



CHAPTER clix.

An Act for making tramways in the county of Devon to be called "The Plymouth Devonport and District Tramways" and for other purposes. [24th July 1882.] A.D. 1882.

WHEREAS the construction of certain tramways in Plymouth and the neighbourhood thereof in the county of Devon would be of local and public advantage :

And whereas the persons herein-after named with others are willing at their own expense to construct and maintain the said tramways on being incorporated into a Company for the purpose :

And whereas plans and sections showing the lines and levels of the tramways and works authorised by this Act and also books of reference to those plans have been duly deposited with the clerk of the peace for the county of Devon and those plans sections and books of reference are herein-after respectively referred to as the deposited plans sections and books of reference :

And whereas the purposes 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 Commons in this present Parliament assembled and by the authority of the same as follows—

1. This Act may be cited for all purposes as the Plymouth Devonport and District Tramways Act 1882. Short title.

2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) of the Companies Clauses Act 1863 as amended by the Companies Clauses Act 1869 the Lands Clauses Consolidation Acts 1845 1860 and 1869 (except 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

Incorporation of general Ac's.
8 & 9 Vict. c. 16.
26 & 27 Vict. c. 118.
32 & 33 Vict. c. 48.
3 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.

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A.D. 1882. of the undertaking) and section 3 (interpretation of terms) section
— 19 (local authority may lease or take tolls) and Parts II. and III.
33 & 34 Vict. of the Tramways Act 1870 so far as the same are applicable to
c. 78. and not varied or excepted by or inconsistent with the provisions
of this Act are hereby incorporated with and form part of this Act
and shall apply to the undertaking of the Company.

Interpreta-
tion of
terms.

3. In this Act the several words and expressions to which mean-
ings are assigned by the Acts wholly or partially incorporated
herewith have the same respective meanings unless there be some-
thing in the subject or context repugnant to such construction
the expressions "the tramways" and "the undertaking" mean
respectively the tramways and works and undertaking by this Act
authorised and for the purposes of this Act the expressions
"Plymouth Corporation" and "Devonport Corporation" mean
respectively the mayor aldermen and burgesses of the borough of
Plymouth and the mayor aldermen and burgesses of the borough
of Devonport and the expression "the corporations" means the
Plymouth Corporation and the Devonport Corporation and the
expression "the corporation" means such one of such corporations
as the context may require and the expression "the boroughs"
means the boroughs of Plymouth and Devonport and "the borough"
means such one of such boroughs as the context may require 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 and the word "contingencies" in the Companies Clauses
Consolidation Act 1845 (section 122) shall with reference to the
Company be construed to include the contingency of the undertaking
being sold to the local authority under section 43 of the Tramways
Act 1870 at a sum less than the aggregate amount of the capital
and debts of the Company.

Company in-
corporated.

4. John Freeman Paul Wallace Sharp and William Fairmaner
Rowell and all other persons and corporations who have already
subscribed to or shall hereafter become proprietors in the under-
taking and their executors administrators successors and assigns
respectively shall be and are hereby united into a Company for
the purpose 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 Plymouth Devonport and
" District Tramways Company" and by that name shall be a body
corporate with perpetual succession and a common seal and with

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power to purchase take hold and dispose of lands and other pro- A.D. 1882.
perty for the purposes of this Act.

5. Subject to the provisions of this Act and of Parts II. and III. of the Tramways Act 1870 the Company may make form lay down work use and maintain the tramways herein-after 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 and with all proper rails plates works and conveniences connected therewith Provided always that the Company shall not make form or lay down the Tramways Nos. 2 and 4 or any part of the same respectively without the previous consent in writing of the Plymouth Corporation. The tramways herein-before referred to and authorised by this Act are wholly situate in the county of Devon and are :

Power to
make tram-
ways.

A tramway (No. 1) of which 1 mile 3 furlongs 5·29 chains will be single line and 1 furlong 9·71 chains will be double line commencing in Russell Street at a point in the centre of that street about $\frac{1}{2}$ chain from the letter pillar-box opposite the Globe Hotel Tap thence passing along Russell Street Richmond Street Cobourg Street Portland Villas Albany Place North Road Houndiscombe Road Mutley Plain Townshend Hill Mannamead Road to Compton Lane End and terminating opposite the south-west corner of Compton Lane ;

Tramway No. 2 of which 4 miles 3 furlongs 9·50 chains will be single line and 1 furlong double line commencing by a junction with Tramway No. 1 in Russell Street opposite the north corner of Cornwall Street passing in an eastwardly direction along Cornwall Street East Street crossing Old Town Street Treville Street Exeter Street Embankment Road crossing over the Great Western Railway Bridge along the Exeter Road through Laira to Plympton terminating opposite the yard of the Plymouth Inn Ridgway :

A tramway (No. 3) of which 1 mile 50 links will be single line and 7 chains double line commencing by a junction with Tramway No. 2 in Cornwall Street about 40 links from its commencement and by a junction with Tramway No. 1 at its commencement as herein-before described in Russell Street passing along Bedford Street Westwell Street Princess Square Locker Street Saint Georges Place Millbay Road West Hoe Road Radford Road and terminating opposite the front of the pier in Grand Parade Road.

A tramway (No. 4) of which 3 furlongs and 4 chains will be single line and $3\frac{1}{2}$ chains double line commencing by a junction

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with Tramway No. 3 in Princess Square at the end of Westwell Street passing along Princess Place Notte Street Southside Street to the Barbican and terminating at a point opposite the south end of Brunswick Inn.

A tramway (No. 5) of which 1 mile 5 furlongs 2·70 chains will be single line and 2 furlongs 8·30 chains double line commencing by a junction with Tramway No. 1 at the junction of Russell Street with Morley Street passing along Morley Street Cambridge Street Oxford Street Sydney Street across North Road along Albert Road Pennycomequick Deadlake Lane over the London and South-western Railway by the bridge leading to Providence Place along Paradise Place Lower Stoke Road to Devonport and terminating in Fore Street at a point opposite the south-east corner of Princess Street.

