



CHAPTER ccvii.

An Act to incorporate the Plymouth Tramways Company and to authorise the construction of certain Tramways in the Borough of Plymouth, in the County of Devon, and for other purposes. A.D. 1889.
[26th August 1889.]

WHEREAS the Plymouth Tramways Company, Limited (in this Act called "the Limited Company") were incorporated under the Companies Acts 1862 to 1886, with limited liability for the purpose of constructing, purchasing, maintaining, and working tramways in the county of Devon :

And whereas the capital of the Limited Company now consists of 25,000*l.*, divided into 2500 shares of 10*l.* each, of which 650 shares have been issued, and such shares are fully paid up :

And whereas the Limited Company have not issued any debentures :

And whereas by the Plymouth, Devonport and District Tramways Act, 1882 (herein-after referred to as "the Act of 1882") the Plymouth, Devonport and District Tramways Company (herein-after referred to as "the Old Company") were incorporated, with power to make certain tramways in the borough of Plymouth and the neighbourhood thereof, in the county of Devon :

And whereas by the Plymouth, Devonport and District Tramways Act, 1884 (herein-after referred to as "the Act of 1884") the time limited by the Act of 1882 for the construction of certain of the tramways thereby authorised was extended :

And whereas the Old Company constructed certain parts of the tramways which by the Act of 1882 were authorised to be constructed in the said borough of Plymouth, and the same were opened and used for public traffic; and the extended time limited by the Act of 1884 for the construction of the other parts of the tramways authorised by the Act of 1882 has expired :

And whereas by an order made by the Chancery Division of the High Court of Justice, in the year 1885, the Old Company were ordered to be wound up :

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And whereas the official liquidator of the Old Company agreed with William Henry Davis, on behalf of himself and Harry Cole, James Bailey, Henry Ingalton Sanders, and Thomas Alfred Skelton, for the sale of all the tramways which had been constructed by the Old Company as aforesaid (herein-after referred to as "the said existing tramways"), and by an indenture dated the twenty-eighth day of February, 1888, the Old Company and the said liquidator assigned to the said William Henry Davis, Harry Cole, James Bailey, Henry Ingalton Sanders, and Thomas Alfred Skelton (amongst other things), all the said existing tramways and the undertaking thereof :

And whereas the said William Henry Davis, Harry Cole, James Bailey, Henry Ingalton Sanders, and Thomas Alfred Skelton, afterwards agreed with the Limited Company, for the sale to the Limited Company of (amongst other things) all the said existing tramways, and the undertaking thereof, in consideration of certain shares in the capital of the Limited Company :

And whereas the said shares have been duly allotted and issued by the Limited Company pursuant to the last-mentioned agreement and the sale thereunder has in other respects been completed, but no assignment of the said existing tramways or the undertaking thereof to the Limited Company has been executed :

And whereas it is expedient that the Limited Company should be dissolved and re-incorporated with further and other powers :

And whereas it is expedient that such provisions as are herein-after contained should be made for transferring to and vesting in the Company the said existing tramways and the rights and powers of the Old Company under the Act of 1882 in relation thereto :

And whereas it is expedient that the Company should be authorised to abandon and remove certain parts of the said existing tramways :

And whereas it is expedient that the Limited Company when re-incorporated (herein-after referred to as "the Company"), should be empowered to construct the additional tramways in the borough of Plymouth herein-after described :

And whereas it is expedient that such further powers as are herein-after contained be conferred upon the Company in relation to the said existing tramways and to the proposed tramways :

And whereas plans and sections showing the lines and levels of the tramways authorised by this Act, and also books of reference to those plans were duly deposited with the clerk of the peace for the county of Devon, and 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 (that is to say) :—

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1. This Act may for all purposes be cited as the Plymouth Tramways Act, 1889. Short title.

2. The following Acts and parts of Acts, namely :—The Companies Clauses Consolidation Act, 1845, Parts I. and II. (relating to cancellation and surrender of shares, and to additional capital) of the Companies Clauses Act, 1863, as amended by the Companies Clauses Act, 1869, the Lands Clauses Consolidation Act, 1845 (except the provisions with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by the promoters of the undertaking), the Lands Clauses Consolidation Acts Amendment Act, 1860, section 3 (interpretation of terms), section 19 (local authority may lease and take tolls), and Parts II. and III. of the Tramways Act, 1870, so far as the same respectively are applicable to and are not varied by or inconsistent with the provisions of this Act, are hereby incorporated with and form part of the provisions of this Act. Incorporation of Acts.

3. 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 : Interpretation of terms.

“The Company” means the Company incorporated by this Act :

“The tramways” (except where any particular tramways, authorised by this Act, or by the Act of 1882, are expressly mentioned) means and includes the tramways by this Act authorised, and also the said existing tramways :

“The undertaking” means the undertaking of the Company :

“The Corporation” means the mayor, aldermen and burgesses of the borough of Plymouth :

“The borough” means the borough of Plymouth :

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 in 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

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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.

Incorporation of Company.

4. From and after the passing of this Act the Limited Company shall be dissolved, and the several persons and corporations who immediately before the passing of this Act were members of that Company, and all other persons and corporations who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be and they are hereby united into a Company for the purposes herein-after mentioned, and shall be and are hereby incorporated by the name of "the Plymouth Tramways Company," and by that name shall be a body corporate with perpetual succession and a common seal, with power to purchase, take hold, and dispose of lands and other property for the purposes of this Act.

General purposes of Company.

5. The Company shall be established for acquiring, constructing, maintaining, and working the tramways, and for carrying the powers of this Act into execution.

Transfer of existing tramways.

6. After the passing of this Act the said existing tramways, and the undertaking thereof, and all the rights, powers, authorities, obligations and liabilities which by the Act of 1882, or the Act of 1884, were conferred upon or vested in, or made exerciseable by, or were binding upon the Old Company (so far as the same are now subsisting and capable of taking effect) in respect of such existing tramways, and the maintenance, user, working and traffic thereof shall, subject to the provisions of this Act, be transferred to and vested in, and (so far as such rights, powers and authorities are subsisting) may be exercised by and shall attach to the Company as if the Company had been authorised by the Act of 1882 to construct, maintain, and work such tramways.

Property vested in Company incorporated by this Act.

