



CHAPTER clxxxii.

An Act to authorise the construction of Tramways in and near Southampton ; and for other purposes. A.D. 1872.

[6th August 1872.]

**W**HEREAS the laying down of the tramways herein-after mentioned in and near Southampton, to be worked by animal power only, and so constructed as not to impede or injure the ordinary traffic of the streets, would be attended with great local and public advantage, and the persons herein-after named, with others, are willing at their own expense to construct the said tramways :

And whereas the street improvement herein-after described would facilitate the construction and working of the tramways, and would also conduce to the convenience of the inhabitants of Southampton, and it is expedient that the powers herein-after contained should be conferred on the Southampton local board, on the Shirley local board of health, and on the trustees of the Romsey and Southampton turnpike road with respect to such improvement :

And whereas plans and sections showing the lines and levels of the tramways and works, and also a book 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 of the tramways, have been deposited with the clerk of the peace for the town and county of the town of Southampton, and with the clerk of the peace for the county of Southampton, and are herein-after referred to respectively as the deposited plans, sections, and books of reference :

And whereas the purposes 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 Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal,

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A.D. 1872. — 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 for all purposes as "The Southampton Street Tramways Act, 1872."

Provisions of general Acts herein named incorporated. 2. "The Companies Clauses Consolidation Act, 1845," Part I. of "The Companies Clauses Act, 1863," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," the provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the temporary occupation of lands near the railway during the construction thereof, section 3 and Parts II. and III. of "The Tramways Act, 1870," are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation of terms. 3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction; the expression "the Company" means the Company incorporated by this Act; the expressions "the tramways" and "the undertaking" mean respectively the tramways and undertaking by this Act authorised; the expression "railway" includes tramway; the expression "Southampton local board" means the local board of health for the borough of Southampton; and the expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt and not a debt or demand created by statute.

Company incorporated. 4. Lieutenant-Colonel Charles Napier Sturt, Hermann Gustav Erichsen, William Morris, and all other persons and corporations who have already subscribed or shall hereafter subscribe to the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the tramways, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Southampton Street Tramways 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, and their undertaking shall be called "The Southampton Street Tramways."

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5. Subject to the provisions of this Act and of Parts II. and III. of the Tramways Act, 1870, except section thirty-four, the Company may make, form, lay down, and maintain in the line and according to the levels shown on the deposited plans and sections the tramways herein-after described, with all proper rails, plates, works, and conveniences connected therewith, and may enter upon, take, and use such of the lands and roads delineated on the said plans and described in the deposited book of reference as may be required for that purpose :

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Power to  
make tram-  
ways accord-  
ing to de-  
posited plans.

The tramways herein-before referred to and authorised by this Act are the following ; (namely,)

Tramway No. 1. A tramway about one mile and seven furlongs in length, commencing in the Avenue on the main upper turnpike road from Southampton to Winchester, near Alma Road, passing thence southward along the Avenue, Bellevue Place, Waterloo Place, East and West Marland Parks, Anglesea Place, and Marland Place, through Above Bar Street, Bargate and High Street to Bridge Street, thence along Bridge Street, Bernard Street, Oxford Street, and terminating in the last-mentioned street at a point opposite John Street ;

Tramways marked on the deposited plans A, B, C, D, E, F, G, and H, being respectively short loops or passing places connected with and subsidiary to tramway No. 1 ;

Tramway No. 3. A tramway about seven furlongs and five chains in length, commencing in the lower turnpike road from Southampton to Winchester, known as the Portswood Road, at the junction of the Highfield Lane, near the Belmont Inn, with that road, passing thence south-westward along the Portswood Road to Bevois Road, thence along Bevois Road to the Avenue, and terminating there by a junction with the main line tramway No. 1, at a point twenty yards south of the junction of Bevois Road with the Avenue ;

Tramways marked on the deposited plans M and N, being respectively short loops or passing places connected with and subsidiary to tramway No. 3 ;

Tramway No. 4. A tramway about one mile six furlongs and three chains in length, commencing in Shirley, at the junction of Park Street with High Street, passing thence south-eastwardly along High Street, Shirley Road, and Romsey Lane, Four Posts Hill, Commercial Road, and the street in front of Anglesea Place, and terminating

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in that street by a junction with the main line of tramway No. 1, thirty-two yards south of the safety crossing at the east end of Commercial Road ;

Tramways marked on the deposited plans O, P, Q, and R, being respectively short loops or passing places connected with and subsidiary to tramway No. 4.

