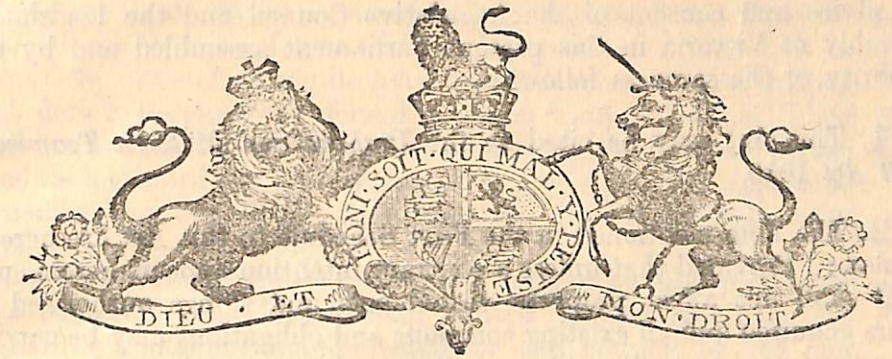


As Die

VICTORIA.



ANNO PRIMO

GEORGII QUINTI REGIS.

No. 2294.

An Act to consolidate and amend the Prahran and Malvern Tramways Trust Acts and for other purposes.

[4th January, 1911.]

WHEREAS by the provisions of the *Prahran and Malvern Tramways Trust Act 1907* a body corporate known as the Prahran and Malvern Tramways Trust was created for the purpose (*inter alia*) of constructing and operating certain tramways in the municipalities of Prahran and Malvern: And whereas the said municipalities have agreed with the municipalities of St. Kilda and Caulfield to apply for a joint Order in Council under the *Tramways Act 1890* authorizing them to construct a tramway in Dandenong-road from Chapel-street to Glenferrie-road and to transfer to the Prahran and Malvern Tramways Trust the powers and authorities conferred or to be conferred by such Order in Council: And whereas it is desirable to provide for the representation of such last-mentioned municipalities on the Trust: And whereas it may hereafter be desirable that Orders in Council under the provisions of the *Tramways Act 1890* or any amendment thereof be granted or transferred to the Trust and that representation on the Trust be given to municipalities other than those hereinbefore named: And whereas for these and other purposes it is expedient to make provision for the representation of other municipalities on the said Trust and to consolidate and amend the Prahran and Malvern Tramways Trust Acts: Be it therefore enacted by the King's Most Excellent Majesty by and with

Preamble.

the

re-elected a member of such council at the election consequent upon or occurring at the same time as such seat becomes vacant he shall cease to be a member of the Trust and his place shall be filled by the council by which he was elected and his successor shall hold office for the balance of the term for which he was elected.

Term of office of members.
Cf. Act 2130
Schedule cl. 7.

8. The members of the Trust elected by the city of St. Kilda and the town of Malvern first after the appointed day shall subject to the provisions of this Act hold office for twelve months only from such appointed day: Save as aforesaid and subject to the terms of any consent given or agreement made under section fifteen hereof all other members shall hold office for two years and shall be eligible for re-election unless disqualified under any of the provisions herein contained.

Forfeiture of seats of members through absence from meetings.
Ib. cl. 5.

9. If the Chairman or any other member shall absent himself from three consecutive meetings of the Trust without the leave of the Trust he shall cease to be a member thereof.

Quorum.

10. At any meeting of the Trust a quorum shall consist of a majority of the members thereof for the time being.

Chairman's remuneration.

11. The remuneration of the Chairman shall be fixed by the Trust.

Remuneration of members.
Ib. cl. 9.

12. The Trust may pay to its members other than the Chairman such remuneration not exceeding Seventy-five pounds per annum each as may be fixed by a resolution passed by each of the councils of the municipalities but until such resolution is so passed such members shall not be entitled to any remuneration. The acceptance by any member of such remuneration shall not vacate the seat of such member in the council by which he was elected nor subject him to any penalties under the Local Government Acts.

Trust to have rights, &c., of municipal council under *Tramways Act 1890.*

13. The Trust shall have and may exercise the rights powers and privileges of a municipal council under the *Tramways Act 1890* provided however that the council or councils in respect of whose municipal district or districts the Trust shall make any application for an Order in Council under such Act shall consent to such application.

Trust and municipality may enter into agreement as to tramways.

14. In the event of any municipality being authorized under the provisions of the *Tramways Act 1890* or any other statutory authority to construct any tramway or tramways the Trust and such municipality shall be at liberty and they are hereby authorized to enter into an agreement for the transfer to the Trust of the whole or any part of the powers and authorities conferred on such municipality in respect of any such tramway or tramways either absolutely or for a limited period or for the operation and management of the same and on such terms and conditions as may be mutually agreed.

15. Every

15. Every consent given or agreement entered into by a municipality under either of the last two preceding sections may amongst other things contain provision whereby such municipality shall have power to appoint a member to represent such municipality on the Trust and upon the election of such representative the number of members of the Trust shall be increased accordingly.

Provision for appointing additional members of Trust.

16. The Trust shall continue to combine and exercise all the powers and authorities conferred by any Orders in Council or any amendment thereof heretofore vested in it and shall combine and exercise all the powers and authorities conferred upon the council of the town of Malvern by the Order in Council set forth in the Second Schedule hereto to the extent therein mentioned and such last-mentioned powers and authorities without further authority than this Act shall as from the date hereof be transferred to and vested in the Trust.

Trust to exercise powers under Orders in Council.
Cf. Act 2130 sec. 5 and Schedule cl. 11.
Second Schedule.

The joint Order in Council to be made under the provisions of the *Tramways Act 1890* authorizing the councils of the municipalities of the city of Prahran the city of St. Kilda the town of Malvern and the town of Caulfield jointly to construct a tramway along Dandenong-road from Glenferrie-road to Chapel-street and all the powers authorities and privileges which may be conferred on such councils and municipalities in respect of the operating managing and working of such tramway shall immediately upon publication of such Order in Council in the *Government Gazette* and without further authority than this Act be transferred to and vested in the Trust.

The Trust subject to the provisions of this Act shall have full power and authority to control manage and operate all tramways for the time being vested in it and to do all acts matters and things incidental or conducive thereto or for carrying out the powers and authorities conferred by this Act.

Trust to control &c. tramways vested in it.

17. The Trust shall have all the powers of a promoter under the provisions of the *Tramways Act 1890* to make by-laws.

Trust may make by-laws.
Ib. cl. 29.

