



CHAPTER lxxiii.

An Act to empower the Kidderminster and Stourport Electric Tramway Company to reconstruct a tramway and execute certain other works to confer further borrowing powers upon the Company and for other purposes.

A.D. 1926.

[4th August 1926.]

WHEREAS by the Kidderminster and Stourport Electric Tramway Act 1896 (hereinafter referred to as "the Act of 1896") the Kidderminster and Stourport Electric Tramway Company (hereinafter referred to as "the Company") were incorporated and under the powers conferred by that Act the Company have constructed and are working a tramway in the borough of Kidderminster the urban district of Stourport and rural district of Kidderminster in the county of Worcester :

And whereas it is expedient that the Company should be empowered to reconstruct or alter their existing tramway and in connection with such reconstruction or alteration to execute the road widenings authorised by this Act :

And whereas the authorised capital of the Company consists of sixty thousand pounds in six thousand shares of ten pounds each and the Company have issued five thousand seven hundred and twenty shares all of which are fully paid up :

[Price 1s. Net.]

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— And whereas the Company were empowered by the Act of 1896 to borrow on mortgage of their undertaking any sum or sums not exceeding in the whole five thousand pounds in respect of each twenty thousand pounds of capital subject to the provision that no part of any such sums of five thousand pounds should be borrowed until shares for the portion of the capital in respect of which the borrowing powers were to be exercised were issued and accepted and one-half thereof was paid up and the Company are accordingly authorised under existing conditions to borrow on mortgage the sum of ten thousand pounds but have not borrowed any part thereof :

And whereas the Company will or may require to expend on capital account sums in excess of the said amount of ten thousand pounds but could not economically raise money by the creation and issue of capital and it is expedient that the further borrowing powers contained in this Act should be conferred upon the Company and that they should be authorised in respect of their borrowing powers to create and issue redeemable debenture stock :

And whereas it is expedient that the other provisions contained in this Act should be made :

And whereas the objects aforesaid cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

PART I.

PRELIMINARY.

1. This Act may be cited as the Kidderminster and Stourport Electric Tramway Act 1926 and the Kidderminster and Stourport Electric Tramway Act 1896 and this Act may be cited together as the Kidderminster and Stourport Electric Tramway Acts 1896 and 1926.

Short and
collective
titles.

2. This Act is divided into Parts as follows :— A.D. 1926.
- Part I.—Preliminary. Act
- Part II.—Tramway reconstruction and road divided
widenings. into Parts.
- Part III.—Financial.
- Part IV.—Miscellaneous.

3. The Companies Clauses Consolidation Act 1845 Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 the Lands Clauses Acts and section 3 (Interpretation of terms) section 19 (Local authority may lease or take tolls) Part II. (Construction of tramways) and Part III. (General provisions) of the Tramways Act 1870 (so far as the same are applicable for the purposes of and are not inconsistent with or varied by this Act) are hereby incorporated with and form part of this Act. Incorporation of general Acts.

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

“The Company” means the Kidderminster and Stourport Electric Tramway Company;

“The undertaking” means the undertaking of the Company authorised by the Kidderminster and Stourport Electric Tramway Acts 1896 and 1926;

“The Act of 1896” means the Kidderminster and Stourport Electric Tramway Act 1896;

“The reconstructed tramway” means the tramway by this Act authorised to be reconstructed;

“The widenings” means the road widenings authorised by this Act;

“The road authority” means the authority by whom any road with reference to which that expression is used is repairable;

“The tribunal” means the arbitrator or other tribunal to whom any question of disputed compensation is referred under the Lands Clauses Acts as incorporated with this Act.

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PART II.

TRAMWAY RECONSTRUCTION AND ROAD WIDENINGS.

Reconstruc-
tion of
tramway.

5. The Company may alter or reconstruct (in which expression is included the substitution of a double line of tramway for an existing single line and the laying of the reconstructed tramway in a different position in the street from that occupied by the existing tramway) in the lines and according to the levels shown on the deposited plans and sections the tramway hereinafter described (that is to say) :—

The tramway of the Company in Stourport Road in the parish of Kidderminster Foreign in the rural district of Kidderminster and Minster Road in the urban district of Stourport between a point near the bridge carrying Stourport Road over the loop line of the Great Western Railway Company and a point near the centre of Saint John's Road.

As to tram-
way in
narrow
streets.

6. The Company shall not lay down any part of the reconstructed tramway so that for a distance of thirty feet or upwards a less space than nine feet six inches will intervene between the outside of the footpath on either side of the street and the nearest rail of the tramway except on the western side of Stourport Road and Minster Road throughout the length of the reconstructed tramway.

Gauge of
reconstruc-
ted tram-
way.

7. The reconstructed tramway shall be laid on a gauge of three feet and six inches. Provided always that so much of section 34 of the Tramways Act 1870 as limits the extent of the carriage used on any tramway beyond the outer edge of the wheels of such carriage shall not apply to carriages used on the reconstructed tramway but no engine or carriage used on the reconstructed tramway shall exceed six feet four inches in width.

Further
provisions
as to recon-
struction of
tramway.

8. In addition to the requirements of section 26 of the Tramways Act 1870 the Company shall lay before the Minister of Transport the road authority and (so far as regards the urban district of Stourport) the local authority a plan showing the proposed mode of constructing laying down and renewing the reconstructed tramway and a statement of the materials intended to be

used therein and the Company shall not commence the construction laying down and renewal of the reconstructed tramway or any part thereof until such plan and statement have been approved by the Minister of Transport and the road authority and (so far as regards the urban district of Stourport) the local authority 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 of the surveyor of the road authority as provided by section 26 of the said Act.

