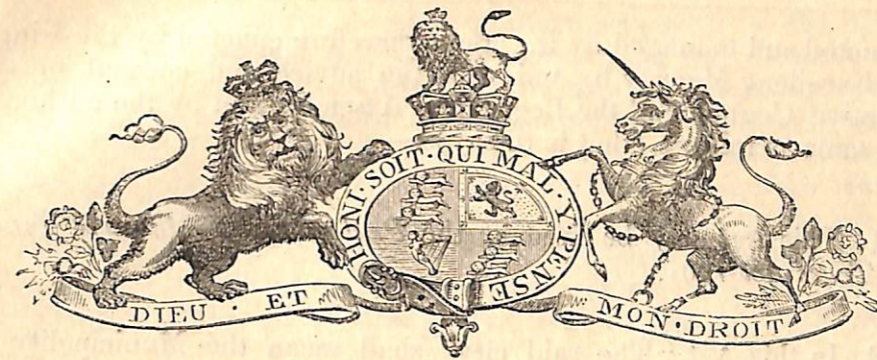


As. Dia →

VICTORIA.



ANNO SEPTIMO

EDWARDI SEPTIMI REGIS.



No. 2130.

An Act for the Confirmation of an Agreement between the City of Prahran and the Town of Malvern and for the Constitution of the Prahran and Malvern Tramways Trust.

[23rd December, 1907.]

**W**HEREAS on the seventh day of October One thousand nine hundred and seven the Mayor Councillors and Citizens of the City of Prahran and the Mayor Councillors and Burgesses of the Town of Malvern executed an Agreement providing for the incorporation of a Trust to be known as the Prahran and Malvern Tramways Trust for the purpose of acquiring certain rights and powers of the said city and town in respect of certain Orders in Council which had been applied for under the *Tramways Act 1890* authorizing the construction and management of certain tramways in their municipal districts a copy of which Agreement is set out in the Schedule hereto: And whereas it is desirable for Parliament to ratify and confirm the said Agreement and to incorporate the said Trust and to make further provisions in regard to the said Trust and the Tramways to be constructed

Preamble.

constructed and managed by it. Be it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly and by the authority of the same as follows (that is to say) :—

Title of Act.

1. This Act may be cited as the *Prahran and Malvern Tramways Trust Act 1907.*

Interpretation Clause.

2. In this Act "The said city" shall mean the Municipality of the Mayor Councillors and Citizens of the City of Prahran.

"The said town" shall mean the Municipality of the Mayor Councillors and Burgesses of the Town of Malvern.

Agreement between the City of Prahran and the Town of Malvern confirmed.

3. The Agreement and the Schedule thereto a copy of which is set out in the Schedule to this Act is hereby ratified and confirmed and the same shall have full effect and this Act and that Agreement shall be carried into execution in like manner in all respects as if that Agreement and the Schedule thereto were set forth in the body of this Act and were thereby in terms enacted.

The Prahran and Malvern Tramways Trust incorporated.

4. There shall be a body corporate by the name of "The Prahran and Malvern Tramways Trust" hereinafter called "the Trust" and such body corporate by that name shall have perpetual succession and a common seal and may sue and be sued and shall have power to purchase take hold sell lease exchange or dispose of land or property for any of the purposes of this Act.

Orders in Council under *Tramways Act 1890* transferred to Trust.

