platforms, waiting-rooms, 35 buildings, machinery, plant, appliances, apparatus, and other works and conveniences for use in connection with the said tramway, and with the supply of motive or tractive power to be used thereon: Provided that the said tramway shall be made and constructed in a substantial and workmanlike manner, and to the reasonable satisfaction in all 40 respects of the Railway Commissioners: Provided further that it shall be lawful for the said William Kenwood to make such reasonable deviations or alterations in the said terminal points of the said tramway and in the said line or route thereof as may from time to time appear to him to be necessary or desirable, and as shall be approved of by the 45 said Railway Commissioners.

Power to make and construct tramway works, &c.

intersection of a great street and Willoughby Street aforesaid

that the gauge of the said tramway shall be first approved of by the Railway Commissioners and

Power to enter upon and take lands.

6. For the purpose of carrying out any works by this Act authorised or directed to be done it shall be lawful for the said William Kenwood and all persons authorised by and acting under him—

(1) to enter into and upon Crown lands or private lands and into and upon streets, and to survey and take levels of the same, and to ascertain and stake or set out, take, appropriate, and use, either permanently or temporarily, for the purposes herein mentioned or any of them, such parts thereof as may be necessary and proper for the laying out, constructing, erecting, maintaining, working, repairing, altering, or extending any works authorised by this Act, and all other works, matters, conveniences, and things connected therewith;

Construct inclined planes, &c.

(2) to make or construct in, upon, across, under, or over any Crown or private lands or streets, such temporary or permanent inclined planes, embankments, bridges, retaining walls, roads, ways, drains, piers, arches, cuttings, fences, tunnels for cables, cables, posts for the purpose of carrying electric wires, and other works as shall from time to time be considered necessary or convenient;

Alter the course of streets, &c.

(3) to divert or alter, as well temporarily as permanently, the course of any streets, or to raise or sink the level of any streets in order the more conveniently to carry the same over or under or by the side of any works as may from time to time be thought proper;

Coffer-dams, floating plant, &c.

(4) to construct, erect, maintain, and use coffer-dams, stages, piles, floating plant, and other works in the waters of Port Jackson as may from time to time be necessary or desirable in connection with the erection, construction, maintenance, and repair of the said bridge. Provided that such works shall be kept sufficiently lighted by the said William Kenwood to prevent accidents;

To erect houses, machinery, &c.

(5) in or upon any Crown or private lands or streets adjoining or near any works to erect and construct such houses, workshops, foundaries, offices, and other buildings, yards, stations, engines, machinery, apparatus, and other works and conveniences as shall be thought requisite;

Alterations and repairs.

Rider

(6) from time to time to alter or repair or discontinue the above-mentioned works, or any of them, and substitute others in their stead;

General powers.

(8) and generally to do all other acts necessary for constructing, erecting, maintaining, working, reconstructing, altering, repairing, adding to, extending, and using any works:

Provided that the said William Kenwood shall not commence to construct or erect any work under any of the powers contained in subsections (2), (3), (4), and (5) hereof until a plan or design of such

and to excavate under the said works for the purpose of construction

and construct/maintain and use all other works

RIDER P6 - Between lines 36 & 37.

Use of }
Explosives. }

(6) to employ gunpowder, dynamite or any other explosive
in connection with the excavation of any of the works hereby
authorised subject to such reasonable conditions and
restrictions as may be from time to time imposed by the
Minister. *The Municipal Council of Sydney*

Collis

*Authority to
contract for the
laying of
telephonic wires
or cables gas
or hydraulic
wires &c.*

7. The said William Kenwood may from time to time contract for the laying or conducting of wires or cables under along or over the said Bridge for electric telephonic or any other purpose or purposes or for the laying of mains or other means for conducting or transmitting gas or electricity hydraulic or steam power along under or over the said Bridge or for the doing of any other acts or things of any and every kind whatsoever along under or over the said Bridge that may be for the public convenience.

such work, whenever the same is proposed to be constructed upon or in any Crown or private lands or the waters of Port Jackson, shall have been submitted to and approved of by the Minister, and until a plan or design of such work, whenever the same is proposed to be constructed upon or in any street, shall have been submitted to and approved of by the Municipal Council of Sydney or the borough of North Sydney, as the case may be, in whom such street shall be vested.

*and by the Railway
as usual*

Rider

8. The said William Kenwood shall, from time to time, give notice in writing of the lands required or intended to be taken or appropriated for any works to the owner, and all other persons interested in such lands, or to the parties enabled by this Act, or otherwise, to sell and convey or release the same, or to such of the said parties as shall, after diligent inquiry, be known to the said William Kenwood. Every such notice shall state the particulars of the lands so required or intended to be taken or appropriated as aforesaid, and that the said William Kenwood is willing to treat as to the compensation to be made to all parties for the lands to be taken and the damage (if any) that may be sustained by them by the exercise of any of the powers conferred by this Act. The said William Kenwood in the said notice shall demand from such parties, and they are hereby required to deliver forthwith to the said William Kenwood the particulars of their estate and interest in such lands and of the claims made by them in respect thereof, together with an abstract of their title to such land, and if they claim in respect to damage the nature of the damage which they will sustain by reason of the taking of such lands.

Notice of lands taken.

9. All notices required to be served or given by the said William Kenwood upon or to the owner or other persons interested in or enabled under this Act or otherwise to sell any such lands shall, whether such parties or any of them be under any legal disability or not, either be served personally on such parties or left at their last usual place of abode in the said Colony, if any such can, after reasonable inquiry, be found. In case any such parties shall be absent from the Colony, or cannot be found after reasonable inquiry, such notices shall be left with the occupier of such lands, or if there be no such occupier shall be advertised not less than twice in one or more daily newspapers published in Sydney, and in the Gazette.

Notices how to be given.

10. Immediately upon the service of such notice as aforesaid, or upon the appearance of the last of such advertisements as aforesaid, the lands specified in such notice or advertisement as the case may be, and the fee simple or inheritance thereof, and all the estate, use, trust, and interest of all persons therein shall be vested in, and shall become the property of, the said William Kenwood for the purposes of this Act for ever, as fully and effectually to all intents and purposes as if the same had been conveyed by the persons legally and equitably entitled

Vesting of lands on notice.

entitled to sell and convey the said lands; and it shall not be necessary to obtain a conveyance from the owners or persons interested therein to the said William Kenwood, but nevertheless the said William Kenwood may, if he thinks fit in any case, demand such conveyance.