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9. The rails of the reconstructed tramway shall be such as the Minister of Transport may approve.

As to rails of reconstructed tramway.

10. Any paving metalling or material excavated by the Company in the construction of the reconstructed tramway 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 reinstatement of the road and the maintenance for six months after completion of the reconstructed tramway within the district of such road authority of so much of the roadway on either side of the reconstructed tramway as the Company are by section 28 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 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 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 settled by an arbitrator to be nominated by the Minister of Transport on the application of either party.

Application of road materials excavated in construction of works.

11. Subject to the provisions of this Act the Company may place and maintain in or over any street

Power to place posts wires &c.

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A.D. 1926. — or road in which the reconstructed tramway is laid in such positions as may be reasonably approved by the road authority such posts brackets and overhead electric wires as may be necessary and proper for working the same by electrical power :

Provided that no post or other apparatus shall be erected on the carriageway except with the consent of the Minister of Transport.

Posts &c. to be removed if user discontinued.

12.—(1) Subject to the provisions of this Act if the Company shall discontinue the use of any posts brackets or overhead electric wires placed or maintained in or over any street or road for supplying motive power to the carriages used upon the reconstructed tramway the Company shall forthwith at their own cost remove such posts brackets and wires and shall restore and make good such streets and roads to the satisfaction of the road authority and in case of default the road authority may do all things necessary for that purpose and recover the costs and expenses thereof with full costs of suit from the Company.

(2) For the purposes of this section the Great Western Railway Company shall be deemed to be the road authority in respect of any road or part of a road repairable by and at the expense of that company.

For protection of Postmaster-General.

13.—(a) Notwithstanding anything in this Act contained if any of the works authorised to be executed by this Act involves or is likely to involve any alteration of any telegraphic line belonging to or used by the Postmaster-General the provisions of section 7 of the Telegraph Act 1878 shall apply (instead of the provisions of section 30 of the Tramways Act 1870) to any such alteration.

(b) In the event of any tramways of the Company being worked by electricity the following provisions shall have effect :—

(1) The Company shall construct their electric lines and other works of all descriptions and shall work the undertaking in all respects with due regard to the telegraphic lines from time to time used or intended to be used by His Majesty's Postmaster-General and the currents in such telegraphic lines and shall use every reasonable means in the construction of their

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electric lines and other works of all descriptions and the working of the undertaking to prevent injurious affection whether by induction or otherwise to such telegraphic lines or the currents therein Any difference which arises between the Postmaster-General and the Company as to compliance with this subsection shall be determined by arbitration :

- (2) If any telegraphic line of the Postmaster-General is injuriously affected by the construction by the Company of their electric lines and works or by the working of the undertaking the Company shall pay the expense of all such alterations in the telegraphic lines of the Postmaster-General as may be necessary to remedy such injurious affection :
- (3) Before any electric line is laid down or any act or work for working any tramways of the Company by electricity is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs) the Company or their agents not more than twenty-eight nor less than fourteen days before commencing the work shall give written notice to the Postmaster-General specifying the course of the line 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 Any difference which arises between the Postmaster-General and the Company as to any requirements so made shall be determined by arbitration :
- (4) If any telegraphic line of the Postmaster-General situate within one mile of any portion of the works of the Company is injuriously affected and he is of opinion that such injurious affection is or may be due to the construction of the Company's works or to the working of their undertaking the engineer-in-chief of the Post Office or any person appointed in writing by

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him may at all times when electrical energy is being generated or used by or supplied to the Company enter any of the Company's works for the purpose of inspecting the Company's plant and the working of the same and the Company shall in the presence of such engineer-in-chief or such appointed person as aforesaid make any electrical tests required by the Postmaster-General and shall produce for the inspection of the Postmaster-General the records kept by the Company pursuant to the Ministry of Transport regulations :

- (5) 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 twenty pounds and to a further fine not exceeding ten pounds for every day during which such contravention or non-compliance continues after conviction thereof or if the telegraphic communication is wilfully interrupted to a fine not exceeding fifty pounds and to a further fine not exceeding fifty pounds for every day on which such interruption continues after conviction thereof :
- (6) 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 cognisance of the case that the immediate doing of any act or the execution of any work in respect of which the penalty is claimed 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 :
- (7) 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 :

- (8) For the purposes of this section and subject as therein provided sections 2 10 11 and 12 of the Telegraph Act 1878 shall be deemed to be incorporated with this Act : A.D. 1926.
- (9) The expression "electric line" has the same meaning in this section as in the Electric Lighting Act 1882 :
- (10) Any question or difference arising under this section which is directed to be determined by arbitration shall be determined by an arbitrator appointed by the Minister of Transport on the application of either party 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 :
- (11) Nothing in this section contained shall be held to deprive the Postmaster-General of any existing right to proceed against the Company by indictment action or otherwise in relation to any of the matters aforesaid :
- (12) In this section the expression "the Company" includes their lessees and any person owning working or running carriages on any of the tramways of the Company :
- (13) Section 79 (For the protection of the Postmaster-General) of the Act of 1896 is hereby repealed.

