CHAPTER cliv.

An Act to authorise the construction of a Marine Drive, Promenade, and Sea Defences, and of Carriage Roads and a Tramway, in the parishes of Walton-le-Soken and Frinton, in the county of Essex; and for other purposes. A.D. 1879.

[21st July 1879.]

WHEREAS the construction of a marine drive, with promenade and sea defences, and the execution of the other works in this Act described, in the parishes of Walton-le-Soken and Frinton, in the county of Essex, would be of great advantage in arresting encroachments of the sea and protecting therefrom lands and the Tendring Hundred Railway abutting thereon, and would also be of great advantage to the large number of persons frequenting the town of Walton-on-the-Naze during the summer months, and otherwise:

And whereas the construction of the tramway by this Act authorised, the formation, widening, and improvement of certain carriage roads in the said parishes, and the carrying into effect the other purposes of this Act in the manner by this Act provided, would be of public and local advantage:

And whereas the estimated expense of the works by this Act authorised is thirty thousand pounds, and the persons herein-after named, with others, are willing at their own expense to construct such works and to carry the undertaking by this Act authorised into execution, if empowered in manner by this Act provided, and it is expedient that for such purpose they should be incorporated into a company, and that such provisions should be made as are in this Act contained:

And whereas plans and sections showing the lines and levels of the works authorised by this Act, and also books of reference 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

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deposited with the clerk of the peace for the county of Essex, and are herein-after referred to as the "deposited plans, sections, and "books of reference":

And whereas the objects aforesaid 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:

Short title.

1. This Act may be cited as the Walton-on-the-Naze and Frinton Improvement Act, 1879.

Incorporation of Acts.

2. The following Acts and parts of Acts, as far as they are applicable for the purposes of and are not varied by or inconsistent with this Act, are hereby incorporated with this Act; (that is to say,)

8 & 9 Vict. c. 16.
26 & 27 Vict. c. 118.
32 & 33 Vict. c. 48.

The Companies Clauses Consolidation Act, 1845, Part I. (relating to cancellation and surrender of shares) and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863, and the Companies Clauses Act, 1869;

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, except sections 127 to 131 (both inclusive) of the Lands Clauses Consolidation Act, 1845;

8 & 9 Vict. c. 20.

The provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof; and for the purposes of such incorporation the expression "the railway" shall be construed to mean the roads and works by this Act authorised, and the expression "centre of the railway" shall be construed to mean the boundaries of the said roads and works; and

33 & 34 Vict. c. 78.

Section 3 (interpretation of terms), section 19 (local authority may lease or take tolls), and Parts II. and III. of the Tramways Act, 1870.

Interpretation of terms.

3. In the construction of this Act the following expressions shall have the meanings hereafter assigned to them respectively, unless there be something in the subject matter or context repugnant to such construction:

The expression "the Company" shall mean the Walton-on-the-Naze and Frinton Improvement Company incorporated by this Act:

The expression "the works" shall mean the marine drive, promenade, roads, sea defences, tramway, bath-houses, hotels, buildings, and other works by this Act authorised:

The expression "the tramway" shall mean the tramway and works connected therewith authorised by this Act:

The several words and expressions to which by the Acts incorporated with this Act meanings are assigned have in this Act the same respective meanings, unless there be something in the subject or context repugnant to such meaning.

Incorporation of Walton-on-the-Naze and Frinton Improvement Company.

Company incorporated.

4. Peter Schuyler Bruff, James Goodson, James Foxton Cass, 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 are hereby united into a company for the purpose of constructing the works by this Act authorised, with all proper approaches and conveniences connected therewith, and for the other purposes of this Act, and for those purposes shall be and are hereby incorporated by the name of the Walton-on-the-Naze and Frinton Improvement Company, and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

Capital.

5. The capital of the Company shall be seventy-five thousand pounds, in seven thousand five hundred shares of ten pounds each.

Shares not to be issued until one fifth paid.

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

Calls.

7. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and half of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt in case of persons not sui juris.

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

Power to borrow.

9. The Company may from time to time borrow on mortgage any sum not exceeding six thousand pounds in respect of every twenty-five thousand pounds of the subscribed capital, but no part thereof shall be borrowed in respect of any such sum of twenty-

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five thousand pounds until the whole of such sum of twenty-five thousand pounds is issued and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of such sum 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 may think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

Appointment of receiver.

10. 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 two thousand pounds in the whole.

Debenture stock.

11. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of moneys.

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

First ordinary meeting.

13. The first ordinary meeting of the Company shall be held within nine months after the passing of the Act.

Number of directors.

14. The number of directors shall not be less than three nor more than five but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualification of directors.

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

Quorum.

16. The quorum of a meeting of directors shall be three, but if the whole number of directors is only three, then two shall form a quorum.

First directors.

Election of directors.

17. Peter Schuyler Bruff, James Goodson, James Foxton Cass, and two persons to be nominated by them, or the majority of them, and consenting to such nomination, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or nominated as aforesaid, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act, or nominated as aforesaid, being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present in person or by proxy shall (subject to the power hereinbefore contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions of the Companies Clauses Consolidation Act, 1845, and the several persons elected at any such meeting, being neither removed nor disqualified, nor having died or resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Lands.

