

Presented  
by Mr. Cohen,  
and read a  
first time.



No. 1898.

# A BILL

To extend the time of operation of and to amend Saywell's  
Tramway Act of 1884 and Saywell's Tramway Act Amend-  
ment Act, and to enable Thomas Saywell, or his executors,  
administrators, and assigns to employ electricity as a  
5 motive and propelling force on a certain tramway, loop-  
lines, and sidings constructed by him by virtue of the said  
Acts from Bay-street Station on the Illawarra Railway to  
and along Lady Robinson's Beach, and to enable the said  
Thomas Saywell, or his executors, administrators, or  
10 assigns to supply electricity for any public or private  
purpose and for the purpose of lighting the streets and  
public and private places, houses, and premises in the  
municipal district of Rockdale, and to supply electric  
16—A power

power to persons and public and private bodies in the said municipal district, and to exercise all powers necessary for such purposes and for the generating and supply of electric power to the said municipal district.

Preamble.

**W**HEREAS by an Act passed in the forty-seventh year of Her 5  
 present Majesty's reign intituled *An Act to authorise the con-*  
*struction and maintenance of a tramway from the proposed Bay-street*  
*Station on the Illawarra Railway to and along Lady Robinson's Beach,*  
 Thomas Saywell, his heirs, executors, and administrators and assigns  
 were authorised to make and construct a tramway upon a certain route 10  
 mentioned and described in the said Act: And whereas by an Act  
 passed in the fiftieth year of Her present Majesty's reign intituled *An*  
*Act to amend Saywell's Tramway Act of 1884,* the said Thomas Saywell,  
 his heirs, executors, administrators, and assigns was empowered  
 to make, construct, maintain, and use in connection with the said 15  
 tramway-line such loop-lines and sidings not exceeding two in number  
 as might be required for the convenient working and use of the said  
 tramway, and also to continue, maintain, alter, and repair certain loop-  
 lines and sidings previously made by him: And whereas under and  
 by virtue of the powers contained in the hereinbefore recited Acts 20  
 certain tramway-lines, loop-lines, and sidings have been constructed,  
 made, maintained, and used by the said Thomas Saywell: And  
 whereas it would be of great local and public advantage and con-  
 venience, and it is expedient that the said Thomas Saywell, his heirs,  
 executors, administrators, and assigns should be authorised and 25  
 empowered to apply electricity as a motive power in connection with  
 the said tramway-line, loop-lines, and sidings, and also that the said  
 Thomas Saywell, his heirs, executors, administrators, and assigns  
 should be authorised and empowered to supply electricity for any  
 public or private purposes, for the purpose of lighting the streets and 30  
 public and private places, houses, and premises situate in the muni-  
 cipal district of Rockdale, and to supply electric power to persons and  
 public and private bodies in the said municipal district, and that for  
 the purposes aforesaid the said Thomas Saywell, his heirs, executors,  
 administrators, and assigns should have the privileges, powers, and 35  
 authorities hereinafter contained, and that the authorities and powers  
 contained in and conferred upon the said Thomas Saywell, and his  
 heirs, executors, administrators, and assigns by the hereinbefore recited  
 Acts should be extended for a period of thirty-five years from the  
 passing of this Act, but the same cannot be effected without the aid 40  
 and authority of an Act of the Legislature: Be it therefore enacted  
 by

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 :—

5       1. This Act may be cited as " Saywell's Tramway and Electric Title.  
Lighting Act, 1898."

2. In this Act and in any by-law to be made under it unless Interpretation.  
the context otherwise requires the expression :—

10       " Electricity " means electricity, electric current, or any like  
agency.

15       " Electric line " means a wire or wires, conductor, or other means  
used or intended to be used for the purpose of applying,  
conveying, transmitting, or distributing electricity, and any  
casing, coating, tube, conductor, pipe, or insulator wholly or  
partly enclosing, surrounding, or supporting the same, or any  
part thereof, or any apparatus connected therewith for the  
purpose of conveying, transmitting, or distributing electricity.

