



CHAPTER xxix.

An Act to extend the time for the compulsory purchase of lands and for the construction of the tramways and works authorised by the Mexborough and Swinton Tramways Act 1902 and the Rawmarsh Urban District Council (Tramways) Act 1900 and for other purposes. A.D. 1905.
[30th June 1905.]

WHEREAS by the Mexborough and Swinton Tramways Act 1902 (in this Act called "the Act of 1902") the Mexborough and Swinton Tramways Company (in this Act called "the Company") were incorporated and authorised to construct the tramways and works in that Act described:

And whereas by the Rawmarsh Urban District Council (Tramways) Act 1900 (in this Act called "the Rawmarsh Act") the urban district council of Rawmarsh (in this Act called "the Rawmarsh Council") were empowered to construct certain tramways within the urban districts of Rawmarsh and Greasborough and were authorised to enter into agreements with the local authority of any neighbouring district or with the consent of such local authority with any body or company for the construction leasing and working by the contracting parties of all or any of the tramways in their respective districts and for other purposes:

And whereas by the Act of 1902 it was provided that the Company should have the powers and be subject to the obligations of the Rawmarsh Council with respect to the construction equipment and maintenance of the tramways (except Tramways Nos. 6 and 7) authorised by the Rawmarsh Act and with respect

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A.D. 1905, to the construction or reconstruction of the bridges mentioned
in sections 49 and 50 of the Rawmarsh Act:

And whereas by section 72 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 or any tramways for the time being belonging or leased to or run over worked or used by the Company were situate or in any adjoining district 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 Rawmarsh Electric Lighting Order 1898 (confirmed by the Electric Lighting Orders Confirmation (No. 2) Act 1898) and by the Swinton Electric Lighting Order 1899 (confirmed by the Electric Lighting Orders Confirmation (No. 10) Act 1899) the Rawmarsh and Swinton Councils were respectively authorised to supply electrical energy throughout their respective districts and it was provided by section 59 of the Rawmarsh Order that at any time after the commencement of the said Order the Rawmarsh Council might with the consent of the Board of Trade transfer the undertaking authorised by the said Order to any company or person:

And whereas it was also provided by the Act of 1902 that subject to the sanction and approval of the Board of Trade the Swinton Council should transfer and assign their Electric Lighting Order to the Company:

And whereas it is expedient that the respective periods limited by the Act of 1902 and by the Rawmarsh Act for the compulsory purchase of lands and for the construction and completion of the tramways and works authorised by those respective Acts 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 interest out of any money by that Act authorised to be raised 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 have not yet exercised any of their borrowing powers under the Act of 1902 and it is expedient that the borrowing powers of the Company should be amended and that

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the Company be authorised to raise a portion of their authorised capital as preference capital: A.D. 1905.

And whereas the Company are desirous of taking a transfer of the Rawmarsh Electric Lighting Order but under section 72 of the Act of 1902 they are unable to obtain a transfer until tramways owned or worked or run over by the Company are constructed in the urban district of Rawmarsh or in some district adjoining thereto and it is expedient to amend section 72 of the Act of 1902 so as to enable the Company to take a transfer of the Rawmarsh 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 Company should be authorised to raise additional capital to enable them to carry out the provisions of the Rawmarsh and Swinton Electric Lighting Orders and that the dates of commencement of the said Orders should be deferred:

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

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

1. This Act may be cited for all purposes as the Mexborough and Swinton Tramways Act 1905 and the Act of 1902 and this Act shall be construed together as one Act and may be cited together as the Mexborough and Swinton Tramways Acts 1902 and 1905. Short title and construction.

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

3. The powers granted by the Act of 1902 for the construction and completion of the tramways and works thereby authorised and the powers granted by the Rawmarsh Act for the construction and completion of the tramways (except Tramways Extension of time for construction of tramways.

