



The Calcutta Tramways Act, 1880

Act 1 of 1880

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Bengal Act I of 1880

[THE CALCUTTA TRAMWAYS ACT, 1880.]

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Bengal Act I of 1880

[THE CALCUTTA TRAMWAYS ACT, 1880.]¹

VALIDATED	..	[Ben. Act II of 1884. Ben Act III of 1894. Ben. Act IV of 1900.
REPEALED IN PART	..	[Act I of 1903. West Ben. Act XXV of 1951.
AMENDED	..	[Ben. Act XVI of 1946. West Ben. Act XVIII of 1967. West Ben. Act I of 1983.
ADAPTED	..	[(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adapta- tion of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

[3rd March, 1884.]

An Act to authorize the making and to regulate the working of Street Tramways in Calcutta.

WHEREAS the Corporation of the town of Calcutta, hereinafter called the Corporation, by an agreement dated the 2nd day of October, 1879, for the considerations therein expressed, granted to Dillwyn Parrish, Alfred Parrish and Robinson Souttar and their assigns, hereinafter called the grantees, the right to construct, maintain and use a tramway or tramways in Calcutta upon the terms and in the manner mentioned in the said agreement a copy whereof is set forth in the schedule to this Act, which said agreement had, on the twenty-fifth day of August, 1879, received the sanction of the Lieutenant-Governor of Bengal;

Preamble.

AND WHEREAS the grantees are desirous of being empowered to construct the several street tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Calcutta and the Suburbs of Calcutta, and by such other routes as may hereafter be approved;

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1879, Pt. IV, page 105; for Report of Select Committee, see *ibid.*, 1880, Pt. IV, page 1; and for Proceedings in Council, see *ibid.*, 1879, Supplement, page 1446; *ibid.*, 1880, Supplement, page 55.

LOCAL EXTENT.—This Act extends only to Calcutta and its suburbs. *Sees.* 3 and 4.

The provisions of the Calcutta Tramways Act, 1880 (Ben. Act I of 1880), relating to the purchase of the undertaking or any part thereof which is purchasable by any body or persons are repealed in so far as such provisions are inconsistent with the provisions of the Calcutta Tramways Act, 1951 (West Ben. Act XXV of 1951), relating to the transfer of the undertaking to Government (*vide* West Ben. Act XXV of 1951, section 6).

(Sections 1-3.)

AND WHEREAS the objects of this Act cannot be attained without the authority of the Legislature;

It is hereby enacted as follows:—

Short
title.

1. This Act may be called the Calcutta Tramways Act, 1880.
[Commencement.]—Rep. by s. 4 and the Third Sch. of the Amending Act, 1903 (1 of 1903).

Meaning of
"tramway".

2. In this Act, unless there be something repugnant in the subject or context, "tramway" means a tramway constructed under this Act.

Tramways
may be
made in
accordance
with the
agreement
between the
Corporation
and the
grantees.

3. Subject to the provisions of this Act, and of the said agreement, the grantees may make and maintain in Calcutta a tramway or tramways, with single or double lines, and with all necessary sidings, turn-outs, connections and lines (but in the case of sidings and turn-outs only in such places as the Corporation may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved by the Corporation and sanctioned by the [State Government]:—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghat Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road, and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bazar Street, Lall Bazar Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4, commencing near Sobha Bazar Street and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurrumtollah Street, and passing along Dhurrumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the Circular tramway at Koila Ghat Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road, and passing along Elliott's Road and Wellesley Street, and joining tramway No. 5 in Dhurrumtollah and tramway No. 1 in College Street.

¹The words "Provincial Government" were first substituted for the word "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

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(Sections 4-6.)

8th.—Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurruntollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2:

Provided that, without the special sanction of the Corporation to be obtained in special general meeting of the Commissioners, there shall not be a double line in the following places:—

In tramway Number 1,	Colootollah Street.
Ditto	„ 2, the whole.
Ditto	„ 6, Elliott Road.
Ditto	„ 7, the connecting line.