20       " Private purposes " means any purposes whatever to which  
electricity may for the time being be applicable (not being  
public purposes), except the transmission of any telegram or  
telephonic message.

      " Public purposes " means lighting any place or building belonging  
to or subject to the control of the Government, or any muni-  
cipal council or any street.

25       " Public works " means any work carried out by or under the  
supervision of or on account of the Government or any  
department of the Government or Minister of the Crown.

      " Street " means any square, court, alley, highway, lane, road,  
footpath, way, thoroughfare, or public place or passage.

30       " Works " means and includes electric lines, cables, meters,  
accumulators, lamps, fittings, and apparatus for the supply  
of electricity, also any buildings, machinery, engines, plant,  
matters, or things of whatever description required, used, or  
intended to be used to generate or supply electricity, and to  
carry into effect the purposes of this Act.

35       " The tramway " means the tramway including the sidings and  
loop-lines authorised by this Act and by the Saywell's  
Tramway Act, 1884, and the Saywell's Tramway Act Amend-  
ment Act.

40       " Governor " means the Governor, with the advice of the Executive  
Council.

      " Stipendiary magistrate " means a stipendiary magistrate within  
the metropolitan police district in terms of the enactments in  
that behalf.

And

And wherever in this Act the said Thomas Saywell 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 Thomas Saywell, and his executors, administrators, and assigns, or the said Thomas Saywell, his executors, administrators, or assigns, as the context may require or allow. 5

Electricity may be used.

3. It shall be lawful for the said Thomas Saywell to use and employ electricity as the motive and propelling power on or in connection with the tramway. 10

Power to break up streets and to open drains.

4. The said Thomas Saywell may open and break up the soil and pavement of any street, and open and break up any sewers, drains, or tunnels within or under such streets, and may construct subways and drains, and may lay down and place under or over any street any electric lines, and from time to time repair, alter, or remove the same, and for the purpose aforesaid may remove and use all earth and materials in and under such streets, and may in such street erect any posts, pillars, standards, lamps, and other works, and do all other acts which he may from time to time reasonably deem necessary for supplying electricity or for the purposes of the said tramway; and may lay any electric line, branch, or other apparatus from any main or branch electric line into, through, or against any place or building for the purpose of lighting the same, or for the purpose of the employment of electricity as a motive or propelling force upon the said tramway; and may cause electricity to flow or be conveyed along or through such main or branch electric line, and provide and set up any works in his opinion necessary for securing thereto and therefor a complete supply of electricity: Provided that nothing herein shall authorise or empower the said Thomas Saywell to construct or place any works into, through, against, or in any place, building, or land not dedicated to public use without the consent of the owners and occupiers thereof, except that the said Thomas Saywell may at any time make entry and construct and place any new works instead of such works as shall have been lawfully constructed or placed, and may repair or alter any works so constructed or placed; and provided also that the powers and authorities vested in or conferred upon the said Thomas Saywell shall extend to and be applicable only within the municipal district of Rockdale. 15 20 25 30 35

Power to alter position of pipes, wires, &c.

5. Subject to the provisions of this Act—

(1) The said Thomas Saywell may alter the position of any pipes, wires, sewers, drains, or tunnels being made under any street or place which may interfere with the exercise of his powers under this Act on previously making or securing such compensation to the owners of such pipes, wires, sewers, drains, or tunnels, and on complying with such conditions as 40 45

to

to the mode of making such alterations as may, before the commencement of such alterations, be agreed upon between the said Thomas Saywell and such owners, or in case of difference as may be determined by arbitration.

5 (2) Any person or public authority lawfully competent so to do, may, in like measure, alter the position of any works of the said Thomas Saywell being under or over any such street or place as aforesaid which may interfere with the lawful  
10 exercise of any powers vested in such person or authority in relation to such street or place, subject to the like provisions, conditions, and restrictions as are in the first subsection of this section contained.