Power to take lands, &c.

18. Subject and according to the provisions of this Act, the Company may from time to time enter upon, take, and use all or any of the lands delineated on the deposited plans and described in the deposited books of reference which they may require for the purposes of this Act.

Power to stop up ways and extinguish rights.

19. Subject to the provisions of this Act, the Company may, for the purpose of the undertaking, stop up, vary, or extinguish all or any existing rights and privileges of way over or across any lands acquired by them compulsorily under the provisions of this Act, and they may, subject as aforesaid, and for the purpose aforesaid, extinguish all other rights or privileges in, over, or affecting such lands which may, in the opinion of the Company, interfere with them in carrying into effect any of the purposes of this Act.

Power to acquire additional lands, easements, &c. by agreement.

20. The Company may (in addition to the lands they are authorised to acquire and hold by the other powers of this Act) from time to time, for all or any of the purposes of this Act, by agreement, acquire in fee, either by purchase or by way of exchange or

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otherwise, any land not exceeding in the whole ten acres, or any easement, right, or privilege therein, thereunder, thereover, or thereupon (not being an easement or privilege of water) which may be deemed necessary by the Company, and may appropriate all or any part thereof for all or any of the purposes of this Act.

Consideration for such acquisition.

21. The consideration for any acquisition of land or of any easement, right, or privilege under the provisions of this Act may be either money or land, or any yearly sum or rentcharge or other rent, or a mixed consideration of money and land, and on any exchange the Company may give or take any money for equality of exchange.

Power to take easements, &c. by agreement.

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

Period for compulsory purchase of lands.

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

Company may sell or lease lands not required for purposes of Act.

24. Subject to the provisions of this Act, the Company may from time to time, if and when they think fit, sell, exchange, or otherwise dispose of all or any part of any lands acquired by them under the authority and not required for the purposes of this Act, in consideration of a gross or of an annual rent, or of both, or of any payment in any other form, or, at their option, they may demise or grant upon lease for any yearly rent, with or without fine, for such estate, term, or interest, and to such persons, and with, subject to, on, and under such reservations, covenants, terms, and conditions as the Company think fit, all or any part of such lands; and the Company may make any such sale or lease by public auction, public tender, or private contract, and with or without special conditions and stipulations as to evidence or commencement of title or otherwise, and may fix reserved biddings and prices, buy in at auctions, and alter or rescind, on terms or gratuitously, any contract or agreement for sale or lease, and the consideration or rent fixed thereby, and accept surrender of any lease and rent fixed thereby, and, either before or after such conveyance or lease is granted, may in like

manner sell and dispose of any rent reserved or agreed to be reserved for any such lands, and the reversion and inheritance in fee simple in possession, subject to any such lease or agreement of or concerning any such land, and execute and do all deeds and things necessary to effect the several purposes aforesaid.

Errors and omissions in plans, &c. to be corrected.

25. If any omission, mis-statement, or erroneous description has been made of any lands, or of the owners, lessees, or occupiers of any lands, described in the deposited plans or books of reference, it shall be lawful for the Company, after giving ten days notice to the owners, lessees, and occupiers of the lands affected by such proposed correction, to apply to two justices for the correction thereof, and if it appear to such justices that such omission, mis-statement, or erroneous description arose from mistake they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, mis-statement, or erroneous description, and in what respect any such matter has been mis-stated or erroneously described, and such certificate shall be deposited with the clerk of the peace for the county of Essex, and shall be kept by such clerk of the peace along with the documents to which they relate, and thereupon the said plans and books of reference shall be deemed to be corrected according to such certificate, and it shall be lawful for the Company to make the works by this Act authorised in accordance with such certificate.

Marine Drive, Roads, &c.

Power to make works.

26. Subject to the provisions of this Act, the Company may, in the lines and according to the levels shown on the deposited plans and deposited sections, and upon such of the lands delineated in that behalf on the deposited plans and described in the deposited books of reference as may be required for such purpose, make and maintain the following works; that is to say,

(1.) A marine drive, promenade, sea defence, and roadway, with all necessary slopes, groynes, and other works in connexion therewith, commencing at or near the front of Cliff House, in the parish of Walton-le-Soken, thence continuing in a south-westerly direction along the existing and partially protected road and path to the seashore at the bottom of the cliff, at or a little below ordinary high-water mark, to a point about ten chains beyond the parish boundary and into the parish of Frinton, there dividing, and terminating at a point on the shore about five chains further south-westward in the parish of Frinton, and at or adjacent to a

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point immediately southward of the western end of Pole Barn Yard, in the aforesaid parishes, or one of them:

(2.) A carriage road to be widened and improved, commencing in the parish of Walton-le-Soken in front of Cliff House aforesaid, passing in front of South and Everett Terraces and Pavilion Villas, thence in a south-westerly direction to a point about seven chains towards Burnt House, and from thence to be made in a south-westerly direction between the cliff and the Tendring Hundred Railway, and terminating at the road immediately southward of the western end of Pole Barn Yard aforesaid, in the parishes of Frinton and Walton-le-Soken, or one of them, which road is in this Act referred to as "Road A":