Power to purchase lands by agreement.

~~10~~ 10. It shall be lawful for the said William Kenwood to agree 5 with the owners of any lands by this Act authorised to be taken, and which shall be required for the purposes of this Act, and with all parties having any estate or interest in such lands, or by this Act enabled to sell and convey the same for the absolute purchase of any such lands or such parts thereof as shall be thought proper, and of all 10 estates and interests in such lands of what kind soever.

Power to occupy lands temporarily.

~~11~~ 11. It shall be lawful for the said William Kenwood and all persons acting under him to enter upon any lands being within a distance of not more than one hundred yards from the nearest point of any works, and to occupy the same as long as may be necessary for 15 the erection, construction, maintenance, reconstruction, repair, alteration, addition to, or extension of any works.

Compensation to be made for temporary occupation.

~~12~~ 12. In any case where the said William Kenwood shall take temporary possession of lands by virtue of the powers herein granted he shall— 20

- (1) from time to time during such occupation of the said lands pay half-yearly, quarterly, monthly, or otherwise to the occupier or the owner of such lands as the case may require, a rent to be fixed by a stipendiary magistrate in case the parties differ; 25
- (2) within six months after he shall have ceased to occupy the said land pay to such owner and occupier or deposit with the Master in Equity in manner hereinafter provided for the benefit of all parties interested as the case may require compensation for all permanent or other loss, damage, or injury 30 that may have been sustained by them by reason of the exercise as regards the said lands of the powers herein granted.

The amount and application of the compensation payable in such cases shall be determined in the manner provided by this Act for determining the amount and application of the compensation to be 35 paid for lands taken under the provisions hereof.

Powers may be exercised from time to time.

~~13~~ 13. The powers herein contained of taking, appropriating, purchasing, and using land or any of such powers may be exercised by the said William Kenwood from time to time, and whether the particular work for which lands may have been taken, appropriated, 40 purchased, or used has been actually commenced to be constructed or not.

Compensation to be made for lands taken, &c.

~~14~~ 14. The owners and all persons interested in any lands taken, appropriated, used, injured, or prejudicially affected by the said William Kenwood under any of the powers herein contained shall be 45 entitled

on or over whose lands any easement or Easements may be taken

Kenwood

entitled to reasonable compensation for the loss or injury sustained by them, and such compensation shall be ascertained, assessed, and awarded in manner hereinafter provided: Provided that if no claim to compensation be made within two years after such notice as aforesaid or
5 after the last of such advertisements as aforesaid by the party or parties entitled to make such claim the same shall be deemed to have been waived and abandoned.

10 ~~15~~ For the purpose of ascertaining the compensation to be paid by the said William Kenwood, regard shall be had not only to the value of the land to be purchased or taken but also to the damage (if any) to be sustained by the owner of the lands by reason of the lands taken being severed from other lands of such owner, or by reason of such other lands being otherwise injuriously affected by the exercise of the powers of this Act, and the same shall be assessed according to
15 what shall be found to have been the value of such lands, estate, or interest at the time notice was served or the last of such notices as aforesaid was advertised of such lands being required or intended to be taken: Provided always that in ascertaining such compensation any enhancement in the value of any land belonging to such owner adjoining the land severed or taken therefrom by the construction of any
20 works shall be taken into consideration and given effect to by way of set-off or abatement. But in no case shall this proviso operate so as to require any payment to be made by such owner to the said William Kenwood in consideration of such enhancement of value as
25 aforesaid.

General provisions as to compensation.

30 ~~17~~ 16. If for twenty-one days after the service of such notice, or the appearance of the last of such advertisements, any party shall—
(1) omit to state the particulars of his claim in respect of any such land, or to treat with the said William Kenwood, in respect thereof; or
35 (2) fail to agree with the said William Kenwood as to the amount of the compensation to be paid for the interest in such lands belonging to such party, or which he is by this Act enabled to sell, or for any damage that may be sustained by him by reason of the execution of any works,
the amount of such compensation shall be settled in the manner hereinafter provided for settling cases of disputed compensation; but the owner or party claiming compensation shall not be at liberty to institute any proceeding for the recovery of his claim until after the
40 expiration of one month from the delivery of the particulars required by this Act to be furnished by him.

If parties fail to treat, or in case of dispute, compensation to be settled as hereinafter mentioned.

45 ~~18~~ 17. The several sections of the Public Works Act of 1888 hereinafter specified, except in so far as they are expressly varied by this Act, are hereby incorporated with this Act, and shall, subject to such variations as aforesaid, be deemed to be part hereof: Provided that

Incorporation of provisions of Public Works Act of 1888.

that the words "the Constructing Authority" wherever occurring shall be read as "the said William Kenwood"; the words "this Act" shall be read as this present Act, and not as the Public Works Act of 1888; the words "for and on behalf of Her Majesty," in section thirty-six, subsection (1), and the words "under his hand and official seal," in section forty-two, shall be omitted; the words "two justices" and "the justices" wherever occurring shall be read as "a stipendiary magistrate"; the words "authorised work" wherever occurring shall be read as any work authorised to be carried out under this Act; and the words Public Works Act of 1888, in section fifty, shall be read as the "Sydney and North Sydney Bridge and Tramway Act, 1898."