18. The Trust shall maintain and keep in good condition and repair with such materials and in such manner as the local authorities shall direct and to their satisfaction so much of the road whereon any tramway belonging to it is laid as lies between the outermost rails of the tramway and also as much of the road as extends eighteen inches beyond such outermost rails: Provided that in the case of a double track in which the distance between the centre of each track exceeds twelve feet the foregoing obligation shall not extend beyond the road between the rails of each track and a distance of eighteen inches outside such rails.

Trust to keep part of roadway in repair where tramways laid.
Ib. cls. 19, 20.

The materials of any road opened or broken up by the Trust in the construction or maintenance of the tramways may be used by it in reconstructing the road so far as the same shall be applicable to that purpose and all material not so used shall belong to the municipality from whose municipal district it shall have been obtained.

19. The

Remedy for
debenture-holders.
Act 2166 sec. 4.

30. If default be made in payment of the principal money or interest due in respect of any debenture issued in pursuance of this Act the Supreme Court upon the petition of the holder or holders of any debenture so issued may appoint some person or persons not exceeding three to be a receiver or receivers of the general rates of the municipalities named in such debenture and such receiver or receivers shall thereupon have the same rights and powers and shall perform the same duties (including a duty to apply any moneys or proceeds) according to the same respective priorities as between all debenture-holders as if the said debentures issued in pursuance of this section had been to the full amount thereof debentures issued by each of such municipalities and in pursuance of the ordinary borrowing powers upon them respectively conferred by subdivision two of division one of Part XIV. of the *Local Government Act 1903* and so as to take priority over any moneys borrowed by any of such municipalities respectively at any dates subsequent to the borrowing by the Trust in respect of which such debentures shall be issued and as if the said receiver or receivers had been appointed under section three hundred and eighty-five of the said Act but nothing herein contained shall be construed as rendering applicable to any purpose other than the repayment of the said debentures issued in pursuance of this section any part of any sinking fund constituted by the Trust or any part of any other moneys or property of the Trust. Nothing herein contained shall be taken as lessening or prejudicing any other right or remedy of any holder of any debenture issued in pursuance of this section.

Power for
Melbourne
Tramways Trust
and trustees
generally to invest
in debentures.
Act 2166 sec. 5.

31. Any debenture issued by the Trust shall be deemed to be a debenture issued by a city or town within the meaning and for the purposes of section twenty-two of the *Trusts Act 1896* and to be a debenture issued by a municipality within the meaning of section two of the *Melbourne Tramways Trust Act 1903* and to be included amongst the debentures in which under section two of the *Melbourne Tramways Trust Amendment Act 1904* the Melbourne Tramways Trust may lawfully invest and re-invest any of the moneys forming part of its sinking fund in such section referred to.

Trust to prepare
annual balance-
sheets and forward
copies to
municipalities.
Act 2130 Schedule
cl. 28.

32. The Trust shall as soon as conveniently may be after the thirtieth day of September in each year make up a balance-sheet showing its assets and liabilities and as on such date together with its revenue and expenditure for the year or period ending thereon and shall also for the like period prepare a statement showing the car mileage run in each municipality and the amount of the maintenance and renewal reserve funds and the manner in which such funds are invested or secured and what (if any) moneys have been paid or are payable during such period to the Trust by the municipalities in pursuance of any of the provisions of this Act and shall immediately thereafter forward a copy of such balance-sheet and statement to each of the municipalities.

33. Subject

33. Subject to any agreement which may hereafter be made between the Trust and any municipality pursuant to any of the provisions of this Act the Trust shall apply the revenue to be derived from the undertaking other than income arising from the investment of its renewal reserve fund—

Application of
revenue.
Act 2130
Schedule cl. 21.

- (a) in paying or providing for the interest and sinking fund in respect of any moneys borrowed by it;
- (b) in paying the expenses of controlling managing operating and maintaining the undertaking and the other outgoings by this Act authorized including such contribution to a maintenance reserve fund as to the Trust shall seem expedient;
- (c) in establishing a renewal reserve fund for the purpose of providing for the renewal of any part of the undertaking but not exceeding in any year two and a half per cent. of the estimated cost of such renewal as to the Trust shall seem proper.

The balance of such revenue (if any) shall be divided between the municipalities in proportion to the car mileage run on the said tramways vested in the Trust in their respective municipal districts during the year ending on the thirtieth day of September in which such revenue shall have been earned.

For the purpose of this and the last preceding section the car mileage run on any tramway or part of a tramway constructed along a street or road forming the common boundary between any two or more municipalities shall be deemed to be run in the respective districts of such municipalities in the proportion which the frontage of each of such municipalities to such tramway bears to the total of such frontages.

34. In the event of such revenue being insufficient to pay or provide for the moneys referred to in paragraphs (a) or (b) of the last preceding section any deficiency therein shall be made good to the Trust by the municipalities represented thereon in proportion to the car mileage run upon the said tramways in their respective municipal districts during the year ending on the thirtieth day of September in which such moneys shall be payable.

Deficiency of
revenue to be
made good by
municipalities.
Ib. cl. 22.

35. In the event of the said revenue from the said tramways in any year being insufficient to provide a renewal reserve fund of an amount which the Trust shall within the limits prescribed by paragraph (c) of section thirty-three think proper the Trust shall notwithstanding the provisions of the said paragraph (c) be entitled in any subsequent year or years and before any distribution of profits to deduct from the revenue of any such year or years such sum or sums as may be necessary to make up such deficiency together with the interest which in the opinion of the Trust would have been earned on the amount thereof had the same been provided in each year.

Renewal reserve
fund.
Ib. cl. 24.

36. In

The provisions of this and the two preceding sections may from time to time be varied by an agreement between the Trust and the municipalities.

Running rights over part of route in Malvern.
Cf. Act 2130 sec. 12 and Schedule cl. 37.

44. Notwithstanding anything in this Act or any agreement contained or any transfer to the Trust of any rights or powers granted by any Order in Council the town of Malvern shall have the right to grant running powers to any corporation or person over that part of the said tramways in Glenferrie-road between High-street and Wattle Tree-road Malvern upon such terms as shall be arranged between such town the Trust and the grantee of such running powers or in the event of disagreement upon such terms as shall be fixed by arbitration under the provision for arbitration herein contained.

Provision for settling disputes between municipalities and Trust.
Ib. cl. 37.

45. In the event of any difference arising under the last preceding section or between any of the municipalities and the Trust as to any matter whether arising out of the construction of this Act or not or relating to the carrying out of the provisions of the same or touching and relating to the fulfilment and exercise of the obligations duties powers privileges or authorities of the Trust or the municipalities or any of them such difference shall be referred to the Minister who shall be authorized and empowered to entertain inquire into and decide upon the same and for that purpose to exercise all the powers privileges and authorities which are conferred upon him by section seven hundred and twenty-three of the *Local Government Act* 1903 in the case of a difference between two or more municipalities and the decision of such Minister with regard to such difference shall be final and may be made a rule of the Supreme Court.