6. When the said Thomas Saywell opens or breaks up the road or pavement of any street, or any sewer, drain, or tunnel, he shall, with  
15 all possible speed, complete the work for which the same shall have been opened or broken up, and fill in the ground and re-instate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so  
20 opened or broken up, cause the same to be fenced and guarded, and shall at night time cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be open or broken up.

7. The said Thomas Saywell shall in exercise of the powers  
25 conferred by this Act use his best endeavours to prevent the works injuriously affecting any public telegraph or telephone line or other public work. And the said Thomas Saywell and his agents shall conform with such reasonable requirements, either general or special, as may from time to time be made by the Postmaster-General or Secretary for  
30 Public Works for the purpose of preventing any such telegraph or telephone line or other public work from being injuriously affected by the works of the said Thomas Saywell, and on failure to conform with the said requirements or any of them, the Postmaster-General or Secretary for Public Works may forthwith remove any of the works  
35 of the said Thomas Saywell for the supply of electricity by which any public telegraph or telephone wire or other public work is or may be injuriously affected. Any difference which arises between the Postmaster-General or Secretary for Public Works and the said Thomas Saywell or his agents, with respect to any requirements so made, shall  
40 be determined by arbitration. For the purpose of this section, a telegraph or telephone line shall be deemed to be injuriously affected if telegraphic or telephonic communication by means of such line, whether through induction or otherwise, is affected by any electric line or work of the said Thomas Saywell, or by any use made of such electric  
45 line or work: Provided that it shall be lawful for the Postmaster-General

Streets, &c., to be re-instated.

Protection to telegraph and telephone lines and other public works.

General or Secretary for Public Works to make such alterations as he may consider expedient in such public, telegraph, telephone, or other public works for preventing the same from being so injuriously affected as aforesaid at the expense of the said Thomas Saywell.

Notice of works with plan to be served.

8. One month at least before commencing the execution of any works which involve the placing of works in, under, along, or across any street, highway, or public bridge on which any telegraph, telephone, or railway line may be (not being repairs to or removals of then existing works of which the character and position are not altered), the said Thomas Saywell and his agents shall serve upon the Secretary for Public Works and Postmaster-General, the town clerk of the municipal district of Rockdale, and such other person or corporation as the Secretary for Public Works may by writing under his hand address to the said Thomas Saywell required to be notified, or leave at their respective offices addressed to them, notices describing the proposed works, and the gauge of any electric line, and the current and potential to be carried, together with a plan of the proposed works showing the position of the said works and the mode in which the works are intended to be executed, and the manner in which it is intended that the street, highway, or bridge shall be interfered with, and shall at the request of the Secretary for Public Works or Postmaster-General, or the town clerk of the municipal district as aforesaid, made at any time, give them such further information with reference to the works as they may require.

Compensation for damage.

9. In the exercise of his powers under this Act the said Thomas Saywell shall cause as little detriment and inconvenience, and do as little damage as possible, and shall make full compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount of such compensation in case of difference to be determined by arbitration or action at law at the election of the party aggrieved: Provided that the said Thomas Saywell may in all cases be at liberty to set up by way of defence or in mitigation of damages, as the case may be, that the person claiming compensation has by his own act, neglect, or default caused or contributed to the damages in respect of which he claims to be compensated.

Governor may make regulations for securing safety of public.

10. The said Thomas Saywell, with the approbation of the Governor, may make regulations to be observed during the construction, alteration, repair, or maintenance of works for securing the safety of persons and private and public property from injury from fire or otherwise, and may in those regulations impose any penalty not exceeding *one hundred* pounds for any breach of the same, which may be recovered in a summary way before any stipendiary magistrate.

Power to generate and contract for the supply of electricity and fittings.

11. The said Thomas Saywell may, in pursuance of this Act, generate and supply electricity, and from time to time enter into any contract

contract with any person or persons, body or bodies, politic or corporate within the said municipal district of Rockdale, for supplying with electricity any streets, manufactories, shops, warehouses, public or private places, houses, and premises or buildings belonging to them or  
5 in which they or any of them are interested, or over which they or any of them have the direction or control, or for providing any person or persons, body or bodies, politic or corporate, with electric engines, machinery, lines, burners, meters, lamps, or other apparatus, fittings, and things, and for the repair thereof in such manner and upon such  
10 terms as to charges, place, and mode of payment and otherwise in security of the said Thomas Saywell as shall be agreed upon.