(3.) A carriage road in the parish of Frinton, commencing at or near the termination of the public carriage road immediately eastward of Frinton Church, thence passing in a southward and westerly direction to the seashore, and terminating thereat about four and a half chains north-east of Battery House, to protect the shore, and form a road and promenade between the said Battery House and a point immediately south-eastward of the before-referred-to road next Frinton Church, with all necessary slopes, groynes, and other works in connexion therewith, which road is in this Act referred to as "Road B":

(4.) The cutting down, sloping, draining, and planting of cliffs between the points aforesaid in the parishes of Walton-le-Soken and Frinton, embanking the foreshore, and more effectually protecting the same and adjoining lands from the sea.

Period for completion of works.

27. The works by this Act authorised, other than the tramway and roads, shall be completed within seven years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for executing such works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as may then be completed; provided that nothing in this Act contained shall restrain the Company from executing such works as may be necessary for maintaining, repairing, or strengthening or renewing the marine drive, promenade, sea defences, and roads, or any of the works by this Act authorised.

Lateral and vertical deviation.

28. The Company, in constructing the works or any of them by this Act authorised, may make deviations from the line or lines of such works not exceeding the limits of lateral deviation shown on

the deposited plans, and may deviate from the levels delineated on the deposited sections to any extent not exceeding two feet downwards and three feet upwards. A.D. 1879.

Opening of works for public use.

29. On the completion of each of the works by this Act authorised, the Company shall cause the same to be opened, and shall thenceforth maintain and keep the same open for public traffic, subject to the payment of tolls by this Act authorised, and subject to the provisions of this Act.

Tolls for roads, &c.

30. The Company may from time to time demand and take for the use of the marine drive, promenade, or roads, or any part thereof, such tolls as the Company may from time to time direct, not exceeding the sums following; (that is to say,)

For every horse, ass, mule, or other beast drawing any carriage, vehicle, or machine, fourpence;

For every horse or mule not drawing any carriage, vehicle, or machine, twopence;

For every donkey not drawing any carriage, vehicle, or machine, one penny;

For every ox or cow, twopence;

For every calf, one penny;

For every sheep or pig, one halfpenny;

For every bath-chair drawn by any person, twopence;

For every portable engine or machine drawn or propelled by any power other than animal power, sixpence;

For every passenger or person on foot (except the driver of any vehicle), one penny;

And the tolls hereby made payable shall on demand be paid before any person, animal, carriage, vehicle, or machine whatsoever liable to the payment thereof is permitted to pass on to the said marine drive, promenade, or roads.

And for the more conveniently collecting and receiving the said tolls, the Company may from time to time erect and maintain upon, across, and on the sides of the said marine drive, promenade, and roads respectively, such and so many toll-gates as they may think fit.

Exemptions from tolls on roads, &c.

31. No toll shall be demanded or taken by virtue of the preceding provisions of this Act in respect of the use of or passage over the marine drive, promenade, or roads for any person, horse, or carriage employed in or upon Her Majesty's service, nor from the commissioners for improving the town and parish of Walton, in the county of Essex, in the execution of their duties as such commissioners or as the urban sanitary authority, nor from any

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officer of such commissioners or authority in the execution of his duties.

List of tolls to be exhibited on a board.

32. A list of all the tolls authorised by the preceding provisions of this Act to be taken shall be published by the same being painted upon one toll-board or more in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and such board shall be exhibited at every toll-gate where such tolls are made payable.

Tolls to be taken only whilst board exhibited.

33. No tolls shall be demanded or taken by the Company under the preceding provisions of this Act during any time at which the boards herein-before directed to be exhibited are not exhibited.

Power to vary or reduce tolls.

34. The Company may, subject to the provisions of this Act, from time to time vary or reduce all or any of the tolls by the preceding provisions of this Act made payable for such time as they think proper, and may again raise the tolls so varied or reduced, or any part thereof, so that the same do not exceed the tolls hereby made payable, and the tolls so varied, reduced, or again raised shall be collected and recovered in the same manner as the tolls by the preceding provisions of this Act made payable are authorised or directed to be collected and recovered.

Company may appoint and remove collectors.

35. The Company may from time to time appoint a collector or collectors of tolls, and may from time to time discharge any collector of tolls appointed by them and appoint some other person to be a collector of tolls in his stead.

Powers for enforcing payment of tolls.

36. If any person subject to the payment of any toll by the preceding provisions of this Act made payable, or any person having charge of any animal, carriage, vehicle, or machine in respect of which toll is made payable by the said provisions, after demand made thereof by any collector appointed to receive tolls, neglects or refuses to pay the same or any part thereof, it shall be lawful for such collector, by himself or taking such assistance as he may think necessary, to stop and prevent the passage of the person so neglecting or refusing, or of the animal, carriage, vehicle, or machine for or in respect of which such toll ought to have been paid until full payment thereof be made, or to seize and distrain any such animal, together with the bridles, saddles, gear, harness, and accoutrements thereunto belonging, or any carriage, vehicle, or machine drawn by any such animal; and if such toll and the reasonable charges of such seizure and distress be not paid within

the space of four days next after any such seizure and distress made, the person so seizing and distraining shall and may sell the animal, carriage, vehicle, machine, articles, or things so seized or distrained, or any part thereof, returning to the owner thereof upon demand the surplus (if any) and what remains unsold after such toll and the reasonable charges occasioned by such seizure, distress, and sale have been deducted.