4. In the event of any other tramway or tramways on other routes in Calcutta or in the Suburbs of Calcutta being from time to time approved by the Corporation or the Municipal Commissioners for the said Suburbs, as the case may be, and sanctioned ¹[by the State Government] and undertaken by the grantees, notice thereof specifying the routes so approved of, and, in the case of suburban tramways, a copy of the agreement entered into between the said Municipal Commissioners and the grantees in respect thereof, shall thereupon be published in ²[*Official Gazette*];

Application of Act to suburban tramways.

and, upon such publication, all the provisions of this Act, so far as the same may be applicable, shall apply to the tramway or tramways in such publication specified, and all works and things connected with the same or incidental thereto, as if the said routes had been particularly specified in this Act and as if the agreement, if any, in reference thereto had been included in the schedule to this Act.

5. Every tramway shall be constructed on the metre gauge of 3 feet $3\frac{3}{8}$ inches, or on such other gauge not exceeding 4 feet $8\frac{1}{2}$ inches as may be agreed upon between the Corporation and the grantees, and shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road; and before the work of construction is begun, the drawings and specification showing the proposed construction of each tramway shall be submitted to the Corporation and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Corporation.

Form in which tramways are to be constructed and maintained.

6. No tramway shall be opened for public traffic until the same has been inspected and certified by the Engineer to the Corporation to be fit for such traffic.

No tramway to be opened without certificate from Engineer.

¹The words "by the Provincial Government" were first substituted for the words "by Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Sections 7-12.)

Carriages
how to be
worked.

7. The cars and carriages of the grantees on the lines of the tramways shall be worked with such power, animal or mechanical as the grantees may think suitable:

Provided that no steam-carriages shall be used without the special consent of the Corporation to be obtained in special general meeting of the Commissioners, and without the sanction of the¹ [State Government].

Grantees
may use
tramway
carriages
with flange
wheels.

8. The grantees may use on their tramways carriages with flange wheels or wheels suitable only to run on a grooved rail, and subject to the provisions of this Act, and of the hereinbefore recited agreement, they shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail.

Grantees
may fix
and
demand
fares.

9. The grantees² [shall have power, with the previous consent of the State Government, to fix or revise] the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways:

)* * * * *

Printed
list of
fares, etc.,
to be
placed in
carriages.

10. A printed list, in English, Bengali and Urdu, of all the fares and charges authorised by this Act to be taken, and a printed copy in the same languages of all by-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantees upon any of their tramways.

Such list and printed copy as aforesaid shall be published in the³ [Official Gazette] at the expense of the grantees.

Fares how
to be paid.

11. The fares and charges by this Act authorised shall be paid to such persons, at such places, upon or near to the tramways, and in such manner and under such regulations as the grantees may, by notice to be annexed to the list of fares, from time to time appoint.

Power to
break up
streets.

12. The grantees may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the streets, as defined by Bengal Act IV of 1876 (*the Calcutta Municipal Consolidation Act*)⁴, and bridges in the

¹See foot-note 1 on page 358, *ante*.

²The words within the square brackets were substituted and were deemed to have been substituted for the words "shall have power from time to time to fix" by s. 2 of the Calcutta Tramways (Amendment) Act, 1967 (West Ben. Act XVIII of 1967).

³The proviso was omitted by s. 2 of the Calcutta Tramways (Amendment) Act, 1983 (West Ben. Act I of 1983).

⁴See foot-note 2 on page 359, *ante*.

⁵Ben. Act IV of 1876 was repealed and re-enacted by Ben. Act II of 1888, which was repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act III of 1899), which again was repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923). Ben. Act III of 1923 was further repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951). The reference in the text should now be construed as a reference to the last mentioned Act—see the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), s. 10.