Hours of work and rates of pay.
Ib. sec. 9.

46. The hours to be worked by any person employed by the Trust on the tramway shall not exceed ninety-six hours in any fortnight and the rate of wages to be paid by the Trust to such persons shall not be less than the following:—

- For motormen at the rate of forty-eight shillings per week of forty-eight hours;
- For conductors at the rate of forty-five shillings per week of forty-eight hours;
- For all unskilled adult labour not less than seven shillings per day of eight hours.

Any such person may work for the Trust overtime for special payment which shall not be less than time and a quarter for any hour so worked.

Wages and hours of skilled workmen.
Ib. sec. 10.

47. The rate of wages to be paid to and the hours to be worked by all skilled workmen employed by the Trust (other than those specified in the last preceding section) shall be the recognised standard rate for the recognised hours.

48. In any contract entered into by the Trust with any person for the execution of any work or for furnishing materials for the Trust every such contract shall contain a condition that—

Conditions in contracts of the Trust.
Act 2130 sec. 14.

- (a) the recognised standard rate of wages for the work performed for a maximum number of hours shall be paid by the contractor to his employes engaged in the carrying out of such contract; and
- (b) shall specify that in obtaining goods machinery or material for the service of the Trust substantial and effective preference shall be given by the Trust and the contractor to such goods machinery or material manufactured or produced in the Commonwealth.

49. It shall be lawful for the Board of Land and Works if they think fit on behalf of the Government of Victoria to purchase at any time upon giving twelve months' notice in writing of the intention so to do the undertaking of the Trust and all lands buildings works rolling-stock and plant of and belonging to the Trust upon such terms as shall or may be mutually agreed upon between the Trust and the said Board: And if any difference or dispute shall arise between the Trust and the said Board as to any terms or conditions or as to the amount of purchase money to be paid to the said Trust such difference or dispute shall be settled by arbitration in the manner provided by the *Lands Compensation Act* 1890 with respect to the settlement of disputes by arbitration.

Board of Land and Works may purchase undertaking.
Ib. sec. 11.

If by any future Act of Parliament a body is constituted or authorized to have general powers of management and control of tramways situate within the city of Melbourne and suburbs thereof (which body is hereinafter referred to as the "General Tramway Authority") it shall be lawful for the General Tramway Authority subject to the provisions of such Act upon giving the like notice and upon the like terms or conditions and upon payment of the like purchase money to be determined as aforesaid to purchase on behalf of the General Tramway Authority the said tramways lands buildings works rolling-stock and plant.

Provided that the amount of purchase money to be paid under this section by the Board or the General Tramway Authority (as the case may be) in respect of any new tramways constructed after the commencement of this Act shall not exceed such sum as represents the value (from a construction point of view) to the Board or the General Tramway Authority (as the case may be) of the said new tramways and any lands buildings works rolling-stock and plant acquired after the commencement of this Act as the same exist at the date of the purchase, and in arriving at such amount there shall be taken into consideration all then existing contracts of the Trust with respect to the said tramways lands buildings works rolling-stock and plant.

SCHEDULES.

Section 2.

THE FIRST SCHEDULE HEREINBEFORE REFERRED TO.

Date of Act.	Title of Act.	Extent of Repeal.
23rd December, 1907	.. <i>The Prahran and Malvern Tramways Trust Act 1907</i>	The whole
2nd March, 1909	.. <i>The Prahran and Malvern Tramways Trust Act 1909</i>	The whole

Sections 5, 16.

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO.

The Order in Council dated the sixth day of July One thousand nine hundred and eight under the *Tramways Act 1890* granted to the council of the town of Malvern so far as it relates to—(a) the tramway commencing at the intersection of Wattle Tree-road and Tooronga-road thence easterly along Wattle Tree-road to Burke-road; and (b) the tramway commencing at the intersection of Glenferrie-road and Wattle Tree-road and extending southerly along Glenferrie-road to Dandenong-road.

Section 29.

THE THIRD SCHEDULE HEREINBEFORE REFERRED TO.

THE PRAHRAN AND MALVERN TRAMWAYS TRUST.

Transferable by Delivery.

Under the authority of the *Prahran and Malvern Tramways Trust Act 1910*.
 This Debenture entitles the bearer to the sum of _____ pounds on the _____ day of _____ with interest thereon in the meantime at the rate of _____ per centum per annum payable half-yearly on the _____ day of _____ and the day of _____ in every year as per coupons annexed and secured upon the undertaking of the Trust and also upon the respective revenues of the mayor councillors and citizens of the city of Prahran the mayor councillors and citizens of the city of St. Kilda the mayor councillors and burgesses of the town of Malvern the mayor councillors and burgesses of the town of Caulfield—[add the mayor councillors and burgesses of any other municipality for the time being having representation on the Trust]—and such principal and interest are payable at the bankers for the time being of the Trust in the city of Melbourne.

Given under the Common Seal of the Trust at the city of Melbourne in the State of Victoria this _____ day of _____ thousand nine hundred and _____ One

MELBOURNE:

By Authority: J. KEMP, Government Printer.

"TRAMWAYS ACT 1890."

54 VICT. No. 1148.—ACT 55 VICT. No. 1218.

Tramway at Prahran.

At the Executive Council Chamber, Melbourne, the Sixth day of July, 1908.

Present:

HIS EXCELLENCY THE LIEUTENANT GOVERNOR OF VICTORIA.

SIR THOMAS BENT. MR. MACKINNON.

MR. CAMERON. MR. McLEOD.

MR. SACHSE.