For settling disputes concerning tolls.

37. In case any dispute happens respecting the demanding and taking of any toll payable under the preceding provisions of this Act, or the amount of any such toll, or the charges of keeping or selling any distress for nonpayment of any such toll, it shall be lawful for the collector or the person distraining to retain such distress, or the money arising from the sale thereof (as the case may be), until the amount of such toll and the charges of keeping and selling the distress be ascertained by a justice or justices, who, upon application made to him or them for that purpose, shall have power to determine the amount of the toll and other matters in dispute between the parties, and may also award such costs to be paid by either party to the other as to such justice or justices may seem just and reasonable.

Penalty for evading toll.

38. If any person by any means evades the payment of any toll by the preceding provisions of this Act made payable, or forcibly passes along the marine drive, promenade, roads, or any part of the same, or through any toll-gate, without having paid such toll, or assaults, interrupts, or obstructs any person employed in the collection of such toll, every person offending in any of such cases shall for every such offence forfeit and pay any sum not exceeding forty shillings.

Restriction as to use of roads.

39. No carriage, vehicle, or machine weighing more than ten tons, including the loading thereof, and no carriage, vehicle, or machine not constructed or carried on wheels ordinarily used for passage over a common road, shall be allowed to come or pass on the marine drive, promenade, or roads authorised by this Act without the special permission of the Company first obtained.

Company may erect, &c. baths, hotels, &c.

40. The Company may, on any lands which they may acquire under the authority of this Act, erect, provide, maintain, regulate, and use such bath-houses and machines, hotels, sanitary buildings, dwelling-houses, and other establishments, works, and buildings as they may from time to time think fit, and may sell or grant leases of the same for such consideration and subject to such conditions as to them may seem fit.

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Power to enter into agreements.

41. The Company on the one hand, and any corporation or persons (other than the commissioners for improving the town and parish of Walton, in the county of Essex) on the other hand, may from time to time, but subject to the provisions of this Act, enter into and carry into effect contracts and agreements with respect to the following matters:

The construction and maintenance of all or any of the works authorised by this Act (except the tramway and works connected therewith);

The payment by any of the parties to such contract or agreement of any gross or annual sums or contribution towards the construction and maintenance of any of the said works (except as aforesaid);

The sale or lease of any of the said works (except as aforesaid) to such corporation or persons;

and for the purpose of carrying any such contract or agreement into effect, such corporation or persons may apply any funds in their possession or subject to their control.

Tramway.

Construction of tramway.

42. The Company may construct and maintain, subject to the provisions of this Act, and in accordance with the deposited plans and sections, the tramway herein-after described, with all proper rails, plates, points, offices, weighbridges, stables, carriage-houses, warehouses, works, and conveniences connected therewith or for the purposes thereof.

The tramway authorised by this Act is—

A tramway (single line), about two miles two furlongs in length, commencing in the parish of Walton-le-Soken, in the county of Essex, at or near the westward end of the open space in front of the railway station, thence passing along the eastward side of the before-mentioned carriage road in front of Pavilion Villas, and along the same side of the road to be made as aforesaid to the southward side of the road opposite Pole Barn, thence along the southward side of Pole Barn Lane to Frinton Cross, the east side of Frinton Road leading to the church, and the south-east side of the road thirdly described to the termination thereof, in the parish of Frinton, together with a short spur or turnout in the same parish at Frinton Cross, to a point about half a chain from the south-western end of the gate-house of the Tendring Hundred Railway, and a short spur or turnout in the parish of Walton-le-Soken from opposite the

south-west angle of West Wycombe Villas to a point about twenty feet southward of the west extremity of the station-house of the before-mentioned railway.

Deposit money not to be repaid except for parts of line opened.

43. Whereas, pursuant to the standing orders of both Houses of Parliament, and to an Act of the ninth year of the reign of Her present Majesty, chapter twenty, a sum of two hundred and sixty-one pounds sixteen shillings (part of a sum of one thousand three hundred and eight pounds eighteen shillings) new three per cent. annuities, being five per cent. upon the amount of the estimate in respect of the tramway, has been transferred into the Chancery Division of the High Court of Justice in respect of the application to Parliament for this Act (which first-mentioned sum is referred to in this Act as "the deposit fund"): Be it enacted, that, notwithstanding anything contained in the said Act, the said deposit fund shall not be paid 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 previously to the expiration of the period limited by this Act for completion of the tramway open the same for the public conveyance of passengers; provided that if within such period as aforesaid the Company open any portion of the tramway for the public conveyance of passengers, then, on the production of a certificate of the Board of Trade specifying the length of the portion of the tramway opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund the same proportion as the length of the tramway so opened bears to the entire length of the tramway hereby authorised, the Court shall, on the application of the depositors, order the portion of the deposit fund specified in the certificate to be paid to them, or as they 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.