5. The Order in Council to be made under the provisions of the *Tramways Act 1890* authorizing the said city to construct tramways in High-street in its municipal district and the Order in Council to be made under the provisions of the said Act authorizing the said town to construct tramways in its municipal district so far as such last-mentioned Order authorizes the said town to construct tramways from Boundary-road along High-street to the Tooronga-road and from the intersection of High-street and Glenferrie-road along Glenferrie-road to Wattletree-road and thence along the last-mentioned road to Tooronga-road and all powers authorities and privileges conferred on the said city and town respectively by such Orders in Council or by the *Tramways Act 1890* or any regulations made thereunder in reference to the said tramways (limited as to the said powers authorities and privileges so conferred on the said town to the portions of the said tramways hereinbefore mentioned) and all powers authorities and privileges which may be conferred on the said city

city and the said town or either of them in respect to the operating managing and working of but not of constructing any extensions of the said tramways to be authorized by the said first mentioned Order in Council and any extensions of the said portions of the said tramways to be authorized by the said secondly mentioned Order which may be constructed by the said city or by the said town within their respective municipal districts (but subject as to such extensions to the provisions of the said Agreement) shall immediately upon publication of such Orders in Council in the *Government Gazette*, and without further authority than this Act be transferred to and vested in the Trust.

6. The tramways to be constructed by the Trust shall subject to any modifications considered necessary by the Governor in Council contained or referred to in any tramway order be constructed in accordance with the Scheme one referred to in the report of Messrs. Noyes Bros. dated the twenty-fifth May One thousand nine hundred and six mentioned in the said Agreement a copy of which report has been deposited in the office of the Board of Land and Works except that the cost of wood blocking the tramways in High-street in the municipal district of Prahran referred to in the said report shall form part of the cost of the tramways to be constructed by the Trust.

Tramways to be constructed according to Scheme one of Noyes Bros.' report.

7. The Trust may borrow any sum or sums not exceeding Five thousand pounds in the whole by way of overdraft from any bank or banks and for the purpose of repaying the same may borrow moneys as provided in clause twelve of the Schedule to the said Agreement, and such borrowing shall not be deemed an exercise of the borrowing powers conferred on the said city and the said town or either of them by the *Local Government Act 1903*. Provided however that the total amount to be borrowed by the Trust inclusive of such Five thousand pounds shall not in any event exceed One hundred thousand pounds and in the event of the Trust being forbidden to proceed with any borrowing for the purpose of (*inter alia*) repaying such overdraft the amount due in respect thereof shall be repaid to the Trust by the said councils in equal shares out of their respective municipal funds.

Trust may borrow by way of overdraft.

8. The Trust without further authority than this Act shall have power to use and supply electric energy for the purposes of any of the tramways vested in it or any extension managed or maintained by it provided however that the Trust shall comply with all conditions specified in any tramway order as to laying or placing of electric wires and the guarding and maintaining of the same and with all regulations as to such use and supply made under the *Electric Light and Power Act 1896* in the same way and to the same extent as if it was an undertaker within the meaning of that Act.

Trust to have power to use and supply electric energy.

9. The

Hours of work and rates of pay.

9. 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 motor men 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.

10. 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.

Board of Land and Works may purchase tramway. See No. 410 s. 7.

11. 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.

Running rights over part of route in Malvern.

12. Notwithstanding anything in the said Agreement contained the said town shall have the right to exercise running powers over that part of the tramway referred to in clause thirty-six of the said Agreement in addition to the right to grant running powers as therein provided subject however to such terms as may be agreed upon between the said town and the Trust or in the event of disagreement upon such terms as shall be fixed by arbitration under the provisions for arbitration in the said Agreement contained. Provided always that the terms upon which such running powers may be exercised by the said town or by any grantee of the said town pursuant to this Act or the said Agreement shall not include the payment by the said town or such grantee of any sum of money by way of bonus or of any compensation to the Trust for any interference with its traffic on such part of the tramway by reason of the exercise of such right.

13. Notwithstanding

13. Notwithstanding anything in the said Agreement contained the Trust shall not lease the undertaking without the consent of the Governor in Council. Trust not to lease without consent.

14. 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.

(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.