All the tramways and works hereby authorised shall consist of a single line of tramway, and will be situated in the town and county of the town of Southampton, or in the county of Southampton.

Certain tramways not to be constructed without consent of Southampton local board.

6. The Company shall not construct, make, form, lay down, or maintain without the previous consent of the Southampton local board, and subject to such conditions and stipulations as they may attach to any such consent, such consent to be given in manner by this Act herein-after provided, the several tramways following, or any of them ; that is to say,

So much of tramway No. 1 as is situate between the Weigh-bridge in Above Bar Street in the town of Southampton and the termination of that tramway in Oxford Street ;

The whole of tramways D, E, F, G, and H, herein-before described ;

And the twenty-one years referred to in the forty-third section of "The Tramways Act, 1870," shall, as respects the tramways or parts of tramways mentioned in this section, date from the giving of the consent of the said local board, and not from the passing of this Act.

Consent of Southampton local board to construction of certain tramways.

7. The consent of the Southampton local board to the making of the tramways to which their consent is required, as herein-before provided, shall be in manner following ; (that is to say,)

A resolution approving of the making of such tramways, or some of them, or of some parts thereof, shall be passed at a special meeting of the said local board ;

Such special meeting shall not be held unless a month's previous notice of the same, and of the purpose thereof, has been given, in manner in which notices of meetings of such local board are usually given ;

Such resolution shall not be passed unless two thirds of the members constituting such local board are present and vote at such special meeting, and a majority of those present and voting concur in the resolution, but the resolution shall not be valid unless the same is confirmed in like manner at another special meeting called as aforesaid, and held not less than one month and not more than two months thereafter :

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Provided always, that if by such resolution the Southampton local board consent to the making of a part only of the tramways, to the making of which their consent is by this Act required, they may from time to time in like manner, at subsequent special meetings to be called and held as aforesaid, consent to the making of the remaining portion of those tramways, or some of them, or some parts thereof. A.D. 1872.

**8.** The Company shall not in the construction of the tramways, or any of them, alter the levels of any street or road within the borough of Southampton, without the previous consent in writing of the Southampton local board. Not to alter levels of streets.

**9.** The Company may use on their tramways carriages with flange wheels, or wheels specially adapted to run on a grooved rail; and, subject to the provisions of this Act, the Company shall have the exclusive use of their tramways for carriages with flange wheels or other wheels specially adapted to run on a grooved rail. All carriages used on any tramway shall be moved by animal power only. No carriage used on any tramway of the Company shall extend beyond the outer edge of the wheels of such carriage more than eleven inches on each side. Power for Company to use tramways with flange-wheeled carriages, &c.

**10.** Nothing in this Act shall limit or affect the power of the Southampton local board or any other road authority to regulate the passage of any traffic along or across any road along or across which any of the Company's tramways are laid down, and the Southampton local board or road authority may exercise their authority as well on as off the tramways, and with respect as well to the traffic of the Company as to the traffic of other persons. Power for police authorities to regulate traffic in streets.

**11.** With respect to notices and to the delivery thereof by or to the Company, the following provisions shall have effect; namely, Form and delivery of notices.

1. Every notice shall be in writing or print, or partly in writing and partly in print, and if given by the Southampton local board shall be sufficiently authenticated by being signed by their surveyor or by their clerk, and if given by any road authority by being signed by their clerk or secretary:

2. Any notice to be delivered by or to the Company to or by the Southampton local board, or any road authority or other body, or any company, may be delivered by being left at the principal office of the Southampton local board, or other authority, body, or company, or of the Company, as the case may be, or by being sent by post in a registered letter addressed to their respective clerk or secretary at their

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principal office, and every such letter shall be deemed to be received by the said local board, authority, body, or company, or by the Company, as the case may be, on the day on which the same ought to be delivered at their principal office in the ordinary course of post.

