CHAPTER clxxxvii.

An Act for incorporating the Borough of Portsmouth Kingston Fratton and Southsea Tramways Company and for empowering them to construct Tramways and for other purposes. [20th August 1883.] A.D. 1883.

WHEREAS the construction of Tramways in certain streets and roads in the parish of Portsea in the borough of Portsmouth in the county of Southampton would be of public and local advantage:

And whereas it is expedient that certain streets and a bridge in the said parish along and over which it is proposed to lay such Tramways should be widened for the purpose of such Tramways:

And whereas the persons hereinafter named with others are willing at their own expense to construct such Tramways on being incorporated into a Company for that purpose and it is expedient that they be incorporated and empowered accordingly as by this Act provided:

And whereas plans and sections showing the lines and levels of the Tramways and other works by this Act authorised and books of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken under the powers or for the purposes of this Act have been deposited with the clerk of the peace for the county of Southampton and those plans sections and books of reference are in this Act referred to as the deposited plans sections and books of reference:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and

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Commons in this present Parliament assembled and by the authority of the same as follows that is to say :—

Short title.

1. This Act may be cited for all purposes as the Borough of Portsmouth Kingston Fratton and Southsea Tramways Act 1883.

Incorporation of Acts.

2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) of the Companies Clauses Act 1863 the Lands Clauses Consolidation Acts 1845 1860 and 1869 section three (interpretation of terms) section nineteen (local authority may lease and take tolls) and Part II. (construction of tramways) and Part III. (general provisions) of the Tramways Act 1870 so far as the same respectively are applicable to and are not varied or excepted by or inconsistent with the provisions of this Act are hereby incorporated with and form part of this Act except that the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking shall not extend to any other purpose than the widening and improving of the streets and bridge by this Act authorised.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings unless there be something in the subject or context repugnant to such construction :—

The expression "the Company" shall mean the Company incorporated by this Act:

The expressions "the Tramways" and "the undertaking" shall mean the Tramways and the undertaking respectively by this Act authorized:

The word "contingencies" in section one hundred and twenty-two of the Companies Clauses Consolidation Act 1845 shall with reference to the Company be construed to include the contingency of the undertaking being sold to the local authority under section forty-three of the Tramways Act 1870 at a sum less than the aggregate amount of the capital and debts of the Company:

And for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall be read and have effect as if the debt or demand

with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Correction of errors in deposited plans and books of reference.

4. If there be any omission mis-statement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or described in the deposited books of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices acting for the county of Southampton for the correction thereof and if it appear to the justices that the omission mis-statement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is mis-stated or wrongly described and such certificate shall be deposited with the clerk of the peace for the county of Southampton and a duplicate thereof shall also be deposited with the parish clerk of the parish in which the land affected thereby is situate and such certificate and duplicate respectively shall be kept by such clerk of the peace and parish clerk respectively with the other documents to which the same relate and thereupon the deposited plans and books of reference shall be deemed to be corrected according to such certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with such certificate.

Incorporation of Company.

5. Edwin Galt William Ward James Oliver Mason Robert Paulson Spice and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and they are hereby united into a Company for the purposes of making and maintaining the Tramways and for other the purposes of this Act and for those purposes shall be and are hereby incorporated by the name of the "Borough of Portsmouth Kingston Fratton and Southsea Tramways Company" and by that name shall be a body corporate with perpetual succession and a common seal with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

Power to make Tramways.

6. Subject to the provisions of this Act the Company may form lay down work use and maintain the Tramways hereinafter described in the lines and according to the levels shown on the deposited plans and sections and in all respects in accordance with those plans and sections with all proper rails plates works crossings and conveniences connected therewith The Tramways hereinbefore referred to and authorized by this Act are :—

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A Tramway No. 1 one furlong five hundred links in length of which one hundred and fifty links is double line and one furlong three hundred aud fifty links is single line commencing in Kingston Road at a point twenty feet or thereabouts south of the south side of Kingston Cross and passing southward along Kingston Road and terminating opposite the northern side of the "George and Dragon" public house:

A Tramway No. 1A a single line one hundred and thirty links in length commencing by a junction with the existing Tramways at Kingston Cross at or near the southern end of London Road and terminating by a junction with Tramway No. 1 at its commencement:

A Tramway No. 1B a single line one hundred and thirty-five links in length commencing by a junction with the existing Tramways in Kingston Cross at or near the east end of Kingston Crescent and terminating by a junction with Tramway No. 1 at its commencement:

A Tramway No. 2 two furlongs two hundred links in length of which three hundred and fifty links is double line and one furlong eight hundred and fifty links is single line commencing by a junction with Tramway No. 1 at its termination passing southward along Kingston Road and terminating opposite the end of Lake Road:

A Tramway No. 3 one furlong six hundred links in length of which four hundred links is double line and one furlong two hundred links is single line commencing by a junction with Tramway No. 2 at its termination passing southward along Buckland Road and Fratton Road and terminating at a point thirty-four yards or thereabouts south of St. Mary's Road:

A Tramway No. 4 three furlongs forty-five links in length of which five hundred links is double line and two furlongs five hundred and forty-five links is single line commencing in Buckland Road by a junction with Tramway No. 3 at a point thirty yards or thereabouts north of St. Mary's Road passing eastward along St. Mary's Road and terminating at or near the entrance to the Cemetery:

