

*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.*  
*Legislative Council,*  
*21st September, 1894.*

*Hon. Mr. Montgomery.*

## TRAMWAYS.

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## A BILL INTITULED

Title.	AN ACT to amend and consolidate the Law relating to Tramways. BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—	5
Short Title.	1. The Short Title of this Act is "The Tramways Act, 1894."	
First Schedule. Repeals.	2. The several Acts and enactments mentioned in the <i>First</i> Schedule hereto are hereby repealed.	
Interpretation.	3. In this Act, if not inconsistent with the context,—	
	"Chairman" or "Clerk" of a local authority includes a Mayor of a borough, and a Town Clerk :	10
	"District" means a district under the jurisdiction of a local authority as herein defined :	
	"Local Act" means, as the case may be, "The Municipal Corporations Act, 1886," "The Counties Act, 1886," and any other Act for the time being in force providing for the administration of the local affairs of the district :	15
	"Local authority" means the Council of any borough or county, or, in any county wherein "The Counties Act, 1886," is suspended, the Boards of the several road districts and town districts within such county :	20
	"Person" includes "company" and "corporation" :	
	"Promoters" means and includes, as the case may be,—	
	(1.) The local authority of a district empowered under any Act hereby repealed, or this Act, to construct a tramway, or who has under any such repealed Act or this Act become the owner of a tramway in such district ; or,	25
	(2.) Any person having the delegated powers of a local authority for constructing a tramway under this Act ; or	
	(3.) Any person empowered to construct a tramway in any district under any of the Acts hereby repealed ; or	30
	(4.) The assignees and lessees of promoters, but shall not include a mortgagee, or a trustee for debenture-holders, unless and until such mortgagee or trustee shall have taken possession of the tramway :	35
	"Road" means any public highway being a carriage-way, bridle-path, or footpath, and includes the carriage-way of any bridge forming part of or leading to the same, and also the footways, kerbing, and channels (if any) on either side of such carriage-way :	40
	"Telegraph" and "telegraphic" include "telephone" and "telephonic" :	40
	"Tramway" includes all land, buildings, fixed machinery, and fixed apparatus acquired, constructed, or used for the purpose of working any tramway :	45
	"Undertaking" includes the tramway, and all works, cars, rolling-stock, equipment, material and plant, rights, powers, and privileges connected with the tramway.	

## PART I.

## CONSTRUCTION OF TRAMWAYS.

4. (1.) Tramways may be constructed in any borough, town district, or county when authorised as provided in the *Second* Schedule hereto, and all regulations in such schedule shall take effect as if contained in this Act.
- (2.) Every tramway so constructed shall be subject to the provisions of Part VII. of "The Public Works Act, 1882," relating to the inspection of railways, as if such tramway were a railway.
5. With the consent of the Council of the Borough of Dunedin, tramways may be constructed over or upon the Town Belt of Dunedin between the City of Dunedin and any borough separated from the said city by such Town Belt, when such tramway is authorised as provided in the *Second* Schedule, and all regulations in such Schedule shall take effect as if contained in this Act, and any existing tramway may, with such consent, be widened, straightened, extended, or otherwise altered: Provided that nothing herein contained shall be deemed to authorise the erection or maintenance of any building upon such Town Belt.
6. (1.) The construction of tramways, authorised pursuant to the regulations in the *Second* Schedule hereto, shall be deemed a public work within the meaning of "The Public Works Act, 1882."
- (2.) Any local authority may purchase or take, under the provisions of "The Public Works Act, 1882," any lands necessary for the construction and maintenance of tramways within its district.
7. Any order authorising the construction of a tramway, or any further order revoking, amending, extending, or varying any order made, whether before or after the passing of this Act, may prescribe electricity as the motive-power: Provided that such order or further order shall also prescribe the system, whether overhead or otherwise, upon or according to which the electricity is to be applied and used.
8. (1.) There shall be a Board of Control for the purposes of supervising the use of electricity as a motive-power under this Act, which shall consist of the Governor in Council.
- (2.) The Board of Control may appoint such officers and make such by-laws for its own guidance as it shall think proper. It may also make such rules and regulations as it may think expedient for securing the safety of the public from personal injury or from fire or otherwise, and may from time to time amend or repeal any such regulations, and any such regulations so made or amended by the Board of Control shall, from the publication thereof in the *Gazette*, have the same effect in every respect as

Tramways may be constructed when authorised. *Second* Schedule.

Inspection.

Tramways may be made upon Dunedin Town Belt.

Tramways deemed a public work under Public Works Act.

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Board of Control to make regulations in the interests of public safety as to use of electricity.

though they had been originally inserted in this Act, and every regulation so repealed shall from and after the date thereof be repealed accordingly; but such repeal shall not affect any liability or penalty incurred in respect thereof prior to the date of such repeal, or any proceeding or remedy which might have been had in relation thereto. 5

(3.) The Board of Control may, from time to time, delegate all or any of the powers vested in it by this Act to the Electric Telegraph Commissioner.

*Power to Borrow Money and to Mortgage.* 10

Local authority may borrow moneys to construct tramway, and secure same by mortgage thereof.

9. (1.) Subject to the provisions hereinafter contained any local authority may, for the purpose of constructing tramways, borrow moneys by way of special loan within the meaning of the local Act, and may secure any moneys so borrowed by mortgage of the undertaking, or any part thereof. 15

(2.) A separate account shall be kept of all moneys received and expended on account of such loan, and it shall not be lawful to expend any such moneys in the maintenance or repair of such tramways, or for any purpose other than the construction thereof.

(3.) When it is intended that any loan shall be secured by such mortgage as aforesaid, the notice of the loan to be published in manner required by the local Act shall state that it is proposed to secure repayment of the loan by mortgage of the tramway. 20

(4.) The mortgage shall be made either to the purchasers of the debentures or to any persons whether purchasers of the debentures or not, as trustees for the debenture-holders, and shall contain such reasonable provisions for the security of the lenders and the protection of the borrowers as the local authority may deem expedient. 25

(5.) The debentures, by sale of which the loan is raised, shall state, in addition to the matters in the form of debenture under the local Act, that they are secured by such mortgage as aforesaid, describing the mortgage so as to identify the same. 30

PART II.

DELEGATION OF POWERS TO CONSTRUCT, ETC., TRAMWAYS. 35

Local authority may delegate authority to construct tramway.