The following are the sections so incorporated herewith as aforesaid:—

- (1) As to parties enabled under this Act to sell and convey and exercise other powers—section thirty-six.
- (2) As to settling disputes as to compensation, and compensation to absent parties—sections forty to sixty-one, both inclusive.
- (3) As to the deposit of purchase or compensation money in certain cases with the Master in Equity, and as to the application thereof, and the discharge of the said William Kenwood; as to the payment of such moneys in certain cases to trustees, or to the parties themselves, and the discharge of the said William Kenwood in such cases—sections sixty-two to seventy-two, both inclusive.
- (4) As to the costs of conveyances—sections seventy-four and seventy-five
- (5) As to the procedure by the said William Kenwood in case the owner or occupier of any lands taken or appropriated under this Act shall refuse to give up possession thereof or hinder the said William Kenwood from entering upon or taking possession of the same—section seventy-seven.
- (6) As to the procedure in connection with the purchase or redemption of the interests of mortgagees and the release of lands from rent, charges, or other encumbrances—sections eighty-one to ninety, both inclusive.
- (7) As to the procedure where lands taken are under lease—sections ninety-one to ninety-four, both inclusive.

Provided that if on the taxation of such costs one sixth thereof be taxed off the person claiming such costs shall pay the said William Kenwood's costs of the taxation thereof

Superfluous lands.

19 18. In case any lands taken or acquired by the said William Kenwood under the provisions of this Act or any portions of such lands shall not be required for the purpose of any works, it shall be lawful for the said William Kenwood from time to time to lease, sell, or otherwise dispose of the same in such manner and upon such terms and conditions as he shall think fit.

No royalties to be paid.

20 18. The said William Kenwood shall not be required or called upon to pay any purchase money or compensation, rent, tribute, or royalty to the Crown or to the municipal council of Sydney, or to the borough

borough of North Sydney, in respect of any of the powers, privileges, or authorities granted by this Act, except in respect of any taking of or interference with the surface of any Crown land or any land owned either by the said municipal council or the said borough.

5 ~~21~~ 20 It shall be lawful for the said William Kenwood, and for all persons acting under his authority from time to time, and so often as shall be necessary for the construction, completion, use, repair, and maintenance of any works, to enter and erect works upon any streets, and to open, break up, and remove the soil and pavement thereof: Power to enter upon streets, &c.

10 Provided that prior to the opening or breaking up as aforesaid of any street, the said William Kenwood shall, unless in case of accident or other emergency, give forty-eight hours notice in writing to the town clerk of the city of Sydney or the council clerk of the borough of North Sydney according as such street shall be situate in Sydney or in North

15 Sydney: Provided further that in every such case the said William Kenwood shall make all reasonable despatch in the performance of the work to be done, and shall on completion of such work forthwith carry away all rubbish and waste or surplus materials, and shall restore such street, and every sewer, drain, or tunnel within or under the same, to

20 ~~the same condition as nearly as possible~~ as it was in previously to the disturbance thereof, and until such restoration the said William Kenwood shall set up and maintain sufficient barriers and keep sufficient lights burning to prevent accidents.

as good a condition and for a period of 6 calendar months thereafter shall maintain and keep the same in like good condition

25 ~~22~~ 21 The following provisions for the protection of the sewers, water-mains, and works of the Water and Sewerage Board, and of all house-services and connections in respect thereof, shall have effect, namely:— For the protection of sewers, &c.

30 (1) The said William Kenwood shall comply with and conform to all reasonable directions of the Water and Sewerage Board in the execution of the works, and shall not in any manner interfere with any of the sewers, water-mains, or works of the Water and Sewerage Board, or with any house-services or connections in respect thereof, without notice to and the sanction of the Water and Sewerage Board, and shall provide, to the reasonable satisfaction of the Water and Sewerage Board, for the proper protection of and for preventing injury or impediment to any such sewers, water-mains, works, house-services, or connections, by reason of the works or any part thereof, and shall save harmless the Water and Sewerage Board and all owners of any such house-services or connections aforesaid against all expenses to be occasioned by the works or any part thereof, and all costs, charges, and expenses which the Water and Sewerage Board or any such owner as aforesaid may be put to by reason of the works, whether in the supervision or inspection of the works, the examination of plans

plans or designs or otherwise, shall be paid on demand by the said William Kenwood to the Water and Sewerage Board, or to such owner as aforesaid.

(2) The said William Kenwood shall be liable to make good, with all reasonable despatch and to the satisfaction of the Water and Sewerage Board, all injury or damage caused by or resulting from any of the works to any such sewers, water-mains, works, house-services, or connections, as mentioned in subsection (1) of this section, and the Water and Sewerage Board or any owner of any such house-service or connection sustaining injury or damage shall from time to time have power to recover the amount thereof from the said William Kenwood in any court of competent jurisdiction.

(3) The approval by the Water and Sewerage Board of any plans, or the inspection by the Water and Sewerage Board of any work under the provisions of this section, shall not exonerate the said William Kenwood from any liability, or affect any claim for damages under this section or otherwise.

(4) This section shall only apply to such of the works or such part thereof as shall be on the remedy of any such sewers, water-mains, works, house-services or connections as are mentioned in this section.

(5) If the said William Kenwood shall in any respect fail to comply with and conform to any such reasonable directions of the Water and Sewerage Board as are mentioned in subsection (1) of this section, or shall fail to provide to the reasonable satisfaction of the Water and Sewerage Board for the proper protection of and for preventing injury or impediment to any such sewers, water-mains, works, house-services, or connections as mentioned in the said subsection, or shall fail to make good with all reasonable despatch and to the satisfaction of the Water and Sewerage Board any such injury or damage to any sewers, water-mains, works, house-services, or connections as is mentioned in subsection (2) of this section, the Water and Sewerage Board, or any owner of any such house-service or connection, as the case may be, shall have full power and authority (in the case of the Water and Sewerage Board by their engineer, officers, workmen, and servants, and in the case of any such owner by his workmen and servants) to enter upon the works of the said William Kenwood, or any part thereof, and to do all such acts and things and carry out all such works as may be necessary and proper for the protection, amendment, or repair of any such sewer, water-main, or other works, house-service, or connection as the case may be, and any and all costs, charges, and expenses incurred by the Water and Sewerage Board, or by such owner as the case may be, in the exercise of the powers in this subsection contained shall be paid to the Water and Sewerage Board or to such owner as the case may

Subsection (7) of Sec 2I.