A Tramway No. 4a a single line two hundred and thirty links in length commencing by a junction with Tramway No. 4 in St. Mary's Road at a point thirty-five yards or thereabouts east of the wall of St. Mary's Vicarage Garden and terminating in Fratton Road by a junction with Tramway No. 5 at its commencement as hereinafter described:

A Tramway No. 5 four furlongs seventy-seven links in length of which six hundred links is double line and three furlongs four hundred and seventy-seven links is single line commencing by a junction with the intended Tramway No. 3 at its termination passing southward along Fratton Road and terminating twenty yards or thereabouts north of the centre of Fratton Bridge:

A Tramway No. 6 a double line two hundred links in length commencing in Fratton Road by a junction with Tramway No. 5 at its termination passing southward over Fratton Bridge and terminating in Victoria Road North opposite Canal Road:

A Tramway No. 7 four furlongs four hundred and ninety-seven links in length of which five hundred and fifty links is double line and three furlongs nine hundred and forty-seven links is single line commencing by a junction with Tramway No. 6 at its termination passing southward along Victoria Road North and terminating at or near the end of Elm Grove:

A Tramway No. 8 five furlongs seventy-five links in length of which eight hundred links is double line and four furlongs two hundred and seventy-five links is single line commencing by a junction with Tramway No. 7 at its termination passing southward and eastward along Victoria Road South and Albert Road and terminating at the north end of Festing Road:

A Tramway No. 9 four furlongs nine hundred and fifty links in length of which six hundred links is double line and four furlongs three hundred and fifty links is single line commencing by a junction with Tramway No. 8 at its termination passing southward and south-westward along Festing Road South Parade and St. Helen's Parade and terminating opposite the end of Alhambra Road:

A Tramway No. 9A a single line two hundred links in length commencing in St. Helen's Parade by a junction with Tramway No. 9 at its termination and terminating by a junction with the existing Tramway in St. Helen's Parade at its eastern termination:

A Tramway No. 10 three furlongs four hundred and nine links in length of which six hundred links is double line and two furlongs eight hundred and nine links is single line commencing by a junction with Tramway No. 7 at its termination passing thence southward along Victoria Road South westward along

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Marmion Road and terminating in Marmion Road at or near the north end of Lennox Road North.

Provided that none of the before-mentioned junctions with the existing Tramways shall be made without the consent of the Portsmouth Street Tramways Company and that in the event of the consent of the said company being given to the construction of the said junctions the same shall be laid down and constructed under the superintendence and to the reasonable satisfaction of the engineer for the time being of the said company.

For protection of Corporation of Portsmouth.

7. In making and maintaining the Tramways the following provisions for the protection of the mayor aldermen and burgesses of the borough of Portsmouth (in this Act called the Corporation) shall be observed and shall have full and complete effect that is to say:—

(1) No portion of the Tramways north of the junction of Powerscourt Road with Kingston Road shall be made without the previous consent in writing of the Corporation to be hereafter given:

(2) The Company shall if required so to do by the Corporation provide by means of a double line of rails passing places as follows (that is to say):—

On Tramway No. 4 in St. Mary's Road for a distance of four hundred and fifty feet eastward from the junction of Tramway No. 4A with Tramway No. 4 as shown on the deposited plans:

On Tramway No. 5 in Fratton Road for a distance of two hundred feet north and two hundred feet south of the centre of Fratton Street at its junction with Fratton Road and for a distance of one hundred feet at the end of Dorset Street and for a distance of fifty feet south of the double line shown on the deposited plans between Fratton Grove and Somers Road:

(3) Wherever double lines or passing places are constructed whether under the provisions of this section or otherwise the Company shall pave the whole of the roadway between the channel or gutters on each side including the space or spaces between the rails:

(4) Wherever at the junction of any of the Tramways a triangular space is formed between them the Company shall pave such space:

(5) Wherever the space between the rail of the Tramway and the curb of the footway is less than six feet in width the Company

shall pave the whole of such space between the rail of the Tramway and the channel or gutter:

(6) Except as hereinafter otherwise expressly provided the material of all paving done by the Company shall be either granite or wood unless the Corporation consent to some other material being used:

(7) Wherever any Tramway passes any place of worship or School Board School the paving of the Tramway shall be of wood to the extent of the frontage of such building:

(8) If the Company interfere with any cabstand they shall construct another of equal extent in such position as may be directed by the Corporation:

(9) Fratton Bridge and the portions of Fratton Road and Victoria Road which the Company are by this Act authorized to widen shall be widened to a width of not less than thirty feet respectively.

For protection of bridge over the Joint Railway of the London and South Western and the London Brighton and South Coast Railway Companies.