7. Subject to the provisions of this Act, all other parts (if any) of the undertaking of the Limited Company, and all the lands, erections, buildings, powers, rights, interests, and easements which immediately before the passing of this Act were vested in the Limited Company or in any person in trust for them or to which the Limited Company were in anywise entitled, and all carriages, horses, rails, plant, apparatus, stock, effects, matters, and things which immediately before the passing of this Act were the property of the Limited Company, and all moneys, securities, credits, effects, and other property whatsoever which immediately before the passing of this Act belonged to the Limited Company or to any trustee on their behalf, and the benefit of all contracts and engagements entered into by or on behalf of the Limited Company, and imme-

diately before the passing of this Act in force shall be and the same are hereby vested in the Company to the same extent and for the same estate and interest as the same were previously to the passing of this Act vested in the Limited Company or any trustees on their behalf, and may, according to the provisions of this Act, be held and enjoyed, sued for, and recovered, maintained, altered, discontinued, removed, dealt with, and disposed of by the Company as they think fit.

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8. Subject to the provisions of this Act, the memorandum and articles of association of the Limited Company shall, as to any prospective operation thereof, be wholly void, and the Company and the shareholders shall be exempted from all the provisions, restrictions, and requirements of the Companies Acts 1862 to 1886, but nothing in this Act contained shall release or discharge any person from any liability or obligation in respect of any breach of the provisions of the said memorandum and articles of association incurred before the passing of this Act, but such liability or obligation in respect of any such breach shall continue, and save as in this Act otherwise provided may be enforced by or on behalf of the Company as nearly as may be in like manner as the same might have been enforced by or on behalf of the Limited Company if this Act had not been passed.

Memorandum of association of the Limited Company to be void without prejudice to remedies for antecedent breaches thereof.

9. Except as is by this Act otherwise expressly provided, everything before the passing of this Act done or suffered by or with reference to the Limited Company or the members thereof as such shall be as valid as if the Company had not been incorporated and the said memorandum and articles of association had not been avoided by this Act, and such incorporation and avoidance and this Act respectively shall accordingly be subject and without prejudice to everything so done or suffered, and to all powers, rights, liabilities, claims, and demands, both present and future, which, if the Company were not incorporated, and the said memorandum and articles of association were not avoided by this Act, and this Act were not passed, would be incidental to or consequent on any and everything so done or suffered; and with respect to all such powers, rights, liabilities, claims, and demands, the Company shall to all intents and purposes represent the Limited Company, and the members thereof as such, and the property of the Limited Company as the case may be, and the generality of this enactment shall not be restricted by any of the other clauses and provisions of this Act.

Nothing to affect previous rights and liabilities.

10. Except as is by this Act otherwise expressly provided, all purchases, sales, conveyances, grants, assurances, deeds, contracts, bonds, and agreements entered into or made before the passing of

Contracts prior to the passing of this Act to be binding.

A.D. 1889. — this Act by, to, or with the Limited Company, or any trustees or persons acting on behalf of the Limited Company, or by, to, or with any other person to whose rights and liabilities they have succeeded, and now in force, shall be as binding and of as full force and effect in every respect against or in favour of the Company, and may be enforced as fully and effectually as if, instead of the Limited Company or the trustees or persons acting on behalf of the Limited Company, the Company had been a party thereto.

Actions,
&c., not to
abate.

11. Nothing in this Act contained shall release, discharge, or suspend any action, suit, or other proceeding at law or in equity which was pending by or against the Limited Company, or any member thereof, in relation to the affairs of the Limited Company, or to which the Limited Company, or any member thereof, in relation to such affairs, were parties immediately before the passing of this Act, but any such action, suit, or other proceeding may be maintained, prosecuted, or continued by or in favour of or against the Company, as the case may be, in the same manner and as effectually and advantageously as the same might have been maintained, prosecuted, and continued by or in favour of or against the Limited Company, or any member thereof, if this Act had not been passed, the Company and shareholders therein being, in reference to the matters aforesaid, in all respects substituted for the Limited Company and its members respectively.

Trustees of
Limited
Company
to be indem-
nified.

12. Every trustee or other person in whom or in whose name any lands, works, buildings, easements, rights, property, or effects belonging to the Limited Company were vested immediately before the passing of this Act, and who (being authorised so to do) entered into any bond, covenant, contract, or engagement in respect of the same or otherwise on behalf of the Limited Company shall be indemnified out of the funds and property of the Company against all liability (including costs, charges, and expenses) which he may sustain or incur or be put unto by reason of his having entered into such bond, covenant, contract or engagement.

Company to
satisfy
liabilities of
Limited
Company.

13. From and after the passing of this Act, and except as is by this Act otherwise expressly provided, the Company shall in all respects be subject to and shall discharge all obligations and liabilities to which the Limited Company, immediately before the passing of this Act, were subject, and shall indemnify the members, directors, officers and servants of the Limited Company and their respective representatives from all such obligations and liabilities and from all expenses and costs in that behalf.

Recovery of
sums due.

14. All sums of money which immediately before the passing of this Act were due or accruing to the Limited Company shall be

payable to and may be collected and recovered by the Company in like manner as if they had become payable for the like matters supplied or done under this Act. A.D. 1889.
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15. All persons who immediately before the passing of this Act owed any money to the Limited Company, or to any person on their behalf, shall pay the same with all interest (if any) due or accruing upon the same to the Company, and all debts and moneys which immediately before the passing of this Act were due or recoverable from the Limited Company, or for payment of which the Limited Company were or but for this Act would be liable, shall be paid with all interest (if any) due or accruing upon the same by or be recoverable from the Company. As to payment of debts owing before passing of Act.

16. Notwithstanding the avoidance of the said memorandum and articles of association, all certificates (until cancelled under the powers of this Act), sales, transfers, and dispositions heretofore made or executed under them for and with respect to any shares in the Limited Company shall remain in full force, and continue and be available in all respects as if the said memorandum and articles of association had not been avoided. Certificates &c., to remain in force.

17. All documents, books, and writings, which, if the said dissolution and avoidance had not taken place would have been receivable in evidence, shall be admitted as evidence in all courts of law and equity, and elsewhere, notwithstanding such dissolution and avoidance. Books, &c., continued evidence.

18. All the officers and servants of the Limited Company who were in office immediately before the passing of this Act shall hold and enjoy their respective offices and employments, together with the salaries and emoluments thereto annexed, until they resign the same or be removed therefrom by the Company, and shall have the like powers and authorities for the purposes of this Act, and for carrying the same into execution, and shall be subject and liable to the like conditions, obligations, pains and penalties, and to the like powers of removal, and to the like rules, restrictions and regulations in all respects whatever, as if they had been appointed under this Act. Officers to continue until removed.

19. The books kept by the Limited Company for entering the names and designations of the members thereof, with the number of their shares, and the proper distinguishing number of each share, shall, until some other register of shareholders shall be provided by the Company continue to be kept for the same purpose by the Company, and shall be taken and considered as the register of shareholders required to be kept by the Companies Clauses Consolidation Act, 1845. Present registers of members to be continued.