44. If the Company do not, previously to the expiration of the period limited for the completion of the tramway, complete the same and open it for the public conveyance of passengers, then and in every such case the deposit fund, or so much thereof as has not 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

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with or otherwise rendered less valuable by the commencement, construction, or abandonment of the tramway 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 for which injury or loss no compensation or inadequate compensation has been paid, and also in compensating all road authorities for the expense incurred by them in taking up any 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 Chancery Division of the High Court of Justice 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 to or for the account of Her Majesty's Exchequer in such manner as the Chancery Division thinks fit to order, on the application of the Solicitor of Her Majesty's Treasury, and shall be carried to and form part of the Consolidated Fund of the United Kingdom, or, in the discretion of the Chancery Division, if the Company is insolvent and has been ordered to be wound up, or a receiver has been appointed, shall wholly or in part be paid 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 herein-before mentioned, any interest or dividends accruing thereon shall from time to time, and as often as the same becomes payable, be paid to or on the application of the depositors.

Release of portion of deposit not applicable to tramway.

45. On the application of the persons named in the warrant or order issued in pursuance of the said Act of the ninth year of the reign of Her present Majesty, chapter twenty, or of the survivor of them, or of the executors or administrators of the last survivor, by petition in a summary way at any time after the passing of this Act, the Chancery Division of the High Court of Justice may and shall order that the sum of one thousand and forty-seven pounds two shillings (part of the said sum of one thousand three hundred and eight pounds eighteen shillings) new three per cent. annuities, transferred as aforesaid, being four per cent. on the estimated

expense of the works, other than the tramway, by this Act authorised, and the interest and dividends thereon, shall be transferred and paid to the persons or person so applying, or to any other person or persons whom they or he may appoint in that behalf.

Period for completion of tramway and roads.

46. If the tramway and roads are not completed within five years from the passing of this Act, then, on the expiration of that period, the powers by this Act granted to the Company for making and completing the tramway and roads, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed.

Further provisions as to construction of tramways.

47. In addition to the requirements of section twenty-six of the Tramways Act, 1870, the Company shall, at the same time as they give notice to the road authority of their intention to open or break up any road for the purpose of constructing, laying down, maintaining, and renewing any of the tramways, lay before the Board of Trade a plan showing the proposed mode of constructing, laying down, maintaining, and renewing such tramways, and a statement of the materials intended to be used therein, and the Company shall not commence the construction, laying down, maintenance, and renewal of any of the tramways or part of any of the tramways respectively, except for the purpose of necessary repairs, until such plan and statement have been approved by the Board of Trade, and after such approval the works shall be executed in accordance in all respects with such plan and statement, and under the superintendence and to the reasonable satisfaction of the surveyor for the time being of the road authority, as provided by section twenty-six of the said Act: Provided always, that the word "materials" in this enactment does not include materials used for paving any part of any street under the provisions of the Tramways Act, 1870, or this Act.

As to rails of tramways.

48. The rails of the tramways shall be such as the Board of Trade may approve.

Improvements in tramways.

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

Penalty for not maintaining rails

50. The Company shall at all times maintain and keep in good condition and repair the rails of which any of the tramways for the

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and roads in good condition.

time being consist, and the substructure upon which the same rest; and if the Company at any time make default in complying with this provision, or with any of the requirements of section twenty-eight of the Tramways Act, 1870, they shall for every such offence be subject to a penalty not exceeding five pounds, and in case of a continuing offence to a further penalty not exceeding five pounds for every day after the first on which such default continues, and such penalty may be recovered as by section fifty-six of the said Act is provided.

In case it is represented in writing to the Board of Trade by the road authority of any district in which the tramways or any portion thereof are or is situate, or by twenty inhabitant ratepayers of such district, that the Company have made default in complying with the provisions in this section contained, or with any of the requirements of section twenty-eight of the Tramways Act, 1870, the Board of Trade may, if they think fit, direct an inspection by an officer to be appointed by the said Board, and if such officer report that the default mentioned in such representation has been proved to his satisfaction, then and in every such case a copy of such report, certified by a secretary or an assistant secretary of the Board of Trade, shall be conclusive evidence of such default and of the liability of the Company to such penalty or penalties in respect thereof as is or are by this section imposed.

Additional crossings, &c. may be made where necessary.

51. The Company may from time to time hereafter make all such crossings, passing-places, sidings, junctions, and other works, in addition to those particularly specified in and authorised by this Act, as may from time to time be necessary or expedient to the efficient working of the tramway or for providing access to any stables or carriage sheds or works of the Company.

Application of road materials excavated in construction of works.