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(Section 13.)

town of Calcutta, and therein lay sleepers and rails and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining their tramways subject to the following regulations:—

1st.—They shall give to the Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be open or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge, except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees shall pay all reasonable expenses, unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the Corporation, open or break up at any one time a greater length than a quarter of a mile on any line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks at the most, unless the Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground and make good the surface, and to the satisfaction of the Corporation, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall in the meantime when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes and sewers, whether belonging to the Corporation or to private individuals by the disturbance thereof.

7th.—If by any such operations as aforesaid the grantees interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply shall be so interrupted.

13. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Corporation shall direct, the rails of which any of their tramways shall for the time being consist, and so much of any street or bridge as lies between the rails of any tramway; and, in the case of double lines or turn-outs or sidings the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out such repairs, it shall not be necessary to give notice thereof to the Corporation.

Grantees to keep the tramway roads in proper repair.

(Sections 14-20.)

Grantees not to obstruct ordinary traffic.

14. In exercising the powers given to them by the last two preceding sections, the grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gaspipes by the direction of the Corporation.

Reservation of right of public to use roads.

15. Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail.

Saving of Port Commissioner's tramways.

16. Nothing in this Act, or in any by-law made under this Act, shall interfere with the right of the Port Commissioners, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

Right of user only.

17. Notwithstanding anything in this Act contained the grantees shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

Penalty for failure of grantees to comply with provisions of this Act.

18. If the grantees fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of the Corporation or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for obstructing grantees in the exercise of their power.

19. If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramway.

20. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things namely:—
interferes with, removes or alters any part of a tramway of the grantees, or of the works connected therewith;

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(Sections 21-24.)

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways;

or knowingly aids or assists in the doing of such thing, he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

21. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

Penalty for avoiding payment of proper fare.

22. It shall be lawful for any servant of the grantees, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer, in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Servant of grantees may arrest persons avoiding payment of fare.

23. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and, if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty-rupees for every such offence, and it shall be lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Carriage of dangerous or offensive goods.

24. The Corporation in special general meeting may subject to confirmation thereof by the¹[State Government], from time to time make such regulation as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act.

By-laws by Corporation.

¹See foot-note 1 on page 358, ante.

(Sections 25-28.)

The grantees may make certain regulations.

The grantees may, subject to confirmation as aforesaid, from time to time make such regulations—

for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them, and

for regulating the travelling in or upon any carriage belonging to them,

as are inconsistent with this Act.

Notice of the making of any such¹[regulations] shall be published by the Corporation in the ²[*Official Gazette*].

Penalty for breach of by-laws.

25. Any person offending against any ¹[regulation] made under the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such ¹[regulations] as a penalty for such offence.

Power to Corporation to license drivers, conductors, etc.

26. The Corporation shall have the like power of making and enforcing rules and regulations and of granting licenses with respect to all drivers, conductors and other persons having charge of the carriages using the tramways as they are for the time being entitled to make, enforce and grant with respect to the drivers of hackney-carriages and other persons having charge thereof.

Grantees to be responsible for all damages.

27. The grantees shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and shall save harmless the Corporation and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for the Corporation and police to regulate traffic on roads.

28. Nothing in this Act shall limit the powers of the Corporation or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and the Corporation or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

The Corporation shall not be liable to pay to the grantees any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

¹Substituted by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946), for the word "by-laws".

²See foot-note 2 on page 359, *ante*.

³Substituted by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946), for the word "by-laws".

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(Sections 29, 30.)

29. Nothing in this Act shall be construed to prevent the Corporation, or the Oriental Gas Company, Limited, in the exercise of the powers conferred upon them under Act V of 1857¹ from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same:

Reservation
of power
over roads.

Provided—

- (1) that they shall cause as little detriment or inconvenience to the grantees as circumstances admit;
- (2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the grantees;
- (3) that before they commence any work, whereby the traffic on the tramways will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work;
- (4) that, in the event of their so interfering with, or stopping the running of, any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the rent hereinbefore reserved and payable by the grantees;
- (5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

30. The Corporation shall have the right of purchasing the tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this Act, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years, after the expiration of the said twenty-one years upon similar notice being given;

Corporation
to have
right of
purchasing
tramways
after
twenty-one
years.

and the consideration for such purchases shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantees, or securities of the ²[Central Government], or securities the interest

¹Act V of 1857 is an Act of a private character (Oriental Gas Company), and is therefore not printed in this Code.