14.—(1) It shall be lawful for the Postmaster-General in any street or public road or part of a street or public road in which he is authorised to place a telegraph to use for the support of such telegraph any posts and standards (with the brackets connected therewith) erected in any such street or public road by the Company in connection with any tramways of the Company and to lengthen adapt alter and replace such posts standards and brackets for the purpose of supporting any telegraph and from time to time to alter any telegraph so supported subject to the following conditions :—

Use of
tramway
posts &c. by
Postmaster-
General.

- (a) In placing maintaining or altering such telegraph no obstruction shall be caused to the traffic along or the working or user of the Company's tramways :

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- (b) The Postmaster-General shall give to the Company not less than twenty-eight days' notice in writing of his intention to exercise any of the powers of this section and shall in such notice specify the streets or public roads or parts of streets or public roads along which it is proposed to exercise such powers and the manner in which it is proposed to use the posts standards and brackets and also the maximum strain and the nature and direction of such strain. Any difference as to any matter referred to in such notice shall be determined as hereinafter provided :
- (c) Unless otherwise agreed between the Postmaster-General and the Company the Postmaster-General shall pay the expense of lengthening adapting altering or replacing under the provisions of this section any post standard or bracket and the expense of providing and maintaining any appliances or making any alteration rendered necessary in consequence of the exercise of the powers of this section for the protection of the public or the unobstructed working or user of the Company's tramways or to prevent injurious affection of the Postmaster-General's telegraphs or any telegraphic or telephonic line or electrical apparatus of the Company or by any regulations which may from time to time be made by the Minister of Transport arising through the exercise by the Postmaster-General of the powers conferred by this section :
- (d) Unless otherwise agreed or in case of difference determined as hereinafter provided all telegraphs shall be attached to the posts standards or brackets below the level of the trolley wires and on the side of such posts or standards farthest from the trolley wires. Any difference as to the conditions of attachment shall be determined as hereinafter provided :
- (e) Unless otherwise agreed no telegraph shall be attached to any post or standard placed in or near the centre of any street or public road :

- (f) The Postmaster-General shall cause all attachments to posts standards or brackets used by him under the powers of this section to be from time to time inspected so as to satisfy himself that the said attachments are in a proper condition and state of repair :
- (g) The Postmaster-General shall make good to the Company and shall indemnify them against any loss damage or expense which may be incurred by them through or in consequence of the exercise by the Postmaster-General of the powers conferred upon him by this section unless such loss damage or expense be caused by or arise from gross negligence on the part of the Company their officers or servants :
- (h) The Postmaster-General shall make such reasonable contribution to the original cost of providing and placing any post standard or bracket used by him and also to the annual cost of the maintenance and renewal of any such post standard or bracket as having regard to the respective interests of the Company and the Postmaster-General in the use of the post standard or bracket and to all the circumstances of each case may be agreed upon between the Postmaster-General and the Company or failing agreement determined as hereinafter provided :
- (i) The Company shall not be liable for any interference with or damage or injury to the telegraphs of the Postmaster-General arising through the exercise by the Postmaster-General of the powers conferred by this section and caused by the maintaining and working of the Company's tramways or by any accident arising thereon or by the authorised use by the Company of electrical energy unless such interference damage or injury be caused by gross negligence on the part of the Company their officers or servants :
- (j) If it shall become necessary or expedient to alter the position of or remove any post standard or bracket the Postmaster-General shall upon receiving twenty-eight days' notice thereof at his own expense alter or remove the telegraph

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supported thereby or at his option retain the post standard or bracket and pay the Company the value of the same. Provided that if the Company or the body having the control of the street or public road object to the retention of the post standard or bracket by the Postmaster-General a difference shall be deemed to have arisen and shall be determined as hereinafter provided.

(2) Nothing in this section contained shall prevent the Company from using their posts standards or brackets for the support of any of their electric wires and apparatus in connection with their tramways or shall take away any existing right of the local authority of using the posts standards or brackets of the Company in connection with the lighting of the streets or otherwise. Provided that any difference between the Postmaster-General and the local authority in relation to the use of the posts standards or brackets by the Postmaster-General and the local authority respectively shall be determined as hereinafter provided.

(3) All differences arising under this section shall be determined in manner provided by sections 4 and 5 of the Telegraph Act 1878 for the settlement of differences relating to a street or public road.

(4) In this section—

The expression "the Company" includes their lessees ;

The expression "telegraph" has the same meaning as in the Telegraph Act 1869 ;

Other expressions have the same meaning as in the Telegraph Act 1878.

Sanitary authority to have access to sewers.

15. 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 32 and 33 of the Tramways Act 1870 shall be applicable in the case of any sewer or private drain of or under the control of the said authority as if the same were a pipe for the supply of gas or water.

16. The reconstructed tramway shall not be opened for public traffic until it has been inspected and certified to be fit for such traffic by an officer appointed by the Minister of Transport.

Inspection
by Minister
of Trans-
port.

17. The reconstructed tramway shall for all purposes including the demanding taking and recovering of tolls fares and charges form part of the undertaking.

Reconstructed
tramway to
form part of
undertaking.

18. For the protection and benefit of the urban district council of Stourport (in this section referred to as "the council") the following provisions shall unless otherwise agreed apply and have effect in addition to and not in derogation of any other provisions of this Act or of the Act of 1896 or of any public Act or Acts of Parliament which may exist for the protection or benefit of the council (that is to say):—

For
protection
of Stourport
Urban
District
Council.