WHEREAS by the "Tramways Act 1890" it is provided that Tramways may be constructed in any municipal district (except the municipal districts of Fitzroy Collingwood Prahran Richmond South Melbourne Hotham Saint Kilda Brunswick Kew Hawthorn and Sandridge) when authorised by an Order of the Governor in Council made in that behalf upon the application of the Council of the municipality in compliance with the provisions of the said Act and of the Rules and Regulations to be from time to time made by the Governor in Council: AND WHEREAS the "Tramways Act 1890" was amended by an Act No. 1218 extending the powers contained in the "Tramways Act 1890" so as to allow of tramways being constructed within the City of Prahran: AND WHEREAS the Council of the municipality of the City of Prahran has made an application under the common seal of the said municipality in accordance with the said Acts and of the Rules and Regulations made by the Governor in Council thereunder for an Order by the Governor in Council authorising the construction of a tramway in the municipal district of the municipality of the said City of Prahran: AND WHEREAS the Governor in Council being satisfied that the requirements of the said Acts and of the Rules and Regulations made by the Governor in Council thereunder have been duly complied with by the said Council of the said municipality and that notice of the intention of the said Council to make the said application in which notice the route proposed to be followed was described and persons objecting to the same were called on to lodge their objections within the time required by the Regulations has been duly published as required by the Rules and Regulations made by the Governor in Council in pursuance of the said Acts in that behalf and that no objection to the said application has been lodged within the time provided in the said Rules and being satisfied also that it is expedient and proper that the said application should be granted has

determined to grant the same subject to the restrictions and conditions hereinafter contained. NOW THEREFORE His Excellency the Lieutenant Governor acting by and with the advice of the Executive Council and in pursuance of the provisions of the said Acts doth for the purpose aforesaid make the Order following (that is to say):—

That the Council of the municipality of the City of Prahran subject to the said Council and the Council of the Town of Malvern having first either paid to the Victorian Railways Commissioners (hereinafter referred to as the Commissioners) or to their satisfaction secured to them the due payment (within such time as the Commissioners may require) of a sum of £13,000 (being a contribution to be made out of the loan which the Prahran and Malvern Tramways Trust is authorised to raise under the provisions of Act No. 2130 as a condition to the granting of this Order towards the estimated cost of railway works rendered necessary or considered desirable by reason of the projected tramway route intersecting the lines of the Commissioners being in connexion with the lowering of the Melbourne to Caulfield railway line and station at Armadale and the erection of bridges over the line at High Street and Boundary or Kooyong Road Armadale): AND (in connexion with or incidental to the contemplated regrading of the railway between Toorak Station and Wattle-tree Road) further subject to the Council agreeing to sanction any temporary deviation of the route of the existing railway tracks on to the public thoroughfares and to the temporary closing of any streets in connexion with such regrading and of the Council also agreeing not to oppose the permanent reduction to 40 feet of the width of Beatty Avenue Elm Grove and Munro Place streets abutting on railway boundaries should that course be deemed necessary by the Commissioners and for which the said Council is hereby indemnified from all liability in respect to claims demands and actions at law at any time after the aforesaid payment has been made or security given shall be and is hereby authorized to construct a tramway in the municipal district of the City of Prahran provided nevertheless that in respect of that portion of the tramway crossing the railway at High Street near the Armadale Railway Station the right of the Council of the municipality to commence the work incidental to the construction of the same shall not arise before the expiration of eighteen months from the date of such payment or giving security for such payment as aforesaid unless the Commissioners shall in writing notify the Council that the progress and condition of the railway regrading works contemplated permit of the Council commencing work sooner.

Route.

That the route of such Tramway shall be as follows:—Commencing at the intersection of High Street and Hoddle Street or Punt Road, and extending easterly along High Street to the centre of Kooyong or Boundary Road.

Gauge.

That the gauge of such tramway shall be four feet eight and a half inches (4' 8½") and that the said tramway shall be constructed in the manner set out and described in the working plans and specifications numbered from one to six inclusive now deposited in the Public Works Department and which plans and specifications are endorsed with a Memorandum of the Minister of Public Works identifying the said plans and specifications so deposited as the plans and specifications referred to in this

Order and which plans and specifications except in so far as the same may be varied by these presents are to be deemed to be incorporated in this Order and to be as much part of the same as if they were set out in detail in this Order.

Plans and Specifications in Respect of Mode of Laying Lines over Bridge Subject to Modification.

Notwithstanding any provision in the Plans or specifications for the rails in the tram-track over the Railway bridges being laid on sleepers embedded in bluestone ballast the provision shall be subject to be modified so far as Railway requirements may render the same desirable on the assumption that the naked bridge girders will be resorted to as the foundation for the tram-line without the interposition of sleepers.

Track, &c., on Railway Bridges to be Maintained by Council.

All costs and expenses of and incidental to the laying and maintaining of the tram-track on and over the Railway Bridges in High Street Prahran and High Street Armadale respectively and the approaches to the same (including as regards the present bridge in High Street Prahran the cost of any necessary structural alterations) shall be paid and borne by the Council as shall also be all costs and expenses of and incidental to the maintaining of the public roadway and paths and channels on the bridge and approaches at High Street Armadale and also as hitherto at High Street Prahran and of half the width of the public roadway and approaches and of the channels and paths on the western side of the bridge and approaches at Kooyong or Boundary Road Armadale.

Tramway Crossing that of the Melbourne Tramway and Omnibus Company Limited.

Where the Tramway authorized by this Order is intended to cross the Tramway of which the Melbourne Tramway and Omnibus Company Limited is the lessee on the level such works as in the opinion of the Engineer of the Melbourne Tramway and Omnibus Company Limited may be necessary in relation to and for the purpose of such crossing shall be constructed by the Melbourne Tramway and Omnibus Company Limited under the superintendence of such Engineer and all costs charges and expenses attendant thereon (and the cost of keeping the said works in proper repair at all times) shall be borne and paid by the Council and in default thereof may be recovered by the Melbourne Tramway and Omnibus Company Limited in any court of competent jurisdiction.

Melbourne Tramway and Omnibus Company Limited may Require Signal Appliances at Crossings over its Tramway, to Cost of which Council Shall Contribute.

At some convenient place on the street or footpath near the point where the tramway authorized by this Order is intended to cross the tramway of the Melbourne Tramway and Omnibus Company Limited the Melbourne Tramway and Omnibus Company Limited or the Corporation for the time being entitled to work such tramway may from time to time erect construct and maintain signal boxes signal levers apparatus and conveniences incident to the crossing and may from time to time appoint and remove signalmen, switchmen, watchmen, pilots or other persons for regulating the traffic and the prevention of danger to the public.

The working and management of the crossing and of such signals levers apparatus and conveniences shall be under the exclusive regulation of the Melbourne Tramway and Omnibus Company Limited or Corporation whose tramway is so crossed and all the expenses of erecting and constructing and also two-thirds of the costs charges and expenses incurred in maintaining repairing and renewing those crossings signal boxes signal levers apparatus and conveniences and also two-thirds of the costs charges and expenses of employing those signalmen switchmen watchmen pilots and other persons and all incidental current expenses (and also one moiety of the costs charges and expenses incurred by the Melbourne Tramway and Omnibus Company Limited or such Corporation in maintaining repairing and renewing the roadway between and within the crossing and of so much of the roadway as extends eighteen inches (18 inches) beyond the outside of the rails) shall at the end of every half-year be repaid by the Council to the said Melbourne Tramway and Omnibus Company Limited and in default thereof may be recovered from it in any court of competent jurisdiction.