8. In constructing the Tramway upon and over Fratton Bridge carrying Fratton Road over the railway belonging to the London and South Western Railway Company and the London Brighton and South Coast Railway Company (hereinafter called "the two Companies") or on such of the approaches thereto from Fratton Road and Victoria Road as are at present maintained by the two Companies or either of them and which said bridge and approaches are intended to be included in the term Fratton Bridge the following provisions shall either solely or jointly apply unless otherwise agreed between the said two Companies and the Company:—

(1) The Company shall not enter upon or interfere with Fratton Bridge or execute any works under over or affecting the same until the Company shall have given ten days' clear notice in writing to the secretary of the joint committee of the two Companies of their intention to commence the construction of the Tramway or until the Company shall have delivered to the secretary of the said joint committee plans drawings specifications or other information to show the nature of the intended works and until these plans drawings and specifications shall have been approved of by the engineer of the two Companies for the time being in charge of the railway or in the event of his failure for ten days after the delivery of the plans drawings or specifications to approve or disapprove the same until they shall have been approved or shall in case of non-approval or difference have been settled in manner herein provided for settlement of differences All intended works

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shall be executed by the Company at their sole expense in all things according to such approved plans drawings and specifications and to the reasonable satisfaction of the joint committee:

(2) In carrying out the works the same shall be so designed as to interfere as little as practicable with the structure of the said bridge:

(3) The Company shall bear and on demand pay to the two Companies all costs of the employment by them during the construction of the works of such inspectors or watchmen as may be reasonably necessary to be appointed by them for watching and lighting their railway and works with reference to and during the construction of the intended works:

(4) From the date of the commencement of any portion of the works affecting the said bridge the Company shall undertake and become liable for the maintenance of the whole extent of the surface of the roadway over Fratton Bridge:

In case any difference shall arise between the Company and the two Companies upon any question matter or thing under the provisions of this Act such difference shall be referred to and determined by an engineer to be agreed upon or failing agreement by an engineer to be appointed by the President for the time being of the Institution of Civil Engineers upon the application of the Company or the two Companies and the costs and expenses of the reference shall be in the discretion of the engineer agreed upon or appointed as aforesaid.

Capital.

9. The capital of the Company shall be forty-eight thousand pounds in four thousand eight hundred shares of ten pounds each.

Shares not to be issued until one-fifth paid.

10. The Company shall not issue any share created under the authority of this Act nor shall any such share vest in the person or corporation accepting the same unless and until a sum not being less than one-fifth of the amount of such share is paid in respect thereof.

Calls.

11. One-fifth of the amount of a share shall be the greatest amount of a call and two months at least shall be the interval between successive calls.

Receipt clause in case of persons not sui juris.

12. If any money is payable to a shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Power to borrow.

13. The Company may from time to time borrow on mortgage any sum not exceeding in the whole twelve thousand pounds at the time and subject to the restrictions hereinafter contained (that is to

say) in respect of each sum of twenty-four thousand pounds part of the said capital of forty-eight thousand pounds the Company may borrow the sum of six thousand pounds but no part of any such sum of six thousand pounds shall be borrowed until the whole of the capital of twenty-four thousand pounds in respect of which the same is borrowed is issued and accepted and one-half thereof is paid up and the Company have proved to the justice who is to certify under section forty of the Companies Clauses Consolidation Act 1845 before he so certifies that the whole of such capital has been issued and accepted and that one-half thereof has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and that such capital was issued bonâ fide and is held by the persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

For appointment of a receiver.

14. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than six hundred pounds in the whole.

Company not to create debenture stock.

15. The Company shall not create debenture stock.

Mortgage to comprise purchase-money paid on compulsory sale.

16. Every mortgage of the Company's undertaking shall be deemed to comprise all purchase-money which may be paid to the Company in the event of a compulsory sale to the local authority under section forty-three of the Tramways Act 1870 and may comprise all or any moneys carried to the contingency fund according to the terms of the mortgage.

Endorsement of mortgage with notice of power of purchase by the Local Authority.

17. Every mortgage deed granted by the Company under this Act shall be endorsed with notice that such mortgage will not be a charge upon the Tramways or the Tramway undertaking in the event of the same being purchased by the local authority under section forty-three of the Tramways Act 1870.

Priority of mortgages over other debts.

18. All money raised or to be raised by the Company on mortgage under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act Provided always that this priority shall not affect any claim against the Company or their property in respect of any rent-charge granted or to be granted by them in pursuance of the Lands Clauses Consolidation Act 1845 or the Lands Clauses Consolidation Acts Amendment Act 1860 or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest on their mortgages.

Application of moneys.

19. All moneys raised under this Act whether by shares or borrowing shall be applied only for the purposes of this Act to which capital is properly applicable.

First ordinary meeting.

20. The first ordinary meeting of the Company shall be held within twelve months after the passing of this Act.

Quorum of general meetings.

21. The quorum of every general meeting (whether ordinary or extraordinary) shall be ten shareholders present personally or by proxy holding in the aggregate not less than two thousand pounds in the capital of the Company.

Number of directors.

22. The number of directors shall be five but the Company may from time to time reduce the number provided that the number be not less than three.

Qualification of directors.

23. The qualification of a director shall be the possession in his own right of not less than forty shares.

Quorum.

24. The quorum of a meeting of directors shall be three and if the number of directors is reduced to three the quorum shall be two.

First directors.

25. Edwin Galt William Ward James Oliver Mason and Robert Paulson Spice and one person to be nominated by them and consenting to the nomination shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid or any of them or may elect a new body of directors or a director or directors to supply the place of those not continued in office the directors appointed by this Act or nominated as aforesaid being if qualified

Election of directors.

eligible for re-election and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall subject to the power herein-before contained for reducing the number of directors elect persons to supply the places of the directors then retiring from office agreeably to the provisions of the Companies Clauses Consolidation Act 1845 and the several persons elected at any such meeting being neither removed nor disqualified nor having died or resigned shall continue to be a director or directors until others are elected in his or their stead in manner provided by the same Act.

Mode of formation of Tramways.

26. Every Tramway by this Act authorized shall consist of a single pair of rails which shall be laid and maintained in such manner as to be on a level with the surface of the road and shall be constructed on the gauge of four feet eight and a half inches.