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Power to
make
tramways
according
to deposited
plans.

20. Subject to the provisions of this Act the Company may construct, maintain, and work in the lines, and according to the levels shown on the deposited plans and sections, the tramways herein-after described, with all proper rails, plates, sleepers, works and conveniences connected therewith. The tramways herein-before referred to and authorised by this Act will be situate in the parishes of Charles-the-Martyr and Saint Andrew, in the borough of Plymouth, in the county of Devon, and are:—

A tramway (No. 1) — Three furlongs 3·84 chains in length (whereof two furlongs 7·24 chains is single line, and 6·60 chains is double line), commencing by a junction with the existing tramway in Tavistock Road (otherwise Mutley Plain), at a point 1·00 chain or thereabouts from the intersection of the Huntiscombe Road and Tavistock Road, measured in a northerly direction, passing thence in a southerly direction along Tavistock Road, and terminating therein at a point 1·80 chains, or thereabouts from the intersection of Portland Place and Tavistock Road, measured in a northerly direction.

A tramway (No. 2)—9·44 chains in length (whereof 7·54 chains is single line, and 1·90 chains is double line), commencing by a junction with Tramway No. 1 at its termination, passing thence in a southerly direction along Tavistock Road (otherwise Tavistock Street), and terminating therein at a point 1·00 chain or thereabouts from the intersection of Pound Street and Tavistock Road (otherwise Tavistock Street), measured in a northerly direction.

A tramway (No. 3)—1·55 chains in length (wholly single line), commencing by a junction with Tramway No. 2 at its termination, passing thence in a southerly direction along Tavistock Road (otherwise Tavistock Street), and terminating therein at a point 0·55 chain or thereabouts from the intersection of Pound Street and Tavistock Road (otherwise Tavistock Street), measured in a southerly direction.

A tramway (No. 4)—3·14 chains in length (whereof 1·14 chains is single line and 2·00 chains is double line) commencing by a junction with Tramway No. 3, at its termination, passing thence in a southerly direction along Tavistock Road (otherwise Tavistock Street) and terminating therein at a point 0·20 chain or thereabouts from the intersection of Duke Street and Tavistock Road (otherwise Tavistock Street) measured in a southerly direction.

A tramway (No. 5)—One furlong 4·68 chains in length (whereof one furlong 2·68 chains is single line and 2·00 chains is double line) commencing by a junction with Tramway No. 1, at its

termination, passing thence into and along Tavistock Place and Tavistock Road (otherwise Tavistock Street) in a southerly direction and terminating in the last-named road (or street) by a junction with the termination of Tramway No. 4.

A tramway (No. 6)—5·08 chains in length (whereof 4·33 chains is single line and 0·75 chain is double line) commencing by a junction with Tramways Nos. 4 and 5, at their terminations, passing thence along Tavistock Road (otherwise Tavistock Street) and Old Town Street in a southerly direction and terminating in the last-named street at a point at the intersection or thereabouts of Drake Street and Old Town Street.

A tramway (No. 7)—1·73 chains in length (wholly single line), commencing by a junction with Tramway No. 6 at its termination, passing thence along Old Town Street in a southerly direction, and terminating therein at a point 0·85 chain or thereabouts from the intersection of Ebrington Street and Old Town Street, measured in a northerly direction.

A tramway (No. 10)—2·00 chains in length (wholly single line), commencing by a junction with Tramway No. 2 at its termination, passing thence along Tavistock Road (otherwise Tavistock Street) and Pound Street in a south-westerly direction, and terminating in the last-named street at a point 0·60 chain or thereabouts from the intersection of Compton Street and Pound Street, measured in an easterly direction.

A tramway (No. 11)—1·61 chains in length (wholly single line), commencing by a junction with Tramway No. 3 at its termination, passing thence along Tavistock Road (otherwise Tavistock Street) and Pound Street in a north-westerly direction, and terminating in the last-named street by a junction with the termination of Tramway No. 10.

A tramway (No. 12)—3·30 chains in length (wholly single line), commencing by a junction with Tramways Nos. 10 and 11 at their termination, passing thence along Pound Street and Cobourg Street in a westerly direction, and terminating in the last-named street at a point 0·85 chain or thereabouts from the intersection of Cobourg Street and Saltash Street, measured in a north-westerly direction.

A tramway (No. 13)—5·24 chains in length (wholly single line), commencing by a junction with Tramway No. 12 at its termination, passing thence along Cobourg Street in a north-westerly direction, and terminating therein by a junction with the existing tramways at a point 0·40 chain or thereabouts from

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the intersection of Richmond Street and Cobourg Street, measured in a north-westerly direction.

A tramway (No. 15)—1·90 chains in length (wholly single line), commencing by a junction with Tramway No. 7 at its termination, passing thence along Old Town Street and Market Avenue in a westerly direction, and terminating in the Old Cattle Market at a point 0·50 chain or thereabouts east of the north-eastern entrance gates to the Plymouth Market.

Provided that with respect to Tramways Nos. 2, 3, and 10, the Company shall not lay down the same or any part thereof without the previous consent in writing of the corporation under seal.

Provided further that with respect to Tramways Nos. 5, 6, 7, and 15, the Company shall not lay down any tramways in Tavistock Road and Tavistock Place, unless and until they shall have acquired such portion of the following houses and gardens, namely:—No. 37, Tavistock Road, the house and garden adjoining the same in Tavistock Place, on the north side thereof, and the garden of No. 1, Tavistock Place, as are necessary for making Tavistock Road and Tavistock Place respectively from the south-west corner of No. 37, Tavistock Road aforesaid, to the north-east corner of Tavistock Place, of the minimum width of 36 feet respectively, and shall have cleared the sites and dedicated the same to the use of the public as part of Tavistock Road and Tavistock Place respectively.

For protection of Compton Gifford local board.

21. If so much of the tramway, described in the Act of 1882 as "Tramway No. 1," as is situate within the district of the Compton Gifford local board is not completed and opened for public traffic within three months from and after the time limited by this Act for the completion of the tramways by this Act authorised, then the powers by this Act, and the Acts of 1882 and 1884, conferred upon the Company in relation thereto, so far as relates to the tramway within the district of the Compton Gifford local board, shall cease and determine.

Evidence of non-completion.