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A.D. 1905. Nos. 6 and 7) and the reconstruction of the bridges by section 49 (For protection of Sheffield and South Yorkshire Navigation Company) and section 50 (For protection of Earl Fitzwilliam) of that Act authorised are hereby extended for a period of two 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 63 (Deposit money not to be repaid except so far as tramways are opened) and section 64 (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.

For protec-
tion of cor-
poration of
Rotherham.

4. For the protection of the mayor aldermen and burgesses of the county borough of Rotherham (in this section called "the corporation") the following provisions shall have effect (that is to say):—

(1) Notwithstanding anything in this Act or in the Rawmarsh Act or in the Act of 1902 contained the Company shall immediately after the passing of this Act commence the laying down and construction of Tramway No. 2 and Tramway No. 3 authorised by the Rawmarsh Act and shall within six calendar months from the date of the passing of this Act complete the said tramways and shall within twelve calendar months from the date of the passing of the Act open the same for public traffic and shall work thereon such a number of electric tram cars as may be necessary to run to a time table to be hereafter agreed upon between the Company and the corporation:

(2) The Company shall within a period of twelve months from the passing of this Act in lieu of the existing bridge carrying the road leading from Rotherham to Rawmarsh over the canal of the River Don Navigation situate partly within the parish of Greasborough in the west riding of the county of York and partly within the county borough of Rotherham erect a girder bridge of one span and having throughout a clear headway of not less than 12 feet 6 inches above the ordinary water level of the canal and a clear width between the abutments thereof which shall be parallel to each other and

to the centre line of the canal of not less than thirty-five feet measured on the square and a width of 36 feet between the parapets and shall also construct and pave the necessary approaches thereto and the Company shall purchase and acquire all such lands or easements as may be necessary for the erection and construction of such bridge and approaches :

- (3) In the erection of such bridge and the construction of such approaches the Company shall be bound by and shall conform in all respects to the provisions of the Rotherham Corporation Act 1900 as amended by the Rotherham Corporation Act 1904 and this Act and to the provisions of the Rawmarsh Act and shall in particular comply with the provisions of each of the said Acts for the protection of the Sheffield and South Yorkshire Navigation Company as if the Company were substituted for the corporation therein :
- (4) In the event of the Great Central Railway Company carrying out the roadwork alteration of Levels (No. 2) referred to in section 25 of the Great Central Railway Act 1904 before the Company erect the said bridge and construct the said approaches thereto then and in such case the Company instead of the corporation shall pay to the Great Central Railway Company if and whenever a tramway or light railway shall be constructed upon or over the said bridge the cost of and incidental to constructing so much of the approach to the said bridge as lies within the said county borough of Rotherham as ascertained and certified by the borough surveyor of the corporation and the principal engineer of the Great Central Railway Company in accordance with subsection 5 of the said section :
- (5) The Company shall in the erection of the said bridge and the construction of the approaches thereto make all necessary alteration to the gas mains and water mains with the meters and meter house of the corporation at their own cost and expense and to the satisfaction of the borough surveyor of the corporation :
- (6) Upon the completion of the said bridge and approaches to the satisfaction of the principal engineer of the Sheffield and South Yorkshire Navigation Company and

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of the borough surveyor as aforesaid the corporation shall pay to the Company the sum of three thousand and five hundred pounds For the purposes of this subsection the corporation may independently of any other borrowing power borrow at interest on the security of the revenue of their tramways undertaking and the borough fund and borough rate the sum of three thousand five hundred pounds such sum to be repaid within a period not exceeding sixty years from the date of the borrowing thereof The provisions of sections 174 and 177 of the Rotherham Corporation Act 1904 shall extend and apply to moneys borrowed under this subsection :

(7) The Company and the corporation shall within a period of twelve months from the date of the passing of this Act enter into and complete an agreement for the running of through traffic by their respective tram cars between College Square Rotherham and a point in Broad Street Rawmarsh at or near Holly Bush Street the through fare between such two points not to exceed twopence per passenger In the event of the Company and the corporation being unable to amicably settle the terms of the said agreement (including the amount of the through fare to be charged) the point or points in difference shall be referred to the President of the Municipal Tramways Association of Great Britain who shall act as arbitrator :

(8) If any difference shall arise between the Company and the corporation as to anything to be done or not to be done under this section or any money to be paid thereunder such difference shall (except with regard to the terms of the agreement for through traffic referred to in subsection 7) be determined by an engineer to be appointed (unless otherwise agreed on) on the application of either party by the President of the Institution of Civil Engineers.