The provisions of subsections (6) (7) (9) (10) and (11) of section 24 (For the protection of the urban district council of Stourport) of the Act of 1896 shall apply and have effect as if the same were re-enacted in this Act and as if so much of the reconstructed tramway as is or may be situate within the urban district of Stourport were therein referred to instead of the tramways to which that section refers.

19. Subject to the provisions of this Act and in accordance with the deposited plans and according to the levels shown on the deposited sections the Company may make and execute the following widenings of the main road from Kidderminster to Stourport on the western side thereof in the parish of Kidderminster Foreign and in the urban district of Stourport and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for that purpose and may for the like purpose enter upon open break up and interfere with the streets and roads hereinafter in this section mentioned.

Power to
Company
to make
widenings.

The widenings hereinbefore referred to and authorised by this Act are—

A widening (No. 1) between points respectively 5 chains and 2 furlongs 8·03 chains or thereabouts south-westward of the centre of the

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bridge carrying the said main road over the Kidderminster Tenbury branch of the Great Western Railway;

A widening (No. 2) between a point 100 feet or thereabouts south-westward of the south-western termination of the widening (No. 1) by this Act authorised and the northern side of the road leading from the said main road to Birchen Coppice Farm;

A widening (No. 3) between the southern side of the said roadway leading to Birchen Coppice Farm and a point 80 feet or thereabouts south-westward thereof;

A widening (No. 4) between points respectively 200 feet and 1 furlong 8·97 chains or thereabouts south-westward of the southern side of the said roadway;

A widening (No. 5) between a point 90 feet or thereabouts south-westward of the south-western termination of the widening (No. 4) by this Act authorised and the northern side of the road leading from the said main road in a north-westerly direction opposite Saint John's Road;

A widening (No. 6) between the southern side of the said road leading in a north-westerly direction from the said main road and a point 42 feet or thereabouts south-westward of the said southern side.

Powers of deviation in widenings.

20. The Company in making the widenings may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and they may also deviate vertically from the levels thereof shown on the deposited sections to any extent not exceeding three feet.

As to level of widenings.

21. The widenings shall be made level with the surface of the ground on which the existing tramway of the Company is situate.

Widened roads to remain vested in road authority.

22. As and when the widenings shall respectively have been completed to the satisfaction of the road authority the widenings and all lands used for the purposes thereof and the subsidiary works connected therewith

shall vest in and (subject to the provisions of section 28 of the Tramways Act 1870) be repairable by and under the control and management in all respects of the road authority :

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Provided that no part of the said widenings lands or works or of the ground upon which the existing tramway is situate shall become repairable by the road authority until the same shall have been constructed reinstated and completed to the satisfaction of the road authority upon the same level as the existing road of the road authority adjacent thereto.

23.—(1) Subject to the provisions of this Act and the Tramways Act 1870 and for the purposes of the widenings the Company may remove alter divert and interfere with any drain sewer or watercourse first providing a proper substitute before interrupting the flow of sewage in any drain or sewer and may alter the position of any water pipe or gas pipe belonging to or connected with any building adjoining or near to the site of the widenings and any main or other pipe used for carrying water or gas and also any post pipe tube wire or apparatus erected or laid down for telegraphic telephonic or other purposes or for supplying electricity and may remove any other obstruction causing as little detriment and inconvenience as circumstances admit and making reasonable compensation for any damage caused by them :

Powers to
make minor
works in
connection
with
widenings.

Provided that the Company shall not alter or otherwise interfere with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General except under and subject to the provisions of the said Act.

(2) In any case in which compensation is payable under the provisions of this section the amount of such compensation shall failing agreement be determined by a single arbitrator to be agreed upon between the Company and the party claiming compensation or failing such agreement to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Surveyors' Institution and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply.

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Stoppage
of roads
during
execution
of works.

24.—(1) Subject to the provisions of this Act the Company may with the consent of the local and road authorities and upon such conditions as those authorities may impose during the execution of the works by this Act authorised stop up the whole or part of the carriage-way or footway of any road as they think necessary and for that purpose may put up bars posts and other erections.

(2) The Company shall provide reasonable access for foot passengers bonâ fide going to or returning from any house in any road stopped up under the powers of this section and shall not at any time during the exercise of the powers of this section prevent proper and sufficient access both for vehicular and pedestrian traffic to the passenger and goods stations of a railway company.

Agreements
between
Company
and road
authorities.

25. The Company may subject to the provisions of this Act from time to time enter into agreements with any road authority with respect to the forming laying down maintaining renewing repairing working and using of the reconstructed tramway and the rails plates sleepers posts wires apparatus and works connected therewith and with respect to the widenings and for facilitating the passage of carriages and traffic over and along any roads or streets upon or along which the reconstructed tramway is intended to be laid or any part thereof respectively.

Correction
of errors in
deposited
plans and
book of
reference.

26. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the land in question may apply to two justices acting for the county of Worcester for the correction thereof and if it appear to the justices that the omission misstatement 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 misstated or wrongly described and such certificate shall be deposited with the clerk of the peace for the said county and a duplicate thereof shall also be deposited with the clerk of the parish council or urban district council of the

parish or district in which the lands affected thereby are situate and such certificate and duplicate respectively shall be kept by such clerk of the peace and clerks respectively with the other documents to which the same relate and thereupon the deposited plans and book 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.

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27. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Power to grant easements &c. by agreement.