12. The said Thomas Saywell may let any meter for ascertaining the quantity of electricity consumed or supplied, and any fittings thereto, for such remuneration and on such terms in respect of the  
15 repair of such meter and fittings, and for securing the safety and return thereof to the said Thomas Saywell, as may be agreed upon between the hirer and the said Thomas Saywell; and such remuneration and other moneys payable under the terms agreed upon shall be recoverable in the same manner as charges due to the said Thomas  
20 Saywell for electricity.

13. The said Thomas Saywell shall do all things reasonable to keep all meters on hire to any consumer in proper order for correctly registering the quantity of electricity supplied; and in default of the  
25 said Thomas Saywell so doing, the consumer shall not be liable to pay remuneration for the use of the same during such time as such default continues.

14. Every meter used for ascertaining the quantity of electricity supplied by the said Thomas Saywell shall, during the continuance of such supply and until all charges in respect thereof have been paid, be  
30 under the sole control of the said Thomas Saywell, whether such meter be the property of the said Thomas Saywell or not, and no person shall be at liberty to cut, connect, tap, fix, alter, remove, or tamper with any electric line, lamp, meter, or fittings used in connection with the supply of electricity by the said Thomas Saywell, unless  
35 authorised in writing by him or his agents duly authorised in that behalf: Provided that nothing in this section shall affect the lawful exercise of any power in that behalf vested in competent person or public authority.

15. The register of the meter used for ascertaining the quantity of electricity supplied by the said Thomas Saywell shall be  
40 primâ facie evidence of such quantity.

16. The said Thomas Saywell shall not be entitled to prescribe any special form of lamp or burner to be used by any person, or in any way to control or interfere with the manner in which electricity  
45 supplied by him in pursuance of this Act is used: Provided always, that

Authority to let meter.

Meters to be kept in repair.

Meter not to be interfered with and corrections not to be made by unauthorised persons.

Register of meter to be prima facie evidence.

Manner of using electricity not to be prescribed.

that no person shall be at liberty to use any form of lamp or burner, or to use the electricity supplied to him for any purposes, or to deal with it in any manner so as to unduly or improperly interfere with the supply of electricity to any other persons, and if any dispute or difference as to the matters aforesaid arises between the said Thomas Saywell and any person agreed to be supplied with electricity in pursuance of this Act, such dispute or difference shall be determined by arbitration. 5

Power to cut off supply.

17. If any person neglect to pay any charge for electricity, or any other sum due to the said Thomas Saywell, in respect of or incidental to the supply of electricity to such person, the said Thomas Saywell may, without notice, cut off his supply of electricity, and for that purpose may cut, disconnect, or remove any works, and may until such charge or other sum, together with any expenses incurred by the said Thomas Saywell in cutting off such supply of electricity as aforesaid is fully paid, discontinue the supply of electricity to such person. 15

Injuring works with intent to cut off supply.

18. Any person who unlawfully and maliciously cuts or injures any electric line or work erected in pursuance of this Act, with intent to cut off any supply of electricity, shall be guilty of felony, and be liable to be kept in penal servitude for any term not exceeding *three* years, or to be imprisoned, with or without hard labour, for any time not exceeding *one* year; but nothing in this section shall exempt a person in respect of any offence which is punishable under any other provision of this Act, or under any other Act or at common law, so that no person be punished twice for the same offence. 20 25

Stealing electricity.

19. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses electricity provided in pursuance of this Act, shall be guilty of simple larceny and punishable accordingly. 30

Penalty for removing electric line, &c.