52. Any metalling or material excavated by the Company in the construction of their works from any road vested in them or under their jurisdiction or control shall absolutely vest in and belong to the Company, and may be dealt with, removed, and disposed of by them in such a manner as they may think fit; and any metalling or material so excavated by the Company from any road under the jurisdiction or control of any road authority, or which they are by law bound to maintain and repair, may be applied by the Company, so far as may be necessary, in or towards the reinstating of the road, and the maintenance for six months after completion of the tramway within the district of such road authority of so much of the roadway on either side of such tramway as the Company are by this Act required to maintain, and the Company shall, if so required, deliver the surplus metalling or material not used or required to be

retained for the purposes aforesaid to the surveyor for the time being of such road authority, or to such person or persons as such surveyor may appoint to receive the same; provided that if, within seven days after the excavation of any such metalling or material, the surplus thereof as aforesaid is not removed by such surveyor, or by some other person or persons named by such surveyor for that purpose, such surplus metalling or material shall absolutely vest in and belong to the Company, and may be dealt with, removed, and disposed of by them in such manner as they may think fit. Any difference between the Company and any road authority or surveyor or other person with reference to any of the matters aforesaid shall be determined in manner provided by the Tramways Acts, 1870, with respect to all differences between the Company and any road authority.

No part of the tramway shall be opened for public traffic until the same has been inspected and certified to be fit for such traffic in accordance with the Tramways Act, 1870, and the Board of Trade have by an order signed by the secretary or an assistant secretary of the said Board authorised the same to be opened for such traffic.

Carriages may be moved by animal, steam, or mechanical power.

53. The carriages used on the tramways may, subject to the provisions of this Act, be moved by animal power, and during a period of seven years after the opening of the same for public traffic, and, with the consent of the Board of Trade, during such further 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 to the said Board, by steam power or any mechanical power: Provided always, that the exercise of the powers hereby conferred with respect to the use of steam or any mechanical power shall be subject to the regulations set forth in the Schedule A. to this Act annexed, and to any regulations which may be added thereto or substituted therefor respectively by any order which the Board of Trade may and which they are hereby empowered to make from time to time, as and when they may think fit, for securing to the public all reasonable protection against danger in the exercise of the powers by this Act conferred with respect to the use of steam or any mechanical power on the tramways.

Penalty for using steam or mechanical power contrary to Act or regulations.

54. The Company or any person using steam or any mechanical power on any of the tramways contrary to the provisions of this Act, or to any of the regulations set forth in the Schedule A. to this Act annexed, or to any regulation added thereto or substituted therefor by any order made by the Board of Trade under the authority of this Act, shall for every such offence be subject to a penalty

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not exceeding ten pounds, and also, in the case of a continuing offence, a further penalty not exceeding five pounds for every day after the first during which such offence continues: Provided always, that, whether any such penalty has been recovered or not, the Board of Trade, in case in their opinion the Company or any person using steam or any mechanical power on the tramways under the authority of this Act have or has made default in complying with the provisions of this Act, or with any of the regulations set forth in the Schedule A. to this Act annexed, or with any regulation which may have been added thereto or substituted therefor as aforesaid, may by order direct the Company or such person to cease to exercise the powers aforesaid, and thereupon the Company or such person shall cease to exercise the powers aforesaid, and shall not again exercise the same, or any of the same, unless with the authority of the Board of Trade, and in every such case the Board of Trade shall make a special report to Parliament notifying the making of such order.

Byelaws.

55. Subject to the provisions of this Act, the Board of Trade may from time to time make, and when made may rescind, annul, or add to, byelaws with regard to any of the tramways upon which steam or any mechanical power may be used under the authority of this Act for all or any of the following purposes; that is to say,

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

For regulating the emission of smoke or steam from engines used on the tramways:

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

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

For providing for the due publicity of all regulations and byelaws in force for the time being in relation to the tramways by exhibition of the same in conspicuous places on the carriages and elsewhere.

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

As to recovery of penalties.

56. The provisions of the Tramways Act, 1870, with respect to the recovery of penalties shall apply to any penalty under this Act

and to any penalty for non-observance of any byelaw made by the Board of Trade under the authority of this Act.

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

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

Orders and byelaws.

58. All orders and byelaws made by the Board of Trade under the authority of this Act shall be signed by a secretary or an assistant secretary of the Board of Trade, and when so signed the same shall be deemed to have been duly made in accordance with the provisions of this Act.

Prescribing width of roads on which tramway may be laid.

59. No tramway on which steam power is used shall be laid down under this Act upon any part of a road the width whereof between the footway, or if there be no footway, then between the boundaries or fences on either side thereof, is less than thirty-four feet if a double line of tramway, or less than twenty-five feet if a single line only be laid thereon.

Whole width of road between footpaths to be repaired by Company when steam power is used.

60. When steam power is used the Company shall maintain and keep in good and sufficient repair the entire width of any road (exclusive of the footpath or foot-pavement) along or across which any of their tramways shall be laid to the reasonable satisfaction of the road authority, and in such manner and with such materials as such authority may direct, and if the Company at any time fail or neglect so to do, the road authority may cause the necessary repairs to be done, and may in such case recover the reasonable cost of such repairs from the Company in any court of competent jurisdiction. The expressions "road" and "road authority" shall have the same meanings as are defined by the Tramways Act, 1870.

Traffic upon tramway.