Johns

7. The said Water and Sewerage Board shall be at liberty free from the payment of any rent to enter upon the said Bridge and to lay and place thereunder or therealong as the said William Kenwood may direct a steel water main not exceeding 13 inches in diameter and to alter and remove such water main from time to time subject to the reasonable approval of the said William Kenwood and at their own expense shall make good any damage they may do to the said Bridge.

may be by the said William Kenwood on demand, or in default may be recovered from the said William Kenwood by the Water and Sewerage Board, or by such owner as the case may be, in any court of competent jurisdiction.

5 (6) Otherwise than is herein expressly enacted the said William Kenwood shall, in the construction of the said works, observe and comply with the provisions of the Metropolitan Water and Sewerage Acts, and the by-laws made by the Water and

Rider

(7)

10 ~~23~~ ²² It shall be lawful for the Minister and for the Municipal Council of Sydney and for the borough of North Sydney, and also for the Water and Sewerage Board, at any time during the construction of the said bridge or the said tramway, or any works in connection therewith, to appoint an engineer to enter upon and inspect the same; 15 and the said William Kenwood and all persons acting under him shall offer all reasonable facilities in connection with any such inspection as hereinbefore mentioned: Provided that such inspection shall, as to the said Minister, be limited to the said bridge and tramway and the works in connection therewith, and shall, as to the said municipal 20 council and the said borough, be limited to such part of the works as shall be under or in the vicinity of any street belonging to or under the control of the said council or the said borough respectively; and shall, as to the said board, be limited to such part of the said works as shall be in the vicinity of any sewers, mains, or other works 25 belonging to or under the control of the said board or house-services or connections in respect thereof.

and for the Railway Commissioners

Works may be inspected.

~~24~~ ²³ For the purposes of such inspection as in the last section mentioned, the said William Kenwood shall, before commencing to construct either the said bridge or the said tramway, deposit with the 30 Minister, the Municipal Council of Sydney, the Borough of North Sydney, and the Water and Sewerage Board respectively, a copy of the plan or design of the same, together with a copy of the specifications and all necessary drawings.

Plans to be lodged.

to Railway Commissioners

~~25~~ ²⁴ The said tramway shall, wherever it passes over any streets, 35 be laid at or about the general level of the said streets, and the said William Kenwood shall maintain in perfect order and repair the said tramway and the surface of the said streets between the rails of the said tramway, and for the space of one foot six inches on each side of the same: Provided that it shall be lawful for the said William 40 Kenwood to pave the spaces between the rails and the said spaces outside the same either with wooden blocks or with concrete, or with such other material as shall, as to streets belonging to or under the control of the Municipal Council of Sydney be approved of by the said Council, and as to streets belonging to or under the control of the 45 Borough of North Sydney be approved of by the said borough.

Tramway to be laid at level of streets.

Motive power on tramway.

~~26~~ ~~25~~. It shall be lawful for the said William Kenwood from time to time to use and employ carriages and cars upon the said tramway, to be drawn or propelled at the option of the said William Kenwood either by steam power, electricity, cable traction, or such other motive or tractive power as the said William Kenwood may from time to time elect to use, and as may be approved of by the Railway Commissioners. 5

shall

Opening of bridge for traffic.

~~27~~ ~~26~~. The said bridge shall not be opened for public traffic until the Minister or such officer as he may appoint has certified that the same has been efficiently constructed, and may be safely used for public traffic thereon. 10

Opening of tramway for traffic.

~~28~~ ~~27~~. The said tramway shall not be opened for public traffic until the Minister has, or such officer as he may appoint has, certified that the same has been efficiently constructed, and that the rolling-stock to be used thereon is in good and efficient condition and repair, and may be safely used for public traffic thereon. 15

Lights.

~~29~~ ~~28~~. The said William Kenwood shall keep and maintain upon the said bridge in such places and at such times as the Marine Board shall from time to time prescribe, lights for the guidance of vessels navigating the harbour, and shall keep and maintain such other lights thereon as the Metropolitan Transit Commissioners for the time being may consider necessary. 20

Power to take tolls on bridge.

~~30~~ ~~29~~. It shall be lawful for the said William Kenwood to ask, demand, take, recover, and receive to and for his own use and benefit all such tolls and rates as may be established from time to time by the said William Kenwood to be payable by and in respect of passengers, vehicles, horses, cattle, sheep, and other live stock crossing and recrossing the said bridge, not exceeding the tolls or rates specified in the Third Schedule to this Act. 25

Tolls to be published.

~~31~~ ~~30~~. A list of all tolls or rates which may from time to time be established by the said William Kenwood shall be published by the same being painted upon toll boards in distinct black letters upon a white ground or white letters on a black ground, or by the same being painted or written in legible characters on paper or calico affixed to such boards, and by one of such boards being exhibited in some conspicuous place at each of the terminal points of the said bridge, and when so published and affixed shall be binding upon all parties. 35

How tolls to be paid.

~~32~~ ~~31~~. The tolls or rates aforesaid shall be paid to such persons and at such places upon or near to the said bridge, and in such manner as the said William Kenwood, by any by-law to be made in that behalf or otherwise, shall appoint. 40

Exemptions from tolls.

~~33~~ ~~32~~. The said William Kenwood shall allow the following persons and vehicles, together with the horses drawing such vehicles, free passage over the said bridge at all times, whether by day or night:—
All persons on foot, mounted, or in any vehicle wearing Her Majesty's uniform, whether of the army, of the navy, of the volunteer forces, of the police force, or of the postal or telegraph service. 45
All

Municipal Council of Sydney & North Sydney

Ally

All members of fire brigades in uniform and on duty.
All vehicles and horses engaged in the military, naval, volunteer, police, or postal service; and all fire-engines and other appliances connected with the extinguishment of fires, together with the horses drawing such fire-engines.

5
10 *32* It shall be lawful for the said William Kenwood to ask, demand, take, recover, and receive for his own use and benefit any rates or charges for the conveyance of passengers upon the said tramway, and for that purpose to divide the route of the said tramway into two sections, provided that such rates or charges shall not exceed the sum of one penny for each such section or any part thereof:

Power to take fares, &c., on tramway.

15 Provided also that any one child under the age of six years, not occupying a seat, and in the custody of a passenger paying a fare, shall be carried free of charge: Provided further that the said William Kenwood shall be at liberty to charge higher rates, not exceeding the above rates by the amount of more than one-half thereof for the superior class or classes of accommodation in the event of there being more than one class provided.