Provision for the Cars of the Melbourne Tramway and Omnibus Company Limited to Take Precedence in Crossing.

Where the cars used on the tramway of the Council and those used on the tramway now leased to the Melbourne Tramway and Omnibus Company Limited are at or are approaching the crossing over the tramway of the last-named company at the same time the cars of the last-named company's tramway shall have precedence in crossing.

Cost of Alterations to Postal Wires at Armadale Incidental to the Use of Electricity.

In the event of the Postal Department demanding any special alteration of its wires at High Street Armadale in consequence of the introduction of a high tension or other electrical current in connexion with the tramway the cost of any special arrangement of or provision for the wires because of such current shall be paid and borne by the Council the contribution of £13,000 from it hereinbefore provided for only covering ordinary alterations necessitated by the regrading works and not any special arrangements due to the use of electricity.

Motive Power.

That the motive power to be used upon the said tramway shall be electricity.

Electric Wires Crossing Lines of Railways Commissioners to be Constructed so as not to Interfere.

Any electric line or lines in connection with the said tramway which would if placed above ground cross under or over any wire of the Commissioners or be in a position likely if special precautions are not taken to prejudicially affect telegraphic or telephonic communications on adjacent wires of the Commissioners shall without any expense to the Commissioners be so placed constructed guarded and maintained as not to be capable of injuring or coming into contact with any wire of the Commissioners or of prejudicially affecting or interfering either mechanically or electrically with the proper use of any such wire.

Maximum Speed.

That the maximum speed of the progression of the cars upon the said tramway with hand brake equipments on the cars shall be at the rate of fifteen miles per hour and with magnetic air or other approved power brakes and life guards the maximum speed shall be at the rate of twenty miles per hour.

Time of Completion.

That the tramway shall be completed and open for traffic within a period of two years from the date of the payment to the Commissioners of the said sum of Thirteen thousand pounds or from the date on which such payment is secured as aforesaid as the case may be.

Traffic.

That the tramway shall be used for the carriage of passengers and their luggage only.

Necessary Precautions for Safety of Passengers and Public to be Observed.

That every precaution necessary to secure the safety of the passengers upon the said tramway and also to secure the safety of passengers passing along the streets upon the route of such tramway shall be taken and ordered by the said Council of the said Municipality.

Stoppages for Taking Up and Setting Down Passengers.

That for the convenience of the public the cars shall stop for the purpose of taking up and setting down passengers at the intersection of such streets as are indicated by notice boards erected at such intersections to be stopping points and at such other points upon the route of the tramway as may be convenient and in such manner as not to interfere with or endanger the general traffic of the streets or the safety of the passengers in the cars.

Tolls and Charges.

That the charges to be made on the said tramway shall be the following, that is to say, for each passenger:—

For the section between Hoddle Street or Punt Road and Chatsworth Road or any part thereof	...	...	...	...	1d
For the section between Williams Road and Kooyong or Boundary Road or any part thereof	...	...	...	...	1d

For each child under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) one penny for one or for both sections.

Fares in Case of Combined Tram and Railway Passengers.

Nothing herein contained shall prevent the Council from entering into any arrangements with the Commissioners to sell through tickets to travel over both Tramway and

Railway and in that case charging or providing for the payment of fares at a lower rate than those specified in this Order in respect of passengers travelling over both Tramway and Railway.

Combined Fares over Lines in City of Prahran and Town of Malvern.

Nothing hereinbefore contained shall prevent the Council from entering into any arrangement with the Council of the Municipality of Malvern having for its object and conferring the right to charge for a through continuous trip together over the whole or some part of the tramway of the Council and also for the whole or some part of any tramway or tramways of the Council of the Municipality of Malvern the following entire fares :—

For a through continuous trip over two or three sections of which one is on the tramway of the Council and two are on the tramways of the Council of the Municipality of Malvern and *vice versa*—two pence—except in the case of children under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) for whom the fare shall be one penny each.

For a through continuous trip over four sections of which two are on the tramway of the Council and two on the tramways of the Council of the Municipality of Malvern—three pence—except in the case of children under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) for whom the fare shall be one penny and a half each.

Council not to Enter into Certain Arrangements with Melbourne Tramway and Omnibus Company Limited.

It is a condition of this Order that the Council shall not except as hereinafter provided by Sub-Clauses (a) and (b) of this Condition enter into any arrangement with the Melbourne Tramway and Omnibus Company Limited or other the authority for the time being concerned in the tramways now controlled by that Company nor be a party directly or indirectly to any arrangement whereby through passengers, that is passengers travelling over both the tramway now so controlled as aforesaid (hereinafter called the "Melbourne Tramway") and the Council's tramway may travel for lower fares than the sum of the local fares on both tramways nor shall the Council sell Melbourne Tramway tickets or furnish passengers intending to travel by the Melbourne Tramway with transfer tickets or any means of identification or in any way assist or facilitate passengers travelling over both tramways to travel for lower fares than the sum of the local fares on both tramways.

(a) and (b).

(a) In respect of passengers from the Council's tramways travelling over the whole or any part part of the Melbourne tramway between High Street and Carlisle Street or between High Street and St. Kilda by way of Chapel, Wellington and Fitzroy Streets, the Esplanade and Acland Street to the terminus of the Melbourne Tramway on the last named street or by way of Chapel and Wellington Streets and the Brighton Road to the tramway terminus at Milton Street or between High Street and Saint Kilda by way of

the Saint Kilda and Brighton Roads to the tramway terminus at Milton Street or by way of the Saint Kilda Road Fitzroy Street the Esplanade and Acland Street to the tramway terminus in the last named street or *vice versa*.

(b) That for the carriage over that part of the Melbourne Tramway along Chapel Street and the Toorak Road between High Street and Punt Road of passengers making a continuous trip over the whole or any of the said part of the Melbourne Tramway and also over the whole or any part of the Council's Tramway the Council may arrange with the Melbourne Tramway and Omnibus Company Limited or other the authority for the time being concerned in the Tramways now controlled by such Company for a fare of not less than one penny except in the case of children under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) for whom the Council may arrange with the said Company for a fare of not less than one half-penny.

PROVIDED that this exception (b) shall only continue and be of effect so long as the fare charged by the said Company for carriage over its tramway between the Punt Road and the Melbourne Hospital along the Toorak Road, Park Street, the Domain Road the Saint Kilda Road and Swanston Street, or any part of the said tramway is not less than two pence whether by tickets or otherwise and in the case of children under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) for whom the fare is not less than one penny whether by tickets or otherwise.