²These words were substituted for the words "Government of India" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

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whereon shall have been guaranteed by the Secretary of State for India in Council, or debentures of the Corporation of such amount as to produce, at the rate of interest current on such securities, seven *per cent. per annum* on the amount of the said invested capital;

and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways, which shall have been purchased from them.

SCHEDULE.

Articles of Agreement made this second day of October, 1879, between the Corporation of the Town of Calcutta incorporated under ¹[Act IV of 1876² of the Lieutenant-Governor of Bengal in Council] hereinafter called the said Corporation on the one part, and Dilwyn Parrish and Alfred Parrish, both of London, and Robinson Souttar, of Liverpool, hereinafter called the said grantees of the other part. Whereas the said Corporation have, subject to confirmation thereof by the Government of Bengal, and to the recognition of this agreement by an Act of the Bengal Legislature, agreed to grant to the said grantees the right to construct, maintain and use a tramway or tramways in Calcutta, upon the terms and conditions hereinafter contained, now these presents witness that, in consideration of the covenants and agreements hereinafter contained and on the part of the said Corporation to be performed, the said grantees for themselves, their heirs, executors, administrators and assigns do, and each of them for himself, his heirs, executors, administrators and assigns doth, covenant with the said Corporation, so far as the covenants and agreements hereinafter contained are to be performed by the said grantees and their heirs, executors, administrators and assigns, and the said Corporation, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said grantees and their heirs, executors, administrators and assigns to be performed, do hereby covenant with the said grantees and their heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said Corporation in manner following, that is to say:—

1. The said Corporation grant to the said grantees and their heirs, executors, administrators and assigns, all which persons are hereinafter included in the words "the said grantees", the right to construct, maintain and use a tramway or tramways, with single or double lines, and with

¹This expression shall stand unmodified—see para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²Ben. Act IV of 1876 was repealed and re-enacted by Ben. Act II of 1888, which was repealed and re-enacted by Ben. Act III of 1899 which again was repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923). Ben. Act III of 1923 was further repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951).

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all necessary sidings, turn-outs, connections and lines of whatever nature which may be required to connect the said tramway or tramways with the depots of the said grantees (but in the case of sidings and turn-outs only in such places as the said Corporation may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Corporation:—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghat Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bazar Street, Lal Bazar Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4, commencing near Sobha Bazar Street, and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurumtollah Street and passing along Dhurumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the circular tramway at Koila Ghat Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road and along Elliott's Road and Wellesley Street and joining tramway No. 5 in Dhurumtollah and tramway No. 1, in College Street.

8th.—Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2:

Provided that without the special sanction of the Corporation (Commissioners in special general meeting) there shall not be a double line in the following places:—

- In tramway No. 1, Colootollah Street.
- Ditto .. 2, the whole.
- Ditto .. 6, Elliott's Road.
- Ditto .. 7, the connecting line.

These lines are particularly delineated on a plan accompanying this agreement, and signed by the Engineer to the Corporation and one of the said grantees.

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2. The said grantees shall, moreover (subject to clauses 3 and 4), have the exclusive right of laying, constructing, maintaining and using a tramway or tramways within the limits of the Calcutta Municipality on the terms contained in these presents:

Provided always that if the said grantees shall at any time or times refuse or neglect for three months to accept any proposal by the said Corporation for the construction, maintenance and use of any tramway or tramways other than those mentioned in clause 1 which the said Corporation may consider necessary or desirable, it shall be lawful for the said Corporation to employ any other person or company for the purposes aforesaid or any of them, and to make such arrangements as they may think proper independently of the said grantees.