22. A statement in writing by the Board of Trade to the effect that the tramway has not been completed and opened for public traffic shall be conclusive evidence for the purposes of this and the preceding section of such non-completion, and the Company shall thereupon forthwith remove so much of the tramway, described in the Act of 1882 as "Tramway No. 1," as is situate within the district of Compton Gifford, and fill in the ground and make good the surface of the road, and to the satisfaction of the Compton Gifford local board 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 rubbish occasioned by such removal; and if the Company shall fail or neglect so to do for the space of forty-two days, then the local board may, if they think fit, themselves forthwith remove the tramway, and do all works necessary for the restoration of the road to the extent in this section mentioned, and the expense incurred by them in so doing shall on demand be repaid to them by the Company.

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

Correction of errors in deposited plans and books of reference.

24. The Company may enter into agreements with the corporation with respect to the acquisition of the land or property referred to in section 20 of this Act, and the contribution or provision by the corporation and the Company respectively, or either of them, of the expenses incidental thereto, or any part thereof or any of such matters, and may carry the same into effect: Provided that the purposes of such agreements shall, so far as regards the corporation, be deemed to be purposes of the Public Health Act, 1875, and any such agreements shall be carried into effect by the corporation under and subject to the provisions of that Act.

Company may enter into agreements with corporation as to the acquisition of land or property.

25. Subject to the provisions of this Act, the tramways and works hereby authorised shall be completed within two years from

Period for completion of works.

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the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing the same respectively or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Restriction on taking houses of labouring class.

26. The Company shall not under the powers of this Act, or of any Act as extended by this Act, without the consent of the Local Government Board, purchase or acquire in any city, borough, or other urban sanitary district, or in any parish or part of a parish not being within an urban sanitary district, ten or more houses which, after the passing of this Act, have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

The expression "labouring class" in this section includes mechanics, artisans, labourers and others working for wages, hawkers, costermongers, persons not working for wages, but working at some trade or handicraft without employing others, except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them.

Capital.

27. The capital of the Company shall be twenty-two thousand pounds in two thousand two hundred shares of ten pounds each.

Substitution of shares in Company for shares in Limited Company.

28. Upon the passing of this Act the several persons who immediately before the passing of this Act were the registered holders of shares in the Limited Company shall respectively be entitled by way of substitution for the shares held by them in the Limited Company to the like number of shares in the Company, that is to say, one share in the Company for each share in the Limited Company, and such shares shall be vested in them accordingly. Every share so vested shall be deemed to be paid up to the same extent and no more as the share in the Limited Company for which it is substituted, and any amount remaining unpaid upon any such shares may be called up in the same manner as if the shares were issued to new subscribers under the authority of this Act.

Substituted shares to be subject to same trusts as shares for which they are substituted.

29. Every share vested under the foregoing provisions of this Act shall be subject and liable to the same bequests, trusts, powers, provisions, declarations, agreements, charges, liens and encumbrances as immediately before the passing of this Act affected the share in the Limited Company for which it is substituted, and so as to give effect to and not revoke any testamentary disposition of or affecting the same.

30. The Company shall call in and cancel the existing certificates of shares of the Limited Company, and issue in lieu thereof certificates of the substituted shares, in the form and under the conditions prescribed by the Companies Clauses Consolidation Act, 1845, but the holders of such existing certificates of shares shall not be entitled to any certificates of proprietorship of shares under this Act until they shall have delivered up to the Company to be cancelled the certificates of proprietorship issued to them before the passing of this Act, or shall have proved to the reasonable satisfaction of the Company the loss or destruction thereof.

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Company shall call in and cancel existing share certificates and issue new certificates in lieu thereof.

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

Shares not to be issued until one fifth paid.

32. 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.

Calls.

33. The Company may convert into stock the whole or any part of the capital if and when fully paid up.

Power to convert shares into stock.

34. If any money is payable to a holder of shares or stock or mortgages in the Company, 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.

35. The Company may from time to time borrow on mortgage of the undertaking any sum or sums not exceeding in the whole one fourth of the capital by this Act authorised to be raised: Provided that the Company may borrow any sum or sums not exceeding in the whole two thousand seven hundred pounds when one half of the capital (including the shares to be substituted for shares in the Limited Company as aforesaid) shall have been issued and accepted and one half of the shares (other than the shares to be substituted for shares in the Limited Company as aforesaid) shall have been paid up, and the Company may borrow a sum or sums not exceeding in the whole two thousand seven hundred pounds, when the remaining one half of the capital shall have been issued and accepted and one half shall have been paid up, but no part of such respective sums of two thousand seven hundred pounds shall be borrowed until the required amount of capital is issued and accepted, and one half thereof except as aforesaid is paid up, and the Company have proved to the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act, 1845,

Power to borrow.

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before he so certifies that the whole of such required amount of capital has been issued and accepted, and that one half thereof except as aforesaid has been paid up, and that not less than one fifth part of the amount of each separate share in such required amount of capital except as aforesaid has been paid on account thereof before or at the time of the issue or acceptance thereof and that such amount of capital was issued bonâ fide, and is held by the persons or corporations to whom the same was issued, or their executors, administrators, successors, or assigns and that such persons or corporations, their executors, administrators, successors, or assigns are legally liable for the same, and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given which shall be sufficient evidence thereof.

For appointment of a receiver.

36. 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 hundred pounds in the whole.

Mortgage to comprise purchase money paid on compulsory sale.

37. 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 purchase by local authority.

38. Every mortgage deed granted by the Company under this Act shall be indorsed with notice that such mortgage will not be a charge upon the tramways in the event of their being purchased by the local authority under the 43rd section of the Tramways Act, 1870, or under this Act.

Company not to create debenture stock.

39. The Company shall not create debenture stock.

Application of moneys.

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

First ordinary meeting.

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

Number of directors.

42. The number of directors shall be not less than three nor more than seven.

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43. The qualification of a director shall be the possession, in his own right, of not less than thirty shares.

Qualification of directors.
Quorum.

44. The quorum of a meeting of directors shall be three.

45. James Bailey, William Henry Davis, Archibald Claude Dunlop, Henry Ingaltton Sanders and Thomas Alfred Skelton 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 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 being, if they continue 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 varying 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.

46. The auditors need not hold shares in the Company.

Auditors not required to hold shares.

47. The Company may from time to time purchase, and acquire by agreement, such land as they may require for the purposes of their undertaking, not exceeding in the whole five acres, in addition to any land at the date of the passing of this Act belonging to the Limited Company, and may at any time sell and dispose of any such land or any part thereof, and in like manner acquire other land, provided that the quantity of land to be purchased by the Company does not at any time exceed the said quantity: Provided that nothing in this Act shall exonerate the Company from any action, indictment, or other proceeding for nuisance, in the event of any nuisance being caused by them upon any lands acquired under the powers of this section.