Capital.

**12.** The capital of the Company shall be fifty thousand pounds in five thousand shares of ten pounds each.

Shares not to issue until one fifth paid up.

**13.** The Company shall not issue any shares created under the authority of this Act, nor shall any 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.

Calls.

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

Power to borrow on mortgage.

**15.** The Company may from time to time borrow on mortgage any sum not exceeding in the whole sixteen thousand six hundred and fifty pounds, but no part thereof shall be borrowed until the whole of the said capital of fifty thousand pounds is subscribed for, 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 subscribed for, 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 subscribers or their assigns, and that such subscribers or their 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.

Arrears may be enforced by appointment of a receiver.

**16.** 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 appli-

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cation for a receiver is made shall not be less than five thousand pounds in the whole. A.D. 1872.

17. The Company shall not create debenture stock.

Not to create debenture stock.

18. All moneys to be borrowed on mortgage under this Act, or the interest thereof, shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or to be incurred or engagements entered into or to be entered into by them; but this priority shall not affect any claim against the Company in respect of land taken, used, or occupied by the Company for the purposes of this Act, or injuriously affected by the construction of the tramway or by the exercise of any powers conferred on the Company.

Priority of mortgages.

19. Every mortgage of the Company's undertaking shall be deemed to comprise all purchase money which may be paid to the Company in the event of a compulsory sale to the local authority under section forty-three of "The Tramways Act, 1870," and may comprise all or any moneys carried to a contingency fund, according to the terms of the mortgage.

Mortgages to comprise purchase money paid on compulsory sale.

20. Every mortgage deed to be granted by the Company under this Act shall be endorsed with notice that such mortgage will not be a charge upon the tramways in the event of their being purchased by the local authority under the forty-third section of "The Tramways Act, 1870."

Indorsement of notice of power of future purchase by the local authority.

21. All moneys raised under this Act, whether by shares or borrowing, shall be applied to the purposes of this Act only.

Application of moneys.

22. The first ordinary meeting of the Company shall be held within six months after the passing of this Act, and the subsequent ordinary meetings of the Company shall be held in the months of February or March and of August or September in every year.

First ordinary meeting.

23. The quorum of general meetings of the Company shall be six shareholders present in person or by proxy, holding in the aggregate not less than five thousand pounds in the capital of the Company.

Quorum of general meetings.

24. The number of directors shall be seven, but the Company may from time to time reduce the number, provided that the number be not less than three.

Number of directors.

25. The qualification of a director shall be the possession in his own right of not less than twenty-five shares.

Qualification of directors.

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Quorum.

26. The quorum of a meeting of directors shall be three whilst their number is seven, and two when their number is three.

First directors.

27. Lieutenant-Colonel Charles Napier Sturt, Hermann Gustav Erichsen, and William Morris shall be three of the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act; at that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act being, if qualified, eligible for re-election, and may elect additional directors; and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for varying the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained, and the several persons elected at any such meeting, being neither removed nor disqualified nor having resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Election of directors.

Period for completion of works.

28. The tramways shall be completed as follows; that is to say, with respect to so much of the tramways to the making of which the consent of the Southampton local board is not required, within three years from the passing of this Act, and with respect to the remainder of the tramway within three years from the time or the respective times at which that consent shall be obtained, and on the expiration of those respective periods the powers by this Act granted to the Company for executing the tramways, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

Lands by agreement.

29. The Company may from time to time purchase and acquire by agreement for the purposes of their undertaking such land as they may require, not exceeding five acres.

Inspection by Board of Trade.

30. No tramway shall be opened for public traffic until the same has been inspected and certified to be fit for such traffic in the manner (if any) prescribed by the Board of Trade, by any rules for the time being in force made by them.

Tramways always to be kept on level of surface of road.

31. If and whenever after the passing of this Act any road authority shall alter the level of any road along or across which any part of the tramways is laid, the Company may and shall from



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time to time alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered. A.D. 1872.