61. The tramway may be used for the purpose of conveying passengers, animals, goods, minerals, and parcels.

Company not bound to carry goods, &c.

62. The Company shall not be bound to carry, unless they think fit, any animals, goods, minerals, or parcels, other than passengers luggage, not exceeding twenty-eight pounds in weight.

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Tolls for passengers.

63. The Company may demand and take for every passenger travelling upon the tramway or any part thereof, including tolls and charges for the use of the tramway and of carriages, and for motive power and every other expense incidental to such conveyance, any tolls or charges not exceeding twopence per mile, and in computing the tolls and charges the fraction of a mile shall be deemed a mile, but in no case shall the Company be bound to charge a less sum than threepence.

Passengers luggage.

64. Every passenger travelling upon the tramway may take with him his personal luggage not exceeding twenty-eight pounds in weight without any charge being made for the carriage thereof; all such personal luggage to be carried by hand and at the responsibility of the passenger, and not to occupy any part of a seat, nor to be of a form or description to annoy or inconvenience other passengers.

Tolls for animals, goods, &c.

65. The Company may demand and take in respect of any animals, goods, minerals, or parcels conveyed by them on the tramway, except as is by this Act specially provided, including the tolls and charges for the use of the tramway and for waggons or trucks, and for motive power and every other expense incidental to such conveyance, any tolls or charges not exceeding the tolls and charges specified in the Schedule (B.) to this Act annexed, subject to the regulations in that behalf therein contained.

Payment of tolls.

66. The tolls and charges by this Act authorised in respect of the tramway shall be paid to such persons, and at such places upon or near to the tramway, and in such manner, and under such regulations as the Company may, by notice to be annexed to the list of tolls and charges, appoint.

Revision of tolls.

67. If at any time after three years from the opening for public traffic of the tramways or any portion of the tramways, or after three years from the date of any order made in pursuance of this section in respect of the tramways or any portion of the tramways, it is represented in writing to the Board of Trade by the local authority of any district in which the tramways or such portion of the tramways are or is wholly or partially situate, or by twenty inhabitant ratepayers of any such district, or by the Company, that under the circumstances then existing all or any of the tolls and charges demanded and taken in respect of the traffic on the tramways or on such portion of the tramways should be revised, the Board of Trade may (if they think fit) direct an inquiry by a referee to be appointed by the said Board in accordance with the

provisions of the Tramways Act, 1870; and if such referee report that it has been proved to his satisfaction that all or any of such tolls and charges should be revised, the said Board may make an order in writing altering, modifying, reducing, or increasing all or any of the tolls and charges to be demanded and taken in respect of the traffic on the tramways or on such portion of the tramways in such manner as they think fit, and thenceforth such order shall be observed until the same is revoked or modified by an order of the Board of Trade made in pursuance of this section: Provided always, that the tolls and charges prescribed by any such order shall not exceed in amount the tolls and charges by this Act authorised.

Provisions as to arbitration. 16 & 17 Vict. c. 113.

68. Where under the provisions of the Tramways Act, 1870, or 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.

Saving for general Tramway Acts.

69. Notwithstanding anything in this Act contained, the Company or any persons using the tramway shall be subject and liable to the provisions of any general Act now in force or which may hereafter be passed during this or any future session of Parliament relating to tramways, or by which any tax or duty may be granted or imposed for or in respect of tramways, or the passengers or traffic conveyed thereon, or the revision of the tolls hereby authorised, and to any condition, regulation, or restriction which may be imposed upon the use of tramways or upon the use on tramways of animal power, steam power, or any mechanical power by any such general Act as aforesaid.

Miscellaneous.

Plan of works below high-water mark to be approved by Board of Trade.

70. The Company shall not construct any works on any part of the shore of the sea or any bed of the sea where the tide flows and reflows without the previous consent of the Board of Trade to be signified in writing, and then only according to such plan and under such restrictions and regulations as the Board of Trade approve of, such approval being signified as last aforesaid; and where any such work shall have been constructed with such consent as aforesaid, the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals; and if any such works shall have been commenced or completed without such

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consent or approval, the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost of the Company, and the amount of such costs shall be a debt due to the Crown and recoverable against the Company accordingly.

Survey of works by Board of Trade.

71. If at any time the Board of Trade deems it expedient to order a survey and examination of a work constructed by the Company on, in, over, through, or across tidal lands or tidal water, or of the intended site of any such work, the Company shall defray the expense of the survey and examination, and the amount thereof shall be a debt due from the Company to the Crown and be recoverable accordingly with costs, or the same may be recoverable with costs as a penalty is recoverable from the Company.

Removal of works abandoned or decayed.

72. If a work constructed by the Company on, in, over, through, or across tidal lands or tidal water is abandoned or suffered to fall into decay, the Board of Trade may abate and remove the work or any part of it, and restore the site thereof to its former condition, at the expense of the Company, and the amount of such expense shall be a debt due from the Company to the Crown and be recoverable accordingly with costs, or the same may be recovered with costs as a penalty is recoverable from the Company.

Saving rights of Walton Commissioners.