28. The Company and their surveyors officers contractors and workmen may from time to time at all reasonable times in the day upon giving in writing for the first time twenty-four hours' and afterwards from time to time twelve hours' previous notice enter upon and into the lands houses and buildings by this Act authorised to be taken and used as aforesaid or any of them for the purpose of surveying and valuing the said lands houses and buildings without being deemed trespassers and without being subject or liable to any fine penalty or punishment on account of entering or continuing upon any part of the said lands houses and buildings.

Power to enter upon property for survey and valuation.

29. And whereas in the construction of the works by this Part of this Act authorised or otherwise in the exercise by the Company of the powers of this Act it may happen that portions only of certain properties shown or partly shown on the deposited plans will be sufficient for the purposes of the Company and that such portions or some other portions less than the whole can be severed from the remainder of the said properties

Owners may be required to sell parts only of certain lands and buildings.

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— following provisions shall have effect :—

- (1) "The owner of and persons interested in any of the properties whereof the whole or part is described in the First Schedule to this Act and whereof a portion only is required for the purposes of the Company or each or any of them are hereinafter included in the term "the owner" and the said properties are hereinafter referred to as "the scheduled properties" :
- (2) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Company that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Company such portion only without the Company being obliged or compellable to purchase the whole the Company paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise :
- (3) If within such twenty-one days the owner shall by notice in writing to the Company allege that such portion cannot be so severed the tribunal shall in addition to the other questions required to be determined by it determine whether the portion of the scheduled property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Company have compulsory powers of purchase) can be so severed :
- (4) If the tribunal determines that the portion of the scheduled property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Company the portion so determined to be severable

without the Company being obliged or compellable to purchase the whole the Company paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal :

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- (5) If the tribunal determines that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the determination of any matters under this section shall be borne and paid by the owner :
- (6) If the tribunal determines that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto (and whether or not it shall determine that any other portion can be so severed) the Company may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice :
- (7) If the tribunal determines that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Company in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and its final determination think fit.

The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that any of the

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scheduled properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 92 of the Lands Clauses Consolidation Act 1845.

The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises.

Compensa-
tion in
case of
recently
created
interest.

30. For the purpose of determining any question of disputed compensation payable in respect of lands taken under the powers of this Act the following provisions shall apply and have effect (that is to say):—

(1) The tribunal shall not take into account any building erected or any improvement or alteration made or any interest in land created after the first day of November one thousand nine hundred and twenty-five and before the date of the passing of this Act if in the opinion of the tribunal the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which the claim is made was not reasonably necessary and was carried out with a view to obtaining or increasing compensation under this Act:

(2) Subject as is hereinafter in this section provided the tribunal shall not take into account—

(a) any building erected after the date of the passing of this Act or any improvement or alteration of any premises (other than any improvement or alteration reasonably necessary for properly maintaining such premises) made after that date which in the opinion of the tribunal materially enhances the value of such premises; or

(b) any interest in land greater than that of a quarterly tenant created after the date of the passing of this Act:

(3) If at any time after the date of the passing of this Act and before the expiration of the period limited by this Act for the compulsory purchase of lands any person being the owner

of or having any estate or interest in any premises which are liable to be acquired compulsorily under the powers of this Act gives notice in writing to the Company of his intention to erect any building upon or to make any improvement or alteration of or to create any such new interest as aforesaid in those premises (such intended building improvement alteration or new interest being specially described in the notice) and the Company do not within one month after receiving any such notice serve upon such person notice to sell and convey or release his estate or interest in the said premises but serve such notice at any time after the expiration of the said period of one month—

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—

(a) subsection (2) of this section shall not apply with respect to the building improvement alteration or new interest described as aforesaid; and

(b) subsection (1) of this section shall apply with respect to the said building improvement alteration or new interest as if the same had been erected made or created after the said first day of November and before the date of the passing of this Act;

- (4) The Company shall forthwith after the passing of this Act send by post or deliver a copy of this section to all persons named in the deposited book of reference having an interest greater than that of a yearly tenant in any lands which are liable to be acquired compulsorily under the powers of this Act.

31. The powers granted by this Act to the Company for the compulsory purchase of lands shall cease on the thirty-first day of October one thousand nine hundred and twenty-nine.

Period
for com-
pulsory
purchase
of lands.

32. In addition to the other lands which the Company are by this Act authorised to purchase and acquire they may purchase take on lease or acquire by agreement and may hold for the purposes of the

Purchase of
lands by
agreement.

[Ch. lxxiii.] *Kidderminster and Stourport Electric Tramway Act, 1926.* [16 & 17 GEO. 5.]

A.D. 1926. — undertaking any lands not exceeding ten acres and they may on such lands and on any other lands purchased or acquired under the authority of this Act erect or construct and hold depots yards wharves offices buildings sidings works and other conveniences in connection with the undertaking but nothing in this Act shall exonerate the Company from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them on any lands purchased or used by them for the purposes of the undertaking.

Tramway
deposit
fund not
to be repaid
except so
far as
tramways
are opened.