**32.** The Company shall at all times maintain and keep in good condition and repair, and so as not to be a danger or annoyance to the ordinary traffic, the rails of which any of the tramways for the time being consist, and the substructure upon which the same rest, and if the Company at any time fail to comply with this provision, or with any provisions of section twenty-eight of "The Tramways Act, 1870," they shall be subject to a penalty not exceeding five pounds for every day on which such non-compliance continues, and such penalty shall be a penalty within the meaning of section fifty-six of the said Act. Penalty for not maintaining rails in proper order.

**33.** Any paving, metalling, or material excavated by the Company in the construction of their works from any road under the jurisdiction or control of any road authority may be applied by the Company, so far as may be necessary, in or towards the reinstating of the road, and the maintenance for six months after completion of any of the tramways within the district of such road authority of so much of the roadway on either side of such tramways as the Company are required to maintain; and the Company shall, if so required, deliver the surplus paving, metalling, or material not used or required to be retained for the purposes aforesaid to the surveyor for the time being of the road authority, or to such person or persons as he may appoint to receive the same: Provided, that if within seven days after the setting aside of the surplus arising from the excavation of any such paving, metalling, or material, and notice given to that effect, the surplus thereof as aforesaid is not removed by the said surveyor, or by some other person or persons named by him for that purpose, such surplus paving, metalling, or material shall absolutely vest in and belong to the Company, and may be dealt with, removed, and disposed of by them in such manner as they may think fit. Any difference between the Company and any road authority, or surveyor, or other person with reference to any of the matters aforesaid, shall be determined in manner provided by "The Tramways Act, 1870," with respect to differences between the Company and any road authority. Application of road materials excavated in construction of Company's works.

**34.** Subject to the provisions of this Act, the Company may widen and improve, in the manner shown on the deposited plans, so much of Shirley Road (otherwise Romsey Lane), Four Posts Hill, and the Commercial Road as lies between a point on the said first-mentioned road, in the parish of Millbrook, about two hundred and Power to improve Four Posts Hill, &c.

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fifteen yards north-west of the junction of that road or lane with Four Posts Hill and a point in the Commercial Road, in the parish of All Saints, near the northern end of Mount Place, and may alter the levels of the said portion of road in the manner shown on the deposited section: Provided, that in such alteration the Company may deviate from the levels so shown to an extent not exceeding two feet, or with the consent of the road authority to any extent not exceeding five feet; and provided also, that when the said improvement shall have been effected to the reasonable satisfaction of the road authorities having the control of the said portions of street respectively, the same portions of street so improved shall be vested in and be controlled, maintained, and repaired by the same authority; but this section shall not affect or vary any obligation of the Company to maintain and repair such portions of street under the provisions of "The Tramways Act, 1870."

Power to local authorities and road authorities to effect or contribute to the improvements.

**35.** Any one or more of the following bodies or persons, *vide licet*,—

1. The Southampton local board;
2. The local board of health for the district of Shirley (herein-after called "the Shirley local board"); and
3. The trustees for the time being acting in execution of the trusts of the Romsey and Southampton turnpike road (herein-after called "the trustees"),

may, if they think fit, either themselves effect the said improvement or contribute moneys towards the expense of effecting the same, and they or any of them may from time to time enter into such contracts and agreements, either with the Company or with each other, as may be requisite or expedient for that purpose.

Power to local authorities and road authorities to raise and apply funds for improvements.

**36.** Towards the expense of making such improvement, or towards such contribution, the Southampton local board may apply out of the general district rate for the borough of Southampton, the Shirley local board may apply out of the general district rate for the district of Shirley, the trustees may apply out of any moneys under their control, such sum or sums of money as they may respectively deem expedient, or they may severally borrow at interest upon mortgage of the said general district rates, and the tolls and other revenue of the trustees respectively, such sum or sums of money as may be necessary for the purposes aforesaid.

Tolls for passengers.