3. The said grantees shall construct in such a manner as to be available for use at least six miles of the tramways mentioned in clause 1 within three years from the passing of the necessary Act by the Legislature, and they shall, before the expiration of the fourth year, give notice in writing to the said Corporation of the lines they intend to construct during the fifth year, and, failing the observance by the said grantees of the terms of this clause it shall be lawful for the said Corporation to withdraw and cancel the concessions and rights granted by these presents to the said grantees as regards the lines remaining unconstructed.

4. If the grantees shall, at the expiration of five years from the date of commencement of this contract, have left any one or more of the lines hereinbefore in clause 1 specified unconstructed, and if the said Corporation shall not have exercised the rights conferred on them by clause 3, the said Corporation may call upon the said grantees to construct the line or lines; and if the said grantees do not construct the line or lines within twelve calendar months after receiving such formal notice, then their powers granted in this concession shall, so far as relates to that line, cease, and the said Corporation may make arrangements with other persons for the construction of the same, and in such last-mentioned case the other parties, to whom the said concession or any contract shall be granted, shall have the privilege of running round the circle to be constructed by the said grantees, namely, by way of Koila Ghat Street, Strand Road, Fairlie Place and Clive Street, free of toll, and, in the event of the said grantees having failed to construct the six miles of tramway provided for in the preceding clause, such other parties as last aforesaid shall have a like privilege of running over any part of any of the tramways No. 1 to No. 7 abovementioned in part constructed by the grantees to any other part of the same tramway which may have been constructed by the said other parties:

Provided always that in the exercise of these privileges they shall not interfere with or obstruct the traffic of the said grantees, and shall conform to such rules for the regulation of the traffic as may be drawn out by the said grantees and approved of by the said Corporation:

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Provided also that it shall not be lawful for the said other parties to both take up and set down the same passenger on the said grantees' lines:

Provided also that, if the said grantees shall offer any obstruction or fail to afford reasonable facilities, to enable the said parties to whom any concession or contract shall be made or given as aforesaid to exercise the privilege of using the lines of the said grantees as aforesaid, it shall be lawful for the said Corporation forthwith to make such rules with reasonable penalties for the breach thereof as they may think advisable for the purpose of regulating the use of the said lines and the traffic thereon.

5. Any tramway or tramways to be constructed under this agreement shall be constructed on the metre-gauge of 3 feet $3\frac{3}{8}$ inches, or on such other gauge not exceeding 4 feet $8\frac{1}{2}$ inches as may be mutually agreed upon, and especially the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road, and before the work of construction is begun, the drawings and specification showing the proposed construction of each tramway shall be submitted to the said Corporation and be approved by them, and the cars and carriages intended to run on the said tramways shall also be such as shall have been approved of by the Corporation.

6. If the said Corporation shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorized is laid or authorised to be laid, the grantees shall alter or (as the case may be) lay their rails, so that the uppermost surface thereof shall be on a level with the surface of the road so altered:

Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

7. The cars and carriages of the said grantees on the tracks of the said tramways shall be worked with such power, animal or mechanical, as the said grantees may think suitable: provided that no steam-carriages may be used without the special consent of the Corporation (Commissioners in special general meeting); and provided also that the Corporation (Commissioners in special general meeting) shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said tracks as the convenience and safety of the public using the streets may require.

8. The sleepers, rails, materials, implements and erections placed and erected by the said grantees or their assigns on the streets or roads under the powers hereby granted shall be and remain the property of the said grantees, but they shall not remove or displace the same or any of them or any part or parts thereof without the consent in writing of the said Corporation. No person other than the grantees, or persons

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authorized so to do under clause 4 thereof, may use upon tramway or tramways made under this agreement, or under any agreement entered into under clause 4 hereof, carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

9. The said grantees or their assigns shall have power from time to time to fix the rates of fares for carrying persons and goods in the said cars or carriages:

Provided that the rate of fare for each person or parcel shall for any distance not over three miles not exceed three annas and shall not for any greater distance exceed the same proportion.