73. Except as is by this Act otherwise specially provided, nothing in this Act contained shall take away, alter, or prejudicially affect any of the rights, powers, or authorities of the commissioners for improving the town and parish of Walton, in the county of Essex, either as such commissioners or as the urban sanitary authority of the sanitary district of such town and parish.

Saving for certain creditors of Walton Commissioners. 4 & 5 Vict. c. lxx.

74. Nothing in this Act contained shall in any manner alter, lessen, impair, prejudicially affect, or take away the rights of certain creditors of the commissioners for improving the town and parish of Walton, in the county of Essex, acting as such under their Act of 1841 or as the urban sanitary authority of Walton aforesaid, as specified and secured in and by a certain indenture, dated the fourth day of October one thousand eight hundred and seventy-seven, between the said Commissioners acting under their said Act and as the urban sanitary authority of Walton aforesaid of the first part, George Henry Errington, John Bawtree, and Octavius Bawtree of the second part, Frederick Blomfield Philbrick of the third part, the said Frederick Blomfield Philbrick and Horace Philbrick of the fourth part, the said Frederick Blomfield Philbrick and Thomas Alfred Middleton of the fifth part, and the Walton-on-the-Naze Gas and Water Company (Limited) of the sixth part, but all such rights, and all the remedies to enforce and recover their several and

respective debts as mentioned and described in the said indenture, shall remain to such said several creditors respectively as if this Act had not been passed.

Saving rights of the Crown in the foreshore.

75. Nothing contained in this Act shall authorise the Company to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Saving rights of Crown under 29 & 30 Vict. c. 62.

76. Nothing contained in this Act or to be done under the authority thereof shall in any matter affect the title to any of the subjects or any rights, powers, or authorities mentioned in or reserved by sections 18, 20, 21, and 22 of the Crown Lands Act, 1866, and belonging to or exerciseable on behalf of Her Majesty, her heirs or successors.

Expenses of Act.

77. The costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Company.

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

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

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

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

With a suitable fender to push aside obstructions;

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

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

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

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

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

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

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

SCHEDULE B.

LIST OF TOLLS (OTHER THAN PASSENGER TOLLS) ON TRAMWAY.

Animals.	For any Distance. s.	d.
For every horse, mule, or other beast of draught or burden	0	6
For every cow, ox, bull, or head of cattle	0	4
For calves, pigs, sheep, and small animals	0	2

Goods and Minerals.		
For all coals, culm, cannel, limestone, chalk, lime, slates, clay, ironstone, undressed or scabbled stones for building, pitching, and paving, slag, stone, salt, sand, cinders, and all undressed materials for the repair of public roads, per ton	0	6
For all iron, pig iron, bar iron, rod iron, sheet iron, hoop iron, plates of iron, slabs, billets, and rolled iron, wrought iron not otherwise specifically classed herein, and for heavy castings (including railway chairs), tiles, bricks, coke, charcoal, dung, manure, and compost, per ton	0	9
For all timber or wood, per ton	0	9
For all sugar, grain, corn, flour, hides, dyewoods, earthenware, staves, deals, and metals (except iron), rails, anvils, vices, and chains, and for light iron castings, per ton	1	0
For all cotton, wools, drugs, manufactured goods, and all other wares, merchandise, fish, articles, matters, or things, per ton	1	6
For carriage of whatever description	3	0

Small Parcels.		
For any parcel not exceeding in weight seven pounds, exclusive of delivery	0	3
For any parcel exceeding seven pounds and not exceeding fourteen pounds in weight	0	4
For any parcel exceeding fourteen pounds but not exceeding twenty-eight pounds in weight	0	6
For any parcel exceeding twenty-eight pounds but not exceeding fifty-six pounds in weight	1	0
For any parcel exceeding fifty-six pounds but not exceeding five hundred pounds in weight, the Company may demand and take any sum they think proper.		

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SINGLE ARTICLES OF GREAT WEIGHT.

For any boiler, cylinder, or single piece of machinery, or single piece of timber or stone, or other single article, the weight of which (including the carriage) exceeds four tons but does not exceed eight tons, such sums as the Company may think fit, not exceeding three shillings per ton for any distance.

For any single piece of timber, stone, machinery, or other single article, the weight of which, with the carriage, exceeds eight tons, the Company may demand and take such sum as they think fit.

REGULATIONS AS TO TOLLS.

For a fraction of a ton the Company may demand and take tolls and charges according to the number of quarters of a ton in such fraction, and if there be a fraction of a quarter of a ton, such fraction shall be deemed a quarter of a ton.

With respect to all articles, except stone and timber, the weight shall be determined according to the usual avoirdupois weight.

With respect to stone and timber, fourteen cubic feet of stone, forty cubic feet of oak, mahogany, teak, beech, or ash, and fifty cubic feet of any other timber, shall be deemed one ton weight, and so in proportion for any smaller quantity.

Provided always, that articles sent in large aggregate quantities, although made up of separate parcels, such as bags of sugar, coffee, meal, and the like, shall not be deemed small parcels, but such terms shall apply only to single parcels in separate packages.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1879.