20 *34* The said William Kenwood may demand and take for goods which he may in his discretion from time to time elect to convey upon the said tramway any rates or charges not exceeding the rates or charges in force for the time being in respect of the same class of goods or parcels on the Government Railways for the same distance.

Power to impose charges for goods, &c., carried on tramway.

This is filed in respect thereof in the by law & in that behalf hereinafter mentioned

25 *35* Every passenger travelling upon the said tramway may take with him his personal luggage, not exceeding twenty-eight pounds in weight, without any charge being made for the carriage thereof, all such personal luggage to be carried by hand and at the responsibility of the passenger, and not to occupy any part of a seat, or be of a form or description to annoy or inconvenience any other passenger.

Passenger may take personal luggage.

30 *36* The owner of every ship shall be answerable to the said William Kenwood for any damage done by such ship, or by any steam or other tug-boat towing or warping, or attempting to tow or warp, such ship under the said bridge, or by any person employed about or in charge of the same respectively to the said bridge or to any works in connection therewith, and such damage shall be recoverable notwithstanding that such damage may have arisen through the act, neglect, or default of the master of or any person employed about any such tug-boat, or through the breaking of any tow-rope, or insufficiency of any gear in connection therewith, or through any accident to or insufficiency of any machinery of such tug-boat: Provided that nothing herein contained shall extend to impose any liability for any such damage upon the owner of any ship where such ship shall at the time when such damage is caused be in charge of a duly licensed pilot, whom such owner or master is bound by law to employ and put his

Owner of vessel to be answerable for damage.

45 ship in charge of, or to limit the remedy of the said William Kenwood against any such licensed pilot or against the person or persons or body or board of persons licensing such pilot according to his or their respective liability in respect of such damage as aforesaid.

37

Master to represent
owner.

~~37~~ ³⁸ 37. In any proceedings instituted by the said William Kenwood in respect of any damage done by any ship as aforesaid, the master of such ship shall, in respect of such proceedings, be deemed to be the owner thereof, and may be sued or otherwise proceeded against as such owner, and shall have power to do and execute all matters, deeds, and 5 things, of any kind soever, which such owner himself might have done, and service of any notice or proceedings may be effected either by serving the same upon such master personally or leaving the same with some person on board such ship.

Vessel may be
detained.

~~38~~ ³⁹ 38. Where any such damage as aforesaid has been done by any 10 ship, it shall be lawful for the Supreme Court or any Judge thereof, upon the summary application of the said William Kenwood, to issue an order directing the detention of such ship and the arrest of the master thereof until sufficient security shall be given to the approval of such Court or Judge to abide the event of any proceedings that may 15 be instituted, and to pay all damages and costs that may be awarded thereon, and any officer to whom such order is directed shall detain such ship or arrest such master accordingly, as the case may be.

Damage recoverable
by action or
arbitration.

~~39~~ ⁴⁰ 39. It shall be lawful for the said William Kenwood either to institute proceedings at law for the recovery of any such damage as 20 aforesaid, or to require that the amount of such damage be determined by arbitration, and in case of arbitration the same proceedings may be had and taken as if there had been a submission within the meaning of the Arbitration Act, 1892.

Vessel may be
distrained and sold.

~~40~~ ⁴¹ 40. In addition to the remedies hereinbefore provided for the 25 recovery of the amount payable in respect of any such damage as aforesaid it shall be lawful for the Supreme Court or any Judge thereof where any such damages as aforesaid have been recovered by or awarded to the said William Kenwood, upon the summary application of the said William Kenwood to order that the ship causing such 30 damage, and any tackle and furniture thereof, be distrained and kept until the amount of such damages and costs be paid, and that if the same be not paid within seven days after such distress or keeping, such vessel so distrained or kept be sold, and that the amount of such damages and costs, and all costs, charges, and expenses incurred by 35 such distress, keeping, detention, arrest, and sale be paid out of the proceeds of such sale.

Power to make
by-laws.

~~41~~ ⁴² 41. It shall be lawful for the said William Kenwood from time to time to make, alter, and repeal by-laws, provided that the same be not repugnant to the laws of the Colony or the provisions of this Act 40 for the following purposes or any of them :—

For maintaining good order on the said bridge, and on and in all lifts, buildings, works, and premises connected therewith, and for preventing the commission of any nuisance thereon or therein.

45

For

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- For regulating the conduct of the officers and servants employed upon or in connection with the said bridge, lifts, buildings, works, and premises.
- 5 For protecting the said bridge and all lifts, buildings, works, premises, and property used in connection therewith from trespass or injury.
- For regulating the traffic upon, in, and under the said bridge, lifts, and approaches, and preventing any obstruction thereto.
- 10 For regulating the method of payment of tolls or rates in respect of traffic upon the said bridge.
- For maintaining good order on all carriages and cars, and on and in all platforms, waiting-rooms, buildings, works, and premises connected with the said tramway.
- 15 For regulating the conduct of the officers and servants employed upon or in connection with the said tramway.
- For protecting the said tramway and all platforms, waiting-rooms, buildings, works, premises, rolling stock, and other property used in connection therewith from trespass or injury.
- 20 For preventing or restricting smoking, and for preventing the commission of any nuisance in or upon any carriages, cars, or lifts, or any of the platforms, waiting-rooms, buildings, works, or premises used or occupied in connection with the said tramway.
- 25 For regulating the times of the arrival and departure of the carriages or cars, and the number of persons to be carried therein.
- For regulating the mode by which and the speed at which carriages or cars using the said tramway are to be moved or propelled.
- 30 For regulating the loading or unloading of carriages or cars.
- For regulating the receipt and delivery of goods and all things which are to be conveyed upon or in such carriages or cars,
- 35 For regulating the method of payment of charges and fares for the conveyance of passengers or goods upon the said tramway, and for the sale and collection of tickets. And generally for regulating the travelling upon, and using and working the said tramway.

and for regulating the disposal of all unclaimed goods parcels or luggage

40 But no such by-law shall authorise the closing of the said bridge at any time except when, in consequence of the same or of any of the works in connection therewith being out of repair, or from any other sufficient cause it shall be necessary to close the said bridge or a portion thereof, and no such by-law shall authorise the closing of the said tramway at reasonable times except when in consequence of any of the works being out of repair or from any other sufficient cause it shall

45 be necessary to close the same or a portion thereof: Provided also that such

such by-laws shall be first approved by the Governor, and shall be published in the Gazette seven days at least before coming into operation.