33. Whereas pursuant to the standing orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of eight hundred and thirty-five pounds and fourteen shillings being five per centum on the amount of the estimate in respect of the reconstructed tramway and of certain new tramways originally proposed by the Bill for this Act to be authorised and four per centum on the amount of the estimate in respect of the widenings has been deposited with the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act whereof seven hundred and forty pounds and two shillings (hereinafter referred to as "the tramway deposit fund") represents five per centum upon the amount of the estimate in respect of the reconstructed tramway and of such proposed new tramways as aforesaid and ninety-five pounds and twelve shillings (hereinafter referred to as "the widenings deposit fund") represents four per centum upon the amount of the estimate for the widenings Be it enacted that notwithstanding anything contained in the said Act on application being made at any time after the passing of this Act by the person or persons or the majority of the persons named in the warrant or order issued in pursuance of the first-mentioned Act or the survivors or survivor of them (which persons survivors or survivor are or is in this Act referred to as "the depositors") the High Court may and shall order that the tramway deposit fund and the widenings deposit fund and the interest and dividends thereon shall be paid or transferred to the depositors or any other person or persons whom the depositors may appoint in that behalf.

PART III.

A.D. 1926.

FINANCIAL.

34.—(1) The Company may at any time and from time to time borrow on mortgage of the undertaking any sum or sums not exceeding in the whole (when added to any sum theretofore borrowed and for the time being outstanding) one-half of the nominal amount of their capital for the time being issued and outstanding but no sum shall be borrowed in respect of any such capital until the Company have proved to the justice before he gives his certificate under the fortieth section of the Companies Clauses Consolidation Act 1845 that the whole of the stock or shares at the time issued has or have been fully paid up.

Additional powers of borrowing.

(2) Section 32 (Power to borrow) of the Act of 1896 is hereby repealed.

35. Notwithstanding anything contained in the Act of 1896 the Company may in respect of the powers of borrowing conferred by that Act and by this Act create and issue redeemable debenture stock subject to the provisions of this Act and of Part III. of the Companies Clauses Act 1863 but notwithstanding anything contained in the said Part III. the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under the Act of 1896 or this Act or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

Power to create and issue redeemable debenture stock.

36.—(1) Any redeemable debenture stock created under the powers of this Act shall (subject to the provisions of this section) be redeemable on such terms and conditions as may be specified in the resolution creating the same.

Conditions as to redeemable debenture stock.

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(2) Forthwith after the receipt by the Company of any notice under section 43 of the Tramways Act 1870 from the local authority of any district in which the undertaking or any part thereof is situate requiring the Company to sell the undertaking or part thereof the Company shall give to the holders of all redeemable debenture stock for the time being outstanding notice in writing of their intention to redeem such redeemable debenture stock and on the expiration of six months from the giving of such notice by the Company or within one month after the date of completion of the purchase (whichever shall be the later) the Company shall redeem the said redeemable debenture stock accordingly and shall on such redemption pay all interest accrued to date on such debenture stock.

(3) If it is so provided in the resolution creating any redeemable debenture stock the Company may—

(a) call in and pay off the redeemable debenture stock or any part thereof at any time before the date of redemption fixed by the resolution or determinable under the provisions of subsection (1) of this section; and

(b) redeem the redeemable debenture stock or any part thereof either by paying off the same or by issuing to any holder thereof subject to his consent other redeemable debenture stock in substitution therefor and may for the purpose of providing money for paying off such debenture stock or of providing substituted debenture stock create and issue new redeemable debenture stock or reissue redeemable debenture stock originally created and issued under the powers of this Act.

Application
of moneys.

37. All moneys raised under this Act shall be applied only to the purposes of this Act to which capital is properly applicable.

Mortgage
to comprise
purchase
money paid
on com-
pulsory sale.

38. Every mortgage of the undertaking (including any redeemable debenture stock created and issued under this Act) 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 43 of the Tramways Act 1870 and may comprise

all or any moneys carried to the contingency fund according to the terms of the mortgage or the conditions of issue of the debenture stock. A.D. 1926.
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39. Every mortgage and every certificate of redeemable debenture stock granted or issued by the Company under this Act shall be endorsed with notice that such mortgage will not be a charge upon the tramways of the Company or the undertaking in the event of purchase by the local authority under the forty-third section of the Tramways Act 1870. Endorsement of notice of power of future purchase by local authority.

40. All moneys to be borrowed on mortgage or raised by the creation and issue of debenture stock under this Act from the time when the same shall be borrowed or raised and the interest for the time being due thereon shall have priority against the Company and all the property from time to time of the Company over all other claims on account of any debts incurred or to be incurred or engagements entered into or to be entered into by them but nothing in this section shall affect any claim in respect of land acquired by the Company for the purposes of this Act or injuriously affected by the execution of the works by this Act authorised or by the exercise of any of the powers conferred upon the Company. Money borrowed on mortgage to have priority.

41.—(1) The mortgagees of the undertaking 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 five thousand pounds in the whole. For appointment of receiver.

(2) Section 33 (For appointment of a receiver) of the Act of 1896 is hereby repealed but without prejudice to any appointment heretofore made or proceedings now pending under the provisions of that section.

42. If any money is payable to a shareholder or mortgagee being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company. Receipt in case of persons not sui juris.

A.D. 1926.

PART IV.

MISCELLANEOUS.

Amending section 64 of Act of 1896. **43.** So much of section 64 (Carriages may be moved by animal or electrical power) of the Act of 1896 as limits the period during which the carriages used on the tramways of the Company may be moved by electrical power shall cease to have effect.

Amendment of section 69 of Act of 1896. **44.** The proviso to section 69 (Amendment of the Tramways Act 1870 as to byelaws by local authority) of the Act of 1896 is hereby repealed and the Ministry of Transport may under the provisions of that section sanction such rate of speed as they may think fit.