Tramway No. 6 of which 6 furlongs will be single line and 3 chains double line wholly in the parish of Stoke Damerel commencing by a junction with Tramway No. 5 at the junction of the road over the Cornwall Railway Bridge leading from Wingfield Villas with Deadlake Lane passing along said bridge along Wingfield Villas across Stoke Road Osborne Villas Osborne Road over the Cornwall Railway Bridge along Valletort Road along Higher Portland Road and Victoria Street to Albert Road and terminating in Albert Road opposite the Railway Inn.

Tramway No. 7 of which 5 furlongs 1·50 chains will be single line and 3·50 chains double line wholly in the parish of Stoke Damerel commencing by a junction with Tramway No. 5 in Lower Stoke Road at the junction of that road with Trafalgar Place passing along Trafalgar Place Tavistock Road and Tavistock Street terminating in the centre of Stoke Road about 33 links from the lamp-post at the north end of Donegal Place.

For protection of railway companies.

6. In constructing and maintaining any tramway by this Act authorised where it crosses any bridge carrying any road over any railway belonging to the Great Western Railway Company or the Cornwall Railway Company or where it passes under any railway bridge belonging to those companies or either of them the Company shall be subject to the following conditions:—

- (1.) Every such tramway shall be constructed and maintained along the centre of the roadway:
- (2.) The Company shall not in any way alter or interfere with the structure of any such bridge or of the approaches thereto and they shall so construct and maintain such tramway over

such bridge and the approaches thereto or under such bridge as the case may be as not to affect the same or the user of the road injuriously : A.D. 1882.

(3.) In the event of any injury being caused to any such bridge or approaches by the construction maintenance repairing user or removal of any such tramway the Great Western Railway Company or the Cornwall Railway Company as the case may be may at the expense of the Company restore such bridge and approaches or the part or parts thereof which may be injured to as good a state and condition as they were in before such injury was occasioned and the Company shall indemnify the said Great Western Railway Company or the Cornwall Railway Company as the case may be against all sums costs and expenses which they may pay or be put to in repairing and maintaining so much of the road over such bridge and approaches as the Company are liable to maintain and repair under the 28th section of the Tramways Act 1870 and the said Great Western Railway Company or the Cornwall Railway Company may recover from the Company all such sums costs and expenses with full costs and charges by all and the same means as any simple contract debt may be recovered :

(4.) Whenever and so often as the said Great Western Railway Company or the said Cornwall Railway Company shall require to widen lengthen strengthen reconstruct alter or repair any such bridge or approaches or to widen or alter their railways where a tramway passes under any railway bridge or to lift or support any such bridge or approaches owing to any subsidence thereof and they shall find it necessary for effecting any of such purposes that the working and user of such tramway over such bridge or approaches or under such bridge shall be wholly or partly stopped or delayed or that such tramway shall be temporarily diverted or be wholly or in part taken up or removed and shall except in cases of emergency give to the promoters three clear days notice in writing requiring such stoppage delay or diversion taking up or removal the working and user of such tramway shall be stopped or delayed or the tramway shall be diverted or taken up or removed accordingly at the expense of the Company and under the superintendence of their engineer if such engineer should give such superintendence but only for so long a time as the said Great Western Railway Company or the Cornwall Railway Company may find to be absolutely necessary for effecting such purposes

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and without their being liable for any compensation claims demands damages costs or expenses for or in respect of such stoppage or delay or in any way relating thereto. And in case the principal engineers of the Great Western Railway Company or of the Cornwall Railway Company as the case may be shall be of opinion that any such strengthening is desirable or necessary owing to the carriages or other vehicles on any such tramway being or being intended to be moved by steam or any mechanical power or being or being intended to be of an unusual weight such strengthening shall be effected in all things at the expense of the Company who shall also pay to the Great Western Railway Company or to the Cornwall Railway Company as the case may be all additional expense which they may incur or be put to in effecting any such widening lengthening strengthening reconstruction alterations repairs lifting or supporting by reason of the existence of any such tramway or any of the works connected therewith the amounts of such expenditure shall be recoverable as aforesaid by the said Great Western Railway Company or the Cornwall Railway Company as the case may be from the Company with full costs and charges by all and the same means as any simple contract debt is recoverable :

- (5.) Whenever any tramway on either side of any such bridge or approaches is a single line there shall only be a single line over such bridge and approaches and no turn-outs or passing-places shall be constructed thereon :
- (6.) All works which may be necessary in constructing and maintaining any of the tramways as aforesaid over or under any bridge works or property of the Great Western Railway Company or of the Cornwall Railway Company shall be constructed and maintained in all things at the expense of the Company and to the reasonable satisfaction of the principal engineer of the said Great Western Railway Company or of the Cornwall Railway Company or in case of difference of an engineer to be appointed by the Board of Trade on the application either by the Great Western Railway Company the Cornwall Railway Company or the Company :
- (7.) No engine carriage or waggon using the tramway shall stop or stand on the space between the Great Western Railway Company's passenger station at Plymouth and the entrance to the Duke of Cornwall Hotel for a longer time than is absolutely necessary for passengers getting into or out of the said carriages under a penalty of not exceeding forty shillings

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for each offence and an additional sum of forty shillings for every hour during which the offence continues nor shall the Company have a turn-out or crossing-place in the said space. A.D. 1882.

7. Nothing contained in this Act shall prejudice lessen take away or interfere with the lands property rights powers and privileges of the said Great Western Railway Company or of the Cornwall Railway Company otherwise than is hereby expressly provided. Saving rights of railway companies.

8. For the protection of the company of proprietors for embanking part of the Laira near Plymouth acting under the three several Acts of Parliament one passed in the forty-second year of the reign of His late Majesty King George the Third intituled "An Act to enable His Majesty to grant certain parcels of land situate between Great Prince Rock and the village of Crabtree called 'Tothill Bay' and 'Lipson Bay' near to the borough of Plymouth in the county of Devon to certain persons therein named for the purpose of embanking and preserving the same from the sea" another passed in the forty-third year of the reign of the same King intituled "An Act to enable the company of proprietors for embanking part of the Laira near Plymouth to make and maintain a road from a certain place called 'Efford Quay' in the parish of Egg Buckland in the county of Devon to the borough of Plymouth" and the third passed in the fifth year of the reign of His late Majesty King George the Fourth intituled "An Act for further extending the powers of the company of proprietors for embanking part of the Laira near Plymouth" (herein-after called "The Plymouth Embankment Company") the following provisions shall have effect (that is to say):—

For protection of the Plymouth Embankment Company.
42 G. 3. c. 32.
43 G. 3. c. xv.
5 G. 4. c. xxvi.