Council not to Run over Lines Controlled by Melbourne Tramway and Omnibus Company Limited.

It is a further condition of this Order that the Council shall not except as hereinafter provided by Sub-Clause (a) of this condition acquire the right to run nor shall it run any of its cars or other vehicles on or along any or any part of the lines now controlled by the Melbourne Tramway and Omnibus Company Limited or on or along any extension of any of such lines or any part of the same nor give a better service in connection with the trams of the Melbourne Tramway and Omnibus Company Limited than the service connecting with the trains of the Commissioners nor shall the Council permit the cars or other vehicles of the Melbourne Tramway and Omnibus Company Limited or other the authority for the time being concerned in the tramways now controlled by that Company to run over the tramway of the Council nor shall such cars be so run.

(a) In respect of cars from the Council's Tramway travelling over the whole or any part of the Melbourne Tramway between High Street and Carlisle Street or between High Street and Saint Kilda by way of Chapel, Wellington and Fitzroy Streets, the Esplanade and Acland Street to the terminus of the Melbourne Tramway on the last named street, or by way of Chapel and Wellington Streets and the Brighton Road to the tramway terminus at Milton Street or *vice versa*.

Tramway Where it Crosses the Railway Line.

That the tramway upon so much of the route as crosses by over-head bridges the railway lines from Melbourne to Sandringham and Melbourne to Caulfield shall be con-

structed in such manner as may be determined by the Commissioner of Public Works to meet railway requirements.

Grade.

That the maximum ruling grade along the route of the said tramway shall be 1 in 23.8 provided that the grades of the approaches to the bridge to be constructed over the railway at High Street Armadale shall be not greater than 1 in 20, and the Council is hereby indemnified from all liability in respect of any claims demands suits or actions at law which may hereafter arise by reason of the alterations in the levels of any street necessitated by the railway regrading works.

Governor in Council to be Sole Judge of Breach of Order.

That the Governor in Council shall be sole judge of the compliance with or of the breach of any of the requirements contained in this Order, and for the purpose of enabling the Governor in Council to arrive at a just decision an enquiry into the facts of each case shall be conducted in the manner provided in Clause 25 of the Regulations contained in the Second Schedule to the said Act before an officer to be appointed in that behalf by the Governor in Council as provided in the Regulations in the said Schedule.

If upon the report to the Governor in Council by the referee made under the said Clause 25 of the Regulations in the Second Schedule of the said Act the Governor in Council shall as such sole judge determine that there has been any failure of or non-compliance with or that any breach of any of the requirements contained in this Order has occurred by way either of commission or omission then the powers conferred by this order shall be forfeited or shall cease and determine or shall be suspended as the Governor in Council shall direct and in the case of the Governor in Council ordering a suspension only of such powers then the Governor in Council shall in his adjudication state for what period such suspension shall take effect.

If in such adjudication the Governor in Council shall determine that the powers conferred by this Order shall be forfeited or shall wholly cease and determine then the Council of the said Municipality of the City of Prahran shall forthwith proceed to restore the streets along which the said route is laid out to their condition previous to the construction of such tramway unless the Governor in Council otherwise order.

That in the event of the Council of the said Municipality finding it necessary to provide work of a more substantial or expensive character than that provided for in this Order the Council of the said Municipality shall take upon itself all such additional expenditure and no claim whatever shall be made upon the Government or upon the Board of Land and Works for any pecuniary assistance or aid in respect of such expenditure or to provide funds therefor.

And the Honorable Ewen Hugh Cameron His Majesty's Commissioner of Public Works for the State of Victoria shall give the necessary directions herein accordingly.

ROBERT S. ROGERS,

Clerk of the Executive Council.

"TRAMWAYS ACT 1890."

54 VICT. No. 1148.

Tramway at Malvern.

*At the Executive Council Chambers, Melbourne the Sixth
day of July, 1908.*

Present:

HIS EXCELLENCY THE LIEUTENANT GOVERNOR OF VICTORIA.

SIR THOMAS BENT. MR. MACKINNON.

MR. CAMERON. MR. McLEOD.

MR. SACHSE.

WHEREAS by the "Tramways Act 1890" it is provided that Tramways may be constructed in any municipal district (except the municipal districts of Fitzroy, Collingwood Prahran Richmond South Melbourne Hotham Saint Kilda Brunswick Kew Hawthorn and Sandridge) when authorised by an Order of the Governor in Council made in that behalf upon the application of the Council of the municipality in compliance with the provisions of the said Act and of the Rules and Regulations to be from time to time made by the Governor in Council: AND WHEREAS the Council of the municipality of the Town of Malvern has made an application under the common seal of the said municipality in accordance with the said Act and of the Rules and Regulations made by the Governor in Council thereunder for an Order by the Governor in Council authorising the constructions of a tramway in the municipal district of the municipality of the said Town of Malvern. AND WHEREAS the Governor in Council being satisfied that the requirements of the said Act and of the Rules and Regulations made by the Governor in Council thereunder have been duly complied with by the said Council of the said

municipality and that notice of the intention of the said Council to make the said application in which notice the routes proposed to be followed were described and persons objecting to the same were called on to lodge their objections within the time required by the Regulations has been duly published as required by the Rules and Regulations made by the Governor in Council in pursuance of the said Act in that behalf and that no objection to the said application has been lodged within the time provided in the said Rules and being satisfied also that it is expedient and proper that the said application should be granted has determined to grant the same subject to the restrictions and conditions hereinafter contained. NOW THEREFORE His Excellency the Lieutenant Governor acting by and with the advice of the Executive Council and in pursuance of the provisions of the said Act doth for the purpose aforesaid make the Order following viz. :—

That the Council of the municipality of the Town of Malvern subject to the said Council agreeing to sanction any temporary deviation of the route of the existing Railway tracks between the west side of Kooyong or Boundary Road and Wattletree Road (such deviation being incidental to certain regrading works contemplated in connection with a tramway projected by the City of Prahran the same being a tramway intended to be worked in conjunction and as one with one of the tramways authorised by this present Order) on to the adjoining public thoroughfares and to the temporary closing of any streets in connection with such regrading works and of the Council also agreeing not to oppose the permanent reduction to 40 feet of the width of Union Street abutting on railway boundaries should that course be deemed necessary by the Victorian Railways Commissioners (hereinafter called the Commissioners) incidental to such regrading shall be and is hereby authorised to construct the following tramways in the municipal district of the Town of Malvern.

Routes.