20. Any person who wilfully and unlawfully removes, destroys, or damages any electric line, or any pillars, posts, or any works connected with or relating to the control or supply of electricity by the said Thomas Saywell in pursuance of this Act, or who wilfully and unlawfully extinguishes any public or private lamps or lights supplied or maintained by the said Thomas Saywell in pursuance of this Act, or wastes or wilfully and wrongfully uses any of the electricity supplied by the said Thomas Saywell in pursuance of this Act, shall for each such offence forfeit to the said Thomas Saywell a sum not exceeding *fifty* pounds, in addition to the amount of damage done. 35 40

Penalty for breaking electric line, &c.

21. Any person who carelessly or accidentally breaks, throws down, or damages any electric line, or any pillar, post, or other works belonging to the said Thomas Saywell, or controlled, maintained, or supplied by him, shall forfeit and pay such sum of money by way of satisfaction to the said Thomas Saywell for the damage done not exceeding *fifty* pounds as a stipendiary magistrate shall think reasonable. Provided that this section shall not affect any other remedy. 45



22. Any person who wilfully or fraudulently or by culpable negligence injures, or suffers to be injured, any electric line or pillar, post, or any works belonging to the said Thomas Saywell, or controlled, maintained, or supplied by him, or alters the index to any meter, or  
 5 prevents any meter from duly registering the quantity of electricity supplied, or fraudulently abstracts, consumes, or uses electricity supplied by the said Thomas Saywell shall, without prejudice to any other right or remedy for the protection of the said Thomas Saywell, or the punishment of the offender for every such offence, forfeit to the  
 10 said Thomas Saywell a sum not exceeding *twenty-five* pounds, in addition to the amount of damage.

Penalty for tampering with meter, &c.

23. In any case in which any person has been convicted of wilfully or fraudulently injuring, or suffering to be injured, any electric line, or any pillar, post, or works belonging to the said Thomas Saywell,  
 15 or altering the index to any meter, or preventing any meter from duly registering the quantity of electricity supplied, the said Thomas Saywell, may also, until the matter complained of has been remedied, discontinue the supply of electricity to the person so offending, notwithstanding any contract previously existing.

Supply of electricity may also be cut off.

24. The existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using electricity  
 20 supplied by the said Thomas Saywell when the meter is under the custody or control of the consumer, shall be prima facie evidence that such alteration, abstraction, or consumption (as the case may be) was  
 25 within the knowledge of the consumer.

Evidence that meter has been tampered with.

25. The said Thomas Saywell, or any clerk, workman, servant, or other employee, or agent duly authorised in that behalf, may at all reasonable times enter any place or building to which electricity is or has been supplied by the said Thomas Saywell in pursuance of this  
 30 Act for the purpose of inspecting and testing the electric lines, meters, accumulators, fittings, apparatus, and works for the supply of electricity belonging to the said Thomas Saywell, and of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required, or where the said Thomas Saywell is  
 35 authorised to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric lines, pillars, posts, or works belonging to the said Thomas Saywell, and repairing all damage caused by such entry, inspection, or removal.

Power to enter premises and inspect or remove fittings.

26. Where any electric lines, pillars, posts, or works belonging  
 40 to the said Thomas Saywell are placed in or upon any place or building (not being in the possession of the said Thomas Saywell) for the purpose of supplying electricity in pursuance of this Act, such electric lines or pillars, posts, or works shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be,  
 45 nor to be taken in execution under any process of any court or under  
 any

Fittings not to be subject to distress, execution, &c.

any proceedings in bankruptcy against the person in whose possession the same may be: Provided that nothing in this section shall affect any distress or execution lawfully made or issued, or any proceedings in bankruptcy taken upon or against the said Thomas Saywell.

Limitation of actions.