10. When any local authority has obtained an order authorising the construction of any tramway, it may, subject to the provisions of this Act, delegate the authority conferred by such order to any person upon such terms and conditions, not inconsistent with any of the provisions contained in such order, or any further order as aforesaid, as may be agreed on in writing; and, upon the execution of such agreement by both parties, the rights, powers, privileges, and obligations which, by the said order or further order, were granted to or imposed upon such local authority shall, for the purposes of such orders, be possessed by and imposed upon such person in the same way as if such person were the local authority. 40 45

## PART III.

## ASSIGNMENT OF DELEGATED POWERS AND OF TRAMWAY.

11. (1.) The promoters other than the local authority may, with  
 5 either absolutely or by way of lease or mortgage, or in trust for  
 debenture-holders, all or any of the rights, powers, privileges, and  
 obligations conferred and imposed by virtue of such order and delega-  
 10 tion, and of any order made under any Act hereby repealed, and also  
 the undertaking, or any part thereof, upon such terms and conditions,  
 not inconsistent with the said order or any further order of the Gover-  
 nor, as may be contained in such deed; and upon the execution of  
 such deed, and the consent thereto by the local authority under its  
 15 common seal, such part of the undertaking as is expressed to be  
 to the assignee thereof as if the assignee were the promoters.

(2.) No lease shall be for a longer term than twenty-one years.

(3.) During the continuance of such lease the assignor (not being  
 the local authority) shall not make, alter, or repeal any by-law with-  
 out the consent of the lessee.

20 12. The agreement in writing, containing the terms and condi-  
 tions subject to which the local authority delegates the authority  
 conferred on it by any such order of the Governor as aforesaid, may  
 contain a power of assignment absolutely or by way of lease, mort-  
 25 gage, or trust for debenture-holders, of all or any of the rights, powers,  
 privileges, and obligations delegated by such local authority, but in  
 each case with the consent of the local authority.

30 13. The consent of the local authority to any assignment  
 authorised by this Act may be given either before or after any of the  
 parties to such agreement or assignment may have executed the  
 same; and all consents heretofore given by any local authority to any  
 proposed sale or assignment not yet carried out shall be as valid and  
 effectual as if given under this Act.

35 14. Any local authority which has duly delegated the authority  
 conferred on it by any such order of the Governor as aforesaid may,  
 at any time afterwards, by special resolution and with the concur-  
 rence of the other parties to the delegation, make any alteration in  
 any of the terms and conditions contained in the agreement for  
 such delegation, or accept a surrender of all or any of the rights,  
 powers, privileges, and obligations delegated, without again pub-  
 40 lishing the notices mentioned in this Act, or submitting the matter  
 to the decision of the ratepayers; and, from and after any such  
 surrender, the local authority shall, except as to matters or things  
 made or done, be in the same position with regard to the rights,  
 powers, privileges, and obligations surrendered as if no delegation  
 45 of them had been made.

Person to whom  
 authority has been  
 delegated may  
 assign, with consent  
 of local authority.

Agreement for  
 delegation may  
 contain power of  
 assignment.

When consent of  
 local authority to  
 delegation or assign-  
 ment may be given.

Local authority  
 may alter or accept  
 surrender of agree-  
 ment for delegation.

## PART IV.

## EXISTING PUBLIC TRAMWAYS, ETC.

Existing public tramways to be subject to Act.

15. (1.) All tramways constructed, and orders, regulations, and by-laws lawfully made, under the Acts hereby repealed shall be deemed to have been constructed and made respectively under this Act, and the promoters of such tramways shall be subject to and entitled to the benefit of the provisions of this Act. But nothing in this section shall be construed to affect any rights or liabilities existing at the time of the commencement of this Act. 5

Consents of local authority validated, so far as not in contravention of this Act.

(2.) All consents given by local authorities prior to the passing of this Act to orders authorising the use as a motive-power of electricity on the overhead system, and the terms and conditions in consideration of which such consents have been given, and all applications made for such orders, shall be as valid and effectual as if given and made under this Act, and orders may be made thereon accordingly. 10 15

## PART V.

## PRIVATE TRAMWAYS.

Local authority may grant license to construct private tramway.

16. (1.) Any local authority may, from time to time, on the application of any person in that behalf, grant a license to such person to lay down, construct, and maintain a private tramway on, along, or across any street or road within its district, subject to such terms and conditions as such local authority shall approve: Provided that such tramway shall be used only in connection with and for the purposes of the business of such person, and that such business shall not be the carriage of passengers or goods for hire. 20 25

(2.) No such license shall be granted for any term exceeding five years, except in the case of a tramway intended to connect any colliery with any shipping-place or railway-station, when the license may be granted for any term not exceeding ten years, or, with the consent of the Governor in Council, twenty-one years. 30

Notice of application for license to be advertised.

17. Upon receipt of the application for a license to construct any private tramway, the local authority shall cause the application to be notified once in each of three consecutive weeks in some one and the same newspaper published or circulating within the district; and such notification shall set forth the name of the applicant, the roads proposed to be crossed, the place and times at which the plan of the proposed tramway may be inspected, and the date (not being sooner than thirty days after the date of the first publication of such notification) upon which the said application and any objections thereto will be taken into consideration by such local authority. 35 40

Memorial of objection to grant of license.

18. If, at least three days before the date fixed for such consideration, a memorial of objection signed by any ratepayer or ratepayers resident within the district protesting against the granting of such license, shall be deposited at the office of the local authority, then the local authority shall, on the date appointed for the consideration of the application, hear and consider any evidence tendered in support of such objection, and thereafter, or if no such memorial shall have been so deposited, the local authority may grant or refuse such license at its discretion, and may attach such terms and conditions thereto, if the license be granted, as it shall see fit. 45 50

19. All private tramways laid down and constructed before the commencement of this Act, in, along, or across any road, with the sanction and approval of the local authority in whose district such road is situated, shall be deemed to be private tramways under this Act, and subject, except as to rights and liabilities existing under any of the Acts hereby repealed, to the provisions hereof accordingly:

Existing private tramways to be subject to this Act.

Provided that nothing herein contained shall validate any tramway authorised or constructed in contravention of any law for the time being in force, or with respect to which the requirements of such law have not been complied with.

## SCHEDULES.

Schedules.

### FIRST SCHEDULE.

#### ACTS AND ENACTMENTS REPEALED.

- 1872, No. 22.—“The Tramways Act, 1872.”  
 1882, No. 38.—“The Private Tramways Act, 1882.”  
 1886, No. 49.—“The Counties Act, 1886.” *In part—namely*, sections two hundred and sixty to two hundred and sixty-five, both inclusive.  
 1886, No. 50.—“The Municipal Corporations Act, 1886. *In part—namely*, sections three hundred and seventy-two to three hundred and eighty-six, both inclusive; and so much of section 422 as relates to the making of by-laws in respect of tramways.  
 1887, No. 36.—“The Public Works Act Amendment Act, 1887.” *In part—namely*, sections twenty-two and twenty-three.  
 1888, No. 7.—“The Tramways Act 1872 Amendment Act, 1888.”  
 1891, No. 31.—“The Private Tramways Amendment Act, 1891.”

### SECOND SCHEDULE.

#### PART I.—ORDERS AUTHORISING THE CONSTRUCTION OF TRAMWAYS.

1. Orders authorising the construction of tramways in any district may be obtained only by the local authority thereof on application to the Governor, and subject to the provisions hereinafter contained.