Power to purchase lands.

48. The Company may erect on any lands they may acquire under the powers of this Act any offices, stables, sheds, workshops, or other buildings for the purposes of their undertaking, and may at any time sell, let, or dispose of the same or any part thereof.

Company may erect offices, stabling, &c.

49. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell or convey, and release lands, may, if they think fit, subject to the provisions of that Act, and of the Lands

Power to take easements, &c., by agreement.

A.D. 1889. — 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.

Gauge of tramways.

50. 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 and six inches in width, except with the consent of the corporation.

As to rails of tramways.

51. The rails of the tramways shall be such as the surveyor for the time being of the borough of Plymouth and the Board of Trade may approve.

Extending to this Act certain sections of Act of 1882.

52. The sections herein-after mentioned of the Act of 1882 shall (so far as they are not inconsistent with the provisions of this Act, and except so far as the same respectively relate solely to tramways which were authorised to be constructed in any district not within the borough of Plymouth) extend and apply to the Company and to the tramways by this Act authorised, as if the same were repeated in this Act, and as if the tramways by this Act authorised formed part of the tramways authorised by the Act of 1882, viz.— sections 14 to 17, both inclusive, sections 19 to 45, both inclusive, sections 5, 67, and 68, sections 71 to 78, both inclusive, and sections 80, 83, 84, 87, and 88.

Carrying of mails by Company.

53.—(1.) The Company, if required by the Postmaster-General, shall perform with respect to any tramway owned or worked by them, all such reasonable services in regard to the conveyance of mails as Her Majesty's Postmaster-General from time to time requires, provided as follows:—

(a.) Nothing in this section shall authorise the Postmaster-General to require mails in excess of the following weights to be carried by the Company in or upon any carriage (that is to say):—

(i.) If the carriage is conveying, or intended to convey passengers and not goods or parcels, then in excess of the maximum weight for the time being fixed for the luggage of ordinary passengers; and

(ii.) If the carriage is conveying or intended to convey parcels only, then in excess of such maximum weight as

is for the time being fixed for ordinary parcels, or if that maximum appears to the Postmaster-General to be so low as to exclude him from availing himself of the use of any such carriage, then as is for the time being fixed by agreement, or in default of agreement by a referee to be appointed at the request of either party by the Lord Chief Justice of England; and

(iii.) If the carriage is conveying or intended to convey both parcels and passengers, but not goods, then in excess of the maximum weight for the time being fixed for ordinary parcels or for the luggage of ordinary passengers, whichever is the greater.

(b.) Mails when carried in or upon a carriage conveying passengers, shall be so carried as not to inconvenience the passengers, but so, nevertheless, that the custody of the mails by any officer of the Post Office in charge thereof shall not be interfered with.

(c.) Nothing in this section shall authorise the Postmaster-General to require any mails to be carried by the Company in or upon a carriage conveying or intended to convey passengers, but not goods or parcels, except in charge of an officer of the Post Office travelling as a passenger.

(d.) If the Company carry goods as well as passengers and parcels, the enactments relating to the conveyance of mails by railway shall, subject to the provisions of this section, apply in like manner as if the Company were a railway company, and the tramway were a railway.

(2.) The remuneration for any services which have been performed by the Company in pursuance of this section, shall be such as may be from time to time determined by agreement between Her Majesty's Postmaster-General and the Company, or in default of agreement by a referee to be appointed by the Lord Chief Justice of England at the request of either party, and this provision shall have effect in lieu of any provisions respecting remuneration contained in the enactments relating to the conveyance of mails by railway, which are applied by this section.

(3.) For the purposes of this section, the expression "mails" has the same meaning as in the Regulation of Railways Act, 1873, and includes parcels within the meaning of the Post Office (Parcels) Act 1882.

36 & 37 Vict.
c. 48.
45 & 46 Vict.
c. 74.

(4.) For the purposes of this section a requisition by Her Majesty's Postmaster-General may be signified by writing under the hand of any person who is at the time either such Postmaster-General, or a secretary or assistant secretary of the Post Office, or

A.D. 1889. — the Inspector-General of Mails, and any document purporting to be signed by any such person as aforesaid shall, until the contrary is proved, be deemed without proof of the official character of such person, to have been duly signed as required by this section.

Repeal of certain sections of Acts of 1882 and 1884.

54. Section 64 of the Act of 1882, and so much of section 35 of that Act as provides that carriages used on the tramways may be moved by steam power, and also so much of sections 37, 44, and 45 of the same Act as relates to the use of steam power, and section 7 of the Act of 1884 are hereby repealed.

Provisions of Acts of 1882 and 1884 not to apply to Company except as to existing tramways.

55. None of the provisions of the Act of 1882, or the Act of 1884, in respect to any of the tramways authorised by the Act of 1882, other than such existing tramways as aforesaid, shall attach to or be obligatory upon the Company.

Provisions for protection of Corporation of Plymouth.

56. The following provisions for the protection and benefit of the corporation shall apply and have effect (that is to say) :—

- (1.) In this section the expression “ tramways,” means the existing tramways within the borough of Plymouth as now laid, or as they may hereafter be altered or reconstructed under this or any other Act, and the tramways by this Act authorised to be constructed ; the expression “ existing tramways ” shall include the tramways as reconstructed or altered under the said Acts ; and the expression “ borough surveyor ” means the surveyor for the time being of the borough of Plymouth.
- (2.) The Company shall not use steam power for the purpose of moving carriages on the tramways nor, except with the previous consent of the corporation under seal, use any other mechanical power for that purpose.
- (3.) Within one month after the passing of this Act the Company shall pay to the corporation the amount, which in the opinion of the borough surveyor will be required for putting so much and such portions of the streets forming the tramway routes from Westwell Street to West Hoe, and from the intersection of Richmond Street and Cobourg Street to Townsend Hill, as the Company will, under their Acts, be under an obligation to keep in repair after the passing of this Act, and also of the tramway rails on the same routes, in good and substantial order and condition ; and the corporation shall, on receipt of the moneys so to be paid to them, expend the same or such part thereof as the borough surveyor shall think necessary, in putting such streets and rails in good order and condition, and until such payment to the corporation shall have been made the Company shall not run any carriages on the tramways, except as herein-after provided, nor shall the

Company be at liberty to commence any works in respect of the tramways authorised to be constructed by this Act, until such payments shall have been made.

(4.) The Company shall, within three months from the passing of this Act, pay to the corporation, as a contribution towards the cost of the street improvement recently carried out at the junction of Bedford Street and Westwell Street, the sum of 100*l.*, or so much thereof as shall not have been received by the corporation from the Old Company.