27. All actions, suits, or other proceedings against the said Thomas Saywell, his agents or servants, for anything done, reasonably supposed to have been done in pursuance of this Act, shall be commenced within twelve months after the matter complained of was committed, and not otherwise; and notice in writing of any such action or proceedings and of the cause thereof shall be given to the defendant one month at least before the commencement of the action or proceeding, and in every such action or proceeding the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action or proceeding if tender of such sufficient amends shall have been made before the same was commenced, or if a sufficient sum of money shall have been paid into a court after such commencement by or on behalf of the defendant, together with costs as between party and party incurred up to that time. And if a verdict shall be entered for the defendant, or the plaintiff shall become nonsuit, or discontinue such action, suit, or proceeding, or if upon demurrer or otherwise judgment shall be given, or a decree or order made against the plaintiff, the defendant shall recover his costs, and have the like remedy for the same as any defendant has in law or equity in like cases.

Arbitration.

28. Any arbitration in pursuance of this Act shall be conducted in accordance with and subject to the provisions of the Arbitration Act of 1892; and for the purposes of reference to arbitration thereunder this Act shall be deemed to be a submission between the parties within the meaning of the same; the arbitrator shall in every case have power to direct how and by whom the cost of the reference and award shall be paid.

Procedure for recovery of penalties, &c.

29. Every penalty or forfeiture imposed by this Act or by any by-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before a stipendiary magistrate, and on complaint being made to any justice of the peace, he shall issue a summons requiring the party complained against to appear before a stipendiary magistrate at a time and place to be named in such summons, and every such summons shall be served on such party, either in person or by leaving the same with some inmate or person at his last known usual place of abode. And upon the appearance of the party complained against, or in his absence after proof of the due service of such summons, it shall be lawful for a stipendiary magistrate to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before him. And upon proof of the offence to the satisfaction

of

of the stipendiary magistrate, or upon the confession of the party complained against, it shall be lawful for the stipendiary magistrate to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, as well as such costs as such stipendiary magistrate shall think fit.

30. If forthwith upon such adjudication as aforesaid the amount of the penalty or forfeiture and of such costs as aforesaid be not paid the amount thereof shall be levied by distress, and such stipendiary magistrate shall issue his warrant of distress accordingly.

Penalties may be levied by distress.

31. It shall be lawful for any such stipendiary magistrate to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security by way of recognizance or otherwise to the satisfaction of the stipendiary magistrate for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such security, but if, before issuing such warrant of distress, it shall appear to the stipendiary magistrate by the admission of the offender or otherwise that no sufficient distress can be had whereon to lay such penalty or forfeiture and costs, he may, if he think fit, refrain from issuing such warrant of distress, and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency as aforesaid shall be made to appear to the stipendiary magistrate, then such stipendiary magistrate shall by warrant cause such offender to be committed to gaol, there to remain for any term not exceeding three months unless such penalty or forfeiture and costs be sooner paid and satisfied.

Imprisonment in default of distress.

32. When in this Act any sum of money, whether in the nature of a penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned on demand of the party whose goods have been distrained.

Distress how to be levied.

33. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any default or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser ab initio on account of any irregularity afterwards committed by him, but all persons aggrieved by such default or irregularity may recover full satisfaction therefor for the special damage thereby occasioned in any court of competent jurisdiction.

Distress not unlawful for want of form.

34. No person shall be liable to the payment of any penalty or forfeiture imposed by or by virtue of this Act or of any by-law made in pursuance of this Act for any offence made cognizable before any stipendiary magistrate, unless the complaint for or respecting such offence shall have been made before a stipendiary magistrate or any justice of the peace within six months next after the commission of such offence. 5

Damage to be made good in addition to penalty.

35. If through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this Act or any by-law made in pursuance of this Act, any damage to the property of the said Thomas Saywell 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, in case of dispute, be determined by the stipendiary magistrate by whom the party incurring such penalty shall have been convicted, and on non-payment of such damages on demand the same shall be levied by distress, and such stipendiary magistrate shall issue his warrant accordingly. 10 15

Penalty on witness making default.

36. It shall be lawful for any stipendiary magistrate to summon any person to appear before him as a witness in any matter in which such stipendiary magistrate shall have jurisdiction under the provisions of this Act, at a time and place mentioned in such summons, and to administer to him an oath to testify to the truth in such matter; and if any person so summoned shall without reasonable cause refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing refuse to be examined on oath or affirmation or to give evidence before such stipendiary magistrate, every such person shall forfeit a sum not exceeding *five* pounds for every such offence. 20 25

Transient offenders.

