CHAPTER cxcix.

An Act to confer further powers upon the Oldham and Saddleworth District Tramways Company for the construction of a tramroad and for other purposes. A.D. 1905.

[11th August 1905.]

WHEREAS by the Saddleworth and Springhead Tramways Act 1902 (hereinafter referred to as "the Act of 1902") the Saddleworth and Springhead Tramways Company (hereinafter called "the Company") were incorporated and were empowered to construct and maintain the tramways therein described in the west riding of the county of York and in the county of Lancaster:

And whereas by the Saddleworth and Springhead Tramways Act 1904 (hereinafter referred to as "the Act of 1904") the Company were authorised to abandon Tramways Nos. 3 and 4 authorised by the Act of 1902 and the name of the Company was changed to the Oldham and Saddleworth District Tramways Company and the capital powers of the Company were amended:

And whereas by section 82 of the Act of 1902 the Company were authorised to make application for a Provisional Order under the provisions of the Electric Lighting Acts 1882 and 1888 to supply electrical energy for public and private purposes within any district in which the tramways were situate or to take a transfer of any Provisional Order granted for the like purpose in respect of any such district and to supply electrical energy thereunder and to apply their funds for such purposes:

And whereas by the Saddleworth Electric Lighting Order 1902 and by the Springhead Electric Lighting Order 1902 (both

A.D. 1905.

of which Orders were confirmed by the Electric Lighting Provisional Orders (No. 3) Act 1902) the Saddleworth and Springhead Urban District Councils (in this Act referred to as "the councils") were respectively authorised to supply electrical energy throughout their respective districts and it was provided by section 8 of each of the said Orders that at any time within one year after the commencement of the said Orders (which period was extended by the Act of 1904 to the 31st day of December 1905) the councils might respectively with the consent of the Board of Trade transfer the undertakings authorised by the said Orders to the Company:

And whereas it is expedient that the Company be empowered to construct the tramroad hereinafter described:

And whereas it is expedient that the respective periods limited by the Act of 1902 for the compulsory purchase of lands and for the construction and completion of the tramways and works authorised by that Act should be extended as by this Act provided and that the period during which the Company are by the Act of 1902 authorised to pay out of any money by that Act authorised to be raised interest or dividends upon the amount paid up from time to time in respect of shares in the capital of the Company should be also extended:

And whereas the Company are desirous of taking a transfer of the Saddleworth Electric Lighting Order and the Springhead Electric Lighting Order but under section 82 of the Act of 1902 they are unable to obtain a transfer until the tramways authorised by the Act of 1902 have been constructed and it is expedient to amend section 82 of the Act of 1902 so as to enable the Company to take a transfer of the Saddleworth Electric Lighting Order and the Springhead Electric Lighting Order before the tramways have been constructed so that the Company may proceed with the construction of the tramways and the works for the supply of electricity at the same time:

And whereas it is expedient that the dates of commencement of the Saddleworth and Springhead Electric Lighting Orders should be deferred:

And whereas it is expedient that the Company be authorised to raise additional capital and that the further powers in this Act contained be conferred upon them:

And whereas plans and sections showing the lines and levels of the tramroad by this Act authorised and also a book of

reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the west riding of the county of York and with the clerk of the peace for the county of Lancaster and are hereinafter respectively referred to as the deposited plans sections and book of reference:

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

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

Short title.

1. This Act may be cited as the Oldham and Saddleworth District Tramways Act 1905.

Incorporation of general Acts.

2. The following Acts and parts of Acts (that is to say):—

The Companies Clauses Consolidation Act 1845;

Part I. (relating to cancellation and surrender of shares) and Part II. (relating to additional capital) of the Companies Clauses Act 1863 as amended by subsequent Acts;

The Lands Clauses Acts;

Sections 6 to 14 16 18 to 24 30 to 44 68 to 75 77 to 92 96 to 106 and 108 to 111 (so far as the same are not repealed) of the Railways Clauses Consolidation Act 1845; and

Sections 3 (Interpretation of terms) and 19 (Local authority may lease or take tolls) and Parts II. and III. except section 43 (Future purchase of undertaking by local authority) of the Tramways Act 1870;

so far as they are applicable to and are not varied by or inconsistent with the provisions of this Act are incorporated with and form part of this Act and shall apply to the undertaking Provided that the provisions of the Railways Clauses Consolidation Act 1845 shall apply only to such parts of the tramroad by this Act authorised as are not laid along the carriageway of any road and for the purposes thereof the

A.D. 1905.

tramroad shall be deemed to be a railway and the Company shall be deemed to be a railway company Provided further that the provisions of Part II. of the Tramways Act 1870 herewith incorporated shall apply only to the tramway unless otherwise expressly provided.