(5.) Within two months from the passing of this Act the Company shall remove so much of the existing tramways as are laid down in Richmond Street, Russell Street, and Bedford Street, to a point opposite to the north-west side of Basket Street, at its junction with Westwell Street, and in Princess Square from the southern end of Westwell Street, along Princess Place and Notte Street, and shall restore and make good the streets from which the tramways shall have been removed to the satisfaction of the borough surveyor, and the Company shall not run any carriages on any part of their existing or authorised tramways until the conditions imposed by this sub-section have been complied with, nor shall the Company be at liberty to commence any works in respect of the tramways authorised to be constructed by this Act until the works required by this sub-section to be carried out by the Company have been executed: Provided that, on payment to the corporation of the amount which in the opinion of the borough surveyor will be necessary for putting the streets forming the southern section (that is to say, the tramway route from Westwell Street to West Hoe) in good order and condition, and, upon the execution by the corporation of that work (which they are hereby required to execute with all reasonable despatch after the receipt of such amount) the Company shall be at liberty to work the said southern section of their tramways until the expiration of the time limited for the construction of the tramways by this Act authorised, but not afterwards without the consent in writing of the corporation, unless such tramways are constructed within that time.

(6.) Before the Company open or break up any road within the borough of Plymouth they shall prove, to the satisfaction of the corporation, that at least 10,000*l.* of the capital of the Company, including the sum represented by the 650 fully paid up shares of the Limited Company, has been issued and accepted, and that such capital was issued bonâ fide, and is

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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.

- (7.) The corporation may at any time, and from time to time, and for such periods as they may think fit, take upon themselves the repairing, maintaining, or repaving of such portions of any road whereon any of the tramways are laid, as under the Tramways Act, 1870, the Act of 1882, or this Act, the Company are bound to maintain and keep in good condition and repair for the whole or any part of the length of the tramway laid upon such road, and that, notwithstanding that the Company may have theretofore repaired or maintained the same or any part thereof: Provided that the corporation shall, by one month's previous notice in writing to the Company, state when the corporation intend to take upon themselves such repairing, maintaining, or repaving, and if the corporation give such notice, they shall execute such repairs, maintenance, or repaving from and after the time and for the period mentioned in that behalf in such notice.
- (8.) The materials to be used in such repairing, maintaining, or repaving by the corporation, shall be in the discretion of the corporation, and the Company shall not, during the period mentioned in any such notice as aforesaid, interfere in any way in the repair, maintenance, or repaving of such portions of any such roads as in pursuance of such provisions as aforesaid, the corporation are or may become liable to repair, maintain, or repave.
- (9.) The Company shall pay to the corporation all the net expenses of repairing, maintaining, and repaving of such portions of such roads as shall be repaired, maintained, or repaved by the corporation, and as, but for this and the preceding sub-sections, the Company would have been under the Tramways Act, 1870, the Act of 1882, or this Act, bound to repair, maintain, or repave, together with 5% per centum on such expenses, and the amount of such expenses to be paid from time to time by the Company under this sub-section, shall be such sums as shall be certified from time to time by the borough surveyor to be payable, and such amounts shall be paid by the Company on demand.
- (10.) In order to secure the payments by the Company of the amounts to be paid by them to the corporation under the last preceding sub-section, the Company shall, on each of the usual quarter days, deposit with the corporation the amount

which the borough surveyor may certify to be, in his judgment, the amount which will be required to be paid by the Company under the said sub-section for the works to be executed during the next ensuing quarter; and the corporation shall be at liberty to apply the moneys so deposited, or any part thereof, in or towards payment of any amount payable by the Company as aforesaid in respect of work executed during such quarter, or remaining unpaid in respect of works executed previously thereto; and at the end of each quarter the amount (if any) not so applied, or so much thereof as may not be required, shall be carried forward on account of the deposit to be made for the next quarter; and if any sum be so carried forward as aforesaid, the Company shall for such quarter only deposit such an amount (if any) as will be required to make up the sum to be deposited as aforesaid.

(11.) If the Company do not within two years from the passing of this Act complete the tramways by this Act authorised within the borough of Plymouth, except as to Tramways Nos. 2, 3, and 10, and as to Tramways Nos. 2, 3, and 10, within two years after the streets where they are authorised or proposed to be laid are widened to the satisfaction of the corporation, and open the same, and also the existing tramways, so far as the same are not required to be removed by this Act, for public traffic, or if within twelve months from the passing of this Act the works on such of the tramways as the Company shall be empowered to construct under this Act, are not substantially commenced, or if the works having been commenced are suspended without a reason sufficient in the opinion of the Board of Trade to warrant such suspension, or if after the opening of any tramways the Company, for reasons insufficient in the opinion of the Board of Trade, discontinue the working of such tramways or any part thereof for the space of three months, the powers by this Act conferred on the Company for constructing and working such tramways within the borough of Plymouth or otherwise in relation thereto, and also all powers conferred or vested in the Company by this Act with reference to the existing tramways, shall cease, and the Company shall not apply to Parliament for an extension of the time without the consent in writing of the corporation under seal.

(12.) 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 on such of the tramways as the Company shall be empowered to construct under this

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Act have not been substantially commenced, or that they have been suspended without sufficient reason, or that after the opening of the tramways the Company have discontinued the working of such tramways or any part thereof shall be conclusive evidence for the purposes of this and the preceding sub-section of such non-completion, non-opening, non-commencement, suspension, and discontinuance, and the Company shall thereupon forthwith remove the tramways, rails, and works laid down by them in any road, and fill in the ground and make good the surface of any road in which they shall have laid down rails or commenced works, and to the satisfaction of the borough surveyor 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, metal, material, or rubble occasioned by their works; and if the Company shall fail or neglect so to do for forty-two days, then the corporation may with reference to such tramways and works respectively exercise all the powers of removal and restoration and making good of roads and sale vested in them by this Act, or the Act of 1882, or the Tramways Act, 1870, in like manner as if the Board of Trade had in respect of such tramways made an order under section 41 of the Tramways Act, 1870, declaring that the powers of the Company should be at an end, and had also granted a certificate under the same section for the removal thereof as a discontinued tramway: Provided that in regard to the existing tramways the Board of Trade may, notwithstanding the expiration of the time for the construction of such tramways, grant a certificate for the opening of the same.