Approval of by-laws by Governor.

~~42. Any such by-laws as aforesaid and any tolls or rates so to be taken as aforesaid shall be deemed to have been approved of by the Governor at the expiration of one month after the same shall have been laid before him, unless the Governor shall before the expiration of such period have signified his approbation or disapprobation thereof.~~ 5

By-laws to be published.

43. The substance of such by-laws so far as the same relate to the said bridge, or to any lifts, works, premises, or property used in connection therewith, shall be published and affixed in like manner as the said list of tolls or rates, and the substance of such by-laws, so far as the same relate to the said tramway or to any works, premises, rolling-stock, or property occupied or used in connection therewith, shall be painted or printed and affixed to boards in like manner, and shall be exhibited in some conspicuous part of all platforms, waiting-rooms, buildings, and premises occupied or used in connection with the said tramway to which the public have access; and all by-laws made under the provisions of this Act when so published and affixed as aforesaid shall be binding upon, and observed by, all parties, and shall be a sufficient justification for all persons acting under the same: Provided that no penalty imposed by any such by-law shall be recoverable unless the same shall have been published and affixed, and kept published and affixed as aforesaid. 10 15 20

Gazette to be evidence of by-laws and tolls.

44. The production of the Gazette containing such by-laws and such list of tolls or rates shall be *prima facie* evidence that the same have been duly made, imposed, and confirmed, and are still in force. 25

Power to impose penalties in by-laws.

45. It shall be lawful for the said William Kenwood, in such by-laws, to impose a penalty not exceeding *ten* pounds upon any person committing a breach of any of such by-laws, and such penalty shall be recoverable as hereinafter provided. 30

Summary interference in certain cases of breach of by-law.

46. If the infraction or non-observance of any by-law be attended with danger or annoyance to the public, or hindrance to the said William Kenwood, or any person acting under his authority in the exercise of any of the powers herein contained, it shall be lawful for the said William Kenwood, or any person acting under his authority, to obviate or remove such danger, annoyance, or hindrance without prejudice to the recovery of any penalty incurred by the infraction or non-observance of such by-laws. 35

Penalties for injuring, &c., boards used for publication.

47. If any person pull down or injure any board put up or affixed as required by this Act, or obliterate any letters or figures thereon, he shall forfeit for every such offence a sum not exceeding *ten* pounds, and shall pay the expense attending the restoration of such board. 40

48. Every penalty or forfeiture imposed by this Act, or by any by-law made thereunder, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before any stipendiary magistrate according to the provisions of the Act or Acts in force for the time being regulating proceedings on summary convictions, and if any penalty or sum of money be not paid within the time appointed by the order of conviction or adjudication, the same shall be levied by distress and sale in the manner provided by the said Act or Acts, and on failure of distress shall be enforced in manner directed by the said Act or Acts; and all persons aggrieved by any such conviction or adjudication may appeal therefrom in the manner and subject to the conditions prescribed by the said Act or Acts.

Penalties, how recoverable.

49. It shall be lawful for the said William Kenwood, his officers or servants, and all persons called by him or them to his or their assistance, to seize and detain any person who shall have committed or shall be committing any offence against the provisions of this Act or any by-law made hereunder, and whose name and residence shall be unknown to the said William Kenwood or to such officer or servant, and to convey him with all convenient despatch before a stipendiary magistrate without any warrant or other authority than this Act, and such magistrate shall proceed with all convenient despatch to the hearing and determination of the complaint against such offender.

Transient offenders.

50. If through any act, neglect, or default, whereby any person shall have incurred any penalty imposed by this Act, or any by-law made thereunder, any damage to any property vested in the said William Kenwood shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of such damage shall, except as otherwise provided herein in case of dispute, be determined by the stipendiary magistrate by whom the party incurring such penalty shall have been convicted, and payment of such amount may be enforced in like manner as is provided in respect of penalties.

Damage to be recoverable in addition to penalty.

51. No person shall be liable to the payment of any penalty or forfeiture imposed by this Act or by any by-law made hereunder for any offence made cognisable before a stipendiary magistrate unless complaint shall have been made before a stipendiary magistrate or justice of the peace within six months next after the commission of such offence.

Penalties to be sued for within six months.

52. No proceedings at law or in equity shall be instituted or prosecuted against the said William Kenwood for or in respect of any act, matter, or thing done under the authority of this Act or any by-law made hereunder, unless such proceedings shall be commenced within six months next after the cause of action shall have accrued or offence have been committed, and unless notice in writing containing

No action to be brought for anything done under this Act, except within six months of cause of action or offence, and as to arbitration, &c.

containing a statement of the cause of action or of the offence shall be given to the said William Kenwood one month at least before the commencement of proceedings. And in any such action at law the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereon: Provided ⁵ that if, before the institution of any such proceedings, the said William Kenwood shall give notice in writing to the person or persons claiming such right of action or suit, of his desire that the matters in dispute may be referred to arbitration, such matters shall be so referred accordingly, and thereupon the same proceedings may be had ¹⁰ and taken as if there had been a submission within the meaning of the Arbitration Act, 1892.

Application of penalties recovered.

53. One moiety of any penalty recovered under this Act, or under any by-law made hereunder, shall be payable to the said William Kenwood; and the remaining moiety shall be paid into and ¹⁵ form part of the consolidated revenues of the Crown.

Limitation of liability.

54. Nothing in this Act contained shall extend to charge or make liable the said William Kenwood further or in any other case than where according to the laws of this Colony common carriers would be liable, or shall operate in any degree to deprive the said ²⁰ William Kenwood of any protection or privilege which common carriers may be entitled to; but he shall at all times be entitled to the benefit of every such protection and privilege.