2. Every application for such order shall be in writing under the common seal of the local authority, and shall be in such form and contain such information and be supported by such evidence as may be for the time being prescribed by the rules of the Governor in Council hereunder, and shall be left with the Minister for Public Works; and, in case money is to be borrowed for the purposes of the order, such application shall be accompanied by evidence that the requirements of the local Act relating to the borrowing of money for public works by the local authority have been complied with, and by certified copies of the plans and specifications and estimates open for inspection in accordance with such local Act; and the Governor in Council shall not take into consideration any application until fourteen days after the foregoing requirements have been complied with.

3. The Governor shall consider the application, and may if he thinks fit direct an inquiry in the district to which the same relates, or may otherwise inquire, as to the propriety of proceeding to deal with such application.

4. Where it appears to the Governor expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, the Governor by Order in Council may settle and make an order accordingly.

5. Every such order shall empower the local authority therein specified to make the tramway upon the gauge and in manner therein described, within the district

of the local authority, upon any road or elsewhere, and shall contain such provisions as the Governor, according to the nature of the application, the facts and circumstances of each case, and the provisions of this Act, may think fit.

6. Every such order shall specify the nature of the traffic for which such tramway is to be used, and the tolls, fares, and charges which may be demanded and taken by the local authority in respect of the same, and shall contain such regulations relating to such traffic and such tolls and charges as the Governor shall deem necessary and proper.

7. The costs of and connected with the preparation and making of such order and of any inquiry in relation thereto shall be paid by the local authority, and the Governor may require the local authority to give security for such costs before he proceeds to deal with the application for the order.

8. When an order has been settled and made as aforesaid and delivered to the local authority, the local authority shall forthwith deposit printed copies of the order for public inspection in the office of the Clerk of the local authority of every district through any part of which the tramway is authorised to be constructed.

9. (1.) The Governor, on the application of any local authority empowered by an order, may from time to time revoke, amend, extend, or vary such order by a further order.

(2.) Every application for such further order shall be made by the like local authority in like manner and subject to the like conditions as the application for the original order.

(3.) Every such further order shall be made in like manner in every respect as the original order, and all such original and further orders are hereinafter included in the expression "authorising order."

10. (1.) Subject to these regulations, the Governor may on a joint application, or on two or more separate applications, settle and make an order empowering two or more local authorities respectively jointly to construct the whole or separately to construct parts of a tramway, and jointly or separately to own the whole or parts thereof; and all the provisions of these regulations which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of such tramways as last aforesaid, and the form of the authorising order may be adapted to the circumstances of the case.

(2.) When it is proposed to lay down a tramway in two or more districts, or to extend into another district any existing tramway, and any local authority having jurisdiction in any of such districts does not consent thereto, or will not apply or join in applying for an authorising order, the Governor, on the application of the local authority proposing that the work shall be done, may nevertheless make such order, if he is satisfied, after inquiry, that two-thirds of the length of such tramway is proposed to be laid in the district of the local authority so proposing as aforesaid; and the form of the authorising order may be adapted to the circumstances of the case.

11. Every local authority working any tramway shall cause to be kept a separate account of all moneys received from the working thereof, which shall be charged—

- (1.) With the interest payable and percentage required to form the sinking fund (if any) in respect of every loan raised for the construction of the tramway;
- (2.) With the cost of maintaining the tramway in good repair, of providing and maintaining carriages and motive-power, and of carrying on the traffic thereon;
- (3.) With any surplus remaining, which the local authority is hereby empowered to transfer to the District Fund.

*Consent of Ratepayers.*

12. (1.) A local authority shall not—

- (a.) Apply for an authorising order; or
- (b.) Delegate the authority conferred by such order; or
- (c.) Sell the tramway; or
- (d.) Grant a lease of the tramway; or
- (e.) Compel the promoters to sell the tramway to the local authority; or
- (f.) Acquire possession of the tramway by voluntary purchase or otherwise, until, in each instance, the decision of the ratepayers has been ascertained.



- (2.) For the purposes of such decision the following provisions shall apply :—

The local authority shall publish twice in some newspaper, generally circulating in the district, a notice stating the intention of the local authority to apply for such order, or to delegate such authority, or to make such sale, or to grant such lease or otherwise as the case may be, and containing the particulars hereinafter mentioned.

(3.) In the case of intention to apply for such order, or to delegate such authority as aforesaid, the local authority shall cause plans and cross-sections to be prepared, showing the nature of the works proposed to be undertaken, together with a description thereof.

Such plans shall be made on a scale of not less than three chains to one inch, and such cross-sections on a scale of not less than one inch to four feet.

All such plans and cross-sections shall be deposited and remain open for public inspection at the office of the local authority during office-hours during the four weeks mentioned in clause 13 (1) of these regulations.

The aforesaid notice shall contain a description of the proposed works, the place where the plans and cross-sections are deposited for public inspection, and, in the case of intended delegation of authority, the name of the person to whom the authority is to be delegated, and a general description of the terms and conditions subject to which such delegation is to be made.

(4.) In case of intention to grant a lease as aforesaid, the local authority shall cause a copy of the proposed lease to be deposited and to remain open for public inspection at the office of the local authority during office-hours during the four weeks mentioned in clause 13 (1).

In case of intention to sell, purchase, or lease, the aforesaid notice shall contain, as the case may be : (1) the name of the proposed purchaser, vendor, or lessee ; (2) the term of the lease ; (3) the consideration for the sale or purchase, or the rent reserved by the lease ; (4) a general description of the covenants and conditions of the sale, purchase, or lease ; and (5) the place where the copy of the lease may be inspected.

13. (1.) Within four weeks after the first publication of such notice as aforesaid, any number of persons, being not less than five per centum of the ratepayers, whose names are inscribed on the ratepayers' roll of the district may, by writing under their hands delivered or sent by post addressed to the local authority, or the Clerk thereof, at the offices of the local authority, demand that the question whether or not such order should be applied for, or such delegation of authority should be made, or such sale should be made, or such lease should be granted, or otherwise, as the case may be, shall be submitted to the decision of the ratepayers.

(2.) When any such demand has been made, the votes of the ratepayers shall be taken upon such question, on a day to be fixed by the Chairman of the local authority, not less than fourteen nor more than twenty-one clear days after the delivery of such demand, and such day shall be forthwith notified in some newspaper generally circulating in the neighbourhood, and on such day a poll shall be taken of all ratepayers who desire to forbid the local authority from applying for such order, or from delegating such authority, or from granting such lease, as the case may be.

(3.) At the taking of such poll, papers, in the form in the *Third* Schedule hereto, shall be used instead of ballot-papers ; and the Returning Officer, his deputy, or such other person as may be appointed to take the poll, shall, at the request of any person whose name is on the roll and who desires to forbid the local authority from applying for such order, or from delegating such authority, or from making such sale, or from granting such lease, or otherwise, as the case may be, deliver to such person as many of such papers as the number of votes to which such person appears by the roll to be entitled : Provided that no person shall have more than ten votes.