10. The said grantees may (for the purpose of constructing and maintaining any tramways under this agreement) under such superintendence as is hereinafter specified, open and break up the soil and pavement of the several public or other streets (as defined in the Calcutta Municipal Consolidation Act, 1876)¹ and bridges in the City of Calcutta, and therein lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets and bridges, and do in and on such streets and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining such tramways subject to the following conditions:—

Ben. Act IV
of 1876.

1st.—They shall give to the said Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees or their assigns shall pay all reasonable expenses unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the said Corporation, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks, at the most, unless the said Corporation otherwise consent in writing, complete the work for which the said street or bridge shall

¹Ben. Act IV of 1876 was repealed and re-enacted by Ben. Act II of 1888, which was repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act III of 1899), which again was repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923), Ben. Act III of 1923 was once again repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951). The reference in the text should now be construed as a reference to the Act of 1951—see the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), s. 10.

of 1880.]

(Schedule.)

be broken up and fill in the ground, and make good the surface, and to the satisfaction of the said Corporation restore the street or bridge to as good condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall make good all damage done to the gas and water-pipes and sewers whether belonging to the Corporation or to private individuals by the disturbance thereof.

6th.—They shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

11. The said grantees shall, at their own expense, at all times maintain and keep in good condition and repair to the reasonable satisfaction of the said Corporation, the rails of which any of the tramways shall for the time being consist, and also so much of any such street or bridge whereon any tramway belonging to them is laid as lies between the rails of the tramway, and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway, and in the course of carrying out these repairs it shall not be necessary to give notice thereof to the said Corporation.

12. In exercising the powers given to them by clauses 10 or 11 the said grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as also to admit of as free and unrestricted entry at all time into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the Corporation.

13. If the said grantees shall commit any breach of clauses 10 or 11 or 12, it shall be lawful for the said Corporation in their discretion, where such breach shall be in the execution of any work or repairs, at any time after seven days' notice to the said grantees, themselves to do and execute such work of repairs, and the expense incurred by the said Corporation in so doing, including the cost of superintendence, shall be repaid to them by the said grantees, together with interest at the rate of eight *per cent. per annum* and the certificate of the Engineer of the said Corporation as to such cost shall be conclusive.

14. If any person or persons sustain any loss or damage by reason of any defect or want of repairs in any of the plant, rolling stock or other properties of the said grantees or by reason of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the powers given by clauses 10 or 11 the same shall

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be made good by the said grantees, and in the event of any suit being instituted against the said Corporation in respect of any of the matters hereinbefore mentioned the said grantees shall, within fourteen days from receipt of a notice thereof from the said Corporation, settle the same; but if the said grantees choose to defend such suit, they shall be at liberty to do so upon their undertaking to indemnify the said Corporation against all losses, damages and expenses in respect thereof:

Provided always that, if the said grantees fail to settle such suit or to indemnify the said Corporation as is hereinbefore provided, it shall be lawful for the said Corporation to settle the same without any consent or concurrence on the part of the said grantees, and the sum which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 *per cent. per annum* from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantees.

15. If at any time after the opening of any tramway for traffic the said grantees shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees), it shall be lawful for the Corporation, without any previous notice to the said grantees, to remove the tramway or part thereof so discontinued, and the said grantees shall pay to the Corporation the cost of such removal and of the making good of such street or bridge through which the said tramway shall have been made, and the certificate of the Engineer of the said Corporation as to such cost shall be conclusive.

16. The said grantees will, if required by the said Corporation, before opening and breaking up the soil and pavement of any street or bridge under clause 10 of these presents deposit in an approved bank in Calcutta in the name of the said Corporation the sum of Rs. 5,000, or, in their option, promissory notes of the¹[Central Government] or municipal bonds of the nominal value of Rs. 5,000 and the same will remain so deposited until the completion by the said grantees of the lines of tramway herein sanctioned for immediate construction. But all interest accruing on the said sum or the said notes shall be credited to the said grantees, and, subject as next hereinafter mentioned, be paid to them as the same shall accrue due:

Provided nevertheless that the said Corporation shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes or out of the proceeds of sale of the said notes all moneys to which they may be entitled under any clause or clauses of these presents.