## THE SCHEDULE HEREINBEFORE REFERRED TO.

AGREEMENT made the seventh day of October One thousand nine hundred and seven between THE MAYOR COUNCILLORS AND CITIZENS of the City of Prahran (which when separately hereinafter referred to is called "the said City") of the one part and THE MAYOR COUNCILLORS AND BURGESSES of the Town of Malvern (which when separately hereinafter referred to is called "the said Town") of the other part Whereas the said parties have made application for Orders in Council under the *Tramways Act 1890* to authorize the construction and management of electric tramways within their respective municipal districts And whereas the parties are desirous that portions of the tramways comprised or to be comprised in such Orders in Council shall be constructed managed controlled and operated and that other portions thereof shall be managed controlled and operated as one undertaking and that for such purposes a Trust shall be incorporated in the manner and with the powers hereinafter mentioned.

Now it is agreed as follows:—

1. The parties hereto shall proceed with all reasonable despatch to procure the granting of the said Orders in Council so applied for by them respectively under the *Tramways Act 1890* for the construction and management of tramways in their respective municipal districts as aforesaid and to promote a Bill to incorporate a Trust to be constituted in the manner and with the powers specified in the Schedule hereto with such modifications and additions thereto as to Parliament may seem desirable or necessary and to carry into effect the provisions of this Agreement.
2. The powers and authorities which may be conferred on the parties hereto respectively by such Orders in Council in respect of the portion of such tramways which is included in the plan attached to the report of Messrs. Noyes Bros. furnished to the Conference Committee of the Councils of the said City and the said Town dated twenty-fifth May One thousand nine hundred and six (a copy whereof is hereunto annexed and sealed for the purpose of identification) and the powers and authorities which may be so conferred on them in respect of the operating managing and working any extensions thereof which may be constructed by either of the parties within their respective municipal districts shall be transferred to the Trust to be incorporated as aforesaid subject as to such extensions to the provisions of clause thirty-four of the said Schedule.
3. The tramways to be constructed by such Trust shall be constructed in accordance with the Scheme one referred to in such report except that the cost of wood-blocking in High-street therein referred to shall form part of the cost of the said tramways to be vested in the Trust.

## THE SCHEDULE REFERRED TO.

1. The said Trust shall be a body corporate by the name of The Prahran and Malvern Tramways Trust and by that name shall have perpetual succession and a common seal and may sue and be sued and shall have power to purchase take hold sell lease exchange or dispose of land or property for any of the purposes of this Agreement (and is hereinafter called "the Trust").
2. The Trust shall consist of five members two of whom shall be members of and elected by the Council of the said City and two of whom shall be members of and elected by the Council of the said Town and a fifth member who shall be Chairman of such Trust (and is hereinafter referred to as the Chairman) and shall be nominated and appointed by both of such Councils and shall not be a member of either Council In case of a vacancy in the office of Chairman the same shall be filled by nomination and appointment in like manner.
3. If the said Councils shall fail to agree upon the person to be nominated as such fifth member within one calendar month after the date of the election of the last of the other members of the Trust or in case of a vacancy in such office within one calendar month after such vacancy occurring the Minister of Public Works for the time being shall

shall choose such fifth member and upon such Minister signifying such choice by writing under his hand the person so chosen shall be such fifth member as effectively as if he had been nominated and appointed by both of such Councils.

4. The Chairman shall hold office for four years and shall be eligible for re-election.
5. The Chairman shall cease to be a member of the Trust if he become a member of the Council of the said City or of the said Town or if his estate shall be sequestrated under any Act of Parliament relating to Insolvency or if he shall assign his estate for the benefit of his creditors or if he absents himself from three consecutive meetings of the Trust without the leave of the Trust.
6. If any member of the Trust other than the Chairman shall vacate his seat in the Council by which he was elected and shall not be re-elected a member of such Council at the election consequent upon or occurring at the same time as such seat becomes vacant or if he shall become a member of both of such Councils he shall cease to be a member of the Trust and his place shall be filled by the Council by which he was elected as a member of the Trust and his successor shall hold office for the balance of the term for which he was elected.