(1.) The Company shall not make form or lay down the Tramway No. 2 or any part thereof until the Company shall agree with the Plymouth Embankment Company the amount of the tolls or annual sum in lieu of tolls to be paid by the Company to the Plymouth Embankment Company for the user of so much of the road belonging to the Plymouth Embankment Company over or along which Tramway No. 2 shall be formed or laid down and the said Plymouth Embankment Company may enter into such agreement whether steam or any other mechanical power shall be used on the Tramway No. 2 or not. Provided that if the Company and the Plymouth Embankment Company fail to agree as to the amount of such tolls or annual sum in lieu of tolls then the same shall be determined by arbitration in accordance with the provisions of the Railway Companies Arbitration Act 1859 the arbitrator or umpire as the case may be to be

22 & 23 Vict. c. 59.

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appointed in the event of difference by the President for the time being of the Institute of Civil Engineers :

(2.) Notwithstanding anything in this Act contained to the contrary the tolls or annual sum in lieu of the tolls to be paid to and received by the Plymouth Embankment Company shall be dealt with by the Plymouth Embankment Company in the same manner as the tolls received by them under the authority of their said Acts :

(3.) Nothing contained in this Act shall prejudice lessen take away or interfere with the lands property rights powers and privileges of the Plymouth Embankment Company otherwise than is expressly provided by this Act.

Gauge of tramways.

9. The tramways shall be constructed 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 tramways but no carriage used on the tramways shall exceed five feet six inches in width.

Part of capital to be subscribed before works commenced.

10. Before the Company open or break up any road they shall prove to the satisfaction of the corporation within whose borough it is proposed to construct the tramways that thirty thousand pounds of the capital has been issued and accepted 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.

Company to make deposit before opening roads.

11. Before the Company open or break up any road within the borough of Plymouth they shall deposit the sum of six thousand pounds in a bank to be named by that corporation to a joint account in the names of the Plymouth Corporation and the Company and before the Company open or break up any road within the borough of Devonport they shall deposit the sum of four thousand pounds in a bank to be named by that corporation to a joint account in the names of the Devonport Corporation and the Company. The sums so to be deposited shall from time to time during the progress of the works be respectively paid out to the Company in the proportion of fifty pounds per centum on the value of the works in the said boroughs respectively which at the time of making such payments respectively have been properly executed such valuation to be ascertained by writing under the hand of the engineer for the time being of the respective corporations. The sums of six thousand pounds and four thousand pounds so to be deposited shall at the

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request of the Company but at their risk be respectively invested in such securities as the corporations respectively approve and the interest thereon shall be payable to the Company. A.D. 1882.

12. 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 three thousand and sixteen pounds Consolidated Three Pounds per Cent. Annuities being equal to five per centum upon the amount of the estimate in respect of the tramway has been deposited with the Chancery Division of the High Court of Justice in England in respect of the application to Parliament for this Act (which sum is referred to in this Act as "the deposit fund"). Be it enacted that notwithstanding anything contained in the said Act the 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 tramway open the same for the public conveyance of passengers. Provided that if within such period as aforesaid the Company open any portion of the tramway 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 tramway 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 tramway so opened bears to the entire length of the tramway hereby authorised 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. Deposit fund.

13. If the Company do not previously to the expiration of the period limited for the completion of the tramway complete the same and open it 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 tramway or any portion thereof and also Application of deposit.

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Further provisions as to construction of tramways.

14. In addition to the requirements of section 26 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 up any road for the purpose of constructing laying down maintaining and renewing any of the tramways lay before the Board of Trade and in the case of tramways in the boroughs before the corporations respectively 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 constructing laying down maintenance and renewal of any of the tramways or part of any of the tramways respectively except for the purpose of necessary repairs until such plan and statement have been approved by the Board of Trade and in the case aforesaid by the corporations respectively 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 satisfaction of

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the surveyor for the time being of the road authority as provided by sections 26 and 27 of the said Act. Provided always that the word "materials" in this enactment does not include materials used for paving any part of any street under the provisions of the Tramways Act 1870 or this Act.

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15. Each line of tramway shall consist of a single pair of grooved rails and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the road without loose or movable points (except with the consent of the corporation within whose borough the line in question shall be situated) and in such other manner as regards construction rails sleepers fastenings width of groove foundation and in all other respects as the corporation may approve and in laying down the tramway the Company shall restore the level and surface of the roads and streets in all cases where the same are altered or disturbed. Provided that the Board of Trade may from time to time upon the application of any road authority require the Company to adopt and apply such improvements in the tramway including the rails thereof within the district of such road authority 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 any such improvements.

Mode of formation of tramways.

16. The tramway shall not be opened for public traffic until it has been inspected and certified to be fit for such traffic by the Board of Trade.

Inspection by Board of Trade.

17. Either of the corporations in their absolute discretion may at any time either before the first construction of the tramways or any of them or afterwards by notice in writing given to the Company require the Company to deviate from the line of any tramway in their respective boroughs or the sidings thereof as shown by the deposited plans or as constructed in such places to such extent and in such manner as the corporations respectively may deem expedient. Provided always that no such deviation shall be so laid that for a distance of thirty feet or upwards a less space than nine feet six inches shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway if one third of the owners and occupiers of the houses shops or warehouses abutting upon the part of the road where such less space shall intervene shall within one month after written notice to them by the corporation of the borough within which it is proposed such deviation shall be

Road authorities may require deviations in tramways.

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made of the intention to make such deviation express their dissent in writing to the town clerk of such corporation. Provided also that if the Company do not within such reasonable time as shall be in that behalf specified in any such notice comply with the requirements of such notice the corporation from time to time may without prejudice to any other remedy against the Company carry out the requirements of such notice and all costs and expenses thereby incurred by them shall be paid to the corporation by the Company on demand and shall be recoverable from the Company by proceedings in any court of competent jurisdiction. Provided that no such requisition shall be obligatory on the Company if it should prove to be necessary for the Company in order to comply with the same to obtain authority to do so by Act of Parliament or provisional order.