37. It shall be lawful for the said Thomas Saywell, and any of his officers and servants, and all persons called by him, them, or any of them to his or their assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act or any by-law made in pursuance thereof, and whose name and address shall be unknown to any such person so seizing and detaining, and convey him with all convenient despatch before some stipendiary magistrate without any warrant or other authority than this Act, and such stipendiary magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender. 30 35

Penalty for obstructing officers or trespassing.

38. If any person shall wilfully obstruct or impede any officer or servant employed upon, about, or in connection with the said tramway or works, or shall wilfully trespass upon the said tramway or works or any part thereof, and shall refuse to quit the same upon request made to him by any officer or servant as aforesaid, the person so offending and all others aiding and assisting therein may be seized and detained by such officer or servant as aforesaid or any person whom 40 45

whom he may call to his assistance until such offender or offenders can be conveniently taken before some stipendiary magistrate, and upon conviction of such offender before any stipendiary magistrate he shall in the discretion of such stipendiary magistrate forfeit any sum 5 not exceeding *five* pounds.

39. If any party shall feel aggrieved by any determination or adjudication of any stipendiary magistrate with respect to any penalty or forfeiture under the provisions of this Act or of any by-law made in pursuance of this Act, such party may appeal to the General or 10 Quarter Sessions of the Peace holden at Sydney, but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless within fourteen days after such determination or adjudication notice in writing of such appeal, stating the nature and grounds thereof, be given to the 15 party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a justice of the peace conditioned duly to prosecute such appeal and to abide the order of the court thereon.

40. At the General or Quarter Sessions for which such notice 20 shall be given the court shall proceed to hear and determine the appeal in a summary way, or it may if it think fit adjourn it till the following sessions, and upon the hearing of such appeal the court may if it think fit mitigate any penalty or forfeiture, or the court may confirm or quash the determination or adjudication and order any money paid 25 by the appellant or levied by distress upon his goods to be returned to him, and may also order such further satisfaction to be made to the party injured as it may deem reasonable, and it may make such order as to the costs both of the determination or adjudication and appeal as it may think reasonable.

30 41. No proceeding in pursuance 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.

42. It shall be lawful for the said Thomas Saywell from time to time to make by-laws, not being repugnant to the laws of this Colony 35 or to the provisions of this Act, and do all such other necessary matters and things as may be necessary for carrying out the objects of this Act. And the said Thomas Saywell may by such by-laws fix the maximum penalty for every offence against such by-laws or any of them, not exceeding the penalty, if any already lawfully fixed, for the 40 same offence, and in any other case not exceeding *ten* pounds: Provided also that such by-laws must first be approved of by the Attorney-General of the Colony for the time being, who shall signify his approval thereof by signing the same.

43. All such by-laws shall be reduced into writing under the 45 hand and seal of the said Thomas Saywell, and be published in the Government Gazette thirty days at least before coming into operation, and

and the production of the Gazette containing or purporting to contain the by-laws shall be sufficient evidence of them in all proceedings under the same without any further proof of any kind.

By-laws to be binding  
on all parties.

44. Such by-laws when so published shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same. 5

45. The several and respective rights, powers, and authorities given to, vested in, or conferred upon the said Thomas Saywell under or by virtue of Saywell's Tramway Act of 1884, Saywell's Tramway Act Amendment Act, and this Act shall continue and be in full force and effect for a period of thirty-five years from the passing of this Act. 10

46. This Act, and Saywell's Tramway Act of 1884, and Saywell's Tramway Act Amendment Act shall be read together, and may be cited as Saywell's Tramway and Electric Lighting Act, 1898, and all powers and authorities conferred upon the said Thomas Saywell by this Act shall be in addition to, and not in derogation of, any powers and authorities heretofore conferred upon him by the said Acts. 15