7. The members of the Trust other than the Chairman shall hold office for two years and shall be eligible for re-election Provided that one of the two members first elected by each Council shall retire from office at the end of twelve months and the Council appointing such members shall by resolution direct which of them shall so retire.

8. The remuneration of the Chairman shall be fixed by the Trust and shall not exceed Two hundred and fifty pounds per annum.

9. The remuneration of the members of the Trust other than the Chairman may be fixed at such sum not exceeding Seventy-five pounds per annum as may be determined by a resolution passed by both of the said Councils but until such resolution is so passed such members shall not be entitled to any remuneration.

10. The acceptance of such remuneration by any member of the Trust who is a member of the Council of either the said City or the said Town shall not vacate the seat of such member in such Council nor subject him to any penalties under the Local Government Acts.

11. The Trust shall combine and exercise all the powers and authorities of the said City and the said Town in respect of the said Orders in Council or so much thereof as shall be transferred to or vested in it in pursuance of the provisions of this Agreement and in addition thereto shall be authorized to control manage and operate the tramways to be constructed in accordance with the said Orders in Council or so much thereof as shall have been transferred to or vested in it as aforesaid (which tramways with their appurtenances are herein referred to as "the undertaking") and to do all acts and things as are incidental or conducive to carrying out the provisions of this Agreement.

12. For the purpose of enabling the Trust to construct such tramways and purchase land and erect a power-house car-sheds buildings and offices and provide rolling-stock machinery and plant and to pay the contribution to the Victorian Railways Commissioners in respect of re-grading the railway between Toorak Railway Station and the Wattle-tree-road crossing in Malvern and any moneys by this Agreement authorized to be paid by it the Trust shall have power to borrow moneys not exceeding in the whole One hundred thousand pounds on the security of the undertaking and the joint credit of the said City and of the said Town by the issue of debentures in the form or to the effect set forth at the end hereof. Such borrowing shall not be deemed an exercise of the borrowing powers conferred upon the said City and the said Town or either of them by the *Local Government Act 1903*. If default be made in payment of the principal money or interest due in respect of any debenture the holder thereof may apply for the appointment of a receiver and a receiver may be appointed in the same manner as though such default were a default in payment of any principal money or interest due by a municipality and secured by debentures issued under the authority of Part XIII. of the *Local Government Act 1903*.

13. One

13. One month before proceeding to borrow any moneys the Trust shall give notice of its intention so to do by advertisement appearing in each of two successive weeks in a newspaper usually circulating in both of the said municipal districts.

14. The provisions of the *Local Government Act 1903* or any statutory modification thereof for the time being in force relating to a demand of a poll by ratepayers of the said City or of the said Town shall apply to any proposal by the Trust to borrow moneys and if after the taking of any such poll the requisite number of votes of the ratepayers of either of such municipalities (as prescribed by such Act) shall forbid such proposed borrowing the Trust shall not further proceed therewith. In such case either municipality may at any time after the expiration of six months from the taking of such poll by notice in writing under its common seal require the said Trust to re-assign or re-transfer to it the powers and authorities originally conferred on such municipality by the Order in Council granted to it under the *Tramways Act 1890* and which shall have been transferred to the Trust as herein provided and the Trust shall re-assign or re-transfer the same accordingly.

15. The Trust may lodge at interest on fixed deposit or otherwise as may be deemed most advantageous by it in any one or more of the banks of issue carrying on business in the City of Melbourne the whole or any portion of the moneys to be borrowed by it or which may from time to time be received by it.

16. The Trust without affecting the generality of the powers hereinbefore contained shall have power to lend moneys on mortgage and to enter into contracts for the purchase supply or sale of electricity or electric energy and to enter into contracts with any person or corporation and to expend moneys for the purpose of promoting the earnings of the undertaking.