Confirming scheduled agreement. **45.** The agreement dated the eighth day of September one thousand nine hundred and twenty-three and made between the Company of the first part the Kidderminster and District Electric Lighting and Traction Company Limited of the second part and the mayor aldermen and burgesses of the borough of Kidderminster of the third part of which a copy is set out in the Second Schedule to this Act is hereby confirmed and made binding on the parties thereto and the several provisions thereof shall have effect as if the same had been enacted in this Act.

Power to abandon tramways. **46.**—(1) The Company may at any time and from time to time abandon all or any of their tramways with the consent of the Minister of Transport and of the local authority or local authorities of the district or districts in which the tramways or tramway proposed to be abandoned are or is situate upon and subject to such terms and conditions as the said Minister after considering any representations made to him by any such local authority or local authorities may impose Provided that the consent of a local authority shall not be unreasonably withheld and any question whether or not such consent has been unreasonably withheld shall be determined by the Minister of Transport.

(2) As from such date as may be fixed in that behalf by the Minister of Transport in giving any consent under the provisions of this section all the powers obligations and liabilities of the Company in relation to the tramways to be abandoned shall cease

and determine Provided that where any such power obligation or liability relates partly to any abandoned tramway or part thereof and partly to any tramway or part thereof not abandoned as aforesaid such power obligation or liability shall cease and determine as respects the abandoned tramway or part only and for that purpose such apportionment of any financial obligation or liability and of any other obligation or liability capable of apportionment shall be made as may be agreed upon between the Company and the party entitled to enforce such obligation or liability or as failing such agreement shall be determined by the Minister of Transport on the application of either party and the decision of the said Minister shall be final and conclusive.

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47.—(1) At any time after the Company have ceased to own or work tramways they may if they think fit by special resolution determine that the Company shall be wound up voluntarily and if and when any such resolution shall have been passed and confirmed the Company shall subject to the provisions of this Act be wound up in the same manner and with the same incidents as if the Company were a company registered under the Companies (Consolidation) Act 1908 and had passed a special resolution requiring the Company to be wound up voluntarily and the resolution passed and confirmed by the Company shall be deemed to be an effective resolution for such winding up and for the purposes of such winding up but for no other purpose the Company shall from and after the passing of this Act be deemed to be registered in England under the said Companies (Consolidation) Act and for the purposes of calling and holding meetings and passing resolutions and other matters incident to such winding up resolutions of meetings of the Company convened and held in pursuance of and in accordance with the Acts of the Company and the Acts incorporated therewith respectively may and shall take effect as resolutions of a company duly registered.

Power to
Company
to wind up
in certain
circum-
stances.

(2) The Company shall within fourteen days of the appointment of the liquidator or liquidators in such winding up pay to the said liquidator or liquidators all moneys then in their hands or under their control and in the meantime shall hold such moneys in trust for the

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A.D. 1926. — said liquidator or liquidators and all such moneys shall be applied by the said liquidator or liquidators as part of the assets of the Company.

(3) On the completion of the winding up of the Company in accordance with the provisions of this section the Company shall by virtue of this Act be dissolved.

(4) For the purposes of this section the expression "special resolution" shall have the same meaning as in the Companies (Consolidation) Act 1908.

Accounts to be furnished to Minister of Transport.

48. The Company shall in every year within three months after the close of their financial year or such longer period as the Minister of Transport may allow furnish to the Minister of Transport a copy of the annual accounts of the undertaking.

Inquiries by Minister of Transport.

49. In respect of the exercise of any powers or duties conferred on the Minister of Transport or the giving of any consents under this Act or the Act of 1896 the provisions of Part I. of the Board of Trade Arbitrations &c. Act 1874 shall apply as if the Minister of Transport were referred to therein in lieu of the Board of Trade and as if in section 4 of that Act the words "under the seal of the Minister of Transport" were substituted for the words "by writing under the hand of the President or of one of the secretaries of the Board."

Deposits for future Bills not to be paid out capital.

50. The Company shall not out of any money by this Act authorised 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.

Provision as to general Tramway Acts.

51. Nothing in this Act contained shall exempt the Company or the tramways of the Company from the provisions of any general Act relating to tramways passed before or after the commencement of this Act.

Copy of Act to be registered.

52. The Company shall deliver to the registrar of joint stock companies a printed copy of this Act and he shall retain and register the same and if such copy is not so delivered within three months from the passing of this

Act the Company shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the default continues and any director or manager of the Company who knowingly and wilfully authorises such default shall incur a like penalty Every penalty under this section shall be recoverable summarily. A.D. 1926.

There shall be paid to the registrar by the Company on such copy being registered the like fee as is for the time being payable under the Companies (Consolidation) Act 1908 on registration of any document other than a memorandum of association or the abstract required to be filed with the registrar by a receiver or manager or the statement required to be sent to the registrar by the liquidator in a winding up in England.

53. 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. Costs of Act.

A.D. 1926.

The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

DESCRIBING PROPERTIES OF WHICH PARTS ONLY MAY BE ACQUIRED BY THE COMPANY.

Area.	Number on Deposited Plans.
Parish of Kidderminster Foreign	- - 3 4 5 7 and 8.
Urban district of Stourport	- - 2 and 4.

THE SECOND SCHEDULE.

Stamp.