Temporary blocking of passage-way.

55. The said William Kenwood shall not be liable for any unavoidable damage caused by any temporary blocking, stoppage, or ²⁵ obstruction of, in, or to the passage-way over or under the said bridge, or along the said tramway; but the said William Kenwood shall use all reasonable diligence to remove such blocking, stoppage, or obstruction without unnecessary delay.

Agreements with Crown and others.

56. The said William Kenwood may from time to time enter ³⁰ into and carry into effect contracts, agreements, and arrangements with the Crown, or with the Municipal Council of Sydney, or with the borough of North Sydney, or with the Railway Commissioners, or with the Water and Sewerage Board, or any person or persons, or corporation having the control or management of streets, sewers, ³⁵ water-pipes, gas-pipes, or other pipes, for or with respect to the acquisition and appropriation of lands and property, the contribution of funds, and other incidental matters in connection with the works authorised by this Act or any of them.

Deposit and expenditure.

57. (1) The said William Kenwood shall within six months ⁴⁰ from the day on which this Act comes into force deposit with the Colonial Treasurer the sum of ~~five~~ thousand pounds, and shall, within three years from the day on which this Act comes into force, expend at least ~~fifty~~ thousand pounds in the actual construction of the works by

Twenty five

by this Act authorised, and in default of making such deposit or such expenditure within the times aforesaid respectively all the powers granted to the said William Kenwood by this Act shall cease.

(2) The said sum of ~~five~~ thousand pounds shall be held by the Colonial Treasurer as a trust fund, and shall, together with the income arising therefrom, be invested by him in Government securities, and on the expenditure by the said William Kenwood of the said sum of ~~fifty~~ thousand pounds within the time limited in that behalf the said sum of ~~five~~ thousand pounds and all accretions of interest shall be returned to the said William Kenwood.

seventy five

Six

Six

seventy five

Six

(3) In the event of the said sum of ~~fifty~~ thousand pounds not being expended within the time limited in that behalf it shall be lawful for the Governor to order such sum of ~~five~~ thousand pounds to be forfeited to Her Majesty and to become part of the Consolidated Revenue:

Provided always that it shall be lawful for the Governor to extend the said times for making the said deposit and expenditure for a period of twelve months respectively, and in the event of any such extension of time being granted no forfeiture or cessation of powers as aforesaid shall take place unless default be made at the expiration of such extended periods respectively.

58. If the works authorised by this Act be not completed and brought into use within five years from the date on which this Act comes into force, the powers hereby granted to the said William Kenwood shall on the expiration of such five years altogether cease and determine: Provided always that it shall be lawful for the Governor to extend the said time for a further period of two years, and in the event of such extension being granted the said powers shall not cease or determine unless default be made by the said William Kenwood at the expiration of such extended period.

Time within which works to be brought into use.

59. It shall be lawful for the Railway Commissioners from time to time to appoint any person to inspect the said tramway, and to make any inquiry with respect to the condition of the works connected therewith: Provided that no person so appointed shall exercise any powers of interference in the affairs of the said William Kenwood, and every inspector so appointed shall for the purposes of any inspection or inquiry which he is directed by the said Commissioners to make or conduct have the following powers:—

and for the Municipal Council of Sydney

Railway Commissioners may inspect tramway and works.

- (1) He may enter and inspect the tramway, and all buildings, works, premises, rolling stock, plant, and machinery, connected therewith.
- (2) He may by summons under his hand require the attendance of any person who is engaged in the management, service, or employment of the said William Kenwood, and whom he thinks

thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he may think fit to make.

and for the Railway Commissioners and the Municipal Council of Sydney
Minister may inspect bridge and works.

60. It shall be lawful for the Minister, from time to time to appoint an inspector for the purpose of inspecting and making inquiry with respect to the condition of the said bridge and any works in connection therewith, and any inspector so appointed shall have the like powers in respect of the said bridge and works and persons engaged thereon as are hereinbefore conferred upon an inspector in respect of the said tramway and works and persons engaged thereon. 5 10

Repairs to be effected.

61. If any inspector appointed under either of the two preceding sections shall at any time report to the Railway Commissioners, or to the Minister, as the case may be, any condition of affairs in respect of the said tramway or of the said bridge which renders the same unsafe for public use, it shall be lawful for the Railway Commissioners, or the Minister, as the case may be, to report on the same, and after the receipt of such report to direct that the said William Kenwood shall execute such repairs as may be necessary, and, if such repairs are not executed with reasonable despatch, it shall be lawful for the Governor to declare that the said tramway or the said bridge, as the case may be, shall not be used until the certificate of the Railway Commissioners or of the Minister, as the case may be, has been obtained, stating that such repairs have been effected. 15 20

Crown may purchase works, &c.

62. It shall be lawful for the Governor at any time after the expiration of thirty years from the bringing into use of the said bridge and tramway, or from the bringing into use of the last of them, if they shall not be simultaneously brought into use, to give to the said William Kenwood notice of the intention of the Crown to purchase the said bridge and tramway, and all rights, interests, powers, authorities, privileges, lands, plant, rolling-stock, chattels, effects, property, and works of every kind acquired by the said William Kenwood under or in pursuance of this Act, or used in connection with the construction, maintenance, or working of the said bridge and tramway; and the amount of compensation to be paid to the said William Kenwood upon such purchase by the Crown shall be ~~no amount of the actual cost of acquisition, purchase, construction, erection, and maintenance of the bridge, tramway, premises, and works so purchased by the Crown, with an amount added equal to three years' net profits on the working of the said bridge and tramway, and other works used in connection therewith, calculated on the basis of an average of the last two preceding years.~~ 25 30 35 40

determined in case of dispute by arbitration in accordance with and subject to the provisions of the Arbitration Act of 1892 and for the purpose of Arbitration the said Act shall be deemed to be an instrument or document between the parties in which the meaning of the same provided the amount of such compensation shall not exceed the amount of the actual bona fide cost of acquisition, purchase and construction

Power to assign.