As to costs
of improving
Tavistock
Road.

18. The Company shall three months after demand pay to the Devonport Corporation the cost of any works executed by the Corporation for widening and improving Tavistock Road between Stoke Villa and Park Lodge.

Tramways
to be kept
on level of
surface of
road.

19. If and whenever after the passing of this Act any road authority alters the level of any road along or across which any part of the tramway is laid the Company 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. The Company shall not alter the level or gradient of any road without the previous consent in writing of the road authority within whose district the road is situate.

Repair of
part of road
where tram-
way is laid.

20. The Company shall at their own expense forthwith pave and at all times maintain and keep in good condition and repair with such materials and in such manner as the respective corporations shall direct and to their satisfaction so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway and (where two tramways are laid by the same Company in any road at a distance of not more than six feet from each other) the portion of the road between the tramways and in every case so much of the road as extends two feet beyond the rails of and on each side of any such tramway. Also so much of the road as lies between either side of the road and the nearest rail of the tramway if the distance between these points does not exceed three feet.

If the Company abandon their undertaking or any part of the same and take up any tramway or any part of any tramway belonging to them they shall with all convenient speed and in all cases

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within six weeks at the most (unless the respective corporations otherwise consent in writing) fill in the ground and make good the surface and to the satisfaction of the respective corporations restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon and clear away all surplus paving or metalling material or rubbish occasioned by such work and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched and to be properly lighted at night. Provided always that if the Company fail to comply with the provisions of this section the respective corporations if they think fit may themselves at any time after seven days notice to the Company open and break up the road and do the works necessary for the repair and maintenance or restoration of the road to the extent in this section above mentioned and the expense incurred by the respective corporations in so doing shall be repaid to them by the Company.

21. 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 the substructure upon which the same rest and if the Company at any time fail to comply with the provisions of this or the preceding section or with the provisions of section 28 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 56 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 28 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.

Penalty for not maintaining rails and roads.

22. Nothing in this Act contained shall take away alter or diminish any of the powers rights or authorities of the corporations as the respective sewer authorities for the boroughs in which the

Saving for corporations as to sewers.

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tramways shall be laid and their officers and servants respectively either under the powers conferred on them by the Public Health Act 1875 or any other Public Local and Private Act or Acts of Parliament affecting the boroughs already existing or which may hereafter be passed enabling the Corporation to construct maintain or repair cleanse alter discontinue or otherwise deal with any sewers or drains manholes ventilating shafts and other works in connexion therewith or any lateral or private drains to communicate therewith or to any gas or water mains or pipes belonging to the Corporation or over which they may from time to time have control or be empowered to construct and maintain or to break up any street within the borough for any other purpose for which they are authorised so to do.

And the corporations respectively shall be entitled to require the Company to and the Company shall upon receiving twenty-four hours notice in writing from the corporation so to do either stop the traffic upon the tramways in any street or road to which such notice shall refer or take up such tramway or shore up and secure the same at their own risk and cost to the satisfaction of the surveyor for the time being of the Corporation during the construction of the works in any such street or road. Provided that all such work shall be done by the corporation with all reasonable despatch and with as little damage as reasonably may be to the tramways and the corporation shall not be responsible to the Company for any damage the Company may sustain by reason of their having to repair or relay their lines from time to time in consequence of the ground subsiding after the said sewer mains or other works shall have been completed and the ground above the same filled in but in the construction of such sewer mains and works and the filling in of the ground above and around the same the corporation shall proceed with all reasonable care and despatch. Provided further that the corporation shall not by reason of the execution of any such works incur any liability to the Company except for damage caused by the unreasonable or wilful act or neglect of the corporation or their servants.

When any tramway or passing-place is constructed or required to be constructed over any manhole or entrance into any sewer of the corporation or so close to any such manhole or entrance as to make the use thereof dangerous or inconvenient in the opinion of the corporation or their surveyor for the time being the Company shall if required by the corporation construct another manhole or entrance in lieu thereof in such a position and according to such plans as may be approved by the corporation.

23. Nothing in this Act contained shall obstruct hinder prejudice or prevent the respective corporations from breaking up any street or road in their respective boroughs for the purpose of laying down cleansing or repairing sewers drains mains pipes or for any other purpose for which they are authorised to break up any street within their respective districts and for that purpose to stop the traffic along the tramways respectively and any extra cost incurred by them in so doing and in restoring the surface of any street and any of the tramways by reason of such tramways being laid down shall be borne by the Company and be paid by them to the corporation and in default of such payment shall be recoverable in a court of summary jurisdiction under the Summary Jurisdiction Acts in the same way as if such cost had been a penalty incurred by the Company.

A.D. 1882.
Breaking up
streets by
corporations.

24. During the construction of any works by this Act authorised in any roads the Company shall cause as little impediment as possible to the traffic along such roads and shall make such arrangements in the execution of such works as the corporations respectively may from time to time by writing require for preventing such traffic from being unnecessarily impeded.

Traffic in
roads not to
be impeded.

25. The corporations respectively may from time to time by notice in writing to the Company for the purpose of regulating and facilitating the traffic on market or fair days for the execution of any works by the corporation or any water company or during the time of any public meeting procession or demonstration or for any other purpose which the corporation having regard to the good government of the borough or the safety of the public may deem necessary stop delay and suspend the working of the tramways or any of them but so that such stoppage delay or suspension shall continue only so long as may reasonably be necessary for the purposes aforesaid or any of them and the Company shall not be entitled to claim any compensation for damages in respect thereof.

Corporation
may suspend
tramway
traffic.

26. The control over the surface of every road in which any tramway is laid shall continue in the corporation of the borough in which such road is situated who may cleanse the same without reference to the tramways but whatever cleansing owing to snow or other matters impeding the traffic may be requisite for the proper working of the tramways shall be executed by the Company who shall in performing the same remove the snow or other matter from off the road forthwith and without first placing it on any other part of the road.

Cleansing of
roads.