(4.) One scrutineer, to be present in every polling-booth, shall be appointed by the local authority ; and the persons demanding a poll may also, by writing under their hands or the hands of any three of them, appoint one scrutineer to be present in every polling-booth.

(5.) Immediately upon the close of the poll, the Returning Officer, or deputy, or such other person as may be appointed at each polling-booth, shall proceed, in the presence and subject to the inspection of the poll-clerk and of so many of the scrutineers as please to be present, to ascertain the number of votes recorded on the question submitted as aforesaid ; and the deputy or such other person shall, as soon as conveniently may be, forward to the Returning Officer a statement in writing, made up under the inspection of the scrutineers, of the total number of votes recorded on such question ; and such Returning Officer shall, as soon as conveniently may be on or after the day of the poll, give public notice of the total number of

votes recorded on such question, and shall declare the local authority as to such question to be forbidden, or not to be forbidden, according as such total number of votes so recorded exceeds or does not exceed one-third of the total number of votes for which voters are inscribed on the ratepayers' roll of the district, and the local authority shall act accordingly.

(6.) Subject to the provisions of this Act, upon the submitting of any such question as aforesaid to the decision of the ratepayers, all proceedings shall be had and taken as nearly as may be as upon an election of Councillors.

(7.) With respect to any such question as to which no demand is made, or demand is made by less than five per centum of the ratepayers, as aforesaid, the local authority shall be deemed not to be forbidden, and may at any time, not less than one month nor more than three months after the last publication of such notice as aforesaid, proceed to carry out such intention.

(8.) Any two or more of the aforesaid notices may be combined in one advertisement, and the decision of the ratepayers on two or more of the aforesaid questions may be taken at the same time if the circumstances of the case render such a course convenient, but the decision on each question shall be separate.

## PART II.—CONSTRUCTION OF TRAMWAYS.

### *Breaking up Roads, &c.*

14. (1.) The promoters, from time to time, for the purpose of making, forming, laying down, maintaining, renewing, or extending any tramway duly authorised, may open and break up any road, subject to the following regulations:—

- (a.) They shall give to the local authority notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given seven days at least before the commencement of the work.
  - (b.) They shall not open or break up or alter the level of any road except under the superintendence and to the reasonable satisfaction of the local authority, unless that authority refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work.
  - (c.) They shall not, without the consent of the local authority, open or break up at any one time a greater length than one hundred yards of any road.
- (2.) Where the carriage-way in or upon which any tramway is proposed to be formed or laid down is crossed by any railway or tramway on the level, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with such railway or tramway or the traffic thereon, shall be constructed and maintained (at the cost of the promoters) under the superintendence and to the reasonable satisfaction of the person or authority owning such railway or tramway, unless after notice, to be given by the promoters seven days at least before the commencement of such work, such superintendence is refused or withheld.
- (3.) They shall pay all reasonable expenses to which the local authority is put on account of superintendence and inspection of the works.

15. (1.) When the promoters have opened or broken up any portion of any road, they shall be under the following further obligations, namely,—

- (a.) They shall with all convenient speed, and in all cases within four weeks at the most (unless the local authority otherwise consents in writing), complete the work on account of which they opened or broke up the road, and (subject to the formation, maintenance, or renewal of the tramway) fill in the ground and make good the surface, and, to the satisfaction of the local authority, restore the portion of the road to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby.
  - (b.) They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night.
  - (c.) They shall bear or pay all reasonable expenses of the repair of the road for six months after the same is restored, as far as those expenses are increased by the opening or breaking up, and also the reasonable expenses to which the local authority is put on account of inspection.
- (2.) If the promoters fail to comply in any respect with the provisions of this clause, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against them) be liable to a penalty not exceeding *twenty* pounds, and to a further

penalty not exceeding *five* pounds for each day during which any such failure continues after the first day on which such penalty is incurred.

16. (1.) The promoters shall at their own expense at all times maintain and keep in good condition and repair, with such materials and in such manner as the local authority shall direct, and to its satisfaction, so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway; and where two tramways are laid by the same promoters in any road at a distance of not more than four feet from each other, the portion of the road between the tramways; and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

(2.) If the promoters abandon their undertaking, or any part of the same, and take up any tramway or any part of any tramway belonging to them, they shall, with all convenient speed, and in all cases within six weeks at the most (unless the local authority otherwise consents in writing), fill in the ground and make good the surface, and, to the satisfaction of the local authority, restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work, and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night.

(3.) If the promoters fail to comply with the provisions of this clause to the satisfaction of the local authority, the local authority, if it thinks fit, may itself, at any time after three days' notice to the promoters, fill in the ground and make good the surface, and do the works necessary for the repair and maintenance or restoration of the road, to the extent in this clause above mentioned, and the expense incurred by the local authority in so doing shall be repaid to it by the promoters.

17. The local authority on the one hand, and the promoters on the other hand, may from time to time enter into and carry into effect, and from time to time alter, renew, or vary, contracts, agreements, or arrangements with respect to the paving and keeping in repair of the whole or any portion of the roadway of any road on which the promoters shall lay any tramway, and the proportion to be paid by either of them of the expense of such paving and keeping in repair.

#### *Electric Power.*

18. For the purpose of using electricity as the motive-power, where authorised by any authorising order, the promoters—

- (1.) May suspend, construct, maintain, and use in, over, along, and across roads any wires or conductors, or any other safe and effective means for conveying, transmitting, or distributing electricity, and also any necessary casings, coatings, tubings, pipes, coverings, or insulators enclosing, surrounding, or connecting the same:
- (2.) May erect, construct, maintain, and use, in and along roads any posts, poles, standards, struts, or other above-ground contrivance for carrying, suspending, supporting, or rendering effective any such wire conductor or other means; but no post, pole, standard, strut, or other above-ground contrivance shall be erected or constructed in any road except in the kerbing or such other parts thereof as shall be specified in the order authorising the same:
- (3.) May erect, construct, maintain, and use such other works, apparatus, and contrivances, and do all such acts and things, as shall be deemed necessary or desirable for effectively and safely applying and using electricity as aforesaid, according to the system prescribed by the order authorising the same.