Interpretation.

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

"The tramroad" means the tramroad by this Act authorised;

"The tramway" means that portion of the tramroad which is laid down on the carriageway of any public street or road;

"The undertaking" means the undertaking of the Company under the Acts of 1902 and 1904 and this Act;

"The Act of 1902" means the Saddleworth and Springhead Tramways Act 1902;

"The Act of 1904" means the Saddleworth and Springhead Tramways Act 1904;

The word "contingencies" in section 122 of the Companies Clauses Consolidation Act 1845 shall with reference to the Company have the same meaning as is prescribed by the Act of 1902.

Power to make tramroad.

4. Subject to the provisions of this Act the Company may make form lay down work use and maintain in the lines and according to the levels and within the limits of deviation shown on the deposited plans and sections the tramroad hereinafter described with all necessary and proper rails plates foundations sleepers embankments cuttings bridges drains stations platforms gates junctions turntables turnouts crossings passing places pillars posts poles brackets wires engines dynamos approaches sidings buildings electrical sub-stations apparatus machinery appliances and works and conveniences connected therewith or incidental thereto and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for those purposes but nothing in this Act shall authorise the Company to lay down

the tramway otherwise than in accordance with the provisions of the Tramways Act 1870 incorporated herewith or the provisions of this Act.

The tramroad hereinbefore referred to and authorised by this Act will be situate in the west riding of the county of York and in the county of Lancaster and is—

A tramroad (part tramway partly single and partly double line) 6 furlongs 3·60 chains in length commencing at the boundary of the urban district of Springhead with the borough of Mossley in Under Lane at or near the junction of Butt Lane by a junction with Tramway No. 7 authorised by the Act of 1902 at its point of termination passing thence through private lands in the urban district of Springhead and the borough of Mossley thence along Waterton Lane and Lancaster Street and terminating by a junction with the existing tramway of the Stalybridge Hyde Mossley and Dukinfield Tramways and Electricity Board in Stamford Street in the borough of Mossley :

Provided nevertheless that no junction shall be made with the said existing tramway without the consent of the said board.

The length of the tramway is one furlong three chains.

For protection of Stalybridge Hyde Mossley and Dukinfield Tramways and Electricity Board.

5. The following provisions for the protection of the Stalybridge Hyde Mossley and Dukinfield Tramways and Electricity Board (hereinafter in this Act called "the board") shall except so far as may be otherwise agreed in writing between the board and the Company have effect (that is to say) :—

(1) The tramroad shall be constructed and electrically equipped by and at the cost of the Company and shall be adapted for the same system of traction as the tramways of the board and shall in all respects be constructed so as to be capable of being worked in connection with the tramways of the board and shall be constructed under the direction and superintendence and to the reasonable satisfaction of the engineer to the board and in accordance with plans sections and specifications previously submitted to and reasonably approved by him Provided nevertheless that the provisions of this subsection shall not be construed as imposing any obligation upon the Company to construct the tramroad but if the Company shall

A.D. 1905.

commence the construction of the tramroad they shall complete the same:

(2) The board may at any time after the tramroad has been constructed and within three years after the opening of the same for public traffic by notice in writing require the Company to sell and thereupon the Company shall sell and the board shall purchase the tramroad upon the terms of paying to the Company a sum representing the costs and expenses properly incurred by the Company in obtaining this Act and in the purchase of land for and in constructing the tramroad and in addition a sum equal to ten per centum thereon:

(3) In the event of the board purchasing the tramroad under the last preceding subsection the board and the Company shall respectively afford all reasonable facilities for the interchange and conveyance of through traffic between and over the tramways of the Company and the tramways of the board and the tramroad:

(4) The board shall supply to the Company and the Company shall take from the board in bulk all electrical energy required by the Company for the purpose of working the tramroad authorised by this Act:

(5) The Company shall give to the board not less than six months' notice in writing specifying the date whereon the Company will require the board to supply electrical energy under this section the point at which such supply is required to be given and the maximum power required to be supplied and thereupon the terms and conditions on which such supply is to be given shall failing agreement be settled by arbitration:

(6) The maximum power with which the Company shall be entitled to be supplied may be varied at any time on six months' notice by the Company to the board and the other terms and conditions on which the supply is to be given may be varied on the like notice at intervals of not less than five years:

(7) If any difference arises under this section between the board and the Company as to the construction of this

section or anything done or required to be done thereunder or as to whether any requirement is reasonable within the meaning of this section or as to such terms and conditions as aforesaid the same shall be referred to an arbitrator appointed (unless otherwise agreed) by the Board of Trade and the provisions of the Arbitration Act 1889 shall apply to such arbitration.