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Superintendence and approval of each road authority extended.

27. So much of section 26 of the Tramways Act 1870 as provides that the Company shall not do certain things therein mentioned except under the superintendence and to the reasonable satisfaction of the road authority unless that authority refuse and neglect to give such superintendence at the time specified in the notice or discontinue the same during the works and that the Company shall pay all reasonable expenses to which the said road authority is put on account of such superintendence shall extend and apply also to the works in the 27th and 28th sections of the said Act mentioned and to all other works of every description affecting any road sewer or other works or property of or under the control or jurisdiction of the corporations respectively but no such supervision or inspection shall relieve the Company from any liability whatever.

Company to do as little damage as possible and make compensation.

28. In the exercise of the powers conferred on the Company by this Act they shall do as little damage as may be and shall make compensation to the respective corporations for all damage sustained by them by reason or in consequence of the exercise of those powers or any of them.

Company to be solely responsible for maintaining tramways free from damage or accident.

29. The sole responsibility of constructing maintaining and working the tramways free from damage or accident shall rest with the Company and they shall have no claim whatever for any interruption of traffic or for any damage (other than wilful damage) which may arise from any works executed or to be executed by the Corporations respectively in or under or over any road on which any of the tramways may be laid or from the use of any implements or materials they may use in the maintenance thereof.

As to tramway extensions and running powers.

30. If at any time hereafter any tramways or tramway extensions or additions are constructed within the boroughs or either of them by any company or person (other than the Company) the Company shall at the request of the corporations respectively and if and when required by such other company or person permit all necessary and convenient junctions crossings and communications to be made and maintained between the tramways authorised by this Act and the tramways or tramway of any such other company or person as aforesaid and such company or person as the case may be so requiring such junctions crossings or communications to be made and the Company shall each respectively if required by the other grant to each other and their respective assigns and lessees all such reasonable running powers (but not exceeding half a mile from any point of junction) and traffic facilities over and on their respective tramways upon such terms and conditions as to compensation and otherwise as may be agreed on between them or

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in case of difference as shall be settled in manner provided by section 33 of the Tramways Act 1870 and as the Board of Trade shall approve. A.D. 1882.

31. The Company may subject to the provisions of this Act with the consent of the 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 authorised 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 their hand addressed to the Company express their objection thereto.

Additional crossings passing-places &c. may be made where necessary.

32. Where by reason of the execution of any work affecting the surface or soil of the road along which any tramway is laid it shall in the opinion of the road authority be necessary or expedient, temporarily to remove or discontinue the use of such tramway or any part thereof the Company shall when required by the road authority and 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 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 arises 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 33 of the Tramways Act 1870 for the settlement of the differences in the said section mentioned.

Temporary tramways may be made when necessary.

33. 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 (other than the corporations) 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 so much of the road-

Application of road materials excavated in construction of works.

[Ch. clix.] *Plymouth, Devonport, and District* [45 & 46 VICT.]
Tramways Act, 1882.

A.D. 1882. way on either side of such tramways 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 for the time being 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. Provided that as regards any road within the boroughs such paving metalling or materials excavated by the Company shall remain the property of the corporation respectively and shall be removed by and at the expense of the Company to any place within the borough as the corporation shall by notice in writing require and within such time as they may appoint.

Carriages.

34. The carriages to be used on the tramways shall subject to the provisions of the Tramways Act 1870 and of this Act be of such length width form and construction and the wheels of such carriages and the breaks attached thereto shall be of such construction form and dimensions as may from time to time be reasonably approved by the corporations in writing certified under the hands of their town clerks or in case of difference of opinion between the corporations as may be approved by the Board of Trade and it shall not be lawful for the Company to use on any of the tramways any carriage or wheel or break in contravention of the foregoing provisions.

Carriages may be used by animal steam or mechanical power.

35. The carriages used on the tramways may subject to the provisions of this Act be moved by animal power and with the consent of the Board of Trade during a period of seven years after the opening of the same for public traffic and with the like consent during such further periods not exceeding seven years as the said Board may from time to time specify in any order to be signed by a Secretary or an Assistant Secretary of the said Board by steam power or any mechanical power. Provided always that the exercise of the powers hereby conferred with respect to the use of steam or any mechanical power shall be subject to the regulations set forth

in the Schedule A to this Act annexed 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 the powers by this Act conferred with respect to the use of steam or any mechanical power on the tramways. Provided also that the Company shall not use steam power or any mechanical power on the said tramways unless and until they shall have obtained the previous consent in writing of the corporations therefor and then for such time only and subject to such conditions and regulations as the corporations may from time to time prescribe.

36. The Company or any company or person using steam 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 Schedule A to this Act annexed or to any regulation added thereto or substituted therefor which may be prescribed 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 a further 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 company or person using steam or any mechanical power on the tramways under the authority of this Act have or has made default in complying with the provisions of this Act or with any of the regulations set forth in the Schedule A to this Act annexed or with any regulations which may have been added thereto or substituted therefor as aforesaid may by order direct the Company or such company or person to cease to exercise the powers aforesaid and thereupon the Company or company or such person shall cease to 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 and in every such case the Board of Trade shall make a special report to Parliament notifying the making of such order.

A.D. 1882.
Penalty for using steam or mechanical power contrary to order or regulations.

37. 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 byelaws with regard to any of the tramways upon which steam or any mechanical power may be used under the authority of this Act for all or any of the following purposes—that is to say:—

Byelaws by Board of Trade.

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

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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 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 byelaws in force for the time being in relation to the tramways by exhibition of the same in conspicuous places on the carriages and elsewhere.

Penalty for breach of byelaws.

38. Any person offending against or committing a breach of any of the byelaws 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.

39. 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 byelaw made by the Board of Trade and the corporations respectively under the authority of this Act.

Amendment of 33 & 34 Vict. c. 78. as to byelaws by local authority.

40. The provisions of the Tramways Act 1870 relating to the making of byelaws by the local authority with respect to the rate of speed to be observed in travelling on the tramway shall not authorise the local authority to make any byelaws sanctioning a higher rate of speed than that authorised by this Act or by any regulation made by the Board of Trade under the authority of this Act at which engines are to be driven or propelled on the tramways under the authority of this Act but the local authority may if they think fit make byelaws under the provisions of the said Act for restricting the rate of speed to a lower rate than that so prescribed.