Company to have exclusive use of tramways for flange wheels &c.

27. Subject to the provisions of this Act the Company shall have the exclusive use of the Tramways for carriages with flange wheels or other wheels specially or particularly adapted to run on a grooved rail.

Company to adopt improvements if required by the Board of Trade.

28. The Board of Trade may from time to time upon the application of the road authority of any district require the Company to adopt and apply such improvements in the Tramways within such district including the rails thereof as experience may from time to time suggest having regard to the greater security of the public and advantage to the ordinary traffic and the Company shall with all reasonable despatch comply with any order made by the Board of Trade for the purpose of carrying out such improvements.

Inspection by Board of Trade.

29. The Tramways shall not be opened for public traffic until they have been inspected and certified to be fit for such traffic by the Board of Trade.

Tramways to be kept level with surface of road.

30. If and whenever after the passing of this Act any road authority shall alter the level of any road along or across which any part of the Tramways is laid the Company may and shall from time to time alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered.

Further provision as to construction of Tramways

31. In addition to the requirements of section twenty-six of the Tramways Act 1870 the Company shall at the same time as they give notice to the road authority of their intention to open or break

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up any road for the purpose of constructing laying down maintaining and renewing any of the Tramways lay before the Board of Trade a plan showing the proposed mode of constructing laying down maintaining and renewing such Tramways and a statement of the materials intended to be used therein and the Company shall not commence the construction laying down maintenance and renewal of any of the Tramways or part of any of the Tramways respectively until such plan and statement have been approved by the Board of Trade and after such approval the works shall be executed in accordance in all respects with such plan and statement and under the superintendence and to the reasonable satisfaction for the time being of the road authority as provided by section twenty-six of the said Act.

As to rails of Tramway.

32. The rails of the Tramways shall be such as the Board of Trade may approve.

Penalty for not maintaining rails and roads.

33. The Company shall at all times maintain and keep in good condition and repair and so as not to be a danger or annoyance to the ordinary traffic the rails of the Tramways and if the Company at any time fail to comply with this provision or with the provisions of section twenty-eight of the Tramways Act 1870 they shall be subject to a penalty not exceeding five pounds for every day on which such non-compliance continues and such penalty shall be a penalty within the meaning of section fifty-six of the said Act. In case it is represented in writing to the Board of Trade by the road authority of any district in which the Tramways or any portion thereof are or is situate or by twenty inhabitant ratepayers of such district that the Company have made default in complying with the provisions in this section contained or with any of the requirements of section twenty-eight of the Tramways Act 1870 the Board of Trade may if they think fit direct an inspection by an officer to be appointed by the said Board and if such officer report that the default mentioned in such representation has been proved to his satisfaction then and in every such case a copy of such report certified by a secretary or an assistant secretary of the Board of Trade may be adduced as evidence of such default and of the liability of the Company to such penalty or penalties in respect thereof as is or are by this section imposed.

Sewer authorities to have access to sewers.

34. Every sanitary authority shall at all times have free access to and communication with all their sewers and drains and power to lay lateral and private drains to communicate therewith without the consent or concurrence of the Company and the provisions contained

in sections thirty-two and thirty-three of the Tramways Act 1870 shall be applicable in the case of any sewer or private drain of or under the control of the sanitary authority as if the same were a pipe for the supply of gas or water.

Power to make additional crossings &c.

35. The Company may subject to the provisions of this Act and with the consent of the local and road authority from time to time make maintain alter and remove such crossings passing places sidings junctions and other works in addition to those particularly specified in and authorized by this Act as they find necessary or convenient for the efficient working of the Tramways or for providing access to any warehouses stables or carriage houses or works of the Company Provided that in the construction of any such works no rail shall be so laid that a less space than nine feet six inches shall intervene between it and the outside of the footpath on either side of the road if the owner or owners or occupier or occupiers of the premises abutting on the place where such rail is proposed to be laid shall by writing under his or their hand addressed to the Company express his or their objection thereto.

Temporary Tramways may be made when necessary.

36. Where by reason of the execution of any work affecting the surface or soil of any road along which any of the Tramways are laid it shall in the opinion of the road authority be necessary or expedient temporarily to remove or discontinue the use of such Tramways or any part thereof the Company may with the consent of the road authority subject to such conditions and in accordance in all respects with such regulations as the road authority may from time to time make construct in the same or any adjacent road and with the like consent subject to the like conditions and in accordance with the like regulations maintain so long as occasion may require a temporary Tramway or temporary Tramways in lieu of the Tramways or part of the Tramways so removed or discontinued If any difference arise between the Company and any road authority with respect to the reasonableness of any regulations or with respect to the mode of constructing any temporary Tramway or Tramways under the authority of this section the same shall be settled in the manner specified in section thirty-three of the Tramways Act 1870 for the settlement of the differences in the said section mentioned.

Application of road materials excavated in construction of works.