17. The Trust shall be empowered to repay to the said City and the said Town all costs and expenses incurred by them or either of them in relation to the obtaining the said Orders in Council or in connexion with this Agreement or the obtaining an Act of Parliament to carry this Agreement into effect or in any way arising thereout and such moneys shall be deemed to be capital expenditure on account of the said tramways.

18. The sum of Thirteen thousand pounds to be paid to the Victorian Railways Commissioners for re-grading the railway between Toorak Railway Station and Wattle-tree-road crossing shall be paid by the Trust out of any moneys borrowed by it and as regards Five thousand pounds portion thereof the said municipalities shall repay to the Trust as and when the same shall become payable by the Trust the interest and sinking fund in respect of the borrowing thereof in the following proportions, that is to say, the interest and sinking fund in respect of Three thousand five hundred and fifty pounds shall be paid by the said City and the interest and sinking fund in respect of One thousand four hundred and fifty pounds shall be paid by the said Town.

19. 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 so much of the road as extends eighteen inches beyond such outermost rails.

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.

21. The Trust shall apply the revenue to be derived from the undertaking other than income arising from the investment of its renewal reserve fund—

(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 said undertaking:

(c) in

(c) in establishing a renewal reserve fund for the purpose of providing for the renewal of any part of the said 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 said City and the said Town 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.

22. In the event of such revenue being insufficient to pay or provide for the moneys referred to in parts (a) and/or (b) of the last preceding clause any deficiency therein shall be made good to the Trust by the said City and the said Town 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.

23. In the event of the said City or the said Town paying or becoming liable to pay any moneys to the Trust under the provisions of clause twenty-two such moneys shall be repaid by the Trust to the said City or the said Town respectively in priority to and before dividing the balance of revenue as provided in clause twenty-one.

24. 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 part (c) of clause twenty-one think proper the Trust shall notwithstanding the provisions of the said part (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.

25. All outgoings of the Trust during the period of construction on any account whatever shall be deemed to be part of its capital expenditure.

26. Each of the said municipalities shall be liable to indemnify the Trust against any capital loss in the proportion which its capital interest (as defined in the next succeeding clause) bears to the total capital cost of the undertaking of the Trust.

27. For the purpose of the last preceding clause each of the said municipalities shall be deemed to have a capital interest in the undertaking of the Trust to the extent following that is to say:—

(a) The capital cost of the permanent way and overhead equipment and of any alterations to sewers water mains and pipes and gas mains and pipes within its municipal district together with, in the case of the said City, the sum of Five thousand seven hundred pounds being its proportion of the sum of Eight thousand pounds portion of the amount to be paid to the Victorian Railways Commissioners in respect of the re-grading of the said railway line as aforesaid and in the case of the said Town together with the sum of Two thousand three hundred pounds being its proportion of the said sum of Eight thousand pounds.

(b) The capital cost of land buildings machinery rolling stock and plant in the proportion which the route mileage in its municipal district bears to the total route mileage of the tramway vested in the Trust.

(c) So much of the outgoings of the Trust during the period of construction as are not comprised under parts (a) and (b) of this clause in such proportion as the Trust may allocate to each municipality.

28. The Trust shall as soon as conveniently may be after the thirtieth day of September in each year make up an account and balance sheet showing its receipts and expenditure for the year or period ending on that date and shall also for the like period prepare a statement showing the car mileage run in each municipality and the amount of the renewal reserve fund and the manner in which such fund is invested or

secured

secured and what (if any) moneys have been paid to the Trust by either or both of the said municipalities in pursuance of any of the conditions of this Agreement and shall immediately thereafter forward a copy of such account balance sheet and statement to each of the said municipalities.

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

30. The Trust without further authority than the Act of Parliament proposed to be obtained shall have power to use and supply electric energy for the purposes of any of the tramways vested in it or any extension managed or maintained by it under the provisions of this Agreement provided however that the Trust shall comply with all regulations as to such use and supply made under the *Electric Light and Power Act 1896* in the same way and to the same extent as if it was an undertaker within the meaning of that Act.