#### *Altering Position of Mains, Pipes, &c.*

19. For the purpose of making, forming, laying down, maintaining, repairing, or renewing any tramway, the promoters may from time to time, where and as far as it is necessary or may appear expedient, for the purpose of preventing frequent interruption of the traffic by repairs or works in connection with the same, alter the position of any mains or pipes for the supply of gas or water, or any wires or apparatus for telegraphic or other purposes, subject to the provisions of this Act, and also subject to the following restrictions, that is to say,—

- (1.) Before laying down a tramway in a road in which any mains or pipes, wires or apparatus may be laid, the promoters shall, whether or not they con-

- template altering the position of any such mains or pipes, wires, or apparatus, give seven days' notice to the person or authority to whom such mains or pipes, wires, or apparatus may belong, or by whom they are controlled, of their intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work.
- (2.) If it should appear to any such person or authority that the construction of the tramway as proposed would endanger any such main or pipe, wire or apparatus, or interfere with or impede the supply of water or gas, or the telegraphic or other communication, such person or authority (as the case may be) may give notice to the promoters to lower or otherwise alter the position of the said mains or pipes, wires or apparatus, in such manner as may be considered necessary.
  - (3.) Before interfering with any such main or pipe, wire or apparatus, the promoters shall appoint a competent engineer to confer with such person or authority, and to agree as to the manner of effecting any such alterations; and if no agreement can be come to the matter shall be referred to an independent engineer, to be previously appointed as referee by the parties. All alterations to be made under this clause shall be made with as little detriment and inconvenience to the person or authority to whom such mains or pipes, wires, or apparatus may belong, or by whom the same are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such person or authority, or of his or its surveyor or engineer, if he think fit to attend after receiving not less than forty-eight hours' notice for that purpose, which notice the promoters are hereby required to give.
  - (4.) The promoters shall not remove or displace any of the mains or pipes, valves, syphons, plugs, wires, apparatus (all and each of which are hereinafter included in the expression "appliances"), or other works belonging to or controlled by any such person or authority, or do anything to impede the passage of water or gas or the telegraphic or other communication into or through or by means of such appliances, without the consent of such person or authority, or in any other manner than such person or authority shall approve, until good and sufficient appliances and other works necessary or proper for continuing the supply of water or gas or telegraphic or other communication as efficiently as the same was supplied by the appliances proposed to be removed or displaced, shall at the expense of the promoters have been first made and laid down in lieu thereof, and ready for use, and to the satisfaction of the aforesaid surveyor or engineer, or, in case of disagreement, as the aforesaid referee shall direct.
  - (5.) The promoters shall not make or lay down any such appliances contrary to the regulations of any Act relating to water or gas or to telegraphs.
  - (6.) The promoters shall make good all damage done by them to property belonging to or controlled by any such person or authority, and shall make full compensation to all parties for any loss or damage which he or it may sustain by reason of any interference with such property, or with the private service-pipes of any person supplied by any such person or authority with water or gas.
  - (7.) The promoters shall pay all reasonable expenses to which such person or authority may be put by reason of anything done under this clause.
  - (8.) If by any such operations as aforesaid the promoters interrupt the supply of water or gas in or through any main or main pipe they shall be liable to a penalty not exceeding *twenty* pounds for every day upon which supply shall be so interrupted.
20. Where in any district any tramway or any work connected therewith may interfere with any sewer, drain, watercourse, subway, or works in such district, or in any way affect the sewerage or drainage of such district, the following provisions shall apply:—
- (1.) The promoters shall give to the proper local authority fourteen days' previous notice in writing of their intention to commence such tramway or work, by leaving such notice at the principal office of such local authority;
  - (2.) Such notice shall be accompanied with all necessary particulars relating to such tramway or work;
  - (3.) At the expiration of the said period of fourteen days such tramway or work may be commenced, but in the construction thereof the promoters shall

conform to all reasonable directions and regulations of the local authority, and also shall provide, by new, altered, or substituted works, in such manner as such local authority shall reasonably require, for the proper protection of and for preventing injury or impediment to the sewers and other works hereinbefore referred to by or by reason of such tramway or work, and shall save harmless the local authority against all expenses to be occasioned thereby;

- (4.) All such new, altered, or substituted works as aforesaid, or any works connected therewith, shall be done under the direction, superintendence, and control of the engineer or other officers of the local authority, at the reasonable costs, charges, and expenses in all respects of the promoters; and, when duly completed, shall thereafter be as fully and completely under the control of the local authority, and be maintained by it, as any sewers or works theretofore under its control.

21. Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any local authority or other authority for any of the purposes for which such authority is respectively constituted, or in any person, for the purpose of laying down, repairing, altering, or removing any pipe for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes; but in the exercise of such power every such local or other authority or person shall be subject to the following provisions, that is to say,—

- (1.) They shall cause as little detriment or inconvenience to the promoters as circumstances admit.
- (2.) Before they commence any work whereby the traffic on the tramway may be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work.
- (3.) They shall not be liable to pay to the promoters any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid.
- (4.) Whenever, for the purpose of enabling them to execute such work, they shall so require, the promoters shall either stop traffic on the tramway to which the notice shall refer where the traffic would otherwise interfere with such work, or shore up and secure the tramway at their own risk and cost during the execution of the work there: Provided that such work shall always be completed with all reasonable expedition.
- (5.) They shall not execute such work so far as it immediately affects the tramway, except under the superintendence of the promoters, unless the promoters refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work, or discontinue the same during the progress of the work; and they shall execute such work at their own expense, and to the reasonable satisfaction of the promoters: Provided that any additional expense imposed upon them by reason of the existence of the tramway in any road or place where any such mains, pipes, tubes, wires, or apparatus shall have been laid before the construction of such tramway shall be borne by the promoters.

22. If any difference arises between the promoters on the one hand, and any local authority, or any gas or water company, or any person or authority to whom any sewer, drain, wires, or apparatus for telegraphic or other purposes may belong, or any other person or authority, on the other hand, with respect to any interference or control exercised or claimed to be exercised by or on behalf of such company, person, or authority, or by the promoters, by virtue of this Act, in relation to any tramway or work, or in relation to any work or proceeding of the local authority, or other authority, company, or person, or with respect to the propriety of or the mode of execution of any work relating to any tramway, or with respect to the amount of any compensation to be made by or to the promoters, or on the question whether any work is such as ought reasonably to satisfy the local authority, or other authority, company, or person concerned, or with respect to any other subject or thing regulated by or comprised in this Act the matter in difference shall (unless otherwise specially provided by this Act) be settled by arbitration under "The Arbitration Act, 1890."

## PART III.—GENERAL PROVISIONS.

*Carriages.*

23. (1.) The promoters may use on their tramways carriages with flange-wheels or wheels suitable only to run on the rail prescribed by the authorising order, and, subject to the provisions of such order and of this Act, the promoters shall have the exclusive use of their tramways for carriages with flange-wheels or other wheels suitable only to run on the prescribed rail.

(2.) All carriages used on any tramway shall be moved by the power prescribed by the authorising order, and, where no such power is prescribed, by animal power only.

(3.) No carriage or rolling-stock of any kind used on any tramway shall measure in width more than seven feet and a half, including anything attached thereto, and the design shall be approved by the local authority.

*Security for Maintenance of Traffic.*

24. Subject to the provisions of this Act the authorising order may make provision for securing to the public the full benefit of such tramway, and to that end may prescribe what provisions shall from time to time be made by the promoters for the carriage of goods and passengers thereon, and for the use thereof and for traffic thereon, and may prescribe what consequences, whether of forfeiture, cesser, or determination of powers, or otherwise, shall follow any breach by the promoters of the requirements of such order; and such order may prescribe that the Governor shall be the sole judge of the fact whether such requirements have been complied with, and the Governor in such case may inquire into the matter in such way as he thinks fit, and his decision shall be final.