As to vesting of tramroad in board and financial provisions.

6.—(1) In the event of the board purchasing the tramroad under the last preceding section of this Act the tramroad shall vest in the board and all the rights powers and authorities of the Company in respect to the tramroad shall be transferred to vested in and may be exercised by the board as if the board were substituted for the Company in this Act and the Acts incorporated therewith so far as the same relate to the tramroad.

(2) The board may borrow at interest any sums of money which they may require for the purchase of the tramroad and for paying any expenses incurred by them incidental to such purchase in the like manner as if such moneys were required for the purposes of their tramway undertaking under the Stalybridge Hyde Mossley and Dukinfield Tramways and Electricity Board Act 1901 and the tramroad when purchased by the board shall be deemed to be part of their tramway undertaking for all the purposes of Part VI. (Financial Provisions) of that Act.

(3) The supply of electrical energy by the board for the purposes of this Act shall be deemed to be a purpose of the electricity undertaking of the board for all the purposes of the said Part VI. of the said Act of 1901.

Gauge of tramroad.

7. The tramroad shall be constructed on a gauge of four feet eight and a half inches or such other gauge as may from time to time be approved by the Board of Trade but carriages or trucks adapted to run on railways shall not be run thereon.

Power to deviate.

8. The Company in constructing the tramroad may deviate from the lines thereof shown on the deposited plans to any extent within the limits of deviation shown on those plans and they may deviate from the levels thereof shown on the deposited sections to the extent and subject to the conditions prescribed in the case of a railway by sections 11 12 and 14 of the Railways Clauses Consolidation Act 1845 as amended by section 4 of the Railways Clauses Act 1863.

A.D. 1905.

As to fencing of tramroad.

9. Notwithstanding anything contained in the provisions of the Railways Clauses Consolidation Act 1845 incorporated with this Act the Company shall not be bound to fence the line of the tramroad except when either before or within two years after opening of the tramroad for public traffic the owner of any land adjoining the same where the same is constructed on private land by notice in writing shall require the Company to erect a fence or fences between the line of the tramroad and the land of such owner on any part thereof Provided that if the fencing shall not be continuous throughout the whole of the line of the tramroad then cattle guards or other suitable contrivances shall where necessary be erected or constructed and maintained at the ends of the fencing so as to prevent cattle or horses from entering upon such line of tramroad.

Period for compulsory purchase of lands.

10. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease after the expiration of three years from the passing of this Act.

Period for completion of works.

11. If the tramroad be not completed within three years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for constructing the same or otherwise in relation thereto shall cease except as to so much thereof as shall be then completed.

Power to owners to grant easements &c.

12 Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege required for the purposes of this Act (not being an easement right or privilege of water in which persons other than the grantors have an interest) 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.

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

13. Whereas pursuant to the standing orders of both Houses of Parliament and to the Parliamentary Deposits Act 1846 a sum of four hundred and fifty pounds being five per centum upon the amount of the estimate in respect of the tramroad authorised by this Act was deposited with the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act and is hereinafter referred to as "the deposit fund" Be it enacted that notwith-

standing 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 the completion of the tramroad open the same for the public conveyance of passengers and if the Company shall make default in so opening the tramroad the deposit fund shall be applicable and shall be applied as provided by the next following section Provided that if within such period as aforesaid the Company open any portion of the tramroad 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 tramroad 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 tramroad so opened bears to the entire length of the tramroad the High Court shall on the application of the depositors order the portion of the deposit fund specified in the certificate to be paid or transferred to them or as they shall direct and the certificate of the Board of Trade shall be sufficient evidence of the facts therein certified and it shall not be necessary to produce any certificate of this Act having passed anything in the above mentioned Act to the contrary notwithstanding.

Application of deposit.

14. If the Company do not previously to the expiration of the period limited for the completion of the tramroad complete the same and open it for the public conveyance of passengers then 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 said tramroad or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Company by this Act and also in compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed in or on any road vested in or maintainable by the road authorities respectively and in making good all damage caused

A.D. 1905.

to such roads by the construction or abandonment of the tramway and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the High Court may seem fit And if no such compensation is payable or if a portion of the deposit fund has been found 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 if a receiver has been appointed or the Company is insolvent and has been ordered to be wound up or the undertaking is abandoned be paid or transferred to such receiver or to the liquidator or liquidators of the Company or be applied in the discretion of the Court as part of the assets of the Company for the benefit of the creditors thereof and subject to such application shall be repaid to the depositors 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.