31. For the purpose of making forming laying down maintaining repairing or renewing the tramways vested in it the Trust shall have power from time to time to alter the position of any sewer or drain or any mains or pipes for the supply of gas or water subject to the same restrictions as are imposed upon the Company by section 18 of the *Melbourne Tramway and Omnibus Company's Act 1883*.

32. The Trust may with the consent of both of the said municipalities lease the said undertaking for such period and upon such terms as the Trust shall determine and shall if and when so required by both of the said municipalities lease the said undertaking to such person or corporation and for such period and on such terms as the said municipalities shall direct or approve.

33. In the event of the tramway undertaking being leased by the Trust the rent to be received therefrom after payment of interest and sinking fund in respect of any moneys borrowed by the Trust and the contribution to the renewal reserve fund and the expenses of the Trust shall be distributed between the said City and the said Town in proportion to the car mileage run in their respective municipal districts.

34. If either of the said municipalities shall in their respective municipal districts construct any extension of the tramways vested in the Trust which in the opinion of the Trust can be conveniently operated in conjunction with the undertaking it shall be obligatory on the Trust to operate manage and maintain such extensions as if they formed part of the undertaking.

35. The Trust shall keep proper accounts of the revenue received from any such extension and of the cost of operating managing and maintaining the same and of the proportion of the renewal reserve fund properly chargeable in respect thereof and shall make out a monthly statement thereof and forward a copy to the Council of the municipality owning such extension. If after deducting from the revenue of such extension the cost of operating managing and maintaining the same and the proportion of the renewal reserve fund as aforesaid there shall be a surplus such surplus shall be paid by the Trust to the municipality owning such extension but if there shall be a deficiency the amount thereof shall forthwith be paid to the Trust by such municipality.

36. Notwithstanding anything in this Agreement contained or any transfer to the Trust of any rights or powers granted by any Order in Council the said Town 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 the said 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.

37. In the event of any difference arising under the last preceding clause or between either or both of the said municipalities and the Trust as to any matter whether arising out of the construction of this Agreement and/or the proposed 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 said municipalities or either of them such difference shall be referred to the Minister

of Public Works 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 723 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.

FORM OF DEBENTURE ABOVE REFERRED TO.

THE PRAHRAN AND MALVERN TRAMWAYS TRUST.

*Transferable by Delivery.*

Under the authority of the *Prahran and Malvern Tramways Trust Act 1907*.

This Debenture entitles the bearer to the sum of One hundred 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 tramways constructed by the Trust and also upon the respective revenues of the Mayor Councillors and Citizens of the City of Prahran and the Mayor Councillors and Burgesses of the Town of Malvern 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 \_\_\_\_\_ One thousand nine hundred and \_\_\_\_\_

The Common Seal of the Prahran and Malvern Tramways }  
Trust was affixed hereto in the presence of— } (L.S.)  
Members.  
Secretary.

In witness whereof the parties hereto have hereunto set their Common Seals the day and year first above written—

The Common Seal of the City of Prahran was hereto }  
affixed by me pursuant to By-law numbered one— } (L.S.)  
W. CALDER,  
Acting Town Clerk.

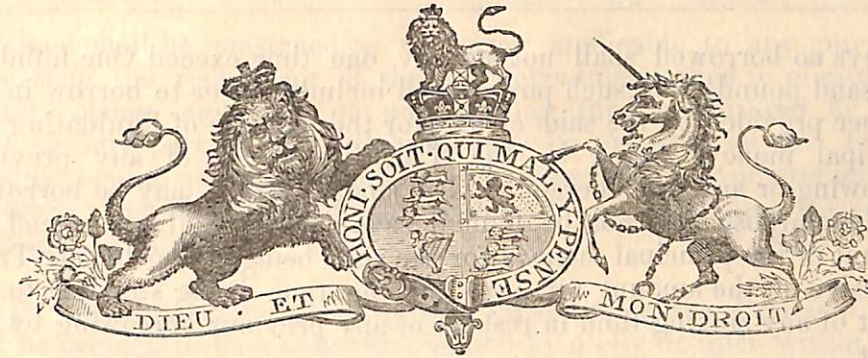
The Common Seal of the Mayor Councillors and Bur- }  
gesses of the Town of Malvern was affixed hereto by } (L.S.)  
order of the Council—  
J. ELLIS, Mayor.  
ALEX. CAMERON, Councillor.  
F. HUGHES, Town Clerk.