Byelaws by corporations.

41. The powers of the respective corporations under the Tramways Act 1870 with respect to the making regulations and byelaws as to the matters and for the purposes therein mentioned and to repeal or alter such byelaws and make new byelaws shall extend and apply to the following matters and purposes (that is to say) :

(1.) Prohibiting the stopping of tramway carriages to take up and set down passengers or for any other purpose and the entry or leaving of any carriage in any place which the cor-

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poration having regard to the protection safety or convenience of the public may from time to time deem necessary: A.D. 1882.

- (2.) Empowering the corporation to cause to be removed from the tramways any carriage or horse harness or fittings which shall be certified by an officer who may be appointed by the corporation to be unfit for use on the tramways:
- (3.) For enforcing good conduct attention and civility from the drivers and conductors of the tramway carriages:
- (4.) Prescribing from time to time the break power to be applied to the carriages used on the tramways and whether carriages shall be used on the tramways singly or not in connexion with or attached to any other carriage or otherwise:
- (5.) For preventing the overcrowding of any carriages used on the tramways:

42. The Board of Trade shall be and they are hereby authorised to approve of byelaws made under the authority of section 46 of the Tramways Act 1870 and of this Act with respect to the undertaking authorised by this Act and no such byelaw made after the passing of this Act shall have any force or effect unless the same shall have been so approved and the production of a written or printed copy of any such byelaw signed by a Secretary or an Assistant Secretary of the Board of Trade shall be *primâ facie* evidence of such byelaws in all courts of justice and in all legal proceedings whatsoever. Authentication of byelaws.

43. All orders and byelaws made by the Board of Trade under the authority of this Act shall be signed by a Secretary or an Assistant Secretary of the Board of Trade. Orders and byelaws.

44. Where the Company or any other company or person intend to use steam or any mechanical power under the authority of this Act on the tramways or any part thereof they or he shall give two months previous notice of such intention to every road authority within whose district the tramways or any part thereof upon which they or he intend to use such power are or is situated. As to contracts with road authorities where steam or mechanical power is to be used.

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

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A.D. 1882. 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 or any mechanical power upon such tramways or such part thereof be determined and of no effect.

Before using steam 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 user paving and keeping in repair of such road which they may think fit and the Board of Trade may approve.

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 Company and any road authority and thereupon the parties shall in all respects conform to such

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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 or mechanical power shall be used on the tramways to which such appeal relates.

A.D. 1882.

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

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.

45. Where steam or any mechanical power is used by the Company or any other company or person on the tramways or any part thereof no contract agreement or arrangement made before or after the commencement of the use of steam or any 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.

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

46. The capital of the Company shall be one hundred and twenty-five thousand pounds divided into twelve thousand five hundred shares of ten pounds each.

Capital.

47. 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 shall have been paid in respect thereof.

Shares not to issue till one fifth paid up.

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Calls.

48. 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.

49. 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.

50. The Company may from time to time borrow on mortgage any sum not exceeding in the whole thirty-one thousand pounds but no part thereof shall be borrowed until the whole capital of one hundred and twenty-five thousand pounds is issued and accepted and one half thereof is paid up and the Company have proved to the justice who is to certify under the fortieth section 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 appoint-
ment of a
receiver.

51. 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 three thousand pounds in the whole.

Mortgage to
comprise
purchase
money paid
on compul-
sory sale.

52. 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 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.

Indorsement
of notice of
power of
future pur-

53. 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 tramway in the event of its being purchased by

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the local authority under the 43rd section of the Tramways Act 1870 or under this Act.

chase by local authority.

54. All moneys to be borrowed on mortgage under 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 rentcharge 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.

Moneys borrowed on mortgage to have priority.

55. The Company shall not create debenture stock.

Company not to create debenture stock.

56. When in any year the clear profits of the Company shall amount to more than sufficient to pay a dividend at the rate of seven pounds ten shillings per centum per annum on the amount paid up on the ordinary shares of the Company the Company shall thenceforth pay to each corporation within whose borough the tramways are laid an annual rent at the rate of twenty pounds per mile and so in proportion for less than a mile for the use of the roads or streets within the boroughs respectively and such rent shall be calculated according to the length of the tramways in the said road or street and shall be payable half yearly by equal instalments on the first day of July and the first day of January in each year and the first payment of such rent shall be made on the first day of January next after the year in which such clear profits shall be sufficient to pay the dividend aforesaid. Any moneys which may from time to time be received by the corporations under this section shall be applied by them towards the expenses of improving repairing and maintaining the highways within their respective borough having regard in the first instance to the highways upon which the tramways are constructed.

Corporations to participate in surplus profits.

57. All moneys raised under this Act whether by shares or borrowing shall be applied for the purposes of this Act only.

Application of moneys.

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

First ordinary meeting.

59. 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.

Number of directors.

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Qualification
of directors.
Quorum.

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

61. The quorum of a meeting of directors shall be three and two if the number of directors shall be reduced to four or three.

First direc-
tors.

62. John Freeman, Paul Wallace Sharp and William Fairmaner Rowell and two other persons to be nominated by them or the majority of them and consenting to such 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 directors to supply the place of those not continued in office the directors appointed by this Act or nominated as aforesaid being if qualified 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 directors until others are elected in their stead in manner provided by the same Act.

Election of
directors.

Period for
completion
of works.

63. The Tramways Nos. 1 3 5 6 and 7 shall be completed and opened for public traffic within two years after the passing of this Act and Tramways Nos. 2 and 4 within two years after the Company shall be required in writing to construct the same by the Plymouth Corporation and if the tramways shall not be completed and opened for public traffic within the periods aforesaid then on the expiration thereof the powers by this Act granted to the Company for executing the same or otherwise in relation thereto respectively shall cease to be exercised.

Certain of
the tram-
ways to be
opened
together and
worked by
the Com-
pany as one
connected
system.