37. Any paving metalling or material excavated by the Company in the construction of the undertaking from any road under the jurisdiction or control of any road authority may be applied by the Company so far as may be necessary in or towards the reinstating of the road and the maintenance for six months after completion of any of the Tramways within the district of such road authority of

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so much of the roadway on either side of such Tramways as the Company are by section twenty-eight of the Tramways Act 1870 required to maintain and the Company shall if so required deliver the surplus paving metalling or material not used or required to be retained for the purposes aforesaid to the surveyor for the time of the road authority or to such person or persons as he may appoint to receive the same Provided that if within seven days after the setting aside of the surplus arising from the excavation of any such paving metalling or material and notice duly given such surplus is not removed by such surveyor or by some other person or persons named by him for that purpose such surplus paving metalling or material shall absolutely vest in and belong to the Company and may be dealt with removed and disposed of by them in such manner as they may think fit Any difference between the Company and any road authority or surveyor or other person with reference to any of the matters aforesaid shall be determined in manner provided by the Tramways Act 1870 with respect to differences between the promoters and any road authority.

Power to purchase lands &c. by agreement.

38. The Company may from time to time purchase by agreement any lands which they may require for any of the purposes of their undertaking not exceeding in the whole five acres and the Company may on such lands construct such works and erect such suitable buildings as they think necessary for the purposes of their undertaking.

Power to take easements by agreement.

39. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting lands and the provisions of the Lands Clauses Acts with respect to lands and rent-charges as far as the same are applicable in this behalf shall extend and apply to such grants easements rights and privileges as aforesaid respectively.

Authorising agreements for the use of Tramways.

40. The Company may subject to the approval of the Board of Trade from time to time enter into and carry into effect contracts agreements and arrangements with any person persons or corporations for or with respect to the use by such person persons or corporations of the Tramways or any of them or any part or parts thereof respectively and the tolls rates and charges to be paid for such use and the terms and conditions of such use and all incidental matters.

Power to Company to widen streets.

41. Subject to the provisions of this Act and in accordance with the deposited plans the Company may widen and improve the following streets or roads and bridge in the said borough (that is to say):—

Fratton Road on the west side at the corner near Fratton Bridge:

Fratton Bridge and roadway thereof throughout the whole length of the bridge including the wing walls on both sides and the Company may make the necessary alterations of the levels of the approaches consequent upon such widening:

Victoria Road on the south-east side from the junction thereof with Lazy Lane and Canal Road to a point fourteen feet north of Ottawa Terrace:

Victoria Road on the north-west side from a point forty-four feet north of the north end of Ottawa Terrace to a point in a line with the south side of Clarence House:

and the Company may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for that purpose and the Company may in like manner but by agreement only enter upon take and use the lands required for widening Kingston Road for the purpose of Tramway No. 1 to such an extent as may be agreed upon with the local authority.

Period for compulsory purchase of lands.

42. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of two years from the passing of this Act.

Period for completion of street widenings &c.

43. If the widenings and improvement of the said streets and bridge are not completed within two years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for widening and improving the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as is then completed.

Period for completion of Tramways.

44. If the Tramways are not completed within two years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for executing the same or otherwise in relation thereto shall cease to be exercised except as to so much thereof as shall then be completed.

Deposit-money not to be repaid until line opened.

45. Whereas pursuant to the Standing Orders of both Houses of Parliament and to an Act of the ninth year of the reign of Her present Majesty chapter twenty a sum of one thousand seven hundred and seventy-five pounds eleven shillings and nine pence

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new three pounds per centum annuities (hereinafter referred to as the deposit fund) equal to five per centum upon the amount of the estimate of expense of the Tramways has been transferred into the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act Be it enacted that notwithstanding anything contained in the said Act the said deposit fund shall not be paid or transferred to or on the application of the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the said Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Act referred to as the depositors) unless the Company shall previously to the expiration of the period limited by this Act for completion of the Tramways by this Act authorized open the same for the public conveyance of passengers Provided that if within such period as aforesaid the Company open any portion of such Tramways for the public conveyance of passengers then on the production of a certificate of the Board of Trade specifying the length of the portion of the Tramways opened as aforesaid and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the Tramways so opened bears to the entire length of the Tramway hereby authorized the Court shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above-mentioned Act to the contrary notwithstanding.

Application of Tramway deposit.

46. If the Company do not previously to the expiration of the period limited for the completion of the Tramways by this Act authorized complete and open the same for the public conveyance of passengers then and in every such case the deposit fund or so much thereof as shall not have been paid to the depositors shall be applicable and after due notice in the "London Gazette" shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the Tramways or any portion thereof or who have been subjected to injury or loss in consequence of the powers conferred upon the Company by this Act and for which injury or loss no compensation or inadequate compensation has been paid and also in compensating all road authorities for the expense incurred by them in taking up any Tramways or

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materials connected therewith placed by the Company in or on any road vested in or maintainable by such road authorities respectively and in making good all damage caused to such roads by the construction or abandonment of such Tramways and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Chancery Division of the High Court of Justice in England may seem fit and if no such compensation is payable or if a portion of the deposit fund has been found sufficient to satisfy all just claims in respect of such compensation then the deposit fund or such portion thereof as may not be required as aforesaid shall either be forfeited to Her Majesty and accordingly be paid or transferred to or for the account of Her Majesty's Exchequer in such manner as the Chancery Division thinks fit to order on the application of the Solicitor of Her Majesty's Treasury and shall be carried to and form part of the Consolidated Fund of the United Kingdom or in the discretion of the Chancery Division if the Company is insolvent and has been ordered to be wound up or a receiver has been appointed shall wholly or in part be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be otherwise applied as part of the assets of the Company for the benefit of the creditors thereof Provided that until the deposit fund has been repaid to the depositors or has become otherwise applicable as hereinbefore mentioned any interest or dividends accruing thereon shall from time to time and as often as the same shall become payable be paid to or on the application of the depositors.