One pound
seven shillings
and
sixpence.

AN AGREEMENT made the eighth day of September one thousand nine hundred and twenty-three between THE KIDDERMINSTER AND STOURPORT ELECTRIC TRAMWAY COMPANY whose registered office is situate at No. 88 Kingsway in the county of London (hereinafter referred to as the "Statutory Company") of the first part THE KIDDERMINSTER AND DISTRICT ELECTRIC LIGHTING AND TRACTION COMPANY LIMITED of the same address (hereinafter called the Limited Company) of the second part and the MAYOR ALDERMEN AND BURGESSES of the borough of Kidderminster in the county of Worcester (hereinafter called the Corporation) of the third part.

WHEREAS the Statutory Company in pursuance of their powers under the Kidderminster and Stourport Electric Tramway Act 1896 have constructed and are now operating certain tramways within the borough of Kidderminster including a line known as Tramway No. 2 which commences at the terminus in Oxford Street and runs thence along Comberton Road to Somerleyton Avenue in the said borough and is more particularly described in the said Act :

And whereas the Statutory Company are desirous of discontinuing the working of the said Tramway No. 2 and of abandoning the same and they have applied to the Corporation

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Stourport Electric Tramway Act, 1926.

for permission to remove their rails poles setts and other works in manner hereinafter provided : A.D. 1926.

And whereas the Corporation have agreed to such proposal upon the terms and conditions hereinafter contained :

Now these presents witness and it is hereby agreed as follows :—

1. The rails poles wires setts and other works (exclusive of concrete foundations) of Tramway No. 2 authorised by the Kidderminster and Stourport Electric Tramway Act 1896 as laid in Oxford Street and Comberton Road shall be removed by the Statutory Company at their own expense.

2. The Statutory Company shall pay to the Corporation the sum of one thousand and fifty pounds in full discharge of all the Statutory Company's liabilities under the Tramways Act 1870 and/or the Kidderminster and Stourport Electric Tramway Act 1896 in respect to the abandonment of the said tramway and the subsequent making good of the roadway the said sum to be paid in not more than three instalments to coincide with the removal of the rails and setts as per clause 4 below.

3. The Statutory Company abandon Tramway No. 2 with the consent of the Corporation which consent is hereby given.

4. The removal of the rails and setts before referred to shall be carried out within two years of the first April one thousand nine hundred and twenty-three and in not more than three instalments to suit the convenience of the Corporation the removal of all the poles and wires to be effected at the same time as the removal of the first instalment of the rails and setts.

5. The tramway track on the Stourport Road within the borough of Kidderminster from Sutton Park Road to the railway bridge shall be reconstructed by the Statutory Company within six months of the first April one thousand nine hundred and twenty-three or such extension of that time as may be reasonably agreed on a level with the highway but in the same position at the side of and no nearer to the centre of such highway and to the reasonable satisfaction of the Corporation and similar works shall be carried out upon the section from the " Wrens Nest " Inn to Sutton Park Road at the expiration of two years from the first April one thousand nine hundred and twenty-three if required by the Corporation Provided always that if granite setts be called for by the Corporation then the Statutory Company shall be permitted to postpone the work until sufficient setts be released by the removal of Tramway No. 2.

6. The Corporation shall not exercise their statutory powers of purchase under the Tramways Act 1870 for a period of twenty-one years from the seventh August one thousand nine hundred

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A.D. 1926. — and twenty-four and do agree further to assist the Statutory Company (at the expense of the Statutory Company) in promoting and passing a Bill in Parliament to give statutory effect to this postponement of the date of purchase.

7. The Limited Company guarantee that upon the cessation of the service of cars on Tramway No. 2 a service of motor omnibuses shall be instituted on week days and continued for at least three years the said service to be not less than two omnibuses per hour each way and the fare to be one penny in either direction between Somerleyton Avenue and the Town Hall.

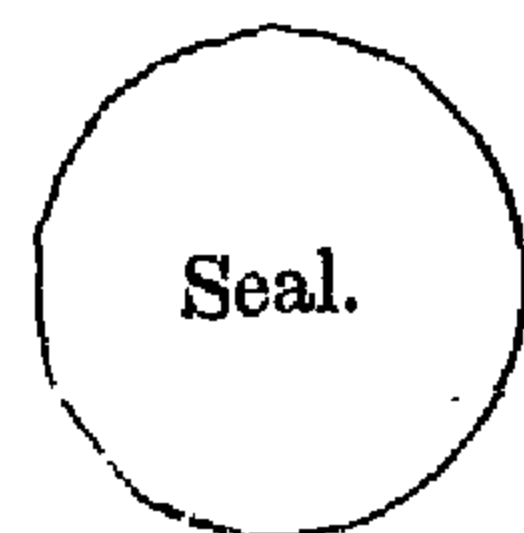
8. As from the first April one thousand nine hundred and twenty-three the Statutory Company's legal responsibilities in regard to the tramway area of Tramway No. 2 under the Tramways Act 1870 and/or the Kidderminster and Stourport Electric Tramway Act 1896 shall cease and determine.

In witness whereof the said parties hereto have caused their respective seals to be hereunto affixed the day and year first before written.

The common seal of the mayor aldermen and burgesses was hereunto affixed pursuant to a resolution of the Town Council held on the eighteenth day of July 1923 in the presence of—

G. R. WOODWARD
Mayor.

J. H. THURSFIELD
Town Clerk.



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