*Lease or Sale of Tramway by Local Authority.*

25. (1.) When a tramway has been completed by a local authority, or when a local authority has, under the provisions of this Act, or any Act hereby repealed, become the owner of a tramway, such local authority may, subject to the provisions of this Act, and with the consent of the ratepayers (to be ascertained in manner prescribed in clauses 12 and 13 of these regulations), demise the undertaking, or absolutely sell the same, upon such terms as the local authority shall think fit; and may grant to the lessee or purchaser, as the case may be, all or any of the powers, rights, and privileges of and incident to working, maintaining, or extending the tramway which the local authority itself possessed at the time of such lease or sale; and the lessee or purchaser, as the case may be, shall be deemed the promoters.

(2.) Every such lease shall be made for a term not exceeding twenty-one years.

(3.) Every such lease shall imply a condition of re-entry if at any time the lessee discontinues the working of the tramway, or of any part thereof, for the space of three months (such discontinuance not being occasioned by circumstances beyond the control of the lessee, for which purpose the want of funds shall not be considered a circumstance beyond his control).

*Discontinuance of Tramways.*

26. (1.) Subject to the provisions of the *last-preceding* clause of these regulations, if at any time after the opening of any tramway in any district for traffic the promoters discontinue the working of such tramway or of any part thereof for the space of three months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Governor, the Governor, if he think fit, may by order declare that the powers of the promoters in respect of such tramway, or the part thereof so discontinued, shall from the date of such order be at an end, and thereupon the said powers of the promoters shall cease and determine unless the same are purchased by the local authority in manner by this Act provided.

(2.) Where any such order has been made, the local authority may, at any time after the expiration of two months from the date of such order, under the authority of a certificate to that effect by the Governor, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to the local authority the cost of such removal and of the making good of the road by the local authority, such cost to be certified by the clerk for the time being or by some other authorised officer of the local authority, whose certificate shall be final and conclusive.

(3.) If the promoters fail to pay the amount so certified within one month after delivery to them of such certificate, or a copy thereof, the local authority may, without any previous notice to the promoters (but without prejudice to any other remedy which it may have for the recovery of the amount), sell and dispose of the materials of the tramway or part of tramway removed, either by public auction or private sale, and for such sum and to such person as the local authority may think fit, and may out of the proceeds of such sale pay and reimburse itself the amount of the cost certified as aforesaid, and of the cost of sale; and the balance (if any) of the proceeds of the sale shall be paid over by the local authority to the promoters.

*Insolvency of Promoters.*

27. (1.) If at any time after the opening of any tramway in any district for traffic it appears to the local authority that the promoters are insolvent, so that they are unable to maintain such tramway, or work the same with advantage to the public, and such local authority makes a representation to that effect to the Governor, the Governor may direct an inquiry, by a referee, into the truth of the representation, and if the referee shall find that the promoters are insolvent as aforesaid, the Governor may, by order, declare that the powers of the promoters shall at the expiration of six months from the making of such order be at an end; and in such case the powers of the promoters shall cease and determine at the expiration of the said period unless the same are purchased by the local authority in manner by this Act provided.

(2.) Upon the cesser and determination of the powers of the promoters as aforesaid such local authority may remove the tramway in like manner and subject to the same provisions in every respect as in cases of removal under the *last-preceding* clause.

(3.) Every such representation as aforesaid shall be deemed privileged.

*Default by Promoters.*

28. (1.) If the promoters (not being the local authority) do not, within the period prescribed for that purpose in the agreement for delegation mentioned in section *nine* of this Act, complete the tramway and open it for public traffic; or

(2.) If within three months from such time as is prescribed for that purpose in the aforesaid agreement the works are not substantially commenced; or

(3.) If the works, having been commenced, are suspended without a sufficient reason, in the opinion of the local authority, to warrant such suspension, then and in any such case the powers given by the authorising order shall cease to be exercisable by the promoters: Provided, nevertheless, that in any such case the local authority may, by special resolution,—

(a.) Extend for such reasonable period as it may think fit the time so prescribed as aforesaid; or

(b.) As to so much of the tramway as is then completed, permit the said powers to continue and to be exercised, upon such terms as the local authority may think fit.

(4.) An order made by the Governor, on the recommendation of the local authority, and declaring that a tramway has not been completed and opened for traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall, for the purposes of this Act, be conclusive evidence of such non-completion, non-commencement, or suspension.

(5.) When an order has been made as last aforesaid by the Governor the tramway shall be deemed to be a tramway to which all the provisions of this Act relating to the discontinuance of tramways, after proof of such discontinuance, shall apply, and may be dealt with accordingly.

*Compulsory Sale and Purchase of Tramways.*

29. Subject to the provisions of this Act and of any existing lease, the local authority (not being the promoters) may, by notice in writing given to the promoters, require them to sell to the local authority the undertaking; and thereupon the promoters shall sell the undertaking to the local authority. But the following provisions shall apply:—

(1.) Before giving such notice as aforesaid the local authority shall obtain the consent of the ratepayers in manner prescribed in clauses 12 and 13 of these regulations, and for the purposes of such consent the advertise-

- ment referred to in those clauses shall specify the terms (if any) of the proposed sale and purchase.
- (2.) The proposed sale and purchase shall not be inconsistent with any of the provisions of the authorising order.
  - (3.) The said notice shall not be given until within, and if given shall be given before the expiration of,—
    - (a.) Six months after the expiration of twenty-one years from the date when the local authority first delegated the authority conferred upon it by an authorising order; or
    - (b.) Six months after the expiration of any subsequent period of seven years; or
    - (c.) One month after any order made by the Governor under clauses 26, 27, or 28 of these regulations.
  - (4.) The terms of the sale and purchase of the undertaking shall be such as may be agreed upon between the local authority and the promoters, or if there be no agreement, or in so far as any agreement, if made, may not extend, the terms shall be the payment of the value of the undertaking.
  - (5.) Such value shall, in case of difference, be determined by arbitration under "The Arbitration Act, 1890."
  - (6.) Upon the completion of the sale and purchase of the undertaking, all the rights, powers, and privileges of the promoters in respect to the undertaking sold, or (where any order has been made by the Governor under any of the *three last-preceding* clauses) all their rights, powers, and privileges as existing immediately previous to the making of such order, shall be transferred to the local authority in like manner as if the tramway had been originally undertaken or constructed by the local authority under this Act, and the local authority had never exercised its aforesaid power of delegation.
  - (7.) The local authority may pay the purchase-money, and all expenses incurred in the purchase of any undertaking under the authority of this regulation, and for that purpose may raise special loans and secure the same by mortgage of the undertaking, as if such loans were for the construction of a tramway.
  - (8.) Subject and according to the preceding provisions of this clause, two or more local authorities may jointly purchase any undertaking, or so much of the same as is within their districts:

Provided always that when promoters (other than the local authorities) have been empowered to construct tramways under "The Tramways Act, 1872," the date mentioned in subsection *three*, paragraph (a), of this section shall be taken to be the date when such promoters were so empowered.