Tolls for passengers.

47. The Company may demand and take for any passenger travelling upon the Tramways or any part thereof including tolls for the use of the Tramways and of carriages and for motive power and for every other expense incidental to such conveyance any tolls or charges not exceeding threepence for any distance not exceeding one mile and for any greater distance not exceeding twopence per mile and for this purpose the fraction of a mile beyond an integral number of miles shall be deemed a mile.

Passengers luggage.

48. Every passenger travelling upon the Tramways may take with him his personal luggage not exceeding fifty-six pounds in weight without any charge being made for the carriage thereof.

Passengers additional luggage.

49. For passengers' personal luggage if exceeding fifty-six pounds in weight and not exceeding one hundred and twenty pounds in weight the Company may demand and take an additional toll not exceeding sixpence and if exceeding one hundred and twenty

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pounds in weight the Company may demand and take any sum they think fit.

Company not bound to carry goods.

50. The Company shall not carry on the Tramways any parcels goods animals or things other than passengers' luggage not exceeding one hundred and twenty pounds in weight.

List of tolls &c. to be exhibited in carriages.

51. A list of all the tolls rates and charges authorized by this Act to be taken and which shall be exacted by the Company shall be exhibited in a conspicuous place inside and outside of each of the carriages used upon any of the Tramways.

Tolls to be paid as directed by the Company.

52. The tolls and charges by this Act authorized shall be paid to such persons and at such times upon or near to the Tramways and in such manner and under such regulations as the Company shall by notice to be annexed to the list of tolls appoint.

Cheap fares for labouring classes.

53. The Company at all times after the opening of the Tramways for public traffic shall and they are hereby required to run at least one carriage each way every morning in the week and every evening in the week (Sundays Christmas-day and Good Friday always excepted) at such hours not being later than seven in the morning or earlier than six in the evening respectively as the Company think most convenient for artizans mechanics and daily labourers at fares not exceeding one halfpenny per mile (the Company nevertheless not being required to take any fare less than one penny) Provided that in case of any complaint made to the Board of Trade of the hours appointed by the Company for the running of such carriages the said Board shall have power to fix and regulate the same from time to time.

Periodical revision of tolls.

54. If at any time after three years from the opening for public traffic of the Tramways or any portion of the Tramways or after three years from the date of any order made in pursuance of this section in respect of the Tramways or any portion of the Tramways it is represented in writing to the Board of Trade by the local authority of the district in which the Tramways or such portion of the Tramways are or is situate or by twenty inhabitant ratepayers of such district or by the Company that under the circumstances then existing all or any of the tolls and charges demanded and taken in respect of the traffic on the Tramways or on such portion of the Tramways should be revised the Board of Trade may (if they think fit) direct an inquiry by a referee to be appointed by the said Board in accordance with the provisions of the Tramways Act 1870 and if such referee report that it has been proved to his satisfaction that all or any of such tolls and charges should be revised the said Board may make an order in writing altering modifying reducing or

increasing all or any of the tolls and charges to be demanded and taken in respect of the traffic on the Tramways or on such portion of the Tramways in such manner as they think fit and thenceforth such order shall be observed until the same is revoked or modified by an order of the Board of Trade made in pursuance of this section Provided always that the tolls and charges prescribed by any such order shall not exceed in amount the tolls and charges by this Act authorized.

Carriages on Tramways may be moved by animal steam or mechanical power.

55. The carriages used on any of the Company's Tramways may subject to the provisions of this Act be moved by animal power and with the consent of the Board of Trade in any order to be signed by a secretary or assistant-secretary to the said board by steam power electricity or any mechanical power either fixed or moveable Provided always that the exercise of the powers hereby conferred with respect to the use of steam electricity or any mechanical power shall be subject to the consent of the local and road authority and also to the regulations set forth in the Schedule to this Act and to any regulations which may be added thereto or substituted therefor respectively by any order which the Board of Trade may and which they are hereby empowered to make from time to time as and when they may think fit for securing to the public all reasonable protection against danger in the exercise of those powers.

Penalty for using steam electricity or mechanical power contrary to Act or regulation.

56. The Company or any other company or person using steam electricity or any mechanical power on any of the Tramways contrary to the provisions of this Act or to any of the regulations set forth in the said schedule or to any regulation added thereto or substituted therefor by any order made by the Board of Trade under the authority of this Act shall for every such offence be subject to a penalty not exceeding ten pounds and also in the case of a continuing offence to a penalty not exceeding five pounds for every day after the first during which such offence continues Provided always that whether any such penalty has been recovered or not the Board of Trade in case in their opinion the Company or any other company or person using steam electricity or any mechanical power on the Tramways under the authority of this Act has made default in complying with the provisions of this Act or with any of the regulations set forth in that schedule or with any regulation which may have been added thereto or substituted therefor as aforesaid may by order direct the Company or such other company or person to cease to exercise the powers aforesaid and thereupon the Company or such other company or person shall cease to

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exercise the powers aforesaid and shall not again exercise the same or any of the same unless with the authority of the Board of Trade.

Byelaws for regulating use of steam, &c.