Payment of
interest out
of capital.

5. The powers conferred upon the Company by section 62 (Power to pay interest out of capital during construction) of the Act of 1902 are hereby extended and may be exercised by the Company up to the expiration of the period limited by this Act for the completion of the works by the Act of 1902 authorised.

6. Section 51 (Power to borrow) of the Act of 1902 shall be read and have effect as if the words "ten thousand pounds" had been inserted therein instead of the words "twenty-five thousand pounds" and the words "thirty thousand pounds" instead of the words "seventy-five thousand pounds."

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Amendment
of section 51
of Act of
1902.

7. The Company may issue any portion not exceeding seventy-five thousand pounds of their authorised capital of one hundred and fifty thousand pounds as preference shares with any dividend or interest not exceeding the rate of six per centum per annum and with such rights to priority in the distribution of assets and so that if the profits in any one year are not sufficient to pay such dividend or interest the deficiency may be made good out of the profits of any subsequent year or otherwise as they may think fit. The provisions of sections 13 and 15 of the Companies Clauses Act 1863 shall be applicable to the issue of such preference shares and to the Company in the same way as they apply to the issue of new preference shares. Provided that the amount of capital issued as preference shares under the provisions of this section shall not at any time exceed the amount of capital issued as ordinary shares.

Preference
shares.

8. The Company may apply towards any of the purposes of this Act any moneys which they are already authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised and the Company may raise for the same purposes and for the general purposes of their undertaking any additional capital not exceeding in the whole thirty thousand pounds by the creation and issue of new ordinary shares or new preference shares which shares shall form part of the general capital of the Company.

Company
may apply
their funds
and raise
additional
capital.

9. The Company shall not issue any share created under this Act under the nominal value of five pounds nor shall any share created under this Act 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.

Shares not to
vest until
one-fifth part
paid up.

10. Except as by this Act otherwise provided 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

New shares
to be subject
to same inci-
dents as
other shares.

A.D. 1905. — the same class or description and the new shares were shares in that capital.

Dividends on new shares.

11. 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.

Restriction as to votes in respect of preferential shares.

12. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any shares to which a preferential dividend shall be assigned.

New and existing shares may be of same class.

13. Subject to the provisions of the Act of 1902 and to the provisions of 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 Act of 1902 and this Act respectively authorised to raise by the creation and issue of new shares.

Power to borrow.

14. The Company may in respect of the additional capital of thirty thousand pounds which they are by this Act authorised to raise borrow any sum not exceeding in the whole ten thousand pounds and of that sum they may borrow any sum not exceeding in the whole two thousand pounds in respect of each six thousand pounds of the said additional capital but no part of any such sum shall be borrowed until shares for the portion of capital in respect of which the borrowing powers are to be exercised are issued and accepted and one half of such portion of capital 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 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.

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15. All moneys to be borrowed on mortgage under the Act of 1902 or this or any subsequent Act shall rank equally and from the time when the same shall be advanced and the interest for the time being due thereon shall have priority against the Company and upon all the property from time to time of the Company over all other claims on account of any debts incurred or to be incurred or engagements entered into by them. But nothing in this section shall affect any claim in respect of land acquired by the Company for the purposes of the Act of 1902 or injuriously affected by the construction of the tramways or by the exercise of any of the powers conferred upon the Company.

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Moneys borrowed on mortgage to rank equally and to have priority.