17. In consideration of the concession hereby granted the said grantees will pay to the said Corporation rent at the several rates hereinafter specified, namely, from the beginning of the first to the end of the ninth year, at the rate of Rs. 3,000 *per annum per mile of*

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double line and Rs. 2,000 *per annum* per mile of single line; from the beginning of the tenth to the end of the thirteenth year, a rent at the rate of Rs. 3,250 *per annum* per mile of double line and Rs. 2,250 *per annum* per mile of single line; from the beginning of the fourteenth year to the end of the seventeenth year, a rent at the rate of Rs. 3,500 *per annum* per mile of double line and Rs. 2,500 *per annum* per mile of single line; from the beginning of the eighteenth to the end of the twenty-first year, a rent at the rate of Rs. 3,750 *per annum* per mile of double line and Rs. 2,750 *per annum* per mile of single line; and from the beginning of the twenty-second year, a rent at the rate of Rs. 4,000 *per annum* per mile of double line and Rs. 3,000 *per annum* per mile of single line. And the rents aforesaid shall be payable half-yearly and shall from a first charge on the undertaking, and the date on which such rent on each line of tramways or part of a line shall begin to accrue shall be the date on which such line or part of a line of tramway shall be opened for public traffic:

Provided always that no lines or sidings over which passengers or goods are not carried for hire, connecting the traffic lines with the tables, carriage-sheds or depots or other property of the grantees shall be included in mileage for which rent shall be payable.

18. If the said rent or any part thereof shall not be paid on due date, the said grantees shall be liable to pay interest thereon at the rate of eight *per cent. per annum* from the due date until payment.

19. In consideration of the premises the Corporation shall allow to be deducted from the rent payable under this agreement a sum equal to the amount levied upon the grantees, as the municipal taxes upon their horses, carriages and tramway lines (but not on their depots and buildings or any other property or effects).

20. From and after the commencement of the fifteenth year of this contract to the end of the twenty-first, the said grantees shall not be at liberty to enter upon any fresh engagements or expenditure which would increase their capital account in connection with this contract, without first notifying their intention to the said Corporation and obtaining their approval thereof and sanction thereto in writing.

21. The Corporation shall have the right of purchasing the said tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this contract upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years, upon similar notice being given and the consideration for such purchase shall be a cash payment of one and two-fifths on the amount of the invested capital of the said grantees or securities of the ¹[Central Government]

¹See foot-note 2 on page 365, *ante*.

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or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council or debentures of the said Corporation of such amount as to produce at the rate of interest current on such securities seven *per cent. per annum* on the amount of the said invested capital, and, if the consideration for such purchase shall be given in such securities as aforesaid, the said grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from them.

22. In the event of the said Corporation failing to declare its intention, as above provided, to purchase the property of the said grantees, the terms of this contract shall continue in force.

23. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees by any route or routes to be hereafter fixed by the said Corporation or under clauses 1, 3 and 4 of these presents, and to the works connected with or incidental to such tramways.

24. The date of the commencement of this concession shall be the date on which notice of the sanction of the Government of Bengal to the same shall be given to the said grantees.

25. Unless the said grantees shall have commenced the work of laying down the said tramway within twelve months from the date of the recognition of this agreement by an Act of the Bengal Legislature, the said Corporation shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways.

26. Nothing in this agreement shall take away or affect any power which the Corporation may have by law to open, or break up or to widen, alter, divert or improve any street or road:

Provided always—

1st.—That they shall cause as little detriment or inconvenience to the grantees as circumstances will admit.

2nd.—That they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the said tramways or any of them on giving twenty-four hours' previous notice in writing to the said grantees.

3rd.—That before they commence any work, whereby the traffic on the tramway will be interrupted they shall (except in cases of urgency in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work.

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4th.—That, in the event of their so interfering with the stopping the running of any tramway under this clause, and abatement proportioned to the length of road over which, and time during which, running is stopped shall be made from the rent hereinbefore reserved and payable by the said grantees.