63. It shall be lawful for the said William Kenwood, his executors or administrators, to assign, transfer, and release all his and their rights, interests, powers, authorities, licenses, privileges, liabilities, and obligations under this Act, together with all property, plant, and works 45

of the said bridge tramway property and premises together with an additional amount equal to three years net profits on the working of the said bridge and tramway and other works used in connection therewith calculated on the basis of an average of the net profits on the working of the said bridge, tramway and other works used in connection therewith for the last two years immediately preceding the date of such notice. The arbitrator or umpire shall in every case have power to direct how and by whom the costs of the reference and award shall be paid.

64. Upon and after the completion of any such assignment transfer and release as are mentioned in the last section hereof *any* such Assignee or assignees and his and their executors administrators and assigns or any such incorporated Company and its officers agents servants and assigns may lawfully exercise and enjoy the rights and privileges hereby conferred and shall respectively be and continue to be subject to all the liabilities obligations penalties and forfeitures to which the said William Kenwood his executors administrators or assigns or his or their officers agents or servants or any person or persons authorised by him or them would have been entitled or subject had no such assignment transfer or release been completed.

65.

Upon the completion of any such assignment transfer and release to any such ^{incorporated} ~~incorporated~~ Company as is mentioned in Section 63 hereof this act shall be read as if the words "William Kenwood" were omitted wherever they occur and the words "incorporated Company" referred to in Section 63 hereof were inserted in their stead and as if the words "him his and their" as referring to the said William Kenwood his executors administrators and assigns and his and their servants and agents and all other persons authorised by him and them respectively were altered to "it" and "its" as referring to the said Company and as ^{if} all other proper and necessary corresponding alterations were embodied.

Assignee or assignees entitled to rights privileges etc

Completion of assignment

Chart

incorporated
~~incorporated~~

works of every kind acquired by him or them under this Act, or in pursuance thereof to any person or persons or to any Company, whether now existing or hereafter to be incorporated, and whether such person or persons or such company be resident or incorporated in 5 any of the Australasian Colonies, or in the United Kingdom of Great Britain and Ireland, or in the United States of America, or elsewhere; and any such person, persons, or company, and all persons claiming by, through, or under such person, persons, or company, or any of them, shall from time to time have the like powers of assignment, 10 transfer, and release.

Rider

66 ~~64~~ Any company to whom any such assignment, transfer, and release shall be made shall have power to raise and borrow money on the security of all or any of the said property, plant, and works, and on the undertaking generally, and to execute any mortgage or security 15 in respect thereof embodying all usual and proper provisions, and to issue debentures secured on all or any of the said property, plant, and works, and on the said undertaking generally or otherwise: Provided that the powers herein contained shall be in enlargement and not in restriction of the powers to borrow conferred, or to be conferred, 20 by the memorandum and articles of association of any such company.

Company to have powers of borrowing.

67 ~~65~~ No such assignment, transfer, and release as hereinbefore mentioned shall prejudice or affect any rights accrued, actions or proceedings taken against, or liabilities, obligations, penalties, or forfeitures incurred by the said William Kenwood, his executors, 25 administrators, or assigns, before the completion of such assignment, transfer, and release.

Assignment not to affect accrued rights or liabilities.

68 ~~66~~ No proceeding in purruance of this Act shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into the Supreme Court.

Proceedings not be quashed for want of form.

30 69 ~~67~~ This Act shall immediately on the passing thereof operate and take effect as a license to the said William Kenwood to erect, construct, maintain, work, and use the said bridge and tramway respectively subject to the provisions hereof.

Effect of Act on passing thereof.

SCHEDULES.

FIRST SCHEDULE.

Bridge route.—Commencing at the extreme northern end of Princes-street, the centre line of the said bridge running thence in a north-easterly direction, crossing Cumberland-street, George-street North, the Battery Reserve at Dawes's Point, the waters of Port Jackson, and the Government Railway premises at Milson's Point in North Sydney aforesaid ~~to land adjoining, and to the north-east of the said railway premises (which said land is bounded on the south or south-west by the said railway premises; on the east by Alfred-street; and on the north by the Western Wharf road);~~ thence by a line bearing northerly twenty-one and one-half chains to the north-east corner of Glen-street, at its intersection of or with Alfred-street, in North Sydney aforesaid. ~~the entire length of the said bridge being seventy-eight chains or thereabouts, the said bearings, distances, and length being all respectively a little more or less.~~
thence by lines bearing northerly to the intersection of Alfred Street and Willoughby Street in North Sydney aforesaid

SECOND SCHEDULE.

Tramway route.—The said tramway commences at or about a point in the centre of York-street, in the city of Sydney, where the northern line of Wynyard-street, if continued, would intersect the centre of York-street; and thence in a north-easterly direction along or about the centre of York-street to Grosvenor-street; thence along Grosvenor and Princes streets to the approach of the bridge between the city of Sydney and North Sydney (the route and bearings of which said bridge are described in the First Schedule hereto); thence over and across the said bridge, and terminating at about the north-east corner of Glen-street, at its intersection of or with Alfred-street, in North Sydney aforesaid. ~~the entire length of the said tramway being one mile and forty-seven chains or thereabouts, the said bearings, distances, and length being all respectively a little more or less.~~
about the intersection of Alfred Street and Willoughby Street in North Sydney aforesaid.

THIRD SCHEDULE.

		The sum of		
<i>Scale of tolls and rates.</i>		s.	d.	
For every foot passenger...	...	0	1	each way.
" passenger other than the driver in a vehicle of any kind ...	...	0	1	"
" horse and rider ...	...	0	3	" 30
" bicycle or tricycle, and rider ...	...	0	2	"
" horse when not driven or ridden ...	...	0	3	"
" head of cattle, asses, or mules ...	...	0	3	"
" sheep, lamb, pig, or goat ...	...	0	0½	"
" cart or sulky with one horse...	...	0	3	" 35
" cab, buggy, van, dray, or other vehicle, except a cart or sulky, with one horse ...	...	0	6	"
" waggon, omnibus, lorry, carriage, hearse or other vehicle with two horses ...	...	1	0	"
And for each additional horse ...	...	0	3	" 40

Edward McCarty
Chairman

No 2 Committee Room
Legislative Assembly
30th November 1898