1. Commencing at the centre of the intersection of Kooyong or Boundary Road and High Street thence easterly along High Street to Tooronga Road.
2. Commencing at the intersection of High Street and Tooronga Road thence easterly along High Street to Burke Road.
3. Commencing at the intersection of High Street and Glenferrie Road thence southerly along Glenferrie Road to Wattletree Road.
4. Commencing at the intersection of Wattletree Road and Glenferrie Road thence along Wattletree Road to Tooronga Road.
5. Commencing at the intersection of Wattletree Road and Tooronga Road thence easterly along Wattletree Road to Burke Road.
6. Commencing at the intersection of High Street and Glenferrie Road thence northerly along Glenferrie Road to the south side of the Glen Iris Railway.
7. Commencing at the intersection of Glenferrie Road and Wattletree Road thence westerly along Wattletree Road to Kooyong or Boundary Road.
8. Commencing at the intersection of Glenferrie Road and Wattletree Road thence southerly along Glenferrie Road to Dandenong Road.

Gauge.

That the gauge of any tramway shall be four feet eight and a half inches (4' 8½") and that the particular tramway shall be constructed in the manner set out and described in the working plans and specifications numbered from one to six inclusive applicable to the particular tramway now deposited in the Public Works Department and which plans and specifications are endorsed with a Memorandum of the Minister of Public Works identifying the said plans and specifications so deposited as the plans and specifications referred to in this Order and which plans and specifications except in so far as the same may be varied by these presents are to be deemed to be incorporated in this Order and to be as much part of the same as if they were set out in detail in this Order.

Electric Wires Crossing Lines of Railway Commissioners to be Constructed so as not to Interfere.

Any electric line or lines in connection with any of the said tramways which would if placed above ground cross under or over any wire of the Commissioners or be in a position likely if special precautions are not taken to prejudicially affect telegraphic or telephonic communications on adjacent wires of the Commissioners shall without any expense to the Commissioners be so placed constructed guarded and maintained as not to be capable of injuring or coming into contact with any wire of the Commissioners or of prejudicially affecting or interfering either mechanically or electrically with the proper use of any such wire.

Motive Power.

That the motive power to be used on the said tramways shall be electricity.

Maximum Speed.

That the maximum speed of the progression of the cars upon the said tramways with hand brake equipments on the cars shall be at the rate of fifteen miles per hour and with magnetic air or other approved power brakes and life guards the maximum speed shall be at the rate of twenty miles per hour.

Time of Completion.

That the tramways shall be completed and opened for traffic as regards routes Numbered 1, 3 and 4 within the period of two years from the date of a payment of a sum of Thirteen thousand pounds or of the provision of security for such payment to the Commissioners by the Municipality of the City of Prahran and Town of Malvern in respect of the regrading works hereinbefore referred to and as regards routes numbered 2, 5, 6, 7 and 8 within the period of ten years from such date.

Traffic.

That the tramways shall be used for the carriage of passengers and their luggage only.

Necessary Precautions for Safety of Passengers and Public to be Observed.

That every precaution necessary to secure the safety of the passengers upon the said tramways and also to secure the safety of the passengers passing along the streets upon the routes of such tramways shall be taken and ordered by the said Council of the said Municipality.

Stoppages for Taking Up and Setting Down Passengers.

That for the convenience of the public the cars shall stop for the purpose of taking up and setting down passengers at the intersection of such streets as are indicated by notice boards erected at such intersections to be stopping points.

Tolls and Charges.

That the charges to be made on the said tramways shall be the following, that is to say, one penny for each passenger on each of the following sections or part thereof:—

1. Between Kooyong or Boundary Road and Tooronga Road along High Street.
2. Between High Street and Tooronga Road along Glenferrie Road and Wattle-tree Road.
3. Between Burke Road and Glenferrie Road along High Street.
4. Between Burke Road and Glenferrie Road along Wattle-tree Road.
5. Between the South Side of the Glen Iris Railway Line along Glenferrie Road and High Street.
6. Between Malvern Road and Kooyong or Boundary Road along Glenferrie Road and High Street.
7. Between Kooyong or Boundary Road and High Street along Wattle-tree Road and Glenferrie Road.
8. Between Dandenong Road and Kooyong or Boundary Road along Glenferrie Road and High Street.
9. Between Burke Road and Dandenong Road along Wattle-tree Road and Glenferrie Road.
10. Between Kooyong or Boundary Road and Dandenong Road along Wattle-tree Road and Glenferrie Road.
11. Between Malvern Road and Dandenong Road along Glenferrie Road.

For each child under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) one penny for any one of the above sections or for any two continuous sections.

Fares in Case of Combined Tram and Railway Passengers.

Nothing herein contained shall prevent the Council from entering into any arrangements with the Commissioners to sell through tickets to travel over both Tramways and Railways and in that case charging or providing for the payment of fares at a lower rate than those specified in this Order in respect of passengers travelling over both Tramways and Railways.

Combined Fares over Lines in City of Prahran and Town of Malvern.

Nothing hereinbefore contained shall prevent the Council from entering into any arrangement with the Council of the Municipality of Prahran having for its object and conferring the right to charge for a through continuous trip together over the whole or some part of any one or more of the tramways of the Council and also for the whole or some part of any tramway or tramways of the Council of the Municipality of Prahran the following entire fares: For a through continuous trip over two or three sections of which one is on the tramways of the Council and two are on the tramways of the Council of the Municipality of Prahran or *vice versa*—two pence—except in the case of children under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) for whom the fare shall be one penny each.

For a through continuous trip over four sections of which two are on the tramways of the Council and two on the tramways of the Council of the Municipality of Prahran—three pence—except in the case of children under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) for whom the fare shall be one penny and a half each.

Council not to Run over Lines Controlled by Melbourne Tramway and Omnibus Company Limited.

It is a condition of this Order that the Council shall not except as hereinafter provided in Sub-Clause (a) of this condition acquire the right to run nor shall it run any of its cars or other vehicles on or along any or any part of any line of tramway being an extension of any line now controlled by the Melbourne Tramway and Omnibus Company Limited intended to connect with or being constructed adjacent to any of the lines authorised by this Order nor in such event shall the Council give a better service in connection with the trams of the Melbourne Tramway and Omnibus Company Limited than the service connecting with the trains of the Commissioners nor shall the Council permit the cars or other vehicles of the Melbourne Tramway and Omnibus Company Limited or other the authority for the time being concerned in the tramways now controlled by that Company to run over the tramways of the Council nor shall such cars be so run.