Incorporation of certain sections of Act of 1902.

15.—(1) The sections of the Act of 1902 which are mentioned in the first part of the Schedule to this Act shall with the necessary alterations and modifications extend and apply to the tramroad and to the Company in relation thereto as if the same were re-enacted in this Act and as if the tramroad were therein mentioned as well as "the tramways."

(2) The sections of the Act of 1902 which are mentioned in the second part of the Schedule to this Act shall with the necessary alterations and modifications extend and apply (in addition to those contained in the said first part) to the tramway and to the Company in relation thereto as if the same were re-enacted in this Act and as if the tramway were therein mentioned as well as "the tramways."

Extending time for purchase of lands.

16. The powers granted to the Company by the Act of 1902 in respect to the compulsory purchase or taking of lands are hereby extended and shall continue in force until the eighth day of August one thousand nine hundred and seven.

Extension of time for construction of tramways and works.

17. The powers granted by the Act of 1902 for the construction and completion of the tramways and works thereby authorised other than the tramways abandoned under the Act of 1904 are hereby extended for a period of three years from the

eighth day of August one thousand nine hundred and five and on the expiration of that period those powers shall cease except as to so much of the said tramways and works as shall then be completed The said extended period shall with reference to the deposit fund mentioned in section 73 (Deposit money not to be repaid except so far as tramways are opened) and section 74 (Application of deposit fund) of the Act of 1902 be deemed to be the period limited by that Act for the completion of the tramways and works thereby authorised.

Amendment of section 82 of Act of 1902.

18. Section 82 of the Act of 1902 shall be amended by inserting after the words "within any district in which the tramways are situate" the words "or within any district in which tramways are authorised by this Act."

Deferring commencement of Saddleworth and Springhead Electric Lighting Orders 1902.

19. Notwithstanding anything contained in the Saddleworth Electric Lighting Order 1902 or in the Springhead Electric Lighting Order 1902 the expression "the commencement of this Order" contained in each of the said Orders shall be deemed to mean the date of the passing of this Act.

Power to apply existing capital to purposes of this Act.

20. The Company may appropriate and apply to all or any of the purposes of this Act being purposes to which capital is properly applicable any of the capital or moneys which under and by virtue of the recited Acts they are authorised to raise and which may not be required for the purposes of those Acts.

Power to raise additional capital.

21. The Company may subject to the provisions of Part II. of the Companies Clauses Act 1863 raise any additional capital not exceeding in the whole fifteen thousand pounds by the issue at their option of new ordinary shares or new preference shares or both but the Company shall not issue any share of less nominal value than ten pounds nor shall any such share vest in the person 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.

New shares to be subject to same incidents as other shares.

22. The capital in new shares created by the Company under this Act and the new shares therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares were shares in that capital.

New shares to form part of capital of Company.

23. The capital in new shares so created shall form part of the capital of the Company.

A.D. 1905.

Dividend on new shares.

24. Every person who becomes entitled to new shares shall in respect of the same be a holder of shares in the Company and shall be entitled to a dividend with the other holders of shares of the same class or description proportioned to the whole amount from time to time called up and paid on such new shares.

New and existing shares may be of same class.

25. Subject to the provisions of the Acts of 1902 and 1904 and this Act the Company may if they think fit raise by the creation and issue of new shares of one and the same class all or any part of the aggregate capital which they are by the Acts of 1902 and 1904 and this Act respectively authorised to raise by the creation and issue of new shares.

Power to borrow.

26. The Company may in respect of the additional capital of fifteen thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage of the undertaking in addition to the sums which they are already authorised to borrow any sum or sums not exceeding in the whole five thousand pounds but no part thereof shall be borrowed until the whole of the capital in respect of which it is borrowed is issued and accepted and one half thereof is paid up and the Company have proved to the justice who is to certify under 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.

Provisions with respect to appointment of a receiver.

27.—(1) Section 17 of the Act of 1902 is hereby repealed but without prejudice to any appointment heretofore made or to the continuance of any proceeding which may have been commenced under any such provisions previous to the passing of this Act.

(2) 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 five thousand pounds in the whole. A.D. 1905.

Existing mortgages to have priority.