16. Section 52 of the Act of 1902 shall be and the same is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under such provision. 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 twelve thousand pounds in the whole.

Appointment of receiver.

17. Section 72 of the Act of 1902 shall in its application to the Rawmarsh Urban District be read and have effect as if the words "or within any district in which tramways are authorised by this Act or by the Rawmarsh Act" had been inserted therein before the words "in any adjoining district."

Amendment of section 72 of Act of 1902.

18. Notwithstanding anything contained in the Rawmarsh Electric Lighting Order 1898 or in the Swinton Electric Lighting Order 1899 or in the Rawmarsh Act 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.

Deferring commencement of Rawmarsh Electric Lighting Order 1898 and Swinton Electric Lighting Order 1899.

19. Notwithstanding anything contained in section 66 of the Act of 1902 and in the agreement scheduled thereto the obligations imposed upon the Company by article 4 of that agreement shall not be binding upon the Company and the rent agreed to be reserved as in the form of lease scheduled to that agreement mentioned shall be for the first seven years of the term one hundred pounds a year for the next seven years of the term one hundred and fifty pounds a year for the next seven years of the

Amendment of agreement with Rawmarsh Urban District Council.

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Amendment
of section 76
of Act of
1902.

20. Section 76 (Company to carry out Swinton Electric Lighting Order) of the Act of 1902 is hereby amended by the substitution in subsections (1) (12) and (21) of that section of the word "commencement" in place of the word "confirmation" and by the substitution in subsection (20) of that section of the words "the commencement of the Order" in place of the words "the execution of the lighting agreement."

Power for
Company to
make money
payment to
Swinton
Council in
lieu of obli-
gation to
remove dust.

21. Subject to and without prejudice to section 11 of the Act of 1902 if the Company at any time before the date of the granting of the certificate of the Board of Trade that the tramways authorised by the Act of 1902 to be constructed in the urban district of Swinton are fit for public traffic so elect and so notify in writing to the urban district council of Swinton the Company shall not be bound by the obligations imposed upon the Company by subsections (9) and (10) of section 76 (Company to carry out Swinton Electric Lighting Order) of the Act of 1902 but shall in lieu of performing these obligations pay to the urban district council of Swinton in every year after the date of the granting of such certificate the annual sums following (that is to say):—

During the first period of seven years after such date the annual sum of one hundred pounds;

During the second period of seven years after such date the annual sum of one hundred and fifty pounds;

During the third period of seven years after such date the annual sum of two hundred pounds;

During the fourth fifth and sixth periods of seven years after such date the annual sum of three hundred pounds;

Provided that no such sum shall be payable for any year after the purchase by the urban district council of Swinton of the tramways of the Company within their district.

Such sums when received shall be applied by the urban district council of Swinton for the purpose of reducing the charges in respect of capital and interest of moneys borrowed upon the security of their general district rate or at the option of the council carried to the credit of their district fund and applied to any purpose to which that fund is or may be applicable.

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22. If the Company have not before the thirty-first day of October 1906 duly commenced and made substantial progress with the construction of the tramways authorised by the Act of 1902 to be constructed within the urban district of Swinton and the urban district council of Swinton take the necessary steps to promote a Bill in the session of 1907 either alone or in conjunction with any other local authority or authorities for leave to take over the powers of the Company so far as the same relate to the said urban district or such of those powers as concern the construction and working of tramways within the said urban district the Company shall not oppose such Bill except upon the clauses and details thereof.

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Provision as to transfer of certain powers of Company to Swinton Council in case of failure to construct tramways.

23. Nothing in this Act contained shall exempt the Company or the tramways authorised by the Act of 1902 from the provisions of any general Act relating to tramways passed before or after the commencement of this Act or from any future revision or alteration under the authority of Parliament of the maximum fares rates or charges authorised by the Company.

Provision as to general Tramway Acts.

24. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Costs of Act.

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