57. Subject to the provisions of this Act the Board of Trade may from time to time make and when made may rescind annul or add to bye-laws with regard to any Tramways upon which steam electricity or any mechanical power may be used under the authority of this Act for all or any of the purposes (that is to say):—

For regulating the use of the bell whistle or other warning apparatus fixed to the engine;

For regulating the emission of smoke or steam from engines used on the Tramways;

For providing that engines and carriages shall be brought to a stand at the intersection of cross streets and at such places and in such cases of horses being frightened or of impending danger as the Board of Trade may deem proper for securing safety;

For regulating the entrance to exit from and accommodation in the carriages used on the said Tramways and the protection of passengers from the machinery of any engine used for drawing or propelling such carriages;

For providing for the due publicity of all regulations and bye-laws in force for the time being in relation to the said Tramways by exhibition of the same in conspicuous places on the carriages and elsewhere;

Any person offending against or committing a breach of any of the bye-laws made by the Board of Trade under the authority of this Act shall be liable to a penalty not exceeding forty shillings.

As to recovery of penalties.

58. The provisions of the Tramways Act 1870 with respect to the recovery of penalties shall apply to any penalty under this Act and to any penalty for non-observance of any bye-laws made by the Board of Trade under the authority of this Act.

Amendment of the Tramways Act 1870 as to byelaws by local authority.

59. The provisions of the Tramways Act 1870 relating to the making of bye-laws by the local authority with respect to the rate of speed to be observed in travelling on the Tramway upon which steam or any mechanical power may be used shall not authorise the Company to make any bye-law sanctioning a higher rate of speed than that authorised by this Act or by any regulation or bye-law made by the Board of Trade under the authority of this Act at which engines are to be driven or propelled on the said Tramways under the authority of this Act but any such local authority may if

they think fit make bye-laws under the provisions of the Tramways Act 1870 for restricting the rate of speed to a lower rate than that so prescribed.

Orders and byelaws of Board of Trade.

60. All orders and bye-laws made by the Board of Trade under the authority of this Act shall be signed by a secretary or an assistant secretary to the Board of Trade.

As to contracts with road authorities where steam electricity or mechanical power is to be used.

61. Before the Company or any other company or person use steam electricity or any mechanical power under the authority of this Act they or he shall give two months' previous notice of such intention to every road authority within whose district the Tramway or any part thereof upon which they or he intend to use such power are or is situated:

Where at the time of the giving of any such notice any contract agreement or arrangement is in force with respect to the user by the Company or such other company or person or the paving and keeping in repair of the whole or any part of the roadway of any road within the district of such road authority upon which such Tramways or such part of such Tramways are or is laid or with respect to the payment by the Company or such other company or person to such road authority of any annual or other sum in relation to such user paving and keeping in repair of such road then and in every such case with the consent of the Board of Trade it shall be lawful for the Company or such other company or person by such notice or for such road authority by notice to be served upon the Company or such other company or person not later than forty days after the receipt by such road authority of such first-mentioned notice to determine such contract agreement or arrangement and thereupon such contract agreement or arrangement shall from and after the commencement of the use of steam electricity or any mechanical power upon such Tramways or such part thereof be determined and of no effect:

Before using steam electricity or any mechanical power on the Tramways or any part thereof and thereafter from time to time the Company or such other company or person and every such road authority may enter into or renew with or without modification any contract agreement or arrangement with respect to the user by the Company or such other company or person or the paving and keeping in repair of the whole or any part of the roadway of any road within the district of such road authority upon which such Tramways or such part of such Tramways are or is laid or with respect to the payment by the Company or such other company or person to such road authority of any annual or other sum in relation to such

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user paving and keeping in repair of such road which they may think fit and the Board of Trade may approve:

Appeal to the Board of Trade in case of difference.

62. In case any difference arises between any such road authority and the Company or such other company or person as to the determination of any such contract agreement or arrangement or in case any such road authority after request in writing by the Company or such other company or person or the Company or such other company or person after request in writing by any such road authority during a period of one month after such request refuse or fail to enter into any such contract agreement or arrangement or to renew the same with or without modification or to make a new contract instead thereof or in case of any difference as to the terms of any such contract agreement or arrangement or any renewal thereof with or without modification or any new contract instead thereof then and in every such case the difference with respect to such determination or the reasonableness of such refusal or failure or the terms of such contract agreement or arrangement or any renewal thereof with or without modification or any new contract instead thereof shall from time to time on the appeal of either of the parties to the Board of Trade be determined in manner provided by the Tramways Act 1870 with respect to all differences between the promoters and any road authority and thereupon the parties shall in all respects conform to such determination and make and observe any contract agreement or arrangement thereby prescribed Provided always that while any such appeal is pending the Board of Trade may order that no steam electricity or mechanical power shall be used on the Tramways to which such appeal relates.

No mechanical power to be used except under agreement with the road authority.

63. No steam electricity or mechanical power shall be used on the Tramways or any portion of the Tramways unless there is in force in relation to such Tramways or such portion of the Tramways a contract agreement or arrangement in accordance with the provisions of this section.

Application of moneys by road authority.

64. Any moneys which may from time to time be received by such road authority under any contract agreement or arrangement in accordance with the provisions of this section shall be applied by them towards the expenses of repairing improving and maintaining the highways within their district having regard in the first instance to the requirements of the roads upon which the Tramways are laid.