**37.** The Company may demand and take for every passenger travelling upon the tramways, or any part thereof, including tolls for the use of the tramways and the carriages, and for motive power,

and every other expense incidental to such conveyance, any tolls or charges not exceeding one penny per mile (and for this purpose the fraction of a mile beyond an integral number of miles shall be deemed a mile), but the Company may charge for any less distance than three miles any sum not exceeding threepence: Provided always, that if at any time after one year from the opening for public traffic of any portion of the tramway it is represented in writing to the Board of Trade by the local authority of any district in which such portion is wholly or partially situate, or by twenty inhabitant ratepayers of any such district, that the Company are charging a greater sum than twopence for distances not exceeding two miles, and that under the circumstances then existing such charge is unreasonable, 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 the truth of such representation has been proved to his satisfaction, the said Board may make an order in writing limiting the amount of the rates and fares to be thenceforth charged by the Company for the conveyance of passengers for distances not exceeding two miles to twopence, and the Company shall thenceforth conform to and abide by such order: Provided always, that the Board of Trade may from time to time after making any such order revoke or modify the same for good cause shown to them.

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

**39.** The Company may demand and take for small parcels not exceeding one hundred and twelve pounds in weight any tolls not exceeding the following: Tolls for small parcels.

For any parcel not exceeding seven pounds in weight, threepence:

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

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

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

For any parcel exceeding fifty-six pounds, any sum which the Company think fit:

Provided always, that articles sent in large aggregate quantities, although made up in separate parcels, such as bags of sugar, coffee,

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Company.  
not to carry  
goods.

40. The tramways shall be used exclusively for the conveyance of passengers, passengers luggage, and parcels not exceeding one hundred and twelve pounds in weight.

Cheap fares  
for labouring  
classes.

41. The Company, at all times after the opening of the tramways for public traffic, shall, and they are hereby required to run at least two carriages each way every morning in the week and every evening in the week (Sundays, Christmas Day, and Good Friday always excepted), at such hours, not being later than seven in the morning or earlier than six in the evening respectively, as the Company think most convenient, for artisans, mechanics, and daily labourers, at fares not exceeding one halfpenny per mile (the Company, nevertheless, not being required to take any fare less than one penny): Provided, that in case of any complaint made to the Board of Trade of the hours appointed by the Company for the running of such carriages, the said Board shall have power to fix and regulate the same from time to time.

Provision as  
to purchase  
by local  
board.

42. In case the Southampton local board shall at any time after two years from the completion of any portion of the tramways within the borough of Southampton, but not later than eleven years after the passing of this Act, desire to purchase the tramways by this Act authorised to be constructed within the borough of Southampton, and the works, materials, and equipment connected therewith, and any lands or buildings acquired for the purposes of such tramways exclusively, and shall apply to Parliament for powers so to do, and to enable the Company to sell the same, the Company shall not object to or oppose such application, and shall assent thereto and do all things necessary and render all needful facilities for obtaining such powers, and in the event of such powers being obtained shall accordingly sell the said tramways and premises to the Southampton local board, and the terms of every such purchase shall, failing agreement between the Southampton local board and the Company, be determined by arbitration in manner provided by "The Lands Clauses Consolidation Act, 1845," for the settlement by arbitration of questions of disputed compensation.

Local board  
not to work  
tramways.

43. If under the powers of this Act or of "The Tramways Act, 1870," the Southampton local board shall purchase or acquire the tramways, they shall not place or run carriages upon the same, or demand or take tolls and charges in respect of the use of such carriages, and the nineteenth section of "The Tramways Act, 1870,"

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shall apply to the tramways and to the Southampton local board in respect thereof. A.D. 1872.

44. The Company shall not, out of any money by this Act authorised to be raised by calls or by borrowing, pay interest or dividend to any shareholder on the amount of the calls made in respect of the shares held by him: Provided always, that this Act shall not 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." Interest not to be paid on calls paid up.

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

46. Nothing herein contained shall be deemed or construed to exempt the tramways by this Act authorised to be made from the provisions of any general Act relating to tramways now in force, or which may hereafter pass during this or any future session of Parliament. Tramways not exempt from provisions of general Acts.

47. Except as is by this Act expressly provided, nothing in this Act contained shall extend, or be construed to extend, to affect, prejudice, alter, abridge, or take away any rights, estates, powers, immunities, and advantages, or privileges whatsoever, belonging or appertaining to the mayor and corporation of the town and county of the town of Southampton, either in their capacity of municipal corporation or local board of health. Reserving rights of Corporation of Southampton.

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