- (13.) The Company shall not, without the consent of the corporation, open or use for public traffic, any one or more of the tramways by this Act authorised, and numbered 1, 4, 5, 6, 7, 11, 12, 13 and 15, until all such tramways are completed, and the whole of such tramways shall be opened simultaneously for public traffic and worked with the existing tramways extending from Townsend Hill to the intersection of Huntiscombe Road with Mutley Plain, and thence through Huntiscombe Road, North Road, and Cobourg Street, to the intersection of the last-mentioned street with Richmond Street, and the Company shall from time to time bonâ fide work the whole of such authorised and existing tramways as aforesaid when so opened as one connected system, and if at any time the corporation 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 a local inquiry, and upon the report of the referee may make such order as to them may seem fit, having regard to the provisions of this sub-section, and the Company shall abide by and carry into effect any order to be so made.

(14.) The corporation may attach to any consent which they may give under this Act such terms and conditions and limit the same for such period as they may think fit, and all works which the Company are required or empowered to execute under the Tramways Act, 1870, the Act of 1882, or this Act, shall be executed in all respects to the satisfaction of the borough surveyor.

(15.) In case the Company neglect or fail to execute any works which they are required to carry out under this Act, or the Act of 1882, or the Tramways Act, 1870, within the time prescribed, or where no time is prescribed within such period as the borough surveyor may prescribe, or in case the Company do not execute the same works to the satisfaction of the borough surveyor, then and in every such case the corporation, if not otherwise expressly authorised under the said Acts so to do, shall be at liberty if they shall think fit (but shall not be under any obligation) to execute or make good such works, and the Company shall on demand pay to the corporation all such sums as the corporation shall expend in or about the works, and as the borough surveyor shall certify to be properly payable in respect thereof, together with interest thereon at the rate of 5*l.* per centum per annum from the date of such certificate.

(16.) All costs and expenses incurred by the corporation 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 the passing of this Act, shall be paid by the Company to the corporation within six months after the passing of this Act.

57. The provisions contained in the Act of 1882 with regard to the carriages used on the tramways being moved in certain events by mechanical power, shall be construed and have effect as if the expression "mechanical power" included electricity and electrical power.

Provisions as to mechanical power to include electricity.

58. The carriages used upon the tramways may, subject to the provisions of this Act and with the consent in writing of the Board of Trade during a period of seven years after the date of such consent being given, and with the like consent during such further

Cable system and other apparatus may be used on tramways.

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periods of 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, be moved by means of haulage with wire ropes, cables, chains, electrical apparatus or other appliances placed underground in connexion with stationary engines or otherwise, or by means of electrical power or any mechanical power used under or upon or applied to the rails: Provided that all the provisions in the Act of 1882 contained with regard to carriages moved by steam power or mechanical power shall apply to carriages moved by means of such haulage, apparatus, appliances, or power as aforesaid, under this section.

Provision
for protec-
tion of the
Postmaster-
General.

59. In the event of any tramways of the Company being worked by electricity the following provisions shall have effect:—

(1.) It shall not be lawful for the Company to lay down any line or rail, or to do any act or work for working the tramways by electricity, whereby any telegraphic line of the Postmaster-General is or may be injuriously affected; and before any such line or rail is laid down, or any such act or work is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs, or the laying of lines crossing the line of the Postmaster-General at right angles at the point of shortest distance, and so continuing for a distance of six feet on each side of such point), the Company or their agents, not more than twenty-eight nor less than fourteen days before commencing such work, shall give written notice to the Postmaster-General, specifying the course of the line or rail and the nature of the work, including the gauge of any wire.

(2.) It shall not be lawful for the Company to maintain any line or rail, or to do any act or work for working the tramways by electricity, whereby any telegraphic line of the Postmaster-General, subsequently laid down or placed by him, is or may be injuriously affected: Provided that this sub-section shall not apply if it be proved that ordinary and proper precautions have not been taken in the laying down or placing of such telegraphic line, or that the same has been laid down or placed in unreasonably close proximity to the line or rail of the Company.

(3.) 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 any line, rail, act, or work of the Company.

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- (4.) Any difference which arises between the Postmaster-General and the Company or their agents with respect to any requirements so made shall be determined by the Board of Trade, whose decision shall be final, and sections 30 to 32, both inclusive, of the Regulation of Railways Act, 1868, shall apply in like manner as if the Company or their agents were a company within the meaning of that Act. 31 & 32 Vict. c. 119.
- (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 ten pounds for every day during which such contravention or non-compliance continues, or, if the telegraphic communication is wilfully interrupted, not exceeding fifty pounds for every day on which such interruption continues.
- (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 the act or execution of the work was required to avoid an accident or otherwise was a work of emergency, and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the act or work was done a notice of the execution thereof, stating the reason for doing or executing the same without previous notice.
- (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 two, eight, nine, ten, eleven, and twelve of the Telegraph Act, 1878, shall be deemed to be incorporated with this Act, as if the Company were undertakers within the meaning of those sections, without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted. 41 & 42 Vict. c. 76.

60. The powers hereby conferred, so far as the same relate to the working of the tramways by means of haulage with wire ropes, cables, chains, electrical apparatus, or other appliances placed underground shall not be exercised by the Company without the consent in writing of the corporation as the road authority of the district, and the corporation are hereby empowered to give such

Conditions of user by cable system, &c.

A.D. 1889. — consent upon and subject to such terms and conditions as they may think fit, so that such terms and conditions shall not be unreasonable or inconsistent with the provisions of this Act, and they are hereby empowered, on the giving of any such consent, to make it a condition that such consent may be revoked at the expiration of three years from the laying down or alteration of such tramways respectively on such system in case at the expiration of such period the surveyor of the corporation certify that such system is dangerous to the public.

Company may lay down and maintain works necessary for using cable system, &c.

61. If and whenever the Company shall have authority under the provisions of this Act to work the tramways or any of them by means of haulage with wire ropes, cables, chains, electrical apparatus, or other appliances placed underground, the Company may construct, lay down and execute, and maintain all such tubes, openings, passages, grooves, rails, plates, works, apparatus, and things as may be requisite for the purpose of so working the tramways or of providing access to or communication with any stationary engines or machinery: Provided that no such works or things shall be constructed, laid, or placed above the level of the road, and all powers, restrictions, and provisions relating to the construction and maintenance of the tramways respectively, under or by virtue of this Act or the Act of 1882, shall apply and have effect with regard to the construction, execution, and maintenance of such works and things as aforesaid:

Provided, nevertheless, that the powers conferred by this section and sections 57 and 58 shall not be exercised in respect of any tramways laid, or authorised to be laid, in roads on the West Hoe Estate, except with the consent in writing of the owners of that estate.

Limited speed of tramway traffic past Plymouth Public Schools.