#### *Voluntary Sale and Purchase of Tramways.*

30. The promoters of any tramway may, before or after the construction thereof, but with the consent of the local authority, sell their undertaking to any person or to the local authority; and when any such sale has been made, all the rights, powers, and privileges of such promoters in respect to the undertaking sold shall be transferred to the purchasers, in like manner as if such purchasers had been authorised by order to construct such tramway, and in reference to the same they shall be deemed to be the promoters: Provided always—

- (1.) That the local authority shall not purchase any undertaking under the provisions of this regulation without first obtaining the consent of the ratepayers in manner prescribed in clauses 12 and 13 of these regulations, and, for the purpose of such consent, the advertisement referred to in those clauses shall specify the terms of the proposed purchase.
- (2.) That where any purchase is made by any local authority under the provisions of this regulation, such local authority may pay the purchase-money, and all expenses incurred by it in making such purchase, out of the like funds, and for such purposes shall have all and the like powers, and be subject to all and the like conditions, as if such purchase were made under the authority of the *last-preceding* clause.

#### *Tolls and Charges.*

31. The promoters may demand and take in respect of the tramway, tolls and charges not exceeding the sums specified in the authorising order, subject and accord-



ing to the provisions of such order and this Act. A list of all such tolls and charges shall be exhibited in a conspicuous place inside and outside each of the carriages used upon the tramway.

*By-laws.*

32. Subject to the provisions of the authorising order and of this Act, the promoters (including the local authority, as well after as before delegation by it of the authority to construct the tramway conferred upon it by the authorising order) may from time to time make, repeal, and alter by-laws as to the following matters:—

- (1.) For regulating the number of passengers that may be carried on each carriage used on the tramway (distinguishing, if expedient, the platform, the top and the inside of such carriage), and for preventing such number being exceeded, and generally for regulating the passenger-traffic of the tramway.
- (2.) For regulating the speed at which the said carriages may travel, and the distances at which they may follow one another.
- (3.) For fixing stopping-places, and making time-tables showing the times of starting and arrival of the said carriages at such stopping-places.
- (4.) For regulating the ordinary traffic on the roads on which the tramway is laid.
- (5.) For regulating the conduct and punishing the misconduct of any persons employed upon or about the tramway.
- (6.) For preventing the commission of any nuisance upon a tramway, or on any premises or carriages belonging thereto.
- (7.) For preventing the smoking of tobacco or any other substance in or upon any of the said carriages.
- (8.) For prescribing the manner, times, and places in and at which tickets of any kind shall be purchased by, issued to, used by, and delivered up, by passengers in or upon any of the said carriages.
- (9.) And further to make such other by-laws as may be expedient, not being inconsistent with the provisions of this Act.

Provided that such by-laws be not repugnant to the law in force in that part of New Zealand where they are to have effect.

33. In making by-laws under this Act the local authority shall proceed in the manner prescribed by the local Act for the making of by-laws.

34. With respect to by-laws under this Act made by promoters other than the local authority, the following provisions shall apply:—

- (1.) Within one month after the framing of any such by-law notice of the framing of the same and a copy of such by-law shall be published by advertisement, to be inserted once at least in each of two successive weeks in some one and the same newspaper published or circulating in the district affected by such by-law.
- (2.) Two months before any such by-law can come into operation, a true copy thereof shall be sent to the local authority, and at any time before the expiration of the said period of two months the local authority shall by special order either confirm or disallow the same, and no by-law so disallowed shall have any force or effect.
- (3.) A by-law shall be deemed to be made on the day when the same is so confirmed as aforesaid.
- (4.) A copy of any such by-law under the hand or seal of the promoters shall be received as evidence of the same having been duly made, and of the same having prior to the date of any offence thereunder come into operation as by this Act provided respectively, unless the contrary is proved.

35. With respect to all by-laws made under this Act, the provisions of the local Act as to the imposition, enforcement, and application of penalties under by-laws shall apply with this modification, that no penalty shall exceed *forty shillings* for any offence, or, in the case of continuing offences, *ten shillings* for every day during which the offence continues. Moreover, all by-laws shall be so framed as to allow in every case part only of the maximum penalty being inflicted.

*Licenses to Drivers, &c.*

36. The local authority (whether being promoters or not) shall have the like power of making and enforcing rules and regulations, and of granting licenses to all carriages used on tramways, and to all drivers, conductors, and other persons having charge of or using the same, and to the standings of the same, as it is by virtue of the local Act for the time being entitled to make, enforce, and grant with respect to vehicles plying, used, or kept for hire and the drivers, and other persons having the charge thereof, and to the standings for the same in the roads under the control of the local authority:

- (1.) Provided always that in any district in which any of the powers aforesaid are vested in any authority other than the local authority of such district, such authority shall have, and may exercise, the powers by this clause conferred upon the local authority :
- (2.) Provided also that with regard to any fees payable for or in respect of such licenses, the agreement between the local authority and the promoters (not being a local authority) may provide for the payment of a commuted sum by the promoters in lieu of such fees, and in that case all such fees shall, in accordance with such agreement, be payable to the promoters.

*Offences.*

37. Every person who wilfully obstructs any person acting under the authority of any promoters in the lawful exercise of their powers in setting out, or making, forming, laying down, repairing, or renewing a tramway, or defaces or destroys any mark made for the purpose of setting out the line of the tramway, or damages or destroys any property of any promoters, shall for every such offence be liable to a penalty not exceeding *ten pounds*, in addition to the actual damage done.

38. Every person who, without lawful excuse (the proof whereof shall lie on him), does any of the following things, namely,—

- (1.) Interferes with, removes, or alters any part of a tramway, or of the works connected therewith :
- (2.) Places or throws any stones, dirt, wood, refuse, or other material on any part of a tramway :
- (3.) Does or causes to be done anything in such manner as to obstruct any carriage using a tramway, or to endanger the lives of persons therein or thereon ; or
- (4.) Knowingly aids or assists in the doing of any such thing,—

shall for every such offence be liable (in addition to any proceedings by way of indictment or otherwise to which he may be subject) to a penalty not exceeding *ten pounds*.

39. Every person who,—

- (1.) Travelling or having travelled in any carriage on any tramway, avoids or attempts to avoid payment of his fare, or,
- (2.) Having paid his fare for a certain distance, knowingly and wilfully proceeds in any such carriage beyond such distance, and does not pay the additional fare for the additional distance or attempts to avoid payment thereof, or
- (3.) Knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage, or
- (4.) Defaces any notice placed by the promoters on any part of a tramway or the carriages thereon, or
- (5.) Obstructs any person employed on a tramway or any carriage thereon in the performance of his duty, or
- (6.) Behaves in a violent or offensive manner to the annoyance of others on a tramway or any carriage thereon, or
- (7.) Refuses to leave the platform or steps of any such carriage when required to do so by the conductor.

shall for every such offence be liable to a penalty not exceeding *forty shillings*.