5th.—That any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

27. If any doubt, difference or dispute shall arise between the said grantees and the said Corporation touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the said grantees and the other by the said Corporation within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators and the decision of such arbitrators, if they agree, or of such umpire if they disagree shall be final, and, in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

28. The words "the said Corporation" used in this agreement shall include the present Corporation and their successors, and also all persons empowered by the said Corporation or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Corporation are hereinbefore authorized or empowered to do or exercise.

Bengal Act II of 1884

[THE CALCUTTA TRAMWAYS (AMENDMENT) ACT, 1884.]¹

SHORT TITLE GIVEN ..	Act I of 1903.
REPEALED IN PART AND AMENDED ..	Act I of 1903.
ADAPTED	(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Adaptation of Laws Order, 1950.

[30th April, 1884.]

An Act to amend the Calcutta Tramways Act, 1880.

WHEREAS it is expedient to facilitate the construction and regulate the working of tramways within such portions of Calcutta as are not ²[subject to the authority of the Corporation of Calcutta], and to make due provision for their general management, supervision and control; and whereas it is necessary to amend the Calcutta Tramways Act, 1880, for the purposes aforesaid;

Preamble.

Ben. Act I of 1880.

It is hereby enacted as follows:—

1. This Act shall be read with, and taken as part of, the Calcutta Tramways Act, 1880.

Construction of Act.

(Commencement.)—*Rep. by s. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).*

2. (Definition of "Calcutta".)—*Rep. by s. 4 and the Third Sch. of the Amending Act, 1903 (I of 1903).*

3. All tramways constructed ³[in those portions of Calcutta as defined in the Calcutta Municipal Act, 1899⁴, which are not subject to the authority of the Corporation of Calcutta] shall be subject to the general

Ben. Act III of 1899.

Certain tramways to be subject to State Government.

¹SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903).

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1884, Part IV, page 52, and for Proceedings in Council, see *ibid.* Supplement, pages 395, 464, 497 and 514.

LOCAL EXTENT.—Since this Act is (see s. 1) to be read with and taken as part of the Calcutta Tramways Act, 1880 (Ben. Act I of 1880), it has the same local extent as that Act.

²These words were substituted for the words and figure "situate within the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876" by s. 3 and the Second Sch. of the Amending Act, 1903 (I of 1903).

³These words and figure in section 3 were substituted for the words and figure "in Calcutta, but situate beyond the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876", *ibid.*

⁴Bengal Act III of 1899 was repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923) and the latter Act was repealed by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951).

(Sections 4, 5.)

management, regulation and control of the ¹[State Government]; and the ¹[State Government] shall in this behalf exercise all the rights, powers, functions and authorities which would, under the provisions of the Calcutta Tramways Act, 1880, have been exercised by the Corporation, if such tramways had been constructed wholly ²[within the area subject to their authority].

Ben. Act I
of 1880.

Corporation
not to have
control in
respect of
tramway
outside
limits of the
town.

4. Nothing in this Act shall be construed so as to give the Corporation any control, power or authority in respect of any tramway or part of a tramway constructed ³[outside the area subject to their authority].

Retrospec-
tive effect of
Act as to
tramways
already
constructed.

5. The provision of this Act and of the Calcutta Tramways Act, 1880, shall apply to any tramway that may have been constructed before this Act comes into force, notwithstanding any omission or irregularity in publishing any notice required to be published under section 4 of the said Calcutta Tramways Act, 1880.

¹The words "Provincial Government" were first substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter, the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words and figure "within the local limits of the town, as defined by the Calcutta Municipal Consolidation Act, 1876," by s. 3 and the Second Sch. of the Amending Act, 1903 (1 of 1903).

³These words were substituted for the words and figure "outside the limits of the town as defined by the Calcutta Municipal Consolidation Act, 1876," by s. 3 and the Second Sch. of the Amending Act, 1903 (1 of 1903).