MELBOURNE:

By Authority: J. KEMP, Acting Government Printer.



VICTORIA.



ANNO NONO

EDWARDI SEPTIMI REGIS.

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No. 2166.

An Act to amend the *Prahran and Malvern Tramways Trust Act 1907.*

[2nd March, 1909.]

WHEREAS it is expedient to remove doubts and difficulties which have arisen as to the borrowing powers of the Prahran and Malvern Tramways Trust under the *Prahran and Malvern Tramways Trust Act 1907* and to facilitate such borrowing and to enable The Melbourne Tramways Trust and also Trustees generally to invest in or upon debentures issued under the said Act: And whereas for these and other purposes and also to correct an error which has occurred therein it is expedient to amend the said Act: Be it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Preamble.  
No. 2130.

1. This Act may be cited as the *Prahran and Malvern Tramways Trust Act 1909* and shall be construed as one with the *Prahran and Malvern Tramways Trust Act 1907* and the said Act (hereinafter called "the Principal Act") and this Act may be referred to as the "Prahran and Malvern Tramways Trust Acts."

Short title and  
construction.  
No. 2130.

2. The power to borrow conferred upon the Trust by clause twelve of the Schedule of the Principal Act may be exercised from time to time and to such extent as to the Trust may seem fit but so that the moneys

Borrowing powers  
exercisable from  
time to time and  
to repay.

moneys so borrowed shall not at any one time exceed One hundred thousand pounds, and such power shall include power to borrow in the manner provided by the said clause for the purpose of liquidating the principal moneys owing by the Trust in respect of any previous borrowing or any part thereof. The amount which may be borrowed for this purpose shall not be limited save that it shall not exceed the amount of the principal moneys for the time being owing by the Trust exclusive of the amount (if any) for the time being standing to the credit of any sinking fund in respect of any previous borrowing by the Trust.

Sinking fund and periods for repayment to be in Trust's discretion.

3. The terms on which the Trust may contract as to the time or mode of repayment of any moneys borrowed by it and the nature and extent of any sinking fund to be constituted in respect thereof and of the amount from time to time to be applied in providing for such sinking fund shall be such as the Trust shall from time to time in its discretion determine.

Amendment of clause 12 of Schedule to Principal Act. Remedy for debenture holders.

4. In clause twelve of the Schedule to the Principal Act the following words namely "If default be made in payment of the principal money or interest due in respect of any debenture the holder thereof may apply for the appointment of a receiver and a receiver may be appointed in the same manner as though such default were a default in payment of any principal money or interest due by a municipality and secured by debentures issued under the authority of Part XIII. of the *Local Government Act 1903*" are hereby repealed, and in lieu thereof there are hereby substituted the following words, namely:—

"If default be made in payment of the principal money or interest due in respect of any debenture issued in pursuance of this clause, 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 said city and of the said town respectively, 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 clause had been to the full amount thereof debentures issued by each of them the said city and the said town respectively 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 either the said city or the said town 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

contained shall be construed as rendering applicable to any purpose other than the repayment of the said debentures issued in pursuance of this clause 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 clause."

5. Any debenture issued by the Trust under the Principal Act 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.

Power for Melbourne Tramways Trust and trustees generally to invest in debentures of Trust.  
No. 1421.  
No. 1841.  
No. 1956.

MELBOURNE

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