(a) In respect of cars from the Council's Tramways travelling over the whole or any part of the Melbourne Tramway between High Street and Carlisle Street or between High Street and Saint Kilda by way of Chapel, Wellington and Fitzroy Streets, the Esplanade

and Acland Street to the terminus of the Melbourne Tramway on the last named street, or by way of Chapel and Wellington Streets and the Brighton Road to the tramway terminus at Milton Street or *vice versa*.

Council not to Enter into Certain Arrangements with Melbourne Tramway and Omnibus Company Limited.

It is a further condition of this Order that the Council shall not except as hereinafter provided by Sub-Clauses (a) and (b) of this Condition enter into any arrangement with the Melbourne Tramway and Omnibus Company Limited or other the authority for the time being concerned in the tramways now controlled by that Company nor be party directly or indirectly to any arrangement whereby through passengers, that is passengers travelling over both the tramway now so controlled as aforesaid (hereinafter called the "Melbourne Tramway") and the Council's tramways may travel for lower fares than the sum of the local fares on both tramways nor shall the Council sell Melbourne Tramway tickets or furnish passengers intending to travel by the Melbourne Tramway with transfer tickets or any means of identification or in any way assist or facilitate passengers travelling over both tramways to travel for lower fares than the sum of the local fares on both tramways.

(a) and (b).

(a) In respect of passengers from the Council's tramways travelling over the whole or any part part of the Melbourne tramway between High Street and Carlisle Street or between High Street and St. Kilda by way of Chapel, Wellington and Fitzroy Streets, the Esplanade and Acland Street to the terminus of the Melbourne Tramway on the last named street or by way of Chapel and Wellington Streets and the Brighton Road to the tramway terminus at Milton Street or between High Street and Saint Kilda by way of the Saint Kilda and Brighton Roads to the tramway terminus at Milton Street or by way of the Saint Kilda Road Fitzroy Street the Esplanade and Acland Street to the tramway terminus in the last named street or *vice versa*.

(b) That for the carriage over that part of the Melbourne Tramway along Chapel Street and the Toorak Road between High Street and Punt Road of passengers making a continuous trip over the whole or any of the said part of the Melbourne Tramway and also over the whole or any part of the Council's Tramways and the Council may arrange with the Melbourne Tramway and Omnibus Company Limited or other the authority for the time being concerned in the Tramways now controlled by such Company for a fare of not less than one penny except in the case of children under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) for whom the Council may arrange with the said Company for a fare of not less than one half-penny.

PROVIDED that this exception (b) shall only continue and be of effect so long as the fare charged by the said Company for carriage over its tramway between the Punt Road and the Melbourne Hospital along the Toorak Road, Park Street the Domain Road,

the Saint Kilda Road and Swanston Street, or any part of the said tramway is not less than two pence whether by tickets or otherwise and in the case of children under twelve years of age (other than children under four years of age carried on passenger's lap who shall be carried free) for whom the fare is not less than one penny whether by tickets or otherwise.

Tramway Where Crosses Railway to be under Control of Commissioners.

That the Tramways to be constructed upon so much of any of the said routes as cross the Railway in Glenferrie Road or Wattletree Road shall so far as regards their use running and maintenance on or across the lines of the Commissioners be under the absolute control of and subject to all such regulations and orders as may from time to time be made by the Commissioners who shall not however be in any way liable in respect of any damage or injurious consequences which may in any manner occur to any person or to any property in consequence of the said route crossing the railway line or incidental to its use.

That there shall be an interval of at least fifteen minutes between trams running in the same direction where the route crosses the said Railway but if the exigencies of the railway traffic necessitate a longer interval the tram service shall at all times be subordinate to railway requirements and in any case the construction use and maintenance of the said tramways and of the said crossings shall be subject to the following conditions, viz. :—

That in the event of a more frequent service of trams than one tram in each direction every fifteen minutes the trams must be stopped on either side of the respective gates and passengers and their parcels and baggage transferred to and from the trams on opposite sides of the gates.

The Railway gates at Malvern Station and Wattletree Road shall be closed against the tramway traffic while the trains are running through the block section from Caulfield on the "up" journey and from a safe working point between Armadale and Malvern or from Armadale Station in foggy weather on the down journey and in addition the tramway traffic shall be liable to be stopped at such Railway gates during portions of any day on which races may be held at Caulfield or other suburban courses.

That the Council shall defray the whole cost incurred by the Commissioners in the construction and maintenance of the crossings at Malvern Station and Wattletree Road the widening of the gates and in the provision and maintenance of such appliances as the Commissioners may consider necessary for the safe working of traffic at these places.

That the Council shall be responsible for and shall maintain half the width of the public Roadway and approaches including channels and the paths on the eastern side of the bridge to be erected over the railway line at Kooyong or Boundary Road.

That the Council shall also defray the cost of any alterations to Railway or Postal Telegraph or Telephone wires which may be necessitated by the erection of transmission or other electrical cables or wires for the tramways within the municipality.

Governor in Council to be Sole Judge of Breach of Order.

That the Governor in Council shall be sole judge of the compliance with or of the breach of any of the requirements contained in this Order, and for the purpose of enabling the Governor in Council to arrive as a just decision an enquiry into the facts of each case shall be conducted in the manner provided in Clause 25 of the Regulations contained in the Second Schedule to the said Act before an officer to be appointed in that behalf by the Governor in Council as provided in the Regulations in the said Schedule.

If upon the report to the Governor in Council by the referee made under the said Clause 25 of the Regulations in the Second Schedule of the said Act the Governor in Council shall as such sole judge determine that there has been any failure of or non-compliance with or that any breach of any of the requirements contained in this Order has occurred by way either of commission or omission then the powers conferred by this order shall be forfeited or shall cease and determine or shall be suspended as the Governor in Council shall direct and in the case of the Governor in Council ordering a suspension only of such powers then the Governor in Council shall in his adjudication state for what period such suspension shall take effect.

If in such adjudication the Governor in Council shall determine that the powers conferred by this Order shall be forfeited or shall wholly cease and determine then the Council of the said Municipality of the Town of Malvern shall forthwith proceed to restore the streets along which the said routes are laid out to their condition previous to the construction of such tramways unless the Governor in Council otherwise order.

That in the event of the Council of the said Municipality finding it necessary to provide work of a more substantial or expensive character than the work provided for in this Order the Council of the said Municipality shall take upon itself all such additional expenditure and no claim whatever shall be made upon the Government or upon the Board of Land and Works for any pecuniary assistance or aid in respect of such expenditure or to provide funds therefor.

And the Honorable Ewen Hugh Cameron His Majesty's Commissioner of Public Works for the State of Victoria shall give the necessary directions herein accordingly.

ROBERT S. ROGERS,

[Clerk of the Executive Council.