Where steam electricity or mechanical

65. Where steam electricity or any mechanical power is used by the Company or such other company or person on the Tram-

ways or any parts thereof no contract agreement or arrangement made before or after the commencement of the use of steam or mechanical power as aforesaid with respect to the user by the Company or such other company or person or the paving and keeping in repair of the whole or any part of the roadway of any road within the district of any road authority upon which such Tramways or such part of such Tramways are or is laid or with respect to the payment by the Company or such other company or person to such road authority of any annual or other sum in relation to such user paving and keeping in repair of such road shall continue in force for any period exceeding two years at any one time after the commencement of the use of steam or mechanical power as aforesaid or the making of such contract agreement or arrangement Provided always that any such contract agreement or arrangement may from time to time be renewed with or without modification or a new contract agreement or arrangement may be made instead thereof.

power is used contract with road authority not to be for longer than two years at a time.

Provisions for protection of the Postmaster-General.

66. With respect to working by electricity the Tramways by this Act authorized otherwise than by locomotive engines or machinery carried on the carriages used on the Tramways the following provisions shall have effect:—

(1) It shall not be lawful for the Company to lay down any line or rail or to do any act or work for working the Tramways by electricity (otherwise than as aforesaid) whereby any telegraphic line of the Postmaster-General is or may be injuriously affected And before any such line or rail is laid down or any such act or work is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs or the laying of lines crossing the line of the Postmaster-General at right angles at the point of shortest distance and so continuing for a distance of six feet on each side of such point) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing such work shall give written notice to the Postmaster-General specifying the course of the line or rail and the nature of the work including the gauge of any wire and the Company and their agents shall conform with such reasonable requirements (either general or special) as may from time to time be made by the Postmaster-General for the purpose of preventing any telegraphic line of the Postmaster-General from being injuriously affected by the said act or work:

(2) Any difference which arises between the Postmaster-General and the Company or their agents with respect to any require-

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ments so made shall be determined by the Board of Trade whose decision shall be final and sections 30 to 32 both inclusive of the Regulation of Railways Act 1868 shall apply in like manner as if the Company or their agents were a company within the meaning of that Act:

(3) In the event of any contravention of or wilful non-compliance with this section by the Company or their agents the Company shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues or if the telegraphic communication is wilfully interrupted not exceeding fifty pounds for every day on which such interruption continues:

(4) Provided that nothing in this section shall subject the Company or their agents to a fine under this section if they satisfy the court having cognizance of the case that the immediate doing of the act or execution of the work was required to avoid an accident or otherwise was a work of emergency and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof stating the reason for doing or executing the same without previous notice:

(5) For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is whether through induction or otherwise in any manner affected by such act or work or by any use made of such work:

(6) For the purposes of this section and subject as therein provided sections 2 8 9 10 11 and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Act as if the Company were undertakers within the meaning of those sections without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted.

Power to enter into agreements with Corporation.

67. Subject to the provisions of this Act the Company on the one hand and the mayor aldermen and burgesses of the borough of Portsmouth and other bodies having respectively the control or management of any streets or roads along which the Tramways are intended to be laid or any of them on the other hand may enter into and carry into effect contracts or agreements with respect to the alteration of the width or levels of any such streets the laying down maintaining renewing repairing working and using of the Tram-

ways and the rails plates sleepers and works connected therewith and for facilitating the passage of carriages and traffic over and along the same.

Interest not to be paid on calls paid up.

68. The Company shall not out of any money by any Act relating to the Company authorized to be raised pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him provided that this Act shall not prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Deposit for future Bills not to be paid out of capital.

69. The Company shall not out of any money by this Act authorized to be raised pay or deposit any sum which by any Standing Order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other tramway or to execute any other work or undertaking.

Tramways not exempt from provisions of general Act.

70. Nothing herein contained shall be deemed or construed to exempt the Tramways from the provisions of any general Act relating to tramways now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of tolls or charges authorised by this Act.

Expenses of Act.

71. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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SCHEDULE referred to in the foregoing Act.

Regulations with respect to use of Steam Electricity or Mechanical Power on Tramways.

Brake power of engines.

Every engine used on the Tramways shall be fitted with such mechanical appliances for preventing the motive power of such engine from operating and for bringing such engine and any carriage drawn or propelled by such engine to a stand as the Board of Trade may from time to time think sufficient.

As to fittings of engines &c.

Every engine used on the Tramways shall have its number shown in some conspicuous part thereof and shall be fitted :—

With an indicator by means of which the speed shall be shown :

With a suitable fender to push aside obstructions :

With a special bell whistle or other apparatus to be sounded as a warning when necessary : and

With a seat for the driver of such engine so placed in front of such engine as to command the fullest possible view of the road before him.

Every such engine shall be free from noise produced by blast or clatter of machinery and the machinery shall be concealed from view at all points above four inches from the level of the rails and all fire used on such engine shall be concealed from view.

As to carriages.

Every carriage used on the Tramways shall be so constructed as to provide for the safety of passengers and for their safe entrance to exit from and accommodation in such carriage and their protection from the machinery of any engine used for drawing or propelling such carriage.

Inspection of engines or carriages.

The Board of Trade shall on the application of the Company and may on complaint made by any person from time to time inspect any engine or carriage used on the Tramways and the machinery therein and may whenever they think fit prohibit the use on the Tramways of any such engine or carriage which in their opinion may not be safe for use on the Tramways.

As to speed.

The speed at which engines and carriages may be driven or propelled along the Tramways shall not exceed the rate of eight miles an hour.

The speed at which engines and carriages may pass through moveable facing points shall not exceed the rate of four miles an hour.

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