40. Any officer or servant of the promoters, and all persons called by him to his assistance, may seize and detain any person discovered either in or after committing or attempting to commit any such offence as in the *three last-preceding clauses* is mentioned, and whose name or residence is unknown to such officer or servant, until such person can be conveniently taken before a Justice, or until he be otherwise discharged by due course of law.

41. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or objectionable nature ; and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding *one hundred pounds* for every such offence.

42. The promoters may refuse to take any parcel that they suspect to contain goods of a dangerous or objectionable nature, or may require the same to be opened to ascertain the fact.

43. Every person who, without the permission of the promoters—

- (1.) Uses a tramway or any part thereof with carriages having flange wheels or other wheels suitable only to run on the rail of such tramway ; or

- (2.) Uses upon the rails of any tramway, or any part of such rails, any car, carriage, or other vehicle for the conveyance of passengers or goods for hire, having the gauge of all its wheels, or the gauge of two of its wheels, corresponding with, or nearly corresponding with, the gauge of such tramway, so as to be suitable to run with one (or more) of its wheels at each side simultaneously on the rails of such tramway,—

shall for every such offence be liable to a penalty not exceeding *twenty* pounds.

44. Nothing herein contained shall be deemed to prevent any person crossing or using the rails of any tramway with such car, carriage, or other vehicle, but only in such manner and to such an extent as the exigencies of public traffic may render necessary.

*Miscellaneous.*

45. The promoters shall be answerable for all accidents, damages, and injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of any of their works or carriages, and shall save harmless all persons and authorities, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries.

46. All tolls and charges under this Act or under any by-law made in pursuance thereof may be recovered and enforced before any two Justices.

47. Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any tramway shall be laid, to work such mines and minerals; nor shall any such owner, lessee, or occupier be liable to make good or pay compensation for any damage which may be occasioned to such tramway by the lawful working of such mines and minerals in the usual and ordinary course.

48. Notwithstanding anything in this Act contained, the promoters shall not acquire or be deemed to acquire any right other than that of user of any road along or across which they lay any tramway, nor shall anything contained in this Act exempt the promoters of any tramway laid along any road, or any other person using such tramway, from the payment of such tolls as may be lawfully levied in respect of the use of such road.

49. Nothing in this Act shall take away from or affect any power which any local authority or other authority may have by law to widen, alter, divert, or improve any road, railway, or tramway.

50. Nothing in this Act shall limit the powers of the local authority or police in any district to regulate the passage of any traffic along or across any road along or across which any tramways are laid down; and such authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters as to the traffic of other persons.

51. Nothing in this Act or in any by-law shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable only to run on the rail of the tramway: Provided that in cases of tramways constructed in counties the Governor may in any order made under this Act provide for certain crossing-places only over any such tramway to be specified in such order.

52. Every inquiry, except under clause *twenty-four* of these regulations, which by these regulations the Governor is empowered to make or direct, and any inquiry under the said clause *twenty-four* if in the order it is provided that the inquiry shall be made as provided by this clause of these regulations, shall be made in accordance with the following provisions:—

- (1.) The inquiry shall be held in public before any officer to be appointed in that behalf by the Governor, hereinafter called "the Referee," and whose appointment shall be by writing, which shall specify all the matters referred to him.
- (2.) Ten days' notice at the least shall be given by the Referee to the parties upon whose representation the Governor shall have directed the inquiry, of the time and place at which the inquiry is to be commenced.
- (3.) The inquiry shall be commenced at the time and place so appointed, and the Referee may adjourn the inquiry from time to time as may be necessary to such time and place as he may think fit.
- (4.) The Referee shall have power to administer oaths and affirmations and to hear, receive, and examine evidence, and by summons shall on the application of any party interested in the inquiry require the attendance

before himself, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him; and every person summoned shall attend the Referee and answer all questions touching the matters to be inquired into; and any person who wilfully disobeys any such summons, or refuses to be sworn or to affirm or to answer any questions put to him by such Referee for the purposes of the said inquiry, shall be liable to a penalty not exceeding *five* pounds, to be imposed by the Referee by writing under his hand, and recovered before two Justices of the Peace by any person authorised so to do by such Referee: Provided always that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him, and no person shall be required in any case in obedience to any such summons to travel more than ten miles from his usual place of abode.

(5.) The Referee shall make his report to the Governor in writing, and shall deliver copies of the report upon request to all or any of the parties to the inquiry.

(6.) The cost of the inquiry shall be borne and paid as the Governor shall direct.

53. The Governor may from time to time by Order in Council, published in the *Gazette*, make, alter, and repeal rules with respect to the following matters:—

(1.) The forms of application for orders, and the plans and sections of works and other information and evidence to be deposited by the local authority, or by promoters under this Act;

(2.) As to any other matter or thing not inconsistent with these regulations in respect of which it may be expedient to make rules for the purpose of carrying these regulations into execution.

Any rules made in pursuance of this clause shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in these regulations.

54. Subject to the provisions of this Act and of any by-laws made hereunder all persons shall have a right to use any tramway for travelling and for the carriage of goods thereon.

55. It shall be lawful for any promoters (if not repugnant to their rules or articles of association or to the local Act), by purchase or otherwise, to acquire possession of any suburban or other railway (other than a Government railway), together with all rights (including rolling stock) of or relating to the railway. But if the promoters be the local authority the consent of the ratepayers shall be first obtained in manner prescribed in clauses 12 and 13 of these regulations.

56. It shall, however, be a condition of any such purchase or acquiring of possession as last aforesaid, that the purchasers shall, within eighteen months from the date of so purchasing or acquiring possession, run not less than six trains each way each week for the whole length of the line.

57. Whenever throughout this Act rights or liabilities are conferred or imposed upon promoters, the term "promoters" shall (unless manifestly repugnant to or inconsistent with the context) be limited to mean the particular promoters who for the time being have the control and management of the tramways or works incident to which the rights or liabilities are conferred or imposed as the case may be.

### THIRD SCHEDULE.

BOROUGH [or TOWN DISTRICT or COUNTY] of \_\_\_\_\_ [or as the case may be].  
 THIS is to forbid the Council [or Board] of the \_\_\_\_\_ from proceeding further with a proposition for obtaining an authorising order [or for delegating the authority conferred by the authorising order, or for selling the tramway, or for leasing the tramway, or for compelling the promoters to sell the tramway, or for purchasing the tramway or otherwise, as the case may be] notice of which has been published in the [ \_\_\_\_\_ ] of \_\_\_\_\_

#### DIRECTIONS.

This paper is to be dropped by the voter desiring to forbid the proposition into the ballot-box. The voter is not permitted to take his ballot-paper out of the ballot-room or polling-booth.