62. For the protection of the scholars attending the Plymouth Public Schools, situate in Cobourg Street, during the hours of their assembling and dismissal: Be it provided that the speed at which engines, trucks, or carriages may be driven or propelled along any portion of the tramways situate in that street for the length of such schools, and for a distance of fifty yards approaching and beyond the said schools, shall not exceed a walking pace in the case of cars or tramway vehicles drawn by horses, and, in the case of engines, cars, or other tramway vehicles propelled by steam or other mechanical power, greater than three miles per hour: Provided that such limitation of speed as aforesaid shall only be applicable on the days when the said schools are open for instruction, and then only during the following times, namely:—Between 8.45 and 9.30 in the forenoon; 11.50 in the forenoon, and 12.15 in

the afternoon; 1.30 and 2.5, and 4 and 4.15 in the afternoon; and for enforcing the observance of the above regulations this section shall be treated as though it were a byelaw made for the purpose by the local authority for the district in which the tramways are situate, under the provisions of the Tramways Act, 1870, and any person offending against or committing a breach thereof shall be liable to a penalty not exceeding forty shillings.

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63. For the protection of the Western Counties and South Wales Telephone Company, Limited, its successors and assigns (in this section called "the Telephone Company") the following provisions shall have effect in the event of any tramways of the Company being worked by electricity otherwise than by electrical power carried along with the carriages (that is to say) :—

For the protection of the Western Counties and South Wales Telephone Company, Limited.

(1.) The Company shall so construct their electric circuits and other works of all descriptions, and shall so work their tramways in all respects as to prevent any injurious interference by induction or otherwise with the electric circuits from time to time used or intended to be used by the Telephone Company for the purpose of telephonic communication or with the currents in such circuits: Provided that as regards electric circuits erected or laid down by the Telephone Company after the construction of the works of the Company, this sub-section shall only apply if reasonable and proper precautions have been taken in the erection or laying down of such circuits, and if they have not been erected or laid down in unreasonably close proximity to the lines or works of the Company.

(2.) Seven days before commencing to lay down any electric line or to supply electricity through any electric line in any manner whereby the work of telephonic communication through any wires or lines belonging to the Telephone Company and lawfully laid down or placed in any position by them may be injuriously affected, the Company shall, unless otherwise agreed with the Telephone Company, give to that company notice in writing specifying the course, nature, and gauge of such electric line, and the amount and nature of the current intended to be sent along the same, and the Company shall conform with such reasonable requirements as may from time to time be made by the Telephone Company for the purpose of preventing the communication through such wires or lines from being injuriously affected as aforesaid.

(3.) If any difference arises between the Company and the Telephone Company with respect to anything in this section

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contained, such difference shall be determined by the Board of Trade, whose decision shall be final, and sections 30 to 32, both inclusive, of the Regulation of Railways Act, 1868, shall apply in like manner as if the Company and the Telephone Company were companies within the meaning of that Act.

(4.) Nothing in this section shall apply to repairs or renewals of any electric line so long as the course, nature, and gauge of such electric line and the amount and nature of the current sent along the same are not altered.

Deposit
money not
to be repaid
except so
far as line
is opened.

64. 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 20, a sum of 647*l.* 2*l.* 15*s.* Consolidated Stock, equal to five per cent. upon the amount of the estimate in respect of the tramways, and street improvements originally proposed to be authorised by this Act has been deposited with the Paymaster-General for and on behalf of the Supreme Court of Judicature in England, in respect of the application to Parliament for this Act: And whereas certain parts of the tramways originally proposed are not authorised by this Act and 14*l.* 11*s.* of the said sum of Consolidated Stock is attributable to the said parts of the tramways originally proposed and not authorised by this Act, and the sum of 250*l.* of the said sum of Consolidated Stock is attributable to the said street improvements, and the balance of the said sum, namely 255*l.* 9*s.* Consolidated Stock 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 tramways by this Act authorised open the same for the public conveyance of passengers: Provided that if within such period as aforesaid the Company open any section of the tramways by this Act authorised for the public conveyance of passengers, then, on the production of a certificate of the Board of Trade, specifying the length of the section of the tramways opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the tramways so opened bears to the entire length of the tramways hereby authorised the High Court of Justice in England 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 specified, 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.

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

Application
of deposit.

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Release of
balance of
money
deposited.

66. On the application of the depositors at any time after the passing of this Act, the High Court of Justice may and shall order that the sum of 391*l.* 11*s.*, 2*l.* 15*s.* Consolidated Stock, part of the sum originally deposited as aforesaid in respect of the tramways and street improvements proposed to be authorised by this Act and the interest and dividends thereof shall be transferred or paid to the depositors or to any other person or persons whom they may appoint in that behalf.

Justices not
disqualified.

67. 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 the corporation, or by reason of his being a contributor or liable to contribute to the local rates.

Production
of byelaws.

68. The production of a printed or written copy of any byelaws made under the authority of this Act, or the recited Acts, or the Tramways Act, 1870, authenticated by the signature of any secretary or assistant secretary of the Board of Trade, shall, without proof of the signature of such secretary or assistant secretary, be *primâ facie* evidence of the existence of such byelaws, and that all preliminaries requisite to the making and operation thereof have been duly observed and fulfilled.

Provisions as
to arbi-
tration.

69. When under the provisions of the Tramways Act, 1870, and this Act, any matter in difference is referred to the arbitration of any person nominated by the Board of Trade, the provisions of the Common Law Procedure Act, 1854, shall apply to every such arbitration, and the decision of the arbitrator shall be final and conclusive, and binding on all parties.

Form and
delivery of
notices.

70. With respect to the notices to be delivered under this Act, or the recited Acts, and to the delivery thereof by or to the Company, the following provisions shall have effect, namely:—

Every notice shall be in writing or print, including lithograph, or partly in writing and partly in print, and shall be sufficiently authenticated if given by the corporation or the Company by being signed by their clerk or secretary.

Any notice to be delivered by or to the Company, to or by the corporation, or any company, may be delivered by being left at the principal office of the corporation or 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 corporation, 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.

71. The Company shall, if required by the corporation, as the road authority, make contracts with the corporation for all or any of the purposes for which contracts may be made between the promoters of any tramway undertaking and a road authority under the authority of section 29 of the Tramways Act, 1870, provided always that the terms of any contracts shall in case the same are not agreed upon by the Company and the corporation be determined by a referee to be appointed by the Board of Trade for such purpose.

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Company to contract with the corporation.

72. No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of 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 calls actually made as is in conformity with the Companies Clauses Consolidation Act, 1845.

Interest not to be paid on calls paid up.

73. 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.

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

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

Tramways not exempt from provisions of general Act.

75. 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.

Expenses of Act.

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