64. The Company shall not without the consent of the corporations open or use for public traffic any one or more of the Tramways Nos. 1 3 5 6 and 7 until all such tramways are completed but the whole of such tramways shall be opened simultaneously for public traffic and the Company shall from time to time bonâ fide work the whole of such tramways when so opened as one connected system and if either corporation shall at any time complain to the Board of Trade that the Company are not carrying out this provision according to its true intent and meaning that Board may direct an inquiry

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in the manner by this Act prescribed and upon the report of the referee may make such order as to them may seem fit having regard to the provisions of this section and the Company shall abide by and carry into effect every order to be so made.

A.D 1882.

65. If the Company do not substantially commence the works on such of the tramways as they shall be empowered to construct under this Act within twelve months from the passing of this Act and with reference to Tramways Nos. 2 and 4, within six months after obtaining the consent in writing of the Plymouth Corporation or if such works having been commenced are suspended without a reason sufficient in the opinion of the Board of Trade to warrant such suspension the powers given by this Act to the Company for constructing such tramways and executing such works or otherwise in relation thereto shall cease to be exercised except as to such of the same as shall be then completed unless the time be prolonged by the special direction of the Board of Trade.

Powers to cease in event of non-commencement or suspension of works,

66. A statement in writing by the Board of Trade to the effect that any tramway has not been completed and opened for public traffic or that the said works have not been substantially commenced or that they have been suspended without sufficient reason shall be conclusive evidence for the purposes of this and the preceding section of such non-completion non-commencement or suspension and the Company shall thereupon forthwith fill in the ground and make good the surface of any road in which they shall have commenced their works and to the satisfaction of the respective corporations restore such road and every part thereof to as good a condition as it was in before being opened or broken up and shall clear away all surplus paving metalling material or rubble occasioned by their works and if the Company shall fail or neglect so to do for forty-two days then the corporations respectively may exercise all the powers of removal and sale vested in them by this Act on the discontinuance of the tramways.

and Company to restore roads.

67. If the Company having commenced to work the traffic fail to work it on any of the tramways or any part thereof they shall be liable if such failure take place within either borough to pay to the corporation in which such failure shall occur a penalty for every day on which they fail to do so of not exceeding five pounds for each of the first three days and ten pounds per day afterwards to be recoverable in any court of summary jurisdiction. Provided always that the Company shall not be liable to any such penalty if the failure to work the tramway arises from any act of the corporation or their officers or from circumstances over which the Company have no control.

Penalty for not working tramway.

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Modification
of tramway
in certain
cases.

68. If at any time after the expiration of two years after the opening for public traffic of any tramway by this Act authorised the corporation of the borough in which such tramway or any part thereof is situate shall give notice in writing to the Company that in the opinion of such corporation the tramway or any part thereof specified in the notice is dangerous or inconvenient to the public and ought to be removed or modified the following provisions shall have effect—

- (A.) The corporation may by notice in writing require the Company to remove or modify the tramway or such part or parts thereof as shall be specified in the notice :
- (B.) If the Company within one calendar month after the service upon them of such last-mentioned notice give notice in writing under the common seal or under the hand of their secretary for the time being to the corporation that they desire that the question as to necessity or expediency of the removal or modification of the tramway or any part or parts thereof shall be referred to the decision of an arbitrator to be appointed by the Board of Trade the question shall be referred accordingly and upon the application either of the Company or of the corporation the Board of Trade shall appoint some impartial person as arbitrator and the award of the arbitrator with reference to the question so referred to him shall be final and conclusive as against all parties and the costs of the reference shall be in his discretion and the arbitrator by his award (whether the question referred to him be the necessity or expediency of the removal of the tramway or any part or parts thereof or any other question) may if he thinks fit direct the removal or modification of the tramway or any part or parts thereof :
- (c.) Within four calendar months after service upon the Company of notice as aforesaid by the corporation or as the case may be the publication of the award of an arbitrator appointed by the Board of Trade directing the removal or modification of any tramway or any part or parts of any tramway the Company shall remove or modify the same accordingly and if the tramway be modified the modification shall be in accordance with any direction with reference thereto contained in the notice or award as the case may be and the Company shall in either case make good the street in which the tramway or such part or parts thereof as aforesaid is or are situate to the satisfaction of the surveyor or engineer of the corporation. Provided always that if any modification which the Company may be required or directed to make in any tramway by any such notice or award

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shall be beyond their then existing powers the Company shall as soon as may be apply to Parliament for the necessary powers to make such modification and the provisions contained in the paragraph (d.) next following shall have effect unless and until the Bill to be introduced into Parliament by the Company in compliance with the above enactment be rejected by Parliament or withdrawn.

(d.) If the Company fail to remove or modify the tramway in accordance with the notice or order (as the case may be) or to make good the street in manner aforesaid the removal modification or making good may be effected by the corporation and the amount of the cost thereof certified by the surveyor or engineer for the time being of the corporation (whose certificate shall be final and conclusive with reference thereto) shall be repaid to the corporation by the Company.

(e.) If the Company fail to pay the amount so certified within one calendar month after delivery to them of the certificate or a copy of the certificate of the surveyor or engineer of the corporation the corporation may (but without prejudice to any other remedy which they may have for the recovery of the amount) sell and dispose of any materials of the tramway removed or modified which may remain in their hands either by public auction or private sale and for such sum or sums and to such person or persons as the corporation may think fit and may out of the proceeds of such sale pay and reimburse themselves the amount of the cost certified as aforesaid and of the cost of sale and the balance (if any) of the proceeds of such sale shall be paid over by the corporation to the Company.

69. The Company may from time to time purchase and acquire (by agreement) such land as they may require for their undertaking not exceeding in the whole three acres. Purchase of land by agreement.

70. 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 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 take easements &c. by agreement.

71. The Company may demand and take for every passenger travelling upon the tramway or any part or parts thereof including Tolls for passengers.

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A.D. 1882, tolls for the use of the tramway and of carriages and for motive power and every other expense incidental to such conveyance any tolls or charges not exceeding one penny per mile and in computing the said tolls and charges the fraction of a mile shall be deemed a mile but in no case shall the Company be bound to charge a less sum than twopence.

Passengers luggage.

72. Every passenger travelling upon the tramway may take with him his personal luggage not exceeding twenty-eight pounds in weight without any charge being made for the carriage thereof.