28. All mortgages granted by the Company under the Act of 1902 which shall be subsisting at the passing of this Act shall during the continuance thereof have priority over all mortgages granted under the authority of this Act.

Company not to create debenture stock.

29. The Company shall not create debenture stock.

Payment of interest out of capital during construction.

30.—(1) Notwithstanding anything in this Act or in any Act or Acts incorporated herewith contained it shall be lawful for the Company out of any money by this Act or the Act of 1902 as amended by the Act of 1904 authorised to be raised to pay interest at such rate not exceeding three pounds per centum per annum as the directors may determine to any shareholder on the amount from time to time paid up on the shares held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by this Act and the Act of 1902 authorised or such less period as the directors may determine but subject always to the conditions hereinafter stated (that is to say):—

(A) No such interest shall begin to accrue until the Company have deposited with the Board of Trade a statutory declaration that two thirds at least of the share capital by this Act and by the Act of 1902 as amended by the Act of 1904 authorised to be raised or applied for the purposes of this and the said Acts and in respect of which such interest is intended to be paid has been actually issued and accepted and is held by shareholders who or whose executors administrators or assigns are legally liable for the same:

(B) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear:

(C) The aggregate to be so paid for interest shall not exceed ten thousand pounds and the amount so paid shall not be deemed share capital in respect of which the borrowing powers of the Company may be exercised but such borrowing powers shall be reduced to the extent of one third of the amount paid for interest as aforesaid:

A.D. 1905.

(D) Notice that the Company have power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares and in every certificate of shares:

(E) The half-yearly accounts of the Company shall show the amount of capital on which interest has been paid in pursuance of this section.

Save as hereinbefore set forth no interest or dividend shall be paid out of any share or loan capital which the Company are by this Act or by the Act of 1902 as amended by the Act of 1904 authorised to raise 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.

(2) Section 72 (Power to pay interest out of capital during construction) of the Act of 1902 is hereby repealed.

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

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

Provision as to general Tramways and Tramroads Acts.

32. Nothing herein contained shall be deemed or construed to exempt the Company or the tramroad from the provisions of any general Act relating to tramroads 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 tolls or charges authorised by this Act or the recited Act.

Saving rights of Stalybridge Hyde Mossley and Dukinfield Tramways and Electricity Board.

33. Nothing in this Act contained shall take away or restrict any powers rights or privileges vested in or exerciseable by the board or in any way prejudicially affect the exercise by the board of any such rights powers or privileges.

Costs of Act.

34. 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.

The SCHEDULE referred to in the foregoing Act.

Containing the Provisions of the Saddleworth and Springhead Tramways Act 1902 which are incorporated in this Act.

First Part.

Correction of errors &c. in deposited plans and books of reference ...	17
Inspection by Board of Trade	23
Shelters or waiting rooms	35
Rates for passengers	38
Passengers' luggage	39
Animals and goods	40
Cheap fares for labouring classes	41
As to fares on Sundays and holidays	42
Periodical revision of rates and charges	43
Penalty for malicious damage	46
Recovery of penalties	47
Orders and regulations	48
Provisions as to motive power	49
Special provisions as to use of electrical power	51
For protection of Postmaster-General	55
Power to acquire patent rights	57
Company and local authorities may contract to lease tramways or light railways in neighbouring districts	78
Junctions with other tramways or light railways	79
Agreements with local authorities as to supply of electrical energy ...	80
Agreements with local authorities as to removal of dust	81

Second Part.

Tramways to be kept on level of surface of road	26
Plans of proposed mode of construction of tramways	27
Tramrails	28
Penalty for not maintaining rails and roads	29
Local and road authorities to have access to sewers	30
Power to make additional crossings	31
Passing places to be constructed in certain places	32
Temporary tramways may be made where necessary	33
Application of road materials excavated in construction of works ...	34
Stopping of roads during execution of works	36
Repair of part of road where tramway is laid	37
Byelaws by Board of Trade	44

A.D. 1905.

Amendment of Tramways Act 1870 as to byelaws by local authority 45
Power to erect lay and maintain posts pipes and apparatus and to make openings in streets 50
Road authority to have right to use standards and brackets for lighting 52
Posts to be removed if user discontinued 53
Apparatus used for mechanical power to be deemed part of tramway ... 54
Agreements with road authority 75
For protection of Saddleworth and Springhead Urban District Councils and rural district council of Linehurst 76

Printed by EYRE and SPOTTISWOODE,
FOR
ROWLAND BAILEY, Esq., M.V.O., I.S.O., the King's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
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