Cheap fares for labouring classes.

73. The Company at all times after the opening of the tramways or any part or parts thereof for public traffic shall and they are hereby required to run at least one carriage or more if required 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 artisans mechanics and daily labourers at such fares as may be from time to time fixed by the Board of Trade. 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.

Company not to carry animals or goods on tramways.

74. The Company shall not carry on the tramways any goods animals or other things other than passengers and passengers luggage not exceeding the weight in this Act in that behalf mentioned and small parcels.

Tolls for parcels &c.

75. The Company may demand and take in respect of any materials articles or things in small parcels conveyed by them any tolls or charges not exceeding the rates following (that is to say):

For any parcel not exceeding seven pounds in weight threepence:

For any parcel exceeding seven pounds and not exceeding fourteen pounds in weight fivepence:

For any parcel exceeding fourteen pounds and not exceeding twenty-eight pounds in weight sevenpence:

For any parcel exceeding twenty-eight pounds and not exceeding fifty-six pounds in weight ninepence:

For any parcel or thing exceeding fifty-six pounds in weight such sum as the Company may think fit:

As to payment of tolls.

76. The tolls and charges by this Act authorised shall be paid to such persons and at such places upon or near to the tramways

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and in such manner and under such regulations as the Company may by notice to be annexed to the list of tolls appoint. A.D. 1882.

77. A list of the tolls and charges authorised by this Act to be taken and which shall be exacted by the Company shall be exhibited in some conspicuous place on the inside of each compartment of the carriages used by the Company upon any of their tramways. List of tolls to be exhibited in carriages.

78. 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 road authority of any district in which the tramways or such portion of the tramways are or is wholly or partially situate or by twenty inhabitant ratepayers of any 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 authorised. Periodical revision of tolls.

79. With respect to notices and to the delivery thereof by or to the Company the following provisions shall have effect (namely): Form and delivery of notices.

1. Every notice shall be in writing or print or partly in writing and partly in print and if given by any road authority by being signed by their clerk or secretary:

2. Any notice to be delivered by or to the Company to or by any road authority or other body or any Company may be delivered by being left at the principal office of that authority body or company or of the Company as the case may be or by being sent by post in a registered letter addressed to their respective clerk or secretary at their principal office and every such letter shall be deemed to be received by the

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authority body or company or by the Company (as the case may be) on the day on which the same ought to be delivered at their principal office in the ordinary course of post.

Savingrights
of Her
Majesty's
Principal
Secretary of
State for the
War De-
partment.

80. And whereas it is necessary that the lands hereditaments and works belonging to Her Majesty or vested in Her Majesty's Principal Secretary of State for the War Department for the public service should be preserved intact and free from all intrusion or obstruction. Be it therefore enacted that nothing in this Act contained shall authorise the Company to enter upon use or interfere with any land soil or water or any right in respect thereof vested in or exercised by the said Principal Secretary for the time being or to take away lessen prejudice or alter any of the rights privileges or powers vested in or exercised by the said Principal Secretary for the time being without his previous consent signified in writing under his hand and which consent the said Principal Secretary for the time being is hereby authorised to give subject to such special or other conditions as he shall see fit to impose on the said Company.

Interest not
to be paid
on calls paid
up.

81. The Company shall not out of any money by this Act authorised to be raised by calls or by borrowing pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall 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.

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

82. 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.

Justices not
disqualified.

83. No justice of the peace shall be deemed incapable of acting in cases under this Act by reason of his being a member of the council of either corporation or by reason of his being a contributor or liable to contribute to the local rates.

Difference
between
Company
and road
authority.

84. If any difference arises between the Company on the one hand and either corporation on the other hand with respect to any interference or control exercised or claimed to be exercised by them or on their behalf or by the Company by virtue of this Act in rela-

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tion to the tramways or work or in relation to any work or proceeding of the corporation or with respect to the propriety of or the mode of execution of any work relating to any tramway or with respect to the amount of any compensation to be made by or to the Company or on the question whether any work is such as ought reasonably to satisfy the corporation or with respect to any other subject or thing regulated by or comprised in this Act the matter in difference shall (unless otherwise specially provided by this Act) be settled by an engineer or other fit person nominated as referee by two local justices of the peace sitting in petty sessions and having jurisdiction in the borough within which the tramway or work as to which the matter in difference shall arise is situate on the application of either party and the expenses of the reference shall be borne and paid as the referee directs.

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85. Nothing in this Act contained shall exempt the Company or the corporation in the event of their purchasing the tramways or any part thereof or 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.

Provision for
general Acts.

86. All costs and expenses incurred by the corporations respectively in connexion with or incident to the negotiations between them and the Company and the agreement and arrangement in this Act contained or in anywise relating thereto or to the passing of this Act shall be paid by the Company to such corporations respectively within six months after the passing of the Act and the Company shall within the like period pay to the Plymouth Embankment Company a sum of sixty guineas for and in respect of any costs they may have been put to in opposing or watching the progress of the Bill for this Act.

Costs of
road authorities &c.

87. Except as is by this Act otherwise expressly provided nothing in this Act contained shall extend or be construed to extend to take away abridge lessen prejudice or in any way affect or alter any of the estates rights interests jurisdictions powers authorities immunities advantages or privileges of or belonging or appertaining to the Plymouth Corporation and the Devonport Corporation and save as aforesaid they respectively shall and may have use exercise and enjoy the same as fully freely and effectually in all respects as they could or might have done if this Act had not been made and confirmed.

Saving of
rights.

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Valuation of
undertaking
in a certain
event.

88. In the event of either corporation exercising the power of purchase conferred by section 43 of the Tramways Act 1870 that section shall apply and take effect for the purpose of such purchase as if instead of the words "exclusive of any allowance for past or future profits of the undertaking" were inserted the words "exclusive of any allowance for goodwill or prospective increase in value."

Costs of Act.

89. 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.

SCHEDULE (A.).

Break 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 and
carriages.

The Board of Trade shall on the application of the local authority and may on complaint made by any person from time to time inspect any engine or carriage used on the tramways and the

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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. A.D. 1882.